



TER OF GCR ORDER 55

BRANDON LIBERAL

Appellant

-and-

(I) WORKFORCE OPPORTUNITIES & RESIDENCY CAYMAN
 (II) 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 Brandon Liberal ("**BL**") on the following grounds:

1. By letter dated the 15th September 2023 ("**the Decision Letter**"), the Immigration Appeals Tribunal ("**the IAT**") dismissed BL's appeal against the decision of the Caymanian Status and Permanent Residency Board dated the 31st August 2017 ("**the CSPRB Decision**") (communicated to BL by letter dated the 11th September 2017). The CSPRB Decision was to revoke BL's right to Be Caymanian pursuant to section 28(1)(a) of the Immigration Act (2015 Revision).
2. BL appeals against the IAT's decision on the following grounds:
 - 2.1. Ground 1 – The IAT erred in holding that BL's rights under section 9 of the BOR were not violated by the CSPRB Decision, because it failed to apply the correct test regarding the deprivation of citizenship.
 - 2.2. Ground 2 – Further or alternatively to Ground 1, the IAT erred in holding that BL's rights under section 9 of the BOR were not violated by the CSPRB Decision, because it failed to apply the correct legal principles to this exercise, conducted no balance sheet exercise regarding the pros and cons of revocation, and provided no adequately reasoned conclusions.

- 2.3. Ground 3 – The IAT erred in holding that BL’s rights under section 9 of the BOR were not violated by the CSPRB Decision, because it failed to apply the legal principles relevant to the fact that BL had moved to the Cayman Islands aged five and had spent the vast majority of his childhood and his entire adulthood in this jurisdiction (see, e.g. *Maslov v Austria* 1638/03 at [75]).
- 2.4. Ground 4 – The IAT erred in holding that BL’s rights under section 9 of the BOR were not violated by the CSPRB Decision, because it failed to consider (adequately or at all) the solidity of BL’s social, cultural and family ties with the Cayman Islands and Jamaica, and the difficulties he would experience in Jamaica.
- 2.5. Ground 5 – The IAT erred in holding that BL’s rights under section 9 of the BOR were not violated by the CSPRB Decision, because it placed too much weight on BL’s criminal record and insufficient weight on the evidence regarding his family and private life, his progress since 2012 and the lapse of time since his last offence.
- 2.6. Ground 6 - The IAT erred in holding that the section 9 rights of BL and his children were not violated by the CSPRB Decision, because it failed to apply (adequately or at all) the correct legal principles and failed to acknowledge and enforce the positive obligation on the State to take measures to maintain the relationship between parent and child.
- 2.7. Ground 7 – The IAT erred in holding that the section 9 rights of BL and his children were not violated by the CSPRB Decision, by finding that “*it is unlikely that any of the children’s mother’s (sic) would accompany [BL] with their child*”, yet failing to give any adequate consideration to the difficulties that the children would face in Jamaica or in visiting BL in Jamaica.
- 2.8. Ground 8 - The IAT erred in holding that the section 9 rights of BL and his children were not violated by the CSPRB Decision, by finding that “*the children’s status quo, in particular their upbringing and well-being, and that of their respective mother, will remain unchanged irrespective of whether or not the Appellant’s appeal is upheld or his right to be Caymanian is revoked*”. That finding was contrary to the evidence and reveals a failure to apply the correct legal principles.

- 2.9. Ground 9 – The IAT erred by making numerous errors of fact amounting to an error of law, which exacerbated the failures stated in the Grounds above. These errors include but are not limited to that:
- 2.9.1. Relying upon an incorrect record of BL’s criminal convictions (page 2 of the IAT Decision), despite having been informed that that record was incorrect in the 19th May 2020 Grounds of Appeal lodged on BL’s behalf (at [8]-[9]).
- 2.9.2. The claim that *“there is limited or no evidence provided by the Appellant as to his upbringing, education and familial ties since his first arrival in the Islands”* (page 3). This is incorrect. BL gave detailed evidence of these matters in the evidence filed with the IAT.
- 2.9.3. The claim that BL *“committed several further serious criminal offences before his imprisonment in July 2014”* following the armed robbery offence in 2012 (page 3). This is untrue. BL’s last criminal conviction relates to two offences (robbery and possessing an unlicensed firearm) dating the 4th October 2012.
- 2.9.4. The claim that *“there is no indication or affirmation by [BL] of remorse for his previous criminal activity in the Islands. Nor that he has disassociated or ceased contact with his previous criminal associates”* (page 3). This is incorrect. BL gave detailed evidence of these matters in the evidence filed with the IAT.
- 2.9.5. The claim that BL *“spent some of his formative years in Jamaica before his arrival in the Islands in 1992”* (page 4). This is incorrect. BL arrived in the Cayman Islands when he was five years old, having spent no more than a year in Jamaica.
- 2.9.6. The claim that BL *“has never married and considers himself a single man”* (page 4). This is incorrect. It fails to take into account BL’s evidence dated the 23rd September 2022 that *“I am in a relationship with [...]. We are expecting our first child in March 2023.”*
- 2.9.7. The claim that there is *“no evidence that [BL] no longer has extended family ties at all in Jamaica”*. This is incorrect. BL gave detailed evidence of these matters in the evidence filed with the IAT, including that *“[t]he only Jamaicans I know, apart from my mother, are people I have met in Cayman and who live here”*.
- 2.10. Ground 10 – In making the errors of fact described in Ground 9 above and in failing to take into account the evidence filed on BL’s behalf, the IAT failed to take into

account relevant considerations and took into account irrelevant and incorrect considerations.

2.11. Ground 11 – The IAT erred in law by holding that “*revocation of a person’s right to be Caymanian by this Tribunal does not automatically by operation of law lead to a person’s removal from the Islands*”. That is an error of law because there is no lawful basis upon which a person can remain in the jurisdiction once deemed a prohibited immigrant. The IAT should have taken this into account when considering whether the CSPRB Decision breached the section 9 rights of BL and his children.

3. 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 BL’s right to be Caymanian be reinstated.
4. Such further or other relief as this Honourable Court shall deem appropriate.
5. Costs here and before the IAT.

Dated this 4th day of October 2023

Filed this day of October 2023



KSG Attorneys

TO: The Clerk of Court

AND TO: The Immigration Appeals Tribunal