



No. 53

Application for Leave to Apply for Judicial Review (0.53, r.3)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

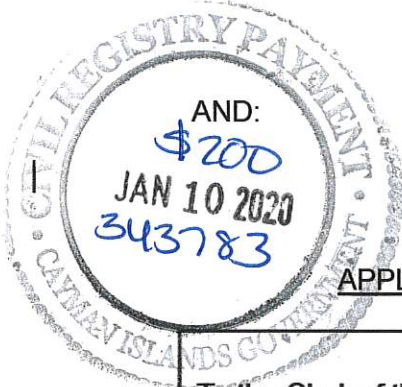
BETWEEN: PETER CHRISTOPHER SOUTHGATE

CAUSE NO. 7 OF 2020

Applicant

THE IMMIGRATION APPEALS TRIBUNAL

Respondent



APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman

Name, address and description of applicant(s)	The Applicant, Peter Christopher Southgate, is a British Citizen of the United Kingdom and Permanent Resident of the Cayman Islands who is currently employed overseas in Ft. Lauderdale, United States of America as the Chief Executive Officer of Southgate Maritime Inc. He is a shipbuilder, naval architect and marine surveyor. As one of the worlds leading experts on the construction and regulation of large yachts he is also Regional Director of the Americas for the Maritime Authority of the Cayman Islands. He currently resides at 704 SW 13 th St. Fort Lauderdale Florida, United States of America.
Judgment, order, decision or other proceeding in respect of which relief is sought	<ol style="list-style-type: none"> 1. The decision of the Immigration Appeals Tribunal dated 14th October 2019 requiring the Applicant to pay right to work fees from October 2014 to current on the basis that the Applicant was granted RERC pursuant to Section 30(6) of the Immigration Law 2011 and not as a person of independent means therefore there is a presumption that the holder of the RERC would continue to be employed, hence the requirement to pay an annual fee, if it were possible for the appellant to be granted PR and not hold an RERC it would have been clearly stated in the Law as it is for persons of independent means. 2. And further the conclusion of the Immigration Appeals Tribunal that the right to work cannot be set apart from the right to permanently reside.

GROUNDS ON WHICH RELIEF IS SOUGHT

1. The Applicant seeks leave to apply for judicial review on the basis that the Respondents decision on the granting of a successful appeal to the Applicant against an earlier decision of the Caymanian Status and Permanent Residency Board dated 31st August 2017 to revoke the Applicants right to permanently reside for non payment of right to work fees that fees were due and should be paid for the period October 2014 to current was either: (i) unreasonable, (ii) procedurally irregular (iii) unlawful or (iv) irrational, as it is clearly contradictory and perverse to find that there was no clear authority or provision regarding the impact of the Immigration (Amendment)(No.2) Law,2013 on persons who were granted permanent residence prior to 2013 and therefore the Applicants permanent residence should not be revoked on the basis of fees outstanding as this is arguably a retrospective use of the legislation but then determine that right to work fees must be paid pursuant to the provisions of the Immigration Regulations (2014 Revision) which similarly gave no clear authority or provision regarding the payment of right to work fees by persons who had been granted a right to work prior to 2014 on the basis that such fees would be payable only if the holder continued to be gainfully employed in the Islands as this also would constitute a retrospective use of the legislation and regulations applicable to the Applicants right to work and permanently reside in the Islands.
2. Further or in the alternative it is wrong in law to find that the Applicants right to work cannot be set apart from his right to permanently reside because he was granted an RERC pursuant to Section 30(6) of the Immigration Law (2011) and not as a person of independent means, therefore there is a presumption that the holder of the RERC would continue to be employed, hence the requirement to pay an annual fee. The Applicant was in fact granted the right to permanently reside pursuant to a separate and distinct section of the Immigration Law 2011 namely Section 29 (1) (a) as read with Section 30 (1) of the Immigration Law 2011 Revision. Section 30(6) of the Immigration Law 2011 Revision provides *inter alia* that "upon the grant of permanent residence the Board shall issue the successful applicant with a Residency and Employment Rights certificate...." Which clearly provides for a two step system where an applicant is assessed and granted the right to permanently reside first under Section 30(1) if the Immigration Law 2011 Revision and if successful then issued with a Residency and Employment Rights Certificate under Section 30(6) of the Immigration Law 2011 Revision. To interpret the provisions of Section 30 (6) of the Immigration Law 2011 Revision as presuming to require every permanent resident who holds a Residency and Employment Rights Certificate as being legally required to continue to work in the absence of an express provision and contrary to the Immigration Regulations 2010 Revision which required a fee to be paid only if the Applicant continued in gainful employment in the Islands is a clear misinterpretation of the Immigration Law 2011 Revision.
3. Further or in the alternative it is unreasonable and in breach of the rules of natural justice to advise the Applicant by letter dated 7th November 2012 that he had been granted permanent residence and to specify therein that in order to continue in employment he was required to pay an annual right to work fee and then following his employment outside

the Islands to require him to pay such fee whether or not he was gainfully employed. In reliance on the letter from the Caymanian Status and Permanent Residence Board dated November 7th 2012 the Applicant agreed to move to Ft. Lauderdale in the United States with his employer and in doing so acted to his detriment as he is now being required to pay right to work fees from October 2014 to present. The Applicant had a legitimate expectation that the conditions under which he was granted the right to permanently reside as well as the conditions under which it could be lost were settled at the time of the grant of the right to permanently reside and would not be changed at the whim of the Caymanian Status and Permanent Residency Board and/or the Respondent.

NOTE: The Applicant's Attorneys respectfully request a hearing of this application for leave to apply for judicial review pursuant to Order 53, Rule 3 (3) of the Grand Court Rules.