Neutral Citation Number: [2026] CIGC (Civ) 17

ND COURT OF THE CAYMAN ISLANDS

CAUSE NUMBER G2026-0036

IN THE MATTER OF ORDER 53 OF THE GRAND COURT RULES

AND IN THE MATTER OF AN APPLICATION BY CANOVER WATSON FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

BETWEEN

CANOVER WATSON

Applicant

AND

IMMIGRATION APPEALS TRIBUNAL OF THE CAYMAN ISLANDS

1st Respondent

CAYMAN STATUS AND PERMANENT RESIDENCY BOARD

2nd Respondent

ATTORNEY GENERAL OF THE CAYMAN ISLANDS

3rd Respondent

ON THE PAPERS

Before: **The Hon. Justice Marlene I Carter**

Date Filed: **06 February 2026**

Date of Ruling: **27 April 2026**

RULING ON APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

1. The Applicant filed an application for leave for judicial review on 6 February 2026. Unfortunately, due to administrative oversight, the application was not brought to the attention of this court until 21 April 2026. In any event, this slight delay is not prejudicial to the Applicant since it appears that upon filing the application for leave for judicial review counsel, Ms. Rankine, whom the Applicant indicates assisted him *"to ensure filing, given my incarceration"* served a copy of the application and supporting affidavit on the Attorney General's Chambers on 17 February 2026.

2. There was no attempt to engage with the Pre-Action Protocol for Judicial Review.

3. The Attorney General's Chambers, having considered the same, issued a letter in response addressed to Ms. Rankine on 27 February 2026, (hereinafter the "AGC's letter"). On 16 April 2026, the Applicant wrote to the court ("the April 16 letter") referring to the application for leave as well as the AGC's letter. From the Applicant's correspondence, it appears that the AGC's letter was attached to correspondence sent to the Applicant by Ms. Rankine on 14 April 2026 at HMP Northward. Unfortunately, counsel who assisted the Applicant to file the application for leave for judicial review did not, at the same time, forward the AGC's letter to the court, despite it being relevant to the Court's consideration of the *ex parte* application for leave to file for judicial review.

4. However, the intervening period, between filing the application for leave and the matter coming before this court, has allowed for the Respondents to have the opportunity to determine whether the matter could be resolved and allowed the Applicant to present submissions to the court in the form of the April 16 letter, which address matters raised by the Respondents in the AGC's letter.

5. The Applicant states that the purpose of the April 16 letter to the court is to seek:

> *"1. Directions from the Court as to the appropriate procedural course;*
> *2. An extension of time (if required) to pursue any statutory appeal under Order 55; and*
> *3. Confirmation that the Judicial Review application may proceed, as it raises distinct issues of procedural fairness and jurisdiction not capable of determination within a statutory appeal."*

The background to this application

6. On 23 August 2019, the Cayman Status and Permanent Residency Board notified the Applicant of its intention to revoke his right to be Caymanian as a result of a criminal conviction. The Applicant appealed this decision to the Immigration Appeals Tribunal. On the 29 October 2024, the Immigration Appeals Tribunal ("IAT") dismissed the appeal and recommended that the Applicant attend at Customs and Border Control in order to have his authorization to remain in the Islands regularized to avoid any breaches under the law. The Applicant was advised of his right to appeal

to the Grand Court pursuant to Section 23(2) *of the Immigration (Transition) Act* from a decision of the IAT on a point of law, such appeal to be filed within 28 days of receipt of the decision.

7. On 21 August 2025, the Applicant through his then attorney, wrote to the IAT highlighting what he alleged were procedural and jurisdictional errors and seeking "*that the Tribunal's 29 October 2024 decision be declared a nullity*". In correspondence dated 7 November 2025, the IAT responded that it had "*neither a legal basis nor any power under the Act to do a reconsideration*." The IAT referred to the appeal against its decision of 29 October 2024 and advised that the period during which the Applicant could have appealed had expired on 26 November 2024. The request for reconsideration was unanimously dismissed.

