

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2025

IN THE MATTER OF SECTION 23 (2) OF THE IMMIGRATION (TRANSITION) ACT (2022 REVISION)

IN THE MATTER OF ORDER 55 OF THE GRAND COURT RULES

AND IN THE MATTER OF AN APPLICATION FOR A RESIDENCY AND EMPLOYMENT RIGHTS
CERTIFICATE PURSUANT TO SECTION 37 (1) IMMIGRATION (TRANSITION) ACT (2022
REVISION).



CONROY SAMUDA

PLAINTIFF

-v-

IMMIGRATION APPEALS TRIBUNAL

Defendant

NOTICE OF
ORIGINATING MOTION

TAKE NOTICE that the Grand Court at the Law Courts, George Town, Grand Cayman will be moved on the _____ day of _____ 2025 at _____ a.m./p.m. or as soon thereafter as counsel can be heard, by counsel on behalf of the Plaintiff for an order in the following terms:

- i. The decision of the Defendant dated 9 April 2025 was erroneous in law, unreasonable and / or a breach of natural justice.
- ii. The decision of the Defendant dated 9 April 2025. is quashed and is to be remade.
- iii. The matter be remitted to the Defendant for the reconsideration of the Plaintiff's points.

And for an order that the costs, of and incidental, to this Application be paid by the Defendant.

1

This Motion was filed by HSM Chambers, Attorneys at Law for and behalf of the Plaintiff herein whose address for service and correspondence is 68 Fort Street, George Town, PO BOX 31726, Grand Cayman KY1-1207, Cayman Islands

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

1. On 26 October 2013, the current Permanent Residence system was introduced. Save for a change to Factor 1, the System has essentially remained the same since 2013. No Permanent Residence applications submitted post 26 October 2013 were considered until 2017.
2. To obtain Permanent Residence the Plaintiff is required to be awarded 110 points in total, after the various factors are considered.
3. Despite the ability for various decision makers to award points in a different manner for the various factors, no policies have ever been published. As a result, it is averred that the points system, in the absence of policies can be arbitrary and opaque.
4. In an application dated 15 December 2022, the Plaintiff applied for Permanent Residence of the Cayman Islands pursuant to Section 37 of the Immigration (Transition) Act (2022 Revision) (“the Act”).
5. In a decision dated 19 December 2023, the Director of WORC rejected the Plaintiff’s application only awarding him 81.50 points.
6. The Plaintiff appealed that decision and Grounds of Appeal were submitted.
7. As a result of the Appeal, Section 23 (10) of the Act, means that the Defendant cannot remit matters back to the Director of WORC and once an appeal has been submitted the Director of WORC’s sole role in proceedings is to provide (if he so chooses) a defence to the Grounds of Appeal.
8. In a decision dated 18 December 2024, the Defendant accepted that the original decision was flawed and requested the Plaintiff provide updated information. The Defendant was exercising their power pursuant to Section 22 (4) and (5) of the Act.

9. As part of new evidence, the Plaintiff provided among other documents,
 - i. A Security Guard Licence dated 20 October 2024.
 - ii. Various letters detailing his involvement in the Cayman Islands.

10. Private Security Services are regulated by the Private Security Services Act 2007 (“the PSSA”). The PSSA among other things:
 - i. Requires that no person can carry on a security business without an appropriate licence.
 - ii. Requires that person cannot act as a security guard unless he has the appropriate licence.
 - iii. Requires that only those people over the age of 18 can apply for a licence to the Commissioner of Police.
 - iv. Permits the Commissioner of make such inquiry and investigation as he thinks fit regarding the character, antecedents, financial position and competence of an applicant for a licence.
 - v. Sets out the grounds on which a licence can be denied, i.e. convictions, character, etc.

11. The PSSA confirms that it is the Commissioner of Police who is the decisionmaker for the PSSA.

12. As well as the PSSA, there is the Private Security Services Regulations 2008 (“the PSSR”). These Regulations further:
 - i. Limits the uniform that a Security Gurad can wear to the uniform approved by the Commissioner.
 - ii. Limits the emblems that can be on vehicles used for security purposes to those emblems approved by the Commissioner.
 - iii. Require the production and maintenance of certain records.

