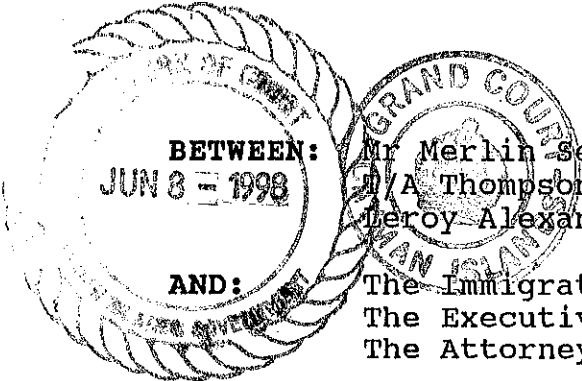


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 1998

355

PLAINTIFFS




BETWEEN: Mr Merlin Seymour
T/A Thompson's Garage
Leroy Alexander

AND: The Immigration Board
The Executive Council
The Attorney General of The Cayman Islands

DEFENDANTS

APPLICATION FOR LEAVE TO APPLY FOR THE JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of applicant	Mr Merlin Seymour T/A Thompson's Garage P.O.Box 1425Gt Leroy A. Alexander
Judgement, order, decision or other proceeding in respect of which relief is sought	Decision of Immigration Board Dated 31st October 1997 Decision of Executive Council Dated 18th February 1998
Relief Sought	
<p>(1) An Order of Certiorari, to remove into this Honorable Court and to quash a decision by the Immigration Board on the 31st October 1997 and the decision of the Executive Council on the 18th February 1998.</p> <p>(2) And Order that the Board entertain another application for a work permit for Mr. A Alexander and to take into account the protection of the applicant's interest as a local business</p>	
Name & address of applicant's Attorney, or if no Attorneys acting the address for service of the applicant	A. Steve McField & Associates P.O.Box 680 George Town Grand Cayman Cayman Islands
Signed 	Dated: 21st May 1998

GROUNDS ON WHICH RELIEF IS SOUGHT

1. Whereas directive 2 of the Immigration Directions (1996) empowers the Board to impose such a condition the Directive specifically refers to the grant and not the renewal of a permit.
2. The Board therefore appears to have imposed a condition which was inapplicable in the circumstances.
3. Directive 2 was introduced in 1992 and replaced a previous Directive namely 1C which was of a similar nature but permitted by the Board (when granting a permit) to impose a limit for which a person might retain and work at the outset. By this means any conflict with the principle of natural justice could be avoided in so far as the permit holder knew the conditions of his admission to the territory right at the beginning. In fact at that particular time the employee and employer were required to sign a statement to the effect that they understood the conditions imposed. This helped to safeguard any subsequent claims of unfair treatment.
4. Unless a Caymanian was forthcoming to fill the position it is submitted that the appellant had a reasonable expectancy that his permit could be renewed. The imposition of the condition would therefore appear contrary to the principle of natural justice.
5. The imposition of this condition appears to have been brought about by the birth of a further child to the marriage. Directive 3(1) was subsequently brought to the appellant's attention. Now that his attention has been drawn to this Directive regarding the number of dependents he will no doubt conduct himself accordingly.
6. However Directives 2 and 3(1) are merely Directives and do not absolve the Board from taking into account the factors enshrined in the main body of the Law. Adjunct directives cannot override the Law itself.
7. Section 30(1h) of the Law specifically refers to the hardship that can be caused to the spouse and dependents of a worker. Uprooting a family for six months must cause such hardship.

8. Section 31(d) specifically refers to the protection of local interests and in particular those of persons of Caymanian Status.
9. The employer is a Caymanian running a successful garage. The appellant is his Chief Mechanic. The loss of his Chief Mechanic would not be in his best interests.

Accordingly, the appellants request that the permit be renewed and the condition be removed.

Filed by A Steve McField & associates, Attorneys-at-Law for and on behalf of the Applicant, whose address for service is that of their said attorney, P O Box 680, Mary Street, George Town, Grand Cayman, Cayman Islands