



**MAN ISLANDS COURT OF APPEAL
FROM THE GRAND COURT OF THE CAYMAN ISLANDS
ON**

Neutral Citation Number: [2026] CICA (Civil) 17

**CICA CIVIL APPEAL No. 0001 of 2026
(formerly G 0205 of 2025)**

BETWEEN

BILIKA HARRY SIMAMBA

APPELLANT

-AND-

JULIE ARNALL

RESPONDENT

Before: The Hon Sir Michael Birt, Justice of Appeal
The Rt Hon Sir Jack Beatson, Justice of Appeal
The Hon Clare Montgomery KC, Justice of Appeal

Appearances: Mr Bilika Simamba (Appellant in person) via Zoom
Mr Colm Flanagan and Ms Sara Brady of Nelsons Legal for the
Respondent

Heard: 31 August 2026
Draft circulated: 24 September 2026
Judgment delivered: 28 September 2026

RULING ON RECUSAL APPLICATION

1. This is the judgment of the court to which we have all contributed. Mr Bilika Simamba (“the Appellant”) appeals against the Protection Order made under the Stalking (Civil Jurisdiction) Act 2018 in favour of the Respondent by the Hon Justice Walters (Actg.) (“the Judge”) dated 2 December 2025 for the reasons given on 7 January 2026. The central issue before the Judge

was the meaning and impact of a series of emails sent by the Appellant to the Respondent between 27 December 2024 and 27 May 2025. The Judge held that there was sufficient evidence that the Appellant was stalking or had stalked the Respondent and that he should exercise his discretion to make a Protection Order on the grounds that it was necessary to protect the Respondent from further stalking conduct.

2. The Appellant raised a preliminary objection to this appeal being heard by any judge of the Court of Appeal of the Cayman Islands on the grounds that all Judges of the Court of Appeal are conflicted. This conflict is said to be evident from the proceeding in an unrelated case, *Simamba v Chief Justice Ramsay-Hale and Others* CACV2024-29, a renewed application for leave to appeal against the decision of McCarthy J (Actg) refusing the Appellant leave to apply for judicial review. In that case the Governor appointed ad hoc judges (comprising three retired members of the Court of Appeal of England and Wales) to hear the appeal (“the JR appeal”). In the present case, the appellant seeks an order that the Governor be recommended to appoint judges other than from the Cayman Islands, the United Kingdom or the Caribbean to hear his appeal.
3. In our judgment the decision taken by the Governor in the earlier case does not provide any decisive guidance in this Appeal. This is because an appeal in a judicial review against decisions taken by the Chief Justice, the Hon Justice Margaret Ramsay-Hale and members of the Judicial and Legal Service Commissions (“JLSC”), including the President of the Court of Appeal, the Rt Hon Sir John Goldring (“the President”), on its face raises questions of independence and impartiality.
4. Cognate questions of independence and impartiality do not arise in this case. The parties to the appeal are private citizens and their standing does not raise any obvious implication for the independence of the court. The subject matter of the appeal is concerned with discrete issues of fact and law that do not engage the interests of the judiciary or the state.
5. The Appellant has provided the court with a verbatim extract from the preliminary objection which he took in the JR Appeal and he adopts those submissions in this case. His objections in that case focussed on the disciplinary control exercised over the Judges of the Court of Appeal by the President. He also referred to the role of certain Judges in the Court of Appeal having

heard other related human rights claims and proceedings to declare him a vexatious litigant.¹ It is said that the Judges involved in the JR appeal and the related litigation have acted in bad faith. He considers that the whole of the Caymanian judiciary is tainted.

6. Particular allegations are made against 2 members of the present panel. Beatson JA is said to have “acted in bad faith. He falsified the record to disadvantage me.” Birt JA is said to have been a member of the court that “demonstrated their bad faith in failing to quote the gravamen of my case, which were the incriminating emails against Justice Ian Kawaley, while making disparaging remarks about me. They also suppressed a massive number of facts, arguments and case law.”
7. Although no particular allegations are made against Montgomery JA, it is to be assumed that the Appellant would characterise her refusal to recuse herself from hearing the application for leave to appeal in the JR appeal as wrong and her refusal of leave as being made in bad faith.
8. It is to be noted that the weight of the objections made by the Appellant are largely dependent upon the underlying proposition that his allegations of corruption, bad faith and intellectual dishonesty raised in the JR appeal were well founded.
9. The Appellant has provided us with the decision taken by the ad hoc judges in the JR appeal. In a unanimous decision delivered on 23 June 2026 ([2026] CICA (Civ) 12) the court held that the complaints made against Kawaley J and the JLSC were not arguable and upheld the refusal of McCarthy J (Actg) to grant leave to the Appellant to apply for judicial review.
10. The Appellant has subjected this decision to detailed scrutiny in oral submissions before us. He asserts that the three ad hoc judges have been guilty of intellectual dishonesty and their decision was corrupt. However, we are not in a position to accept the procedural and constitutional criticisms levelled at the decision. The court determined that the principal issue was whether it was inevitable that the complaint made by the Appellant would be dismissed. It concluded that it was inevitable that the complaint would be summarily dismissed [66]. In those circumstances

¹ The litigation included an original personal injury claim in 2014 (Cause No. G0032 of 2014), an appeal (CICA Cause No. 36 of 2019); a constitutional petition (Cause No. G0093 of 2020) and a personal action (G0161 of 2020). On 28 October 2021 the Appellant was made subject to a Civil Proceedings Restraint Order for two years.

it held that the points about the Constitution and the Complaints Procedure did not warrant a discretionary grant of leave [70-72].

