



COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2025

IN THE MATTER OF SECTION 115 OF THE CUSTOMS & BORDER CONTROL (CBC) ACT 2022 REVISION

IN THE MATTER OF AN APPEAL TO THE REFUGEE PROTECTION APPEALS TRIBUNAL PURSUANT TO THE CUSTOMS AND BORDER CONTROL ACT SECTIONS 21(1) (a) and 21(2) (a) (b), 21(7) (8) (2022 REVISION) **DISMISSED-REFUSED ON 15TH SEPTEMBER 2025 HAND DELIVERED TO THE APPELLANT ON 10TH OCTOBER** NOT STAMPED OR DATED BY STAMP AFFIXED TO THEIR DECISIONS

AND

IN THE MATTER OF **YOEL MANUEL GUTIERREZ HECHAVARRIA**, APPEAL TO THE GRAND COURT OF THE CAYMAN ISLANDS (ON A POINT OF LAW) IN REGARDS OF AN APPLIATION SEEKING POLITICAL ASYLUM IN THESE ISLANDS IN ACCORDANCE WITH THE GENEVA CONVENTION OF 1951 AND ITS PROTOCOLS, AND IN ACCORDANCE WITH THE LOCAL CUSTOMS AND BORDER CONTROL (CBC) ACT (2022 REVISION) SECTIONS 111(6), 114(1), 114(4), 114(5), 114(9), 114(10) AND 114(12) AND 115 . APPLICATION REFUSED BY THE CBC'S DIRECTOR ON 2023, APPEAL TO RPAT REFUSED AS DETAILED ABOVE

AND

IN THE MATTER OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009 PART I SECTIONS 9, 13, 16, 17 AND 19

BETWEEN: YOEL MANUEL GUTIERREZ HECHAVARRIA

APPELLANT

AND: CUSTOMS AND BORDER CONTROL DIRECTOR (CBC)

RESPONDENT

NOTICE OF ORIGINATING MOTION

TAKE NOTICE that the 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 on behalf of ("the Applicant") for an order that a decision of the Immigration Appeals

This Notice and Grounds were signed and filed by Yoel M. Gutierrez Hechavarria, with the assistance of his McKenzie Friend, address for service is Detention Center at Breakers Town Hall, P.O. Box 1271 GT KY1-1108, Tel: 329-7409 and email:

freeman.outfit970@passinbox.com

Tribunal ("the Tribunal") dated 15^h day of September 2025 and hand delivered to the Appellant on October 10th 2025, upon a rehearing of an application by the Applicant for Political Asylum refused by the CBC Director and dismissed by the Refugee Protection Appeals Tribunal (RPAT), be set aside, and that the said application be remitted to the Tribunal to be reconsidered and decided according to law. And for an order that the costs of and incidental to this Application may be paid by the Immigration Appeals Tribunal.

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

- 1- Whereas On the 27th October 2022, the Appellant arrived in Cayman Brac with other migrants. The Appellant was refused entry because he did not have valid travel documentation. The Appellant made declarations to seek asylum in the Cayman Islands on the same day and he was deemed an irregular migrant pending an asylum assessment. The Appellant completed the interview for asylum on 1st November 2022. The Appellant stated that he left Cuba because he disagreed with the political system.
- 2- Whereas On 2023, the Director of Customs & Border Control refused the appellant's Asylum application made on 27th October 2022; the decision was communicated by letter, in both English and Spanish. The Appellant indicated his desire to appeal against the decision of Director.
- 3- Whereas a notice of appeal was filed with the RPAT, in accordance with section 111(6) of CBC Act (2022 Revision), PART 7 at section 111. (1) Of the same Act provides guidance in the consideration of an application for asylum. Accordingly, the Director of Customs & Border Control shall have regard to the Refugee Convention (*The 1951 Convention to the Status of Refugees*) and any directions given by the cabinet relating to asylum applications. That Convention defines a refugee as a person who:
"...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."
- 4- Whereas the RPAT summoned for a Hearing on 9th September 2025 (a very long time after the appeal was filed).
- 5- I was represented by HSM.
- 6- Whereas my Lawyer was not allowed to file a further written submission on my behalf.
- 7- Whereas, my new written submission was not accepted but refused at all material times, upon the OBJECTION-indication of the Legal Department Lawyer representing CBC .
- 8- Whereas, there were procedural irregularities, the Due Process was not followed, these amount to the reality that I have not received a Fair Trial.
- 9- The Tribunal failed to accord the Applicant a fair hearing consistent with the principles of natural justice in circumstances where the Applicant had a reasonable expectation that his application would not be

This Notice and Grounds were signed and filed by Yoel M. Gutierrez Hechavarria, with the assistance of his McKenzie Friend, address for service is Detention Center at Breakers Town Hall, P.O. Box 1271 GT KY1-1108, Tel: 329-7409 and email:

freeman.outfit970@passinbox.com

reduced without an opportunity to make submissions to the Tribunal upon the specific issue of Political Persecution in Cuba.

- 10- The Tribunal further acted unfairly and irrationally in failing to take into account or alternatively into proper account the Applicant's Submission in a manner which fully and accurately would reflected the Applicant's actual circumstances, and not taking into account his not legal representation, when with hostile approach the RPAT was muting my McKenzie friend at all material times before and during the hearing.
- 11- At no material time did the Tribunal identify for the assistance and benefit of the Applicant any of the adverse factors which might lead the Tribunal to dismiss his appeal.
- 12- In the premises, the Tribunal acted unfairly, irrationally, unlawfully, erroneously, and in a manner that was unreasonable and contrary to the golden principle of Natural Justice, against its statutory duties and responsibilities. Accordingly, the decision of the Tribunal should be set aside for substantial wrong and miscarriage of justice so that the Applicant's application can be reheard in accordance with law.

DATED: 22nd day of October 2025



YOEL MANUEL GUTIERREZ HECHAVARRIA (Appellant)

TO: The Clerk of the Court

AND TO: The Chairman of RPAT
CBC Director
George Town
Grand Cayman

This Notice and Grounds were signed and filed by Yoel M. Gutierrez Hechavarria, with the assistance of his McKenzie Friend, address for service is Detention Center at Breakers Town Hall, P.O. Box 1271 GT KY1-1108, Tel: 329-7409 and email: freeman.outfit970@passinbox.com