

No. 53

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



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2020

IN THE MATTER OF THE IMMIGRATION LAW (2015 REVISION)

AND: IN THE MATTER OF SECTION 93(1 a-b) OF THE IMMIGRATION TRANSITION LAW (2018 REVISION) for a Declaration to extend authority of Ayon Lloyd Baxter to remain in the Cayman Islands.

AND: IN THE MATTER OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009 pursuant to Order 77A Rule 4 for a Declaration TO PROHIBIT THE EXPULSION FROM THE Cayman Islands of Ayon Lloyd Baxter

AND: IN THE MATTER OF SECTION 13(1); 2(d)(iii) and 3((a-d) OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

AND: IN THE MATTER OF SECTION 24 OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

AND: IN THE MATTER OF SECTION 16(4) OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

AND IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW pursuant to Order 53 of the Grand Court Rules

AND: IN THE MATTER OF AN APPLICATION pursuant to Order 3 RULE 5 of the Grand Court Rules

BETWEEN: AYON LLOYD BAXTER APPLICANT
AND: THE IMMIGRATION APPEALS TRIBUNAL FIRST RESPONDENT
AND: THE DIRECTOR OF BORDER CONTROL SECOND 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)	AYON LLOYD BAXTRER, 72 TENNYSON ST, GRAND CAYMAN
Judgement, order, decision or other proceeding in respect of which relief is sought	1. The decision of the First Respondent to Dismiss the Applicant's Appeal against the Refusal of the Residency and Employment Rights Board, of the Applicant's application for Permanent Residency, and the Respondent's decision to dismiss the said Appeal, on the

basis that the Applicant only achieved 104.5 points, was unreasonable, in breach of a legitimate expectation and natural justice, and was a fettering and an improper exercise of discretion, by applying a law and policy and in the process, failing to adequately or at all consider, the peculiar circumstances of the Applicant, and this conduct and decision is therefore unreasonable, in breach of natural justice principles, and a denial of a legitimate expectation; and should be set aside.

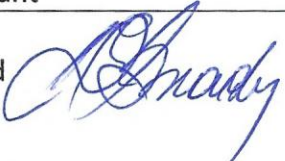
2. That the First Respondent's decision has demonstrated by conduct, a definite breach of Article 24 of the Cayman Islands Constitution Order 2009, and this conduct was in violation of the prohibition against discrimination, as provided for in section 16(4)b) of the Cayman Islands Constitution Order 2009.
3. The Second Respondent whether by his/her servants, agents or otherwise, to refrain from engaging any and all actions which would breach the rights of the Applicant, pursuant to the provisions of section 13(2) and 13 (2)(a-c) of the Cayman Islands Constitution Order 2009, (**"the Order"**) unless and or until the protections afforded to the Applicant, in the provisions contained within section 13(2)(d)(iii) and 13(3)(a-d) of the said Order are observed, and this Judicial Review application is determined.

RELIEF SOUGHT

1. An Order of *Mandamus* directing the First Respondent, to accept an updated and renewed application and consider the Applicant's "reconsideration request" as was previously undertaken to be done by the First Respondent.
2. An Order that the Second Respondent whether by his/ her servants, agents or otherwise be restrained and prohibited from any and all actions, the objective of which is the detention and expulsion of the Applicant from the Cayman Islands, under any provision of the Immigration Transition Law 2018, until this Judicial Review is determined.

PREJUDICIAL, DISCRIMINATORY AND BIASED CONDUCT

1. **Wednesbury unreasonableness:** The decision of the First Respondent to dismiss the Applicant's appeal in all the circumstances as represented in the Applicants Affidavit resulted in a fettering and an improper exercise of their discretion, by applying a law and policy and in the process, failing to adequately or at all consider, the peculiar circumstances of the Applicant, and this conduct and decision is unreasonable, in breach of natural justice principles, legitimate expectation, unreasonable and should be set aside.
2. That the First Respondents has demonstrated by conduct, a definite breach of Article 24 of the Cayman Islands Constitution Order 2009, by demanding that the Applicant depart the Cayman Island by the 3rd of January 2021, and this conduct was in violation of the prohibition against discrimination, as provided for in section 16(4)b) of the Cayman Islands Constitution Order 2009.
3. Such further, consequential, or other relief as this Honourable Court seems just.

Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	DENNIS BRADY, BRADY ATTORNEYS AT LAW ANDERSON SQUARE BLDG . GEORGE TOWN, GRAND CAYMAN
Signed 	Dated 29.12.20

This APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW WAS FILED BY- Brady Attorneys at Law, Building B6 Crown Square, Eastern Ave. George Town, Grand Cayman, Cayman Islands