11. The Court observed at [99] that “although the Applicant appears sincerely to believe that his allegations against Kawaley J are well-founded, and that the decision to dismiss the Complaint was not only irrational but taken in bad faith, there is no objective basis whatever for that belief or therefore for his belief that the repeated rejection of those allegations shows that the entire judicial establishment of the Cayman Islands is prejudiced against him. Litigation arising from those beliefs has already occupied the time of the Courts for far too long, and its obsessive pursuit cannot be good for the Applicant either. He has now had the benefit of a two-day hearing before a Court whose members have no connection with this jurisdiction and a judgment which seeks to address all of the principal points which he has raised. It may be too much to hope that he will now accept that his beliefs are ill-founded; but I do venture to hope that he will at least accept that he has come to the end of the road.”
12. The Appellant rejects these conclusions and considers they were unwarranted. However, we consider that we are bound to take into account the decision of the Court of Appeal in the JR appeal unless it is plainly wrong. This is so even if the Appellant has lodged an application for leave to appeal to the Judicial Committee of the Privy Council. We note in passing that the Appellant asserted before us that Lord Reed, Lord Briggs and other members of the Judicial Committee of the Privy Council who sat in the Privy Council in the Cayman Islands from 15-18 November 2022 are also disqualified from sitting on his case by reason of their being hosted in the Islands at the expense of the Cayman Islands government.
13. We are unable to conclude that the decision in the JR appeal is plainly wrong. Accordingly, we approach the application for our recusal on the basis that although the Appellant may sincerely believe that the courts dealing with him have variously lied; falsified records; suppressed evidence; engaged in intellectual dishonesty; suppressed arguments and facts; or acted unethically, there is no objective evidence to support this belief.
14. We recognise that, coupled with the Appellant’s beliefs about the conduct of the judiciary, there will also be a question whether, because of his litigation history, he may be treated unfairly or be seen to be exposed to unfair treatment. As the Appellant puts it: “It cannot be expected that

the same judges can treat me fairly in this matter. If I lose, there will be no appearance of justice since they may be seen as retaliating against me.”

15. The Appellant also relies on the fact that each of the members of this court has given a judgment that was adverse to his interests during the course of the litigation which ultimately led to the JR appeal. We have therefore reviewed each of the decisions to which each of us have been party in order to assess the contents of the judgments and the language in which they are expressed as well as the decisions reached.
16. On 5 August 2020, Beatson JA dismissed an application by the Appellant for leave to appeal out of time against an interlocutory decision of Kawaley J in proceedings brought by the Appellant against the Health Services Authority. He also dismissed a Constitutional Motion which the Appellant had sought to bring directly in the Court of Appeal. The Appellant did not renew his applications before the full court.
17. The decision to which Birt JA (together with Rix and Moses JJA) was party involved a renewed application for leave to appeal against the decision of St John-Stevens J striking out a constitutional petition and a personal action against Kawaley J and his personal assistant, together with an appeal against a restraint order imposed by St John-Stevens J restraining the Appellant from issuing further proceedings in relation to the subject matter of the previous proceedings. The Court refused leave to appeal in respect of the constitutional petition and the personal action and dismissed the appeal in respect of the restraint order. The Privy Council refused leave to appeal against those decisions.
18. In the case of the decision by Montgomery JA to refuse the Appellant leave to appeal against the decision of McCarthy J, it was upheld by the ad hoc court in the JR appeal.
19. As is well known the test we must apply to the application for our recusal, applying *Porter v Magill* [2001] UKHL 67, [2002] 2 AC 257 at [103], is whether the fair-minded and informed observer, having considered the facts, would consider that there was a real possibility that the tribunal was biased. The Cayman courts have confirmed that the relevant test is the objective test of the fair-minded and informed observer; see *In the matter of BTU Power (in Official Liquidation)* 2015 (1) CILR 222 (BTU).

