

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 394 OF 2003

BETWEEN: NEK NAZARY Applicant

AND: THE CHIEF IMMIGRATION OFFICER Defendant

THE IMMIGRATION DEPARTMENT Defendant

EX PARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To: The Clerk of the Court, Law Courts, George Town	
Name, address and Description of Applicant	Nek Nazary Refugee George Town Grand Cayman, Cayman Islands
Judgment, order, decision or other proceedings in respect of which relief is sought	(i) Decision of the Chief Immigration Officer to not review conditions under s52(3) of the Immigration Law (2001 Revision) (ii) Decision of the Chief Immigration officer to continue to impose conditions under s52(3) of the Immigration Law (2001 Revision)
<u>Relief Sought</u>	
<ol style="list-style-type: none"> 1. An Order of Certiorari to remove into this Honourable Court and quash the decision of the Immigration Department not to review the conditions imposed upon the Applicant pursuant to s52 (3) of the Immigration Law (2001 Revision). 2. An order of Certiorari to remove into this Honourable Court and quash the decision of the Immigration Department to impose the following conditions upon the Applicant: <ol style="list-style-type: none"> (i) That the Applicant do report to the Immigration Department at 9.00am on Mondays through to Fridays and that they report to the Central Police Station at 9.00am on Saturdays and Sundays. (ii) That the Applicant do remain indoors between the hours of 7.00pm and 8.30am 3. An injunction restraining the Immigration Department from imposing the aforementioned 	

<p>conditions.</p> <p>4. Damages against the Immigration Department.</p> <p>5. Costs</p>	
<p>Name and address of Applicant's attorney, or, if no attorneys acting, the address for service of the applicant.</p>	<p>Quin & Hampson Attorneys-at-law 3rd Floor, Harbour Centre PO Box 1348 GT Grand Cayman</p>
<p>Signed: <u><i>Quin & Hampson</i></u> Quin & Hampson</p>	<p>Dated <u>11th</u> June 2003</p>

GROUND ON WHICH THE APPLICATION IS SOUGHT

The factual background to this application for Leave to Apply for Judicial review is contained in the Affidavit of Mr Nek Nezary and the Exhibits thereto which is filed with this application and in support of it and this Affidavit will be relied upon in support of the application on the following grounds:

1. that the decision of the Immigration Department not to review the conditions imposed on the Plaintiff by virtue of s52(3) of the Immigration Law (2001 Revision) is unlawful, irrational and unreasonable within the Wednesbury principals.
2. that the decision of the Immigration Department is one which no reasonable and unbiased tribunal giving proper consideration to the matter could have arrived at.
3. that the decision of the Immigration Board to continue to impose conditions that the Applicant report to the Immigration Officer on Mondays to Friday at 9.00am and at Central Police Station at 9.00am on Saturdays and Sundays and that the Applicant remain indoors between the hours of 7.00pm and 8.30 am is unlawful, irrational and unreasonable within the Wednesbury principals.
4. that the decision of the Immigration Department to continue to impose the aforementioned conditions on the Applicant is one which no reasonable and unbiased tribunal, giving proper consideration to the matter, could have arrived at.
5. that the decision of the Immigration Department to impose the aforementioned conditions is ultra vires in that it is in contravention of the Judgment, dated 10th October

2001, of the Grand Court sitting en banc, namely that conditions must be reasonable and not tantamount to further detention.

6. that the decision of the Immigration Board to impose and continue to impose the aforementioned conditions is contrary to the European Convention of Human Rights and the United Nations International Convention for Refugees.
7. it is submitted that the Immigration Department have unreasonably failed to review their decision to impose conditions and have acted unlawfully and unreasonably in continuing to impose the aforementioned conditions.
8. that as a consequence of the actions taken by the Immigration Department the applicant has suffered significant psychological damage. The Applicant, therefore, claims damages against the Immigration Department.

THIS EX PARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW was filed by Quin & Hampson, Attorneys-at-Law for the Applicant, whose address for service and correspondence is PO Box 1348, Third Floor, Harbour Centre, George Town, Grand Cayman, BWI.