

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO: OF 2023**

**LACV243 of 2021**



**TER OF GCR ORDER 55**

**CAVENNA ELLIS**

**Appellant**

**-and-**

**THE IMMIGRATION APPEALS TRIBUNAL**

**Respondent**

---

**NOTICE OF ORIGINATING MOTION**

---

**TAKE NOTICE** that the Court at the Law Courts, George Town, Grand Cayman will be moved on \_\_\_\_\_ at \_\_\_\_\_ or as soon thereafter as counsel can be heard, by counsel on behalf of Cavenna Ellis ("**CE**") on the following grounds:

1. By letter dated the 13<sup>th</sup> January 2023 ("**the Decision Letter**"), the Immigration Appeals Tribunal ("**the IAT**") unanimously dismissed CE's appeal against the decision of the Caymanian Status and Permanent Residency Board to revoke her RERC ("**the CSPRB Decision**").
2. CE appeals against the IAT's decision on the following grounds:

**Ground 1**

3. The IAT erred in law by placing insufficient weight on the best interests of CE's Caymanian child ("**JG**"), in breach of section 9 of the Bill of Rights, section 3 of the Children Act (2012 Revision), applicable international law and the common law.
4. The IAT concluded that requiring JG to move to Jamaica would have "*minimal effect on her, if any*". This unreasonable conclusion was the product of a failure to consider her best interests, which, from the decision letter, appear based on the following errors:

- i. Placing insufficient weight on CE's evidence that JG has suffered significant distress by the separation and ongoing process.
  - ii. Placing insufficient or no weight on the evidence of JG regarding (i) the decline in quality of her school work while she resided in Jamaica, (ii) the improvement in her school work on return to Cayman and her plans for her CXC exam, (iii) her desire to be a role model for her younger sisters, and (iv) her desire to stay living in Cayman with her family together.
  - iii. Further or alternatively, failing to make further enquiries regarding JG's situation and her views on the issue.
  - iv. Placing excessive and inappropriate weight on a finding that JG's father had not given evidence of the impact that JG's relocation would have on JG or himself. This led to an unreasonable and speculative inference that "*her relationship with her Caymanian father while on island is limited*".
  - v. Concluding, speculatively and without evidence, that JG has "*close ties with her family in Jamaica*".
  - vi. Concluding, speculatively and without evidence, that "*as a Caymanian child, her ability to travel back home to visit family would not have been hindered*" between 2019 and 2021 where JG was, at times, in Jamaica.
5. Had the IAT approached the matter correctly, it would have concluded that JG's best interests required CE's RERC to remain in place.

## Ground 2

6. The IAT made an error of law by failing to take into account the best interests of CE's other two non-Caymanian children ("**the twins**").
7. The IAT should have weighed whether it was in the twins' best interests to remain apart from their sister, JG (and vice versa), or together in the same country. Though the IAT makes cursory reference to the possibility of the children residing together in

Jamaica, no consideration was given to the children residing together in the Cayman Islands.

8. If, as is contended, it is in JG's best interests to remain in the Cayman Islands, then the IAT should have concluded that it must be in the best interests of the twins to also reside in the Cayman Islands with (or close to) their sister.
9. Instead, the IAT concluded, speculatively and without evidence, that the twins "*are of Jamaican heritage, therefore it can be safely assumed that they are accustomed to the social and cultural norms of Jamaica, as well as family ties and the relocation would have no effect on them*". The IAT used this conclusion to support a finding that all children could live together in Jamaica, ignoring JG's best interests as described in Ground 1.
10. In addition, the IAT placed insufficient or no weight on factors before it in evidence:
  - i. The fact that the twins had previously sought to be enrolled in school in the Cayman Islands, until the process was obstructed by CBC.
  - ii. The twins suffering upset from being separated from JG.

### Ground 3

11. The IAT erred in law in its approach to the weighing of the significance of CE's conviction in the overall balancing exercise regarding interference with section 9 rights. In particular, the IAT:
  - i. Placed insufficient weight on CE's rehabilitation from offending, as demonstrated by the evidence before it.
  - i. Placed excessive and inappropriate weight on an irrelevant factor, that "*it is a serious crime being committed and criminals are a serious danger to these otherwise peaceful Islands*". This is not relevant to CE's individual position and was contrary to the evidence of her rehabilitation.
12. The IAT erred in law on these grounds.

**AND** for the following relief:

1. An order quashing the IAT's decision.
2. An order quashing the CSPRB Decision.
3. An order that CE's RERC be reinstated.
4. Such further or other relief as this Honourable Court shall deem appropriate.

Dated this 10<sup>th</sup> day of February 2023

Filed this        day of January 2023



---

KSG Attorneys

TO:            The Clerk of Court

AND TO:     The Immigration Appeals Tribunal