20. We do not consider that the fair-minded and informed observer would be concerned that the Appellant's beliefs may be well founded. This notional observer would be reassured by the findings of the JR appeal court and would conclude that there was no possibility of members of this court having in fact acted dishonourably as alleged.
21. The Court in *BTU* cited with approval the principles identified in *Yiacoub v The Queen* [2014] UKPC 22, [2014] 1 WLR 2996 at [11-12], where Lord Hughes observed that "the appearance of independence and impartiality is just as important as the question whether these qualities exist in fact. Justice must not only be done, it must be seen to be done. The function of the Convention right is not only to secure that the tribunal is free from any actual personal bias or prejudice. It requires this matter to be viewed objectively".
22. As the court held in *BTU* at [61], what is important is that there should be no legitimate doubt about the independence and impartiality of a judge or tribunal. In this respect independence is as important as impartiality. A judge may be of the utmost integrity, but if he or she lacks independence then there is a danger of the unconscious effect of that situation, which it is impossible to calibrate or evidence. That is why so many expositions of the principles speak of the importance of the appearances of things and the demand that justice not only be done but be seen to be done.
23. We recognise that the Appellant may be concerned about the unconscious effect of his litigation conduct and our previous adverse decisions on our decision making. The Privy Council confirmed in *Smith v AG of Trinidad & Tobago* [2022] UKPC 28 at [74] that the risk of unconscious bias may suffice [see 48]. In making any assessment as to the views of the fair-minded observer they are to be informed as to at least the most basic considerations relevant to a conclusion founded on a fair understanding of all the relevant circumstances; and are deemed to be "neither complacent nor ... unduly sensitive or suspicious when he examines the facts" (Kirby J in *Johnson v Johnson* [2000] HCA 48; 201 CLR 488).
24. This emphasis on the relevant circumstances also finds expression in *Locabail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451 at [25] where the court observed that: "ordinarily, ... an objection [cannot] be soundly based on the judge's ... previous judicial decisions ... By contrast, a real danger of bias might well be thought to arise if ... [the judge] had in a previous case rejected the evidence of that person in such outspoken terms as to throw doubt on his

ability to approach such person's evidence with an open mind on any later occasion; or if on any question at issue in the proceedings before him the judge had expressed views, particularly in the course of the hearing, in such extreme and unbalanced terms as to throw doubt on his ability to try the issue with an objective judicial mind.”

25. We do not consider that a fair-minded and informed observer would conclude that there were legitimate doubts or cause for concern about our independence or impartiality by reason of unconscious bias arising out of our earlier decision making. The earlier judgments are not delivered in extreme or unbalanced terms. The mere fact we have each made previous decisions that the Appellant regards as adverse does not provide grounds for recusal. As the Court said in *Zuma's Choice Pet Products Ltd v Azumi Ltd* [2017] EWCA Civ 2133 at [29]: “The mere fact that a judge has decided applications or issues in the past adversely to a litigant is not generally a reason for that judge to recuse himself at further hearings: if that were not the case, the same judge could not make two successive interim decisions in a case without risking accusations of bias. It would make it impossible for there to be a designated judge assigned to the hearing of complex cases with multiple interim applications. The fair-minded and informed observer does not assume that because a judge has taken an adverse view of a previous application or applications, that he or she will have pre-judged, or will not deal fairly with, all future applications by the same litigant”
26. The editors of Wade & Forsyth's Administrative Law make a similar point at p 374: "Ordinarily prior judicial decisions or views would not found an objection but a history of personal friendship or animosity may disqualify the judge.”
27. The members of this court have no other connection to the parties to this appeal. The appeal brought by the Appellant is separate and distinct from the previous litigation pursued by him. The JLSC, the President and the Chief Justice have no interest in this appeal. The necessary logical connection between the source of concern and any potential impact on the minds of the members of the court is absent.
28. We have also had regard to what Lord Hodge said in *Halliburton Company v Chubb Bermuda Insurance Ltd* [2020] UKSC 48 at [68] "[T]he objective observer is alive to the possibility of opportunistic or tactical challenges. Parties engage in arbitration to win. Their legal advisers present their cases to the best of their ability, and this pursuit can include making tactical

objections or challenges in the hope of having their dispute determined by a tribunal which might, without any question of bias, be more predisposed towards their view or simply to delay an arbitral determination. The courts are alive to similar tactical objections in litigation. In *Locabail*, ... the Court of Appeal ... addressed the circumstances in which judicial office holders may be required to disqualify themselves from hearing a case. The court stated (para 25) that it would be dangerous and futile to attempt to define or list the factors which may or may not give rise to what we now describe as a real possibility of bias; “[e]verything will depend on the facts, which may include the nature of the issue to be decided.” (Citation edited).

29. We note that no initial objection was made to the Judge in this case or to the other judges dealing with the litigation involving Strata Plan 491, despite their connection to the Chief Justice. The Appellant only applied to recuse the Judge on 4 December 2025, after the Judge had announced his decision to make the Protection Order.
30. We consider that the challenge that is made in this case is unfounded on the facts and the nature of the issue to be decided.
31. The Appellant’s claim is not grounded in any objective facts that would require recusal. He made it clear that his application for recusal would apply to any ad hoc court constituted by Judges from the United Kingdom and the Caribbean.
32. Locabail makes it clear that it would be wrong for judges to accede to applications for recusal unless they regard them as well-founded. Judges have a duty to try any case in which they are not obliged to recuse themselves. Accordingly, we declined to recuse ourselves and proceeded to hear the Appellant’s appeal.