



**GRAND COURT OF THE CAYMAN ISLANDS**

**IN JUNCTION**

**CAUSE NO G2023-0084**

**LACV35 OF 2024**

**MATTER OF Section 67 OF THE IMMIGRATION LAW (2018 REVISION)**

**AND IN THE MATTER OF Section 74(1) OF THE IMMIGRATION LAW (2015 REVISION)**

**AND IN THE MATTER OF SECTION 31 OF THE IMMIGRATION LAW (2015 REVISION)**

**AND IN THE MATTER OF ARTICLE 9 OF THE CAYMAN ISLAND CONSTITUTION ORDER 2009**

**AND IN THE MATTER OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009 pursuant to Order 77A Rule 4 for a Declaration to prohibit the expulsion from the Cayman Islands**

**AND IN THE MATTER OF SECTION 14 OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009**

**AND IN THE MATTER OF SECTION 24 OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009**

**BETWEEN:  
APPLICANT**

**MARVIN**

**MARTINEZ**

**FUENTES**

**AND:  
RESPONDENT**

**DIRECTOR**

**OF**

**CUSTOMS**

**AND**

**BORDER**

**CONTROL**

**NOTICE OF MOTION TO APPLY FOR INJUNCTION**

**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 for **the Applicant** for the following relief namely: -

1. An Order directing the Respondent, whether by his/her servants, agents or otherwise to refrain from any and all actions, pursuant to the provisions of section 13(2) and 13 (2)(a-c) of the Cayman Islands Constitution Order 2009, (**"the Order"**) unless and or until the protections afforded to the Applicant, in the said provisions contained within section 13(2)(d)(iii) and 13(3)(a-d) of the said Order are observed, and this Injunction Application is determined.
2. A Declaration that the Respondent whether by his/ her servant, agents or otherwise be restrained and prohibited from any and all actions the objective of which is the

detention of the Applicant, and or removal from the Cayman Islands, under any provision of the Border Control Law or the Immigration (Transition) Act (2022 Revision) until a determination of an appeal on a point of law is determined.

3. Costs and such further, consequential, or other relief as this Honourable Court seems just.

**AND FURTHER TAKE NOTICE** that the grounds of this application are:-

1. **Wednesbury unreasonableness:** The decision of the Respondent to refuse to extend the time for the Applicant to re-file his appeal from the Immigration Tribunal to the Grand Court, him only recently being granted legal aid and same being communicated to his attorney on 18<sup>th</sup> April 2024. The applicant had previously filed a document before the court but was directed by the court to take legal advice before further proceeding and was given leave to re-file his grounds of appeal in terms allowed by law. That the delay in re-filing the required grounds are no fault of the applicant. The refusal to allow the applicant to remain is unreasonable as is the directive requiring that the Applicant depart the Cayman Islands by Friday the 26<sup>th</sup> April 2024 and is a fettering and an improper exercise of discretion, by applying a law and policy, but failing to adequately or at all consider, the special circumstances of the Applicant and his outlined grounds of appeal. In accordance with Section 17(2) of the Cayman Islands Constitution Order 2009, this conduct and decision is unreasonable and should be set aside.
2. That the Applicant, at the time, and continuing, of his request for authority to remain, pose no threat to the interests of the state's defenses, public safety, public order, public morality or public health. The derogation from the provisions of the protections offered by section 13(2) (d) and (3) of the Cayman Islands Constitution Order 2009 was not "objectively and reasonably justifiable in a democratic society...between the means employed and the purpose sought to be realized"; as provided for in section 16(4)(d) of the Cayman Islands Constitution Order 2009.
3. **Irrational Conduct**

That the Respondent has demonstrated by conduct, a breach of Sections: 9,13,17,23,24 and 26 of the Cayman Islands Constitution Order 2009 by demanding that the Applicant depart the Cayman Islands by Friday April 26<sup>th</sup> 2024, which conduct is contrary to the

principles of natural justice as well as particularly Section 17(2) of the Cayman Islands Constitution Order 2009.

Dated the 24<sup>th</sup> day of April 2024

**BRADY**

**ATTORNEYS-AT-LAW FOR THE APPLICANT**

**TO:** The Clerk of the Court

**AND TO:** The Director of WORC

**AND:** The Director of Customs and Border Control

**AND TO:** The Attorney General

**THIS Application is filed by Brady, Attorneys-at-Law for the Applicant whose address is 2<sup>nd</sup> Floor Anderson Square, 64 Shedden Road, GT, Grand Cayman, P.O. Box 1671 APO,KY1-1109, Tel: 946-3203, 323-1967**