

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE: G ³⁰ OF 2020

IN THE MATTER OF: Section 17(2) of the Immigration Law (2015 Revision)

AND: IN THE MATTER OF: Section 23(2) of the Immigration Transition Law 2018

AND: IN THE MATTER OF: Section 24 of the Cayman Islands Constitution Order 2009

BETWEEN: MARCIA ALVIRA WALTERS

APPELLANT

AND: IMMIGRATION APPEALS TRIBUNAL

RESPONDENT



NOTICE OF APPEAL



TAKE NOTICE that the Grand Court will be moved so soon as Counsel can be heard on behalf of the above named Appellant on an Appeal from the Decision of the Immigration Appeals Tribunal herein dated the December 13 2019, whereby it was adjudged that the Appellants appeal was refused:-

1. **THAT** this Decision by the Respondent, amounted to a fettering of a process, which fact rendered the resultant decision, contrary to the rules of natural justice and Law, and placed the Appellant in an unenviable, adverse, and prohibitive position, whereby it was made to be, nigh impossible, for the Appellant to ever be deemed qualified by the Respondent, and that the Respondent endorsed the unlawful, unreasonable and unauthorised act of the Acting Chief Immigration Officer, when it ruled that there was no provision made by Cabinet, for any award of points, and consequently, this loss of a privilege to gain points under this **Factor1(b)** was due to no fault of the Appellant but which fault, is properly and incontrovertibly attributable to, the failure and fault of Cabinet, to effect and observe its mandated and legal obligation, to ...**“establish...a list of priority occupations”** and therefore, the action of the Respondent accordingly dismissing the Appeal brought by the Appellant, was erroneous, unlawful and discriminatory, as well as; in disregard of the

provisions contained in Section 24 of the Cayman Islands Constitution Order 2009 and the rules of natural justice.

2. **THAT** the Respondent erred in law and procedure, by dismissing the Appellant's appeal, when having reviewed the Appeal Statement dated May 10 2018, which outlined the reasoning behind the decision by the Acting Chief Immigration Officer and then thereafter, the Respondent nevertheless, failed to adequately consider or at all, the fact that there was no provision in Law or Regulation, by which the Respondent could objectively or subjectively be guided, in furtherance of assessing the Appellant for award under this Factor, or to thereby establish, whether the Appellant satisfied or else was found to be qualified, under **Factor 1(b)-Priority Occupation**, was manifested by the Respondent's own admission that ...**'Cabinet has not yet established a list of priority occupations therefore the Acting Chief Immigration Officer(ACIO) could not award points'...no points are awarded under this factor'**..., which fact, renders the Respondent's decision flawed, contrary to the rules of natural justice and Law, and by extension, placed the Appellant in the adverse, impossible and prohibitive position, of ever being qualified for any award of, and consequently the loss of any points contemplated for award, under this Factor, due to no fault of the Appellant, and which fault is incontrovertibly and entirely attributable, to the failure and fault of Cabinet, in its legislative obligations to **"establish...a list of priority occupations"** and therefore accordingly, the Respondent's dismissal of the Appeal brought by the Appellant; was erroneous, unlawful, discriminatory, and in disregard of the provisions contained in Section 24 of the Cayman Islands Constitution Order 2009 and the rules of natural justice, and by which award, were they given to the Appellant, could have been considered and qualified her for; the grant of Permanent Residency.
3. **THAT** the Respondent Tribunal erred therefore in law, and in all the circumstances, acted unreasonably, when it took a decision, and which conduct manifested itself and is evidenced in the fact that, the Respondent did take into consideration defective legislation, manifested by the "award" of "0" points, which decision was adverse to the Appellant, in circumstances where it was rendered impossible, for the Appellant to satisfy and achieve any points award, under the provisions contained in **Factor 1(b)**; because the criteria by which any such award was to be made, was not comprised within the provision of Factor 1(b) and **"the list**

of priority occupations” were in fact **not listed** and therefore, consideration of and applying the terms of this provision, to the detriment of the Appellant; was wrong in law principle and in all the circumstances.

AND THE APPELLANT PRAYS FOR AN ORDER THAT:

1. the Respondent’s Decision to dismiss the Appellant’s appeal be quashed;
2. the Acting Chief Immigration Officer be required to review and grant Permanent Residency to the Appellant unless it can show justification for not doing so;
3. there be such further or other relief as the Honourable Grand Court shall think fit.

DATED this ⁹ day of March 2020

FILED this ⁹ day of March 2020


DENNIS EVERTON BRADY
Attorney-at-Law for the Appellant

TO: The Registrar of the Grand Court

AND TO: The Attorney General of the Cayman Islands

This **Notice of Appeal** was filed by Dennis Everton Brady Attorneys-at-Law on behalf of the Appellant whose address for service is Crown Square, Building B-6, Eastern Avenue, P.O. Box 11740 APO, George Town, Grand Cayman KY1-1009, Cayman Islands, British West Indies.