13. The Plaintiff further provided further evidence in regard to his community involvement. In particular, the Plaintiff sought points for:

- i. His involvement with the Cayman Islands Cadet Corps.
 - ii. Training and Mentoring Richard Seymour outside of normal work hours in 2023 and 2024).
 - iii. Taking part in the CXE Volunteer Education Programme in which he trained a variety of Caymanians in Spanish.
 - iv. Training and Mentoring Caymanians during normal work hours.
14. The Plaintiff would aver that he has trained and mentored individuals outside of work in a variety of different ways, i.e.
- i. Flowing from a friendship, i.e. Richard Seymour.
 - ii. As part of a CXC Education Programme, i.e. Christine Issacs, Jennifer Williams, Joan Davies,
15. The Plaintiff would therefore aver that he should not be limited to only 2 points for training and mentoring outside of work, when the training and mentoring is done at separate times and to separate individuals.
16. In a decision dated 9 April 2025, the Defendant rejected the Plaintiff’s application for PR on the basis that they awarded him only 104.15 points.
17. The Defendant scored the Plaintiff the following points.

Factor 1	15 points
Factor 2a	10 points
Factor 2b	10 points.
Factor 3	14.15 points.
Factor 4a	15 points.
Factor 4b	9 points.
Factor 5	10 points.
Factor 6	13 points.
Factor 7	0 points.

Factor 8	0 points.
Factor 9	8 points.
Total	104.15 points.

18. The Plaintiff would contend that the points that he was awarded for Factor 2b and 5 were incorrect and if the Plaintiff had been awarded the correct points, he would have been awarded Permanent Residence. In particular the Plaintiff would contend that:

- i. The Defendant's decision to exclude the Security License due to the Royal Cayman Islands Police Service not being a regulatory body is;
 - Unreasonable;
 - Wrong in Law.

The Commissioner of Police is clearly carrying out a regulatory function when deciding to whom is granted various licences under the PSSA and the PSSR. Furthermore, there is no definition of Regulatory body in either the Act nor the Immigration Regulations (2019 Revision). The fact that the Commissioner of Police is so involved in the Private Security industry, he is clearly carrying on a Regulatory function. It is therefore averred that the Defendant's decision to only award 10 points for Factor 2b, is wrong.

- ii. The Plaintiff should have been awarded more than the 10 points that he was awarded by the Defendant for Factor 5. In particular, the Plaintiff notes:
 - It would appear that the Defendant are limiting the points for Factor 5, to per year, i.e. if you train and mentor 1 Caymanian in work during 2022, you are awarded 1.5 points and if you train and mentor 8 Caymanians in work during 2022, you are awarded 1.5 points. It is contended that this is a vast difference in the way in which applications were previously considered by both the Department and the Tribunal. At no time have the Department of WORC nor the

Defendant issued policies on the Points system and previously, an applicant would achieve points based upon the individual Caymanian trained or the individual sport played. It is therefore the Plaintiff's position that he had a reasonable expectation that he would be awarded points based upon the Caymanians trained as opposed to limiting the award of the points in the manner that the Defendant did.

- In any event, it is contended that the training and the mentorship that the Plaintiff provided to those people during the CXE Education Volunteer Programme could have resulted in points being awarded for volunteering with a voluntary programme especially when read with the letter from Livingston Smith dated 15 December 2023. If points were awarded for volunteering, as opposed to training and mentoring the Plaintiff would have achieved a further 1.5 points.
- At least 4 points for the rehabilitation and mentoring of Kevin Warren. The Defendant did not award points for this because they state that the Plaintiff was "contracted exclusively and gainfully employed to provide said services". There is no requirement in the Regulations that points cannot be awarded if you were employed in a role connected to one of the areas set out in Factor 5. By way of an example points are often awarded to individuals for training and mentoring Caymanians during work hours. Furthermore, the letter from Kevin Warren shows actions above the norm which should have resulted in the award of points.

19. While it is the Plaintiff's primary case, that he should be awarded points based upon individual training and mentoring to Caymanians, as a very minimum, it is averred that the Plaintiff should have been awarded the following points:

- | | | |
|------|---|------------------------|
| i. | The Plaintiff's involvement with the Cadet Corps | 3 points. |
| ii. | Training and Mentoring Richard Seymour in 2023 and 2024 | 4 points. |
| iii. | Training and Mentoring / Volunteering for CXE Education | 1.5 / 2 points. |
| iv. | Training and Mentoring Gabriel Myles in 2021 | 1.5 points |

- v. Training and Mentoring Gabriel Myles and Randall Scott in 2022 **1.5 points**
- vi. The Rehabilitation and mentoring of Kevin Warren. **4 points.**

20. As such, it is the Plaintiff's case that the incorrect award of points for Factor 2 and Factor 5 have denied him Permanent Residence.

21. It is the Plaintiff's position that the absence of policies and guidance for decision makers makes the Points system arbitrary and opaque and further it contends that he was awarded the incorrect points which has denied him Permanent Residence.

HSM Chambers
HSM CHAMBERS