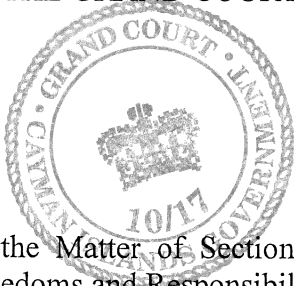


No. 7 Petition (0.9, r.2)

DEC 15 2017

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO: G 217 OF 2017

In the Matter of Section 26(1) of the Cayman Islands Constitution 2009 - Bill of Rights, Freedoms and Responsibilities ("the Constitution") (Enforcement of Rights and Freedoms)

And in the Matter of Order 77A of the Grand Court Amendment Rules Amendment No. 2 of 2012

And in the Matter of a Petition that the Chairman of the Cayman Status and Permanent Residency Board ("the Board") be held to be acting contrary to section 19 of the Constitution in that they have refused to allow the Petitioner time to respond to their letter of 20th November, 2017 until after her upcoming trial in the Court

BETWEEN: MELVY BAUTISTA PEREZ PETITIONER

AND: THE CHAIRMAN OF THE CAYMAN STATUS
AND PERMANENT RESIDENCY BOARD

-AND -

AND: THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS RESPONDENTS

PETITION

To the Grand Court of the Cayman Islands

And to: The Chairman, Cayman Status and Permanent Residency Board

And to: The Honourable Attorney General

And to: The Chief Immigration Officer

The humble Petition of **MELVY BAUTISTA PEREZ** shows that:-

BRIEF BACKGROUND

1. The Petitioner was married to a member of the Royal Cayman Islands Police Service in 2004. There are 3 children of the marriage now 13, 9 and 6 years old.
2. The Petitioner was granted Cayman Status on 3rd July, 2013 under Section 26 of the Immigration Law (2013 Revision) on grounds of marriage to a Caymanian.
3. That on 15th January, 2016, the Petitioner received a Certificate of Naturalization as a British Overseas Territories Citizen under the British Nationality Act 1981.
4. The marriage broke down irretrievable on grounds of unreasonable behaviour on the part of the Petitioner's ex-husband and the Petitioner petitioned the Court for divorce and obtain a decree absolute in November, 2016.
5. The Petitioner and her ex-husband both signed a Consent which amongst other things, gave a residential order of the three children of the marriage to the Petitioner. The Petitioner has always been the breadwinner of the children since 2012 when the marriage started to breakdown. She has the daily care and control of the children.
6. On 10th May, 2017, the Petitioner was arrested on suspicion of making false representations contrary to section 104(1)(a) of the Immigration Law (2015 Revision).
7. On 12th May, 2017, the Petitioner was interviewed without obtaining legal advice from an attorney.

8. On 26th May, 2017, the Petitioner was interviewed for the second time after she received legal advice and had her attorney present during the interview.
9. The Petitioner exercised her right of silence.
10. On or around 4th July, 2017, the Investigation Officer from the Immigration Enforcement Department allowed the Petitioner to make a choice as to whether she wished to admit to the aforementioned offences and pay a fine which would be done administratively or whether she preferred to have the matter dealt with in the Summary Court and the Petitioner chose the Summary Court.
11. On 10th October, 2017, all charges under Summary Court No.03270/17 were put to the Petitioner. She entered NOT guilty pleas to all charges.
12. The Petitioner remains on bail and awaits her trial which is set down for 1st March, 2018.
13. On 30th November, 2017, whilst awaiting her trial, the Petitioner received a call from Mr. Brian Ebanks, the Investigating Enforcement Officer at the Immigration Department that she should collect a letter from him. The Petitioner collected the letter that same day.
14. The letter is addressed to the Petitioner and is signed on behalf of the Cayman Status and Permanent Residency Board. The second to last paragraph on page 2 of the letter reads, *inter alia* as follows:-

“The Board has requested a written response from you within 15 days hereof stating reasons why the Board should not revoke your Right to be Caymanian in accordance with Sections 27(1)(a), 27(1)(d)(iii) and 28(1)(a) of the Immigration Law (2015 Revision).”

