

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2025/PUB/jrv/00019

B E T W E E N

OMAR MUNROE

First Applicant

AND

TRAVOR HOWELL

Second Applicant

AND

ALEX GARTH MCNEE

Third Applicant

AND

MINISTER OF IMMIGRATION

Respondent

Before: **The Honorable Madam Justice Carla Card-Stubbs**

Appearances: Mr. Wilver Deleveaux of Counsel for the Applicants
Mr. Randolph Dames of Counsel for the Defendant

Hearing date: April 10, 2026

*Judicial Review – Whether decision unlawful - Whether Applicants had legitimate expectation – Procedural fairness
- Whether bias*

The First Applicant applied for and received letters by emails dated July 24, 2025 approving work permits for the Second and Third Applicants. Shortly after paying for, and receiving, the work permits, the Applicants received another letter by email, the July 30, 2025 letter, purporting to “not approve” the Application and requiring the Second and Third Applicants to wrap up their affairs and to leave the country. The Respondent’s case is that the letters of approval and the issue of the work permit were unauthorized.

HELD: The Respondent could not demonstrate by evidence that the July 24 2025 letters of approval were unauthorized. The July 30, 2025 letter amounted to a revocation or cancellation of the work permits. That letter communicated a decision that attracted public law duties of fairness and rationality. The Applicants had a legitimate expectation that the work permits would not be revoked or cancelled without a fair hearing and reasons provided. The July 30, 2025 decision was procedurally unfair. The July 30, 2025 is quashed and the matter remitted to the Respondent for a decision.

RULING

CARD-STUBBS, J

INTRODUCTION

[1.] On the 30th day of June, 2026, this Court delivered a decision allowing the Application in part, with reasons to follow. This ruling sets out the decision as well as the reasons for the decision.

[2.] This is a claim for judicial review arising from the Department of Immigration’s decision, communicated on or about 30 July 2025, that the work permits for Trevor Howell and Alex Garth McNee had not been approved and that they were to wind up their affairs in The Bahamas.

[3.] The Applicants claim that the work permits had been approved and paid for, and that work permit cards were issued to them before being unlawfully “unapproved”,

cancelled, or revoked. They challenge the decision on grounds of procedural unfairness, inadequate reasons, illegality, irrationality, legitimate expectation, and bias.

[4.] The Respondent contend that no lawful work permits were ever granted. It contends that the applications were not placed before the Board of Immigration, were not approved by the proper statutory decision-maker, and that any approval communications or cards were generated or released without lawful authority.

[5.] For the reasons which follow, I allow the application in part. I find that the decision communicated on or about 30 July 2025 was unlawful because the Respondent has not demonstrated a lawful contemporaneous decision-making process, adequate reasons, or a fair opportunity for the Applicants to respond before the revocation/cancellation of a significant immigration benefit which the Department had represented as approved.

Background

[6.] Mr. Omar Munroe, the First Applicant, is a Bahamian citizen and businessman. He sought to sponsor work-permit applications for Travor Howell and Alex Garth McNee to work as handymen. Mr. Travor Howell and Mr. Alex Garth McNee, the Second and Third Applicants, are Jamaican nationals for whom the permits were sought.

[7.] Mr. Munroe's evidence is that he followed the required process. He wrote to the Director of Immigration ('Director'), advertised the positions, applied for labour certificates, paid the required labour fees, submitted formal applications to the Department of Immigration, ('Department') and paid the Department's processing fees.

[8.] Mr. Munroe's evidence is that he received communications from the Department indicating that the applications had been approved. He says that on or about 24 July 2025 he received approval communications and that, on 25 July 2025, he paid \$4,000.00 to the Department for the permits.

[9.] The Applicants further rely on work-permit cards in their possession. Photographs of the cards were exhibited in their affidavits, and the physical cards were shown during the hearing. The Applicants say that the cards confirm that the work permits were issued.

[10.] By email on or about 30 July 2025, the Department sent letters stating that the applications had not been approved and instructed the Second and Third Applicants to wind up their affairs and leave the country. The Applicants contend that this was a revocation or cancellation in substance.

[11.] The Respondent characterizes the 30 July 2025 letter as a correction of an unauthorised and invalid approval. The Respondent's evidence is that the applications were never placed before the Board of Immigration ('Board'), were never placed on the Board's agenda, and were not approved by the Board.

THE APPLICATION

[12.] The Applicants commenced judicial review proceedings seeking declarations, an order of certiorari, restoration of the permits, preservation of the status quo, damages, interest, costs, and further relief.

[13.] The application filed on the 7 October 2025 is made pursuant to Part 54 of The Supreme Court Civil Procedure Rules, 2022, as amended ('CPR') and the Court's inherent jurisdiction.

[14.] The Application states:

The Claimants make application for the hearing of Judicial Review Application pursuant to Section 54 of the Civil Procedure Rules:

Grounds:

1. The Claimants applied for leave to applied for judicial review in the instant matter and was granted leave to apply for judicial review on the 22 day of September 2025.

2. That on the 2 of day of October 2025 the Office of the Attorney General was served with copies of the Notice to apply for judicial review; Affidavits of the Applicants; Order and Originating Application.

Reliefs Sought:

1. A Declaration that the decision of the Respondent and/or its servants or agents made on the 30 of July 2025 to cancel the First and Second Applicants work permit was procedurally wrong in law.

2. A Declaration that the decision of the Respondent and/or its servants or agents had made on the 30 of July 2025 to cancel the First and Second Applicants work permit was not within the scope of the Respondent's authority.

3. A Declaration that the decision of the Respondent and/or its servants or agents made on the 30 of July 2025 to cancel the Second and Third Applicants work permit was motivated by bias.

4. *A Declaration that the decision of the Respondent and/or its servants or agents made on the 30 of July 2025 to cancel and deny the Second and Third Applicants work permit was not reasonable and that such a decision is so deemed unreasonable and so irrational that no reasonable authority would have made it.*
5. *A Declaration that the decision of the Respondent and/or its servants or agents made on the 30 of July 2025 to cancel the First and Second Applicants work permit was motivated by bias, that justice not seen to be done ensuring that justice is not only to be achieved but also perceived as fair and impartial.*
6. *A Declaration that the Respondent's agents and/or its servants acted so unreasonably, unfairly, unlawfully, unreasonable, arbitrarily, capriciously abusively towards the Applicants.*
7. *A Declaration that the Respondent's decision made on the 30th of July 2025 to cancel the First and Second Applicants work permits failed to take relevant considerations to maintain the status of the Applicants work permits for the duration granted.*
8. *An Order that the status quo of the Second and Third Applicants to remain in the jurisdiction of the Commonwealth of The Bahamas until the determination of this Application.*
9. *An order directing the Respondent to restore the Applicants work permits.*
10. *Damages;*
11. *Interests;*
12. *Costs and*
13. *Such other relief the Court deems just.*

THE HEARING AND WITNESSES

[15.] The Application was supported by the affidavits of Mr. Omar Munroe, Mr. Travor Howell, Mr. Alex Garth McNee, and Mrs. Marcia Morgan-Mackey. The Respondent relied on affidavits from Chief Immigration Officer Mr. Andrew Gittens and Attorney-at-law Mr. Perry McHardy.

[16.] Oral evidence and cross-examination were heard on 10 April 2026. The Court heard from Mr. Omar Munroe, Mr. Travor Howell, Mr. Alex Garth McNee, Mrs. Marcia Morgan-Mackey, Chief Immigration Officer Mr. Andrew Gittens and Attorney-at-law Mr. Perry McHardy.

[17.] Interim orders were made during the proceedings preserving the position of the Applicants pending final determination of the judicial review proceedings. In particular, the Respondent was prohibited from taking steps to remove the Second and Third Applicants from the territory pending determination of the matter or further order.

SUBMISSIONS OF THE PARTIES

Applicants' Submissions

[18.] The Applicants submit that the decisions to cancel, revoke, or “unapprove” the work permits for Mr. Tavor Howell and Mr. Alex Garth McNee were unlawful and should be quashed. Their case is framed around illegality, irrationality, procedural impropriety, bias, and legitimate expectation. They submit that the permit process had been completed: compliance with labour applications were taken, work permit applications were submitted, fees were paid, approval notices were received, and permit cards were issued. They contend that the later reversal, said to have occurred on 30 July 2025, was unreasonable, procedurally unfair, and infected by bad faith and anti-Jamaican bias. They also argue that Mr. William Pratt lacked authority to execute the later non-approval/revocation documents on 30 July 2025 because he had demitted office on 25 July 2025.

[19.] Re fairness, the Applicants submit that no proper reasons or opportunity to be heard were given before the approvals were reversed. Re legitimate expectation, the Applicants rely on the approvals, receipts, and permit cards as creating an expectation that the permits were valid or at least would not be withdrawn without fair process. They further submit that reliance on alleged assault convictions by the Second and Third Applicants was misplaced because the Magistrate granted an absolute discharge and there was no conviction.

[20.] The Applicants seek declarations, orders of certiorari, restoration of the permits, permission for the relevant Applicants to remain in The Bahamas pending determination, damages, interest, and costs.

Respondent's Submissions

[21.] The Respondent submits that the review proceedings should be dismissed because no lawful work permits were ever granted to Mr. Howell or Mr. McNee. The Respondent's case is that any apparent approval was unauthorized, ultra vires, and legally ineffective because the permits were not approved by the proper statutory authority, namely the Director and/or the Board of Immigration.

[22.] The Respondent argues that Section 30 of the Immigration Act confers a discretion rather than a duty to grant permits, and that the applications contained serious deficiencies and inaccuracies, including the applicants being physically present in The Bahamas at the time that the application was made. The Respondent submits that there are defects in medical and police certificates, unsigned or improperly completed materials, and failures

to disclose relevant immigration or criminal history. The Respondent argues that, bearing this in mind, the Department was entitled to notify the applicants that the permits had not been approved.

[23.] The Respondent also submits that the Court's role in judicial review is supervisory only, not to determine the merits of whether the Applicants should receive work permits. In substance, the Respondent argues that the case is not about an unlawful revocation of valid permits, but about the correction of an unauthorized and invalid administrative act, and that the public law claims of illegality, irrationality, unfairness, bias, and legitimate expectation therefore fail.

[24.] The Respondent further contends that any interim stay could not operate to reverse a completed executive decision or create immigration status where none lawfully existed.

ISSUES

[25.] The central issues to be determined in this instance are:

- 1) Whether the 30 July 2025 communication was a revocation/cancellation or withdrawal in substance;
- 2) Whether the Respondent has shown that the proper statutory decision-maker made a lawful contemporaneous decision;
- 3) Whether a legitimate expectation arose and whether the Applicants were afforded procedural fairness and adequate reasons;
- 4) Whether the decision was irrational; and
- 5) Whether the decision was tainted by bias.

LAW AND ANALYSIS

[26.] This Application for judicial review comes in the context of a decision made under the Immigration Act in relation to the Mr. Munroe's application for work permits for Mr. Howell and Mr. McNee.

Immigration Act

[27.] The Immigration Act, Cap. 191, provides a statutory framework governing immigration, residence, employment, and deportation in The Bahamas. A foreign national

wishing to work in The Bahamas must apply for a work permit. Section 29 of the Immigration Act prohibits a person from engaging in gainful occupation in The Bahamas unless he is in possession of a valid permit issued in accordance with section 30.

[28.] Section 30 provides that, upon application being made in the prescribed form, the Director of Immigration may, in accordance with regulations and directions of the Board, grant a permit permitting a person to remain in The Bahamas or to engage in the specified gainful occupation. Section 30 (1)(b) provides:

30. (1) Subject to the provisions of this section, upon application being made in the prescribed form the Director of Immigration may, in accordance with the provisions of any regulations and of any directions of the Board, grant a permit in accordance with the provisions of this Act and in the prescribed form to any person permitting such person —

(a) ...

(b) to remain in The Bahamas for the period specified in the permit for the purpose of engaging in the gainful occupation specified in the permit;

...

[29.] If granted, the permit will specify the occupation and duration. Section 31 provides that permits may be limited in duration and may be subject to conditions or restrictions. Section 31 provides:

31. (1) Any permit granted under the provisions of section 30 and section 30A —

(a) may be limited in duration to a period specified in the permit;

(b) may be granted subject to such conditions or restrictions, in addition to any conditions or restrictions which may be prescribed, as the Board may in any case direct; and

(c) shall be subject to any special conditions or restrictions which the Board may impose in respect of any particular person;

(d) may be cancelled by the Board in the event of the Board being satisfied that the person to whom it is granted has failed to comply with any condition or restriction to which the permit is subject; and

(e) shall be cancelled by the Board forthwith upon a deportation order being made under section 40 in respect of the person to whom the permit is granted.

(2) Any condition or restriction imposed under the provisions of paragraph (b) or (c) of subsection (1) of this section shall be set out in the permit.

[30.] Notably, section 31 also provides that a permit may be cancelled by the Board where the Board is satisfied that the person to whom it is granted has failed to comply with a condition or restriction.

[31.] Construed contextually, the grant of a work permit is discretionary.

Judicial Review

[32.] Judicial Review is invoked to test the lawfulness of a decision rather than its merits. A court does not interfere with the discretion of a decision-maker as to the exercise of their discretion on the merits of the decision i.e. on the outcome of the decision. It is not the business of the court to supplant the discretion of a decision-maker. However, the role of the court in its supervisory jurisdiction is to ensure that the decision-maker comes to that decision lawfully - whatever the decision taken. Firstly, the decision-maker is constrained by the authority which confers the powers to make a decision (such as a statute). Secondly, the decision-maker is constrained by rules of law relating to illegality and irrationality and procedural impropriety, including rules of procedural fairness and legitimate expectation.

[33.] The recognized grounds of judicial review include **illegality, irrationality, and procedural impropriety: Council of Civil Service Unions and others and Minister for The Civil Service [1985] A.C. 374**. In that case, a case relied on by both parties in the instant matter, the House of Lords set out certain principles regarding the nature of judicial review. Lord Diplock opined at page 408:

Judicial review, now regulated by R.S.C., Ord. 53, provides the means by which judicial control of administrative action is exercised. The subject matter of every judicial review is a decision made by some person (or body of persons) whom I will call the "decision-maker" or else a refusal by him to make a decision.

To qualify as a subject for judicial review the decision must have consequences which affect some person (or body of persons) other than the decision-maker, although it may affect him too. It must affect such other person either:

(a) by altering rights or obligations of that person which are enforceable by or against him in private law; or

(b) by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn. (I prefer to continue to call the kind of expectation that qualifies a decision for inclusion in class (b) a "legitimate expectation" rather than a "reasonable expectation," in order

thereby to indicate that it has consequences to which effect will be given in public law, whereas an expectation or hope that some benefit or advantage would continue to be enjoyed, although it might well be entertained by a "reasonable" man, would not necessarily have such consequences. The recent decision of this House in *In re Findlay* [1985] A.C. 318 presents an example of the latter kind of expectation. "Reasonable" furthermore bears different meanings according to whether the context in which it is being used is that of private law or of public law. To eliminate confusion it is best avoided in the latter.)

Illegality, Irrationality and Procedural Impropriety

[12.] Lord Diplock also identