



D COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2026

ER OF Section 101 of the Customs and Border Control Act (2024 Revision)

**AND IN THE MATTER OF Sections 9, 13, 16, 17, 23, 24, and 26 of the Cayman Islands
Constitution Order 2009**

**AND IN THE MATTER OF Sections 13(1), 13(2)(d)(iii) and 13(3) (a–d) of the Cayman Islands
Constitution Order 2009**

AND IN THE MATTER OF Section 17(2) of the Cayman Islands Constitution Order 2009

AND IN THE MATTER OF Order 77A of the Grand Court Rules

BETWEEN:

CLIVE FITZPATRICK

APPLICANT

(also known as Clive Freeman / Clive Gurzhii)

DOB: 29 April 1972. Currently incarcerated at HMP Northward)

AND:

THE DIRECTOR OF CUSTOMS AND BORDER CONTROL

RESPONDENT

**EX PARTE NOTICE OF MOTION
FOR INTERIM INJUNCTIVE RELIEF**

TAKE NOTICE THAT the Court at the Law Courts, George Town, Grand Cayman will be moved
on 23rd February 2026 at 11.00 am/pm or as soon as Counsel can be heard for the Applicant
for the following relief:

1. An Interim Injunction restraining the Respondent, the Director of Customs and Border Control (**CBC**), whether by himself, his servants or agents, from removing, deporting, expelling, detaining for removal, or otherwise requiring the Applicant to depart the Cayman Islands pursuant to the Removal Notice dated 10 February 2026.
2. An Order staying execution of the Removal Notice requiring the departure of the Applicant from the Jurisdiction on 21 February 2026.

3. An Order restraining the Respondent from activating any restriction on re-entry pursuant to section 109(h) of the Customs and Border Control Act pending determination of these proceedings.
4. Such further or other relief as this Honourable Court considers just.
5. Costs.

FACTUAL CONTEXT

1. The Applicant is presently incarcerated at HMP Northward. His wife is also incarcerated.
2. On 19 December 2025, the Conditional Release Board granted the Applicant conditional early release subject to the determination of his immigration status.
3. On 23 December 2025, CBC issued a Notice of Intent to Issue a Final Removal Order.
4. Correspondence followed between the Applicant and CBC between 25 December 2025 and 30 January 2026.
5. On 10 February 2026, the Respondent issued a Removal Notice requiring departure on 21 February 2026.
6. The Applicant's daughter, Louisa Gurzhii Fitzpatrick, born on 23 April 2023 ("**Louisa**"), has been in the care of the Department of Children and Family Services (**DCFS**) since May 2024.
7. Louisa is the subject of ongoing proceedings in the Grand Court (Cause No. FAM2025-0280).
8. DCFS has applied to invoke the inherent jurisdiction of the Court and seeks orders to convey Louisa to the United Kingdom.
9. Those proceedings have been adjourned to the end of March 2026 for psychological and psychiatric assessments concerning Louisa's welfare and parental fitness.
10. The Applicant has supervised contact with Louisa under the existing regime.

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

1. Serious Issue to Be Tried

The Applicant contends that there is a serious issue to be tried as to whether the decision to proceed with removal on 21 February 2026 is unlawful in light of ongoing welfare proceedings, scheduled expert assessments, and medical considerations.

2. Disproportionate Interference with Section 9 Rights

1. Section 9 of the Constitution protects the right to respect for private and family life.
2. The Applicant is a parent actively engaged in ongoing welfare proceedings.
3. Removal prior to the conclusion of those proceedings would:
 - (a) Place him outside the jurisdiction;
 - (b) Affect his ability to participate in scheduled expert assessments;
 - (c) Potentially engage re-entry restrictions.
4. The proceedings are adjourned to March 2026 specifically for expert evaluation of parental fitness and welfare.
5. The timing of removal, before those assessments are conducted and before judicial determination of Louisa's future arrangements, gives rise to an arguable case of disproportionate interference.

3. Failure to Consider Relevant Factors

The Applicant contends that the Respondent failed adequately to consider:

1. The existence of active Grand Court proceedings (FAM2025-0280);
2. The scheduled expert assessments in March 2026;
3. The Applicant's ongoing supervised contact;
4. The practical consequences of removal during incarceration;
5. The effect of re-entry restriction under section 109(h).

These matters were raised in correspondence, including the Letter Before Action dated 17 February 2026.

4. Procedural Fairness

The Applicant contends that the decision to proceed with removal prior to:

- Completion of scheduled welfare assessments;
- Proper medical evaluation of fitness to travel;
- Full consideration of family life implications raises an arguable issue of procedural unfairness.

6. Medical Considerations

1. The Applicant has been diagnosed with a brain aneurysm.
2. He has concerns regarding long-distance air travel.
3. There is no evidence before the Applicant that an independent medical assessment has been obtained regarding fitness to travel.
4. The decision to proceed with imminent removal without medical assessment gives rise to an arguable ground of unlawfulness and failure to consider relevant considerations.

7. Damages Not an Adequate Remedy

If removal proceeds:

- The Applicant may be outside the jurisdiction during scheduled assessments;
- Participation in welfare proceedings may be materially altered;
- Re-entry restrictions may apply.

These consequences would not be compensable in damages.

8. Balance of Convenience

1. The family proceedings are adjourned to the end of March 2026.
2. A short deferral would preserve the status quo pending judicial determination of Louisa's welfare.
3. The Respondent's immigration enforcement powers remain intact and can be exercised after those proceedings conclude.
4. The balance of convenience favours preservation of the current position pending determination.
5. The prejudice to the Applicant and the child is potentially irreversible, whereas the prejudice to the Respondent is limited to short administrative delay.

9. Urgency

1. The Removal Notice requires departure on 21 February 2026.
2. The Applicant is incarcerated and unable to secure protection independently without Court intervention.
3. The matter is urgent.

UNDERTAKING AS TO DAMAGES

The Applicant undertakes to abide by any Order as to damages should it later be determined that the injunction ought not to have been granted.

Dated this 20th day of February 2026.



Martha Selicea Rankine
Attorney-at-Law for the Applicant

TO: The Clerk of the Court

AND: The Respondent
C/o Attorney General Chambers
Attorney General's Chambers (SGO)
4th Floor – Government Administration Building
133 Elgin Avenue
George Town
P.O. Box 136
Grand Cayman KY1-9000

AND: Mr. Bruce Smith
Director of Customs and Border Control
P.O. Box 1098
George Town
Grand Cayman

TIME ESTIMATE: The estimated length of the hearing of this summons is **60** minutes.

This Notice of Motion is filed by Martha Selicea Rankine, Attorney-at-Law, for the Applicant herein, whose address for service is Second Floor, Genesis Building, 13 Genesis Close, George Town, P.O. Box 1191, Grand Cayman KY1-1503, Cayman Islands.