



No. 53

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

IN THE GRAND COURT OF THE CAYMAN ISLANDS

IN THE MATTER OF Section 30(1) of the Immigration Law 2015 Revision

AND IN THE MATTER OF Section 30(4) of the Immigration Law 2015 Revision

AND IN THE MATTER OF Section 17 of the Cayman Islands Constitution Order 2009

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

BETWEEN: LATOYA NASHY ALLEN APPELLANT

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)	LATOYA NASHY ALLEN, BODDEN TOWN, 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 decision of the Director of WORC, of the Applicant's application for Permanent Residency, and that the First Respondent's decision to dismiss the said Appeal, on the basis that the Applicant only achieved 92 points, was in breach of the Law, the Cayman Islands Constitution Order 2009 and natural justice, and was also 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 under the applicable Factor, and this conduct and decision is therefore in error, unreasonable, in breach of law and 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 and 17 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, review and re-assess an updated and renewed application and consider the Applicant's reconsideration request.

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 Applicant's Affidavit, resulted in a fettering and an improper exercise of their discretion, by applying a law and policy and in the process, mis-applying failing to adequately or at all consider, the peculiar circumstances of the Applicant, and this conduct and decision is unreasonable, in breach of Regulations, natural justice principles, legitimate expectation, unreasonable and should be set aside.

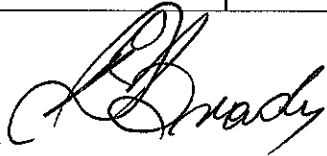
2. That the First Respondents has demonstrated by conduct, a definite breach of Article 24 and 17 of the Cayman Islands Constitution Order 2009, by requiring that the Applicant depart the Cayman Islands, and this conduct is in effect sending a Caymanian Child into exile, as the Child is only four (4) years old and in need of maternal care, and this decision was in violation as well, 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
 WEST WING, ANDERSON SQUARE BLDG.
 GEORGE TOWN, GRAND CAYMAN

Signed



Dated

15.1.21

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