8. On the 6 February 2026, the Applicant filed the application for leave for judicial review accompanied, by an affidavit in support of the application. The Applicant seeks to impugn the decision of the IAT of 7 November 2025. The Applicant seeks the following relief:

- "*An Order of Certiorari to quash the decision of the Immigration Appeals Tribunal dated 7 November 2025 (Ref: CS/005/2019).*
- *An Order of Mandamus directing the Respondents to reinstate the Applicant's right to be Caymanian pending a lawful reconsideration of the matter in accordance with Section 34(1) of the Immigration (Transition) Act.*
- *A Declaration that the First Respondent's decision was unlawful, void ab initio and of no effect.*
- *Interim Relief/Stay: Pursuant to GCR Order 53, Rule 3 (10), an Order that the grant of leave shall operate as a stay and all enforcement actions arising from the Tribunal's decision until the final determination of this application.*
- *Costs: Such further or other relief including costs as the Court deems just."*

9. The Applicant identified 3 grounds upon which relief is sought.

> "***Ground 1***: *Procedural Unfairness (Breach of Natural Justice): The Tribunal failed to disclose or allow the Applicant to respond to speculative and factually incorrect advice from the Director of Public Prosecutions in breach of the audi alteram partem principle and Section 19 of the Bill of Rights.*

> ***Ground 2:*** *Jurisdiction Error: The Tribunal misapplied Section 34(1) of the Immigration (Transition) Act by upholding a revocation while appeal rights in respect of the underlying conviction remain unexhausted.*
>
> ***Ground 3:*** *Irrational/Wednesbury Unreasonableness: The decision was so unreasonable that no reasonable decision-maker could have reached it, specifically by ignoring relevant considerations regarding the Applicant's family life and the interconnected nature of pending appeals."*

10. In addressing objections raised in the AGC's letter to the grant of leave, the Applicant acknowledged that there were issues of timing. However, the Applicant invited the court to consider the following regarding the delay in seeking leave to apply for judicial review:

- *"I was incarcerated throughout the relevant period and without access to funding or legal representation.*
- *On 8 November 2024 I received the Court of Appeal judgment dismissing my criminal appeal, which triggered a strict and immediate 56-day deadline to apply to the Judicial Committee of the Privy Council expiring on 3 January 2025;*
- *On 11 November 2024, I also received notice of the Immigration Appeals Tribunal's decision dated 29 October 2024;*
- *As a lay person, without funding and with limited access while incarcerated, my efforts during that period were necessarily focused on preparing and pursuing the Privy Council application, which was time-critical; and*
- *Once that process reached a point where I could reasonably turn my attention to the IAT matter, I sought assistance from my lawyers in January 2025.*

The Statutory Appeal Issue.

11. The Applicant did not file an appeal against the decision of the IAT of 29 October 2024 within the time prescribed by Section 23(2) of *the Immigration (Transition) Act*. Instead, the Applicant sought a reconsideration of the IAT's decision approximately 10 months after the decision was made and

well after the internal remedies in the legislation had lapsed. There is no legal mechanism that would enable this court to extend the time for filing of the statutory appeal.

12. In determining the instant application, the reasons advanced by the Applicant for not pursuing his statutory right of appeal are relevant. On the Applicant's account, he did not seek legal assistance until January 2025 because, between the notification of the failure of his appeal to the IAT in November 2024 and that point, he had been engaged in preparing and pursuing an unrelated Privy Council application. It is of note that the letter seeking reconsideration by the IAT was not sent until 21 August 2025, some eight months after the Applicant indicates that the application to the Privy Council had reached a point at which he could turn his attention to the IAT matter.

13. Even if the court were to give weight to the issues of the Applicant being a lay person, without funding and with limited access while incarcerated, to excuse the Applicant not filing the appeal against the IAT's decision within the required time, none of these account for the unexplained delay between January 2025 and August 2025 in seeking a reconsideration.

The Application for leave

14. In considering whether to grant leave to apply for judicial review, the court's role is to consider whether "*there is some arguable case or claim which is not obviously untenable, vexatious or frivolous."* In *Sharma v Brown-Antoine*[1], it was further clarified that an applicant must demonstrate that it has arguable grounds for judicial review having a realistic prospect of success.

15. In *Shirley Tyndall O.J. et al v Hon Justice Boyd Carey (ret'd) et al*[2]., Mangatal J stated:

> *"It is to be noted that an arguable ground with a realistic prospect of success is not the same thing as an arguable ground with a good prospect of success. The ground must not be fanciful or frivolous. A ground with a real prospect of success is not the same thing as a ground with a real likelihood of success. The Court is not required to go into the matter in great depth though it must ensure that there are grounds and evidence that exhibit this real prospect of success."*

[1] [2006] UKPC 57, paragraph 14
[2] 2010 HCV 00474, (Unreported) Mangatal J.