15. On 8th December, 2017, the Petitioner's legal representative sent a letter to the Respondents requesting that they withdraw their request or extend the time to respond after the trial of the Petitioner's case in the Summary Court.
16. On 15th December, 2017, the Respondents refused that request in an email, however, extended the time to respond to 27th December, 2017.
17. This refusal is unjustified, unreasonable and is in breach of the Petitioner's constitutional rights including the right to a fair trial.
18. The said request is pre-mature and is an infringement of the Petitioner's fundamental rights under the Constitution, in particular, Section 7 as well as Sections 5(3), 5(5)(a) and (b).
19. That the action of the Respondents are unlawful, irrational, disproportionate or procedurally unfair in all the circumstances.

The Petitioner therefore humbly prays that:-

1. That the action of the Respondents be held to be unlawful or irrational or disproportionate or procedurally unfair in all the circumstances.
2. The Respondents' actions be held to be in breach of the Petitioner's fundamental rights under the Constitution.
3. Alternatively, that the Respondents be ordered to extend the time for the Petitioner to respond to the letter dated 20th November, 2017, until after the conclusion of the matter currently before the Court.

4. Further and in the alternative, that the Respondents be ordered to immediately withdraw their letter of 20th November, 2017 as well as their email dated 15th December, 2017 extending the time to respond up to 27th December, 2017.
5. That either one or both Respondents pay the costs of these proceedings.
6. Such other orders or directions as the Court thinks fit.

AND the Petitioner will ever pray:-

1. That the action of the Respondents be held to be unlawful or irrational or disproportionate or procedurally unfair in all the circumstances.
2. The Respondents' actions be held to be in breach of the Petitioner's fundamental rights under the Constitution.
3. Alternatively, that the Respondents be ordered to extend the time for the Petitioner to respond to the letter dated 20th November, 2017, until after the conclusion of the matter currently before the Court.
4. Further and in the alternative, that the Respondents be ordered to immediately withdraw their letter of 20th November, 2017 as well as their email dated 15th December, 2017 extending the time to respond up to 27th December, 2017.
5. That either one or both Respondents pay the costs of these proceedings.

6. Such other orders or directions as the Court thinks fit.

Dated the 15th day of December, 2017

Facey-Clarke & Associates

Facey-Clarke & Associates Ltd.
Attorneys for the Petitioner

NOTE: This Petition is intended to be served on:-

The Secretary, Cayman Status and Permanent Residency Board
Department of Immigration
Elgin Avenue, George Town
Grand Cayman

The Honourable Attorney General
Government Administration Building
Elgin Avenue, George Town
Grand Cayman

The Chief Immigration Officer
Department of Immigration
Elgin Avenue, George Town
Grand Cayman

This Petition was presented by Facey-Clarke & Associates Ltd., Attorneys-at-Law for the Applicant herein whose address for service is that of the said Attorneys-at-Law, Unit 119, Ground Floor, Elizabethan Square, P.O. Box 2545, Grand Cayman KY1-1104, Tel: (345) 917-6351, Email: mclarke@candw.ky

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G _____ OF 2017

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-AND -

AND: THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS RESPONDENTS

ACKNOWLEDGMENT OF SERVICE
OF PETITION

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Respondent whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Respondent by whom or on whose behalf the service of the Petition is being acknowledged.

2. State whether the Respondent intends to contest the proceedings (tick appropriate box)

yes no

3. If the claim against the Respondent is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Respondent intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)

yes no

Service of the Petition is acknowledged accordingly

(Signed).....
Respondent (if in Person) or Attorney for the Respondent

Date Received:

Please complete overleaf

Notes on address for service

Attorney: where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

Respondent in person: where the Respondent is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Petitioner's Attorney (or by Petitioner if suing in person) of his name, address and reference, if any, in the box below.

Facey-Clarke & Associates
Barristers & Attorneys-at-Law
P.O. Box 2545, Grand Cayman KY1-1104
Unit 119, Ground Floor, Elizabethan Square,
80 Shedden Road, George Town, Grand Cayman
Cayman Islands, B.W.I.
Email: mclarke@candw.ky
Tel: 345 946 8111 or 917 6351)

Indorsement by Respondent's Attorney (or by Respondent if suing in person) of his name, address and reference, if any, in the box below.