

IN THE GRAND COURT OF THE CAYMAN ISLANDS CAUSE No. ⁰⁰³¹ of 2009

IN THE MATTER OF the Adoption Law (2003 Revision)

AND IN THE MATTER of an Application by VANDOLYN SUBERAN AND SYLVESTER SUBERAN for Judicial Review Pursuant to Order 53 of the Grand Court Rules

AND IN THE MATTER of AMAIR CHULANN RICHARDS (a Minor)

AND IN THE MATTER of JESSICA IRENE RICHARDS (a Minor)

BETWEEN:

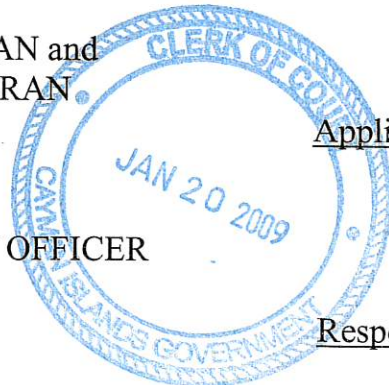
AND:



VANDOLYN SUBERAN and SYLVESTER SUBERAN

Applicants

THE CHIEF IMMIGRATION OFFICER



Respondent

NOTICE OF EXPARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To: **The Clerk of Courts, Law Courts, George Town, Grand Cayman, Cayman Islands**

1.0 The Applicants

1.1 Vandolyn Suberan and Sylvester Suberan being persons of Caymanian status having been granted custody of the minor children, Amair Chulann Richards and Jessica Irene Richards by the Family Court for the Parishes of Kingston and St. Andrew, Jamaica, and having applied to the Chief Immigration Officer

for permission for the minor children to remain resident in the Islands for the Sole purpose of applying for their adoption;

2.0 Decision in respect of which relief is sought.

The decisions of the Chief Immigration Officer dated 27th November 2008 and 24th December 2008 stating:
Decision of November 27th 2008;

“I regret to advise that I am unable to grant permission for the above named to remain in the Cayman Islands for the purposes of adoption.

Our records indicate that the above named entered the Islands as tourists and on the date of this letter are in the Islands illegally. I suggest that urgent arrangement be made to regularize their stay in the islands and to return the children to their parents.

Decision of 24th December 2008

“Please note that I am unable to grant to the above children a further extension to remain and request that they be returned to their parents.”

3.0 Relief Sought

3.1 An order of *Certiorari* quashing the said decisions of the Chief Immigration Officer;

3.2 An order of *Mandamus* directing the Chief Immigration Officer to consider the application of the Respondents on behalf of the minor children for permission to remain for the purposes of adoption on the basis of all facts provided to him and not on the basis that the said minors were “in the Islands illegally” which they were not at the time of his decisions.”

3.3 Such further, consequential, or other relief as to this Honourable Court seems just;

3.4 Costs

THE GROUNDS UPON WHICH RELIEF IS SOUGHT:

4.0 Summary of General Facts.

4.1 The detailed facts are as set out and verified in the Affidavit in Support of Vandolyn Suberan sworn on the 31st day of December 2008.

4.2 . That the Applicants are Caymanian and reside permanently in the Cayman Islands.

4.3 That Jessica Irene Richards , born on the 19th June 2007 and Amair Chulann Richards born on the 11th day of November 2004 are the natural children of Vandolyn Suberan, the First Applicant's brother Derrick Richards and Gloria Dennis both of St. Catherine , Jamaica.

4.4 That when visiting Jamiaca the Applicants became aware of the extremely poor conditions the two minor children were being forced to live in. Due to sanitary reasons and for reasons beyond them and their parents control, the Applicants became very concerned for their continued health and safety.

4.5. As a result of the Applicants discussions with the two minor children's parents the children's natural mother petitioned the Family Court for the Parishes of Kingston and St. Andrew for orders that the Applicants be granted Custody, Care and Control of the said children ,Jessica and Amair Richards.

4.6. The Applicants returned to the Cayman Islands, on the 14th August 2008 with the two minor children and began the process of adopting the two children.

4.7.The Applicants were verbally advised by the Adoption Board of the Cayman Islands that in order for the adoption to proceed the Chief Immigration Officer would have to grant permission for the children to reside in the Cayman islands for the purposes of adoption.

4.8. The Applicants instructed Anglin Lewis & Associates Ltd. a professional immigration service to make an application to the Chief Immigration Officer pursuant to section 67(1) of the Immigration Law (2007 R) requesting that permission be granted to

remain pursuant to section 10 (1) (b) (iii) of the Adoption Law (2003 Revision). pending the completion of the adoption proceedings.

4.9. Anglin Lewis & Associates in their application to the Chief Immigration Officer provided proof of the Applicants Caymanian status and citizenship, copies of the orders in relation to the minor children made by the Courts in Jamaica, letters from our employers evidencing the Applicants positions within their companies and our reasonable income rates.

4.10. After over two months of waiting on the 27th November 2008 the Chief Immigration Officer wrote to Anglin Lewis & Associates refusing permission on the grounds that the children had entered the Island as visitors and were here illegally. In fact the children had been granted extension of time in their passports until December 28th 2008 and these extensions were granted on the 26th November 2008, the day before the Chief Immigration Officers Letter.

4.11. The Applicants instructed Bodden & Bodden to write to the Chief Immigration Officer pointing out that the children were not here illegally and requesting a short extension of time from December 28th 2008 to January 6th 2009 in order to give the Applicants time to resolve these issues.

4.12. On the 24th December 2008 the Chief Immigration Officer wrote to Bodden & Bodden refusing to grant any further extension of time and giving no reason for so doing.

5.0 Grounds for Judicial review

5.1. The decisions of the Chief Immigration Officer are wrong in fact and in law and as such are unreasonable and should be set aside.

5.2 Given the facts as disclosed to the Chief Immigration Officer the Applicants see no reasonable grounds for refusing their application for permission for the two minor children to remain pending the application for adoption.

Dated this ^{30th} day of December 2008

Bodden & Bodden
BODDEN & BODDEN

Attorneys-at-law for the Applicants

NOTE: Pursuant to Order 53 an oral hearing is requested before this application for leave to apply for judicial review is considered and determined by this Honourable Court

This ex parte application for leave to apply for judicial review has been filed by Bodden & Bodden on behalf of the Plaintiff whose address for service is 802 Grand Pavilion Commercial Centre, P.O.Box 10335 APO, Grand Cayman Cayman Islands, B.W.I.