16. The bar for leave is low, as confirmed earlier this year by the Privy Council in *Ramdass v Minister of Finance (Trinidad and Tobago)*[3]. In *Ramdass* the Privy Council placed their focus on the question of whether there were any "*knockout blow*" arguments against the case advanced. In the absence of any then it was held that leave should ordinarily be given. The central passage is set out below:

> *"The Board has emphasized the low threshold for meeting the test of arguability and the need to demonstrate what is a clear knockout blow in resisting the grant of leave to apply for judicial review. The significance of this is that a public body seeking to resist the grant of leave for judicial review of its acts or decision ought generally to be able to demonstrate a knockout blow in a summary way without the need for extensive investigation of and argument on the knockout point relied on*."

17. The decision against which leave to apply for judicial review is sought, was made on 7 November 2025. The application is against the IAT's decision which the Applicant submits *"upheld the revocation of the Applicant's Right to be Caymanian."*

18. The more salient contents of the letter of 7 November 2025 relevant to the instant application are as follows**:**

> "*This matter returned before the Tribunal following receipt of letter dated 21st August 2025 and received on the 9th September 2025 requesting that its decision be declare[d] 'void ab initio', for jurisdictional error, procedural unfairness, and misapplication of section 34(1) of the Immigration (Transition) Act.*
>
> *The Tribunal determined that it has neither a legal basis nor any power under the Act to do a reconsideration. Furthermore, the Appellant and his Attorney are reminded that the twenty-eight [28] days in which to appeal the decision of the Tribunal, "on a point of law only" to the Grand Court started on Wednesday 30th October 2024, and expired on Tuesday 26th November 2024.*
>
> *Accordingly, its decision recorded in its letter dated Tuesday 29th October 2024 is upheld and request is unanimously dismissed."*

19. The IAT did not assume any jurisdiction or consider whether or not its initial decision should be upheld except to the extent that they could not do what the Applicant had sought which was to reconsider the decision, that is to consider afresh whether its decision should be declared *"void ab*

[3] 2025 UKPC 4

initio, for jurisdictional error, procedural unfairness, and misapplication of Section 34 (1) of the Immigration (Transition) Act."

20. Contrary to what the Applicant states in the application for leave, the IAT did not reach any decision on the 7 November 2025, which in relation to the revocation of his Right to be Caymanian, "*was reached through a process that was procedurally unfair, exceeded the Tribunal's statutory jurisdiction and was irrational in its failure to account of the Applicant's Constitutional Rights.*" The decision which the Applicant alleges was fundamentally flawed for these reasons, was the decision reached by the IAT on 29 October 2024. This is illustrated by the matters that the Applicant relies upon as grounds upon which relief ought to be granted on the instant application:

(i) **Ground 1** alleges a breach of natural justice and the constitutional right to a fair hearing in relation to matters placed before the Tribunal in the form of advice from the Office of the Director of Public Prosecutions which the applicant stated the Tribunal failed to disclose to the Applicant or his counsel so as to allow an opportunity to rebut it, and yet relied upon it in coming to its decision.

(ii) **Ground 2** alleges that the Tribunal committed a jurisdictional error of law in misinterpreting and misapplying the statutory conditions precedent for the revocation of Caymanian Status. The revocation of Caymanian Status was a decision made on 29 October 2024.

(iii) **Ground 3** alleges that the Tribunal decision was unreasonable and irrational especially in relation to the Applicant's Right to Family and Private Life and that the Tribunal failed to strike a proportional balance in the circumstances of this case.

21. These "Grounds" buttress the view that the relevant decision under challenge is that of 29 October 2024. None of these grounds address or challenge the decision that the Tribunal did arrive at by its letter of 7 November 2025: that it had no jurisdiction to entertain a reconsideration of its decision of 29 October 2024. As outlined in the AGC's letter, "*The Leave Application is …not seeking to challenge the dismissal of the reconsideration request, rather the revocation of Mr. Watson's Caymanian Status…"* I agree with this conclusion. For this reason, the operative date for any application for leave for judicial review of decisions which affect the Applicant in the manner outlined by the Grounds stated is not 7 November 2025. Given the nature of the relief and the grounds of relief stated, the decision of 29 October 2024 must be the relevant decision for the

purpose of this application. If this court is incorrect in this analysis, the determination on the application for leave to judicially review the decision of the IAT of 7 November 2025 will be refused. None of the grounds advanced by the applicant are arguable grounds for judicial review having a real prospect of success against the IAT's decision on that date.

22. If the date of the relevant decision is 29 October 2024, this would amount to this court being asked to consider the application for leave for judicial review approximately 16 months after the decision was made. This delay is significant.

23. *Grand Court Rules, Order* 53 r. 4(1) states as follows:

> "***Delay in applying for relief:***
> *4(1) An application for leave to apply for judicial review shall be made promptly and in any event within 3 months from the date when grounds for the application first arose unless the Court considers there is good reason for extending the period within which the application shall be made."*

24. In *Howard Antony Barrocks v WORC and Ors*[4], this court noted:

> *"The timeous application for leave is one of the gateway provisions under Order 53. If an applicant does not comply with the provisions regarding the timely filing of the application for leave, the court, in the usual course, cannot, without good reason being advanced and accepted by the court, move to consider whether the Applicant has demonstrated that he has arguable grounds for judicial review having a realistic prospect of success."*

25. The application has not been made promptly and does not comply with GCR, O.53, r.4 (1). The three-month time limit imposed by that rule is "*an outside limit to the basic requirement of promptness*"[5]

26. The reasons advanced by the Applicant for delay seem to be aimed primarily at explaining the delay in seeking a reconsideration of the IAT's decision. As noted at paragraphs 12-13 above, these reasons are insufficient to explain that lapse. However, the reasons advanced also do not suffice to

[4] Cause no G0128 of 2024, 12 June 2024, paragraph 15
[5] Ackermon v Government of the Cayman Islands and National Roads Authority [2013] 2 CILR 1.

explain why leave was not sought promptly. The Applicant states that he turned his attention to the IAT matter in January 2025. He delayed seeking reconsideration, although this step was legally futile, and ultimately, filing of the present application was likewise delayed.

27. Given the Applicant's status at HMP Northward, this court has considered the April 16 letter regarding delay and what was stated in respect of delay at paragraph 10 above. The Applicant's affidavit in support of the application for leave for judicial review does not state or explain this delay any further.

28. The Applicant states in the April 16 letter*:*

> *"…In the circumstances I respectfully submit that any delay was not deliberate, but arose from the combined effects of incarceration, lack of resources, overlapping appellate deadlines, and my good-faith efforts to pursue internal resolution before seeking Court's supervisory jurisdiction."*

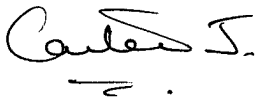
29. It appears that the Applicant did have some legal resources. The Applicant stated in the April 16 letter that once the Privy Council appeal issue was resolved, "*I sought assistance from my lawyers in January 2025*." He was also assisted by attorneys when he sought reconsideration in August 2025. I also bear in mind the Applicant's indication that ultimately *"I thereafter took steps, as a litigant in person, to prepare and file the present Judicial Review application and was assisted by Ms. Rankine only to the extent necessary to ensure filing, given my incarceration."*

30. The good faith efforts to pursue internal resolution referred to by the Applicant was the reconsideration, which was without legal merit. The Applicant's explanation for the delay does not amount to good reason and is not accepted by this court. In circumstances where the court does not accept that there is a good reason for delay, the court will not move to consider whether the Applicant has demonstrated that he has an arguable ground for judicial review having a realistic prospect of success.

31. Apart from the issue of delay in filing the application for leave, the Applicant did not avail himself of the statutory remedy provided by the immigration legislation. The authorities are clear that an Applicant should avail himself and exhaust any statutory appeal before pursuing judicial review which is a remedy of last resort. The facts of this case do not support there being any special circumstances to warrant a departure from this principle. The reasons advanced by the Applicant

for not pursuing the statutory appeal are not persuasive. In the absence of such circumstances, leave for judicial review should not be granted.

32. For these reasons, leave to apply for judicial review is refused.



The Hon Justice Marlene Carter
Judge of the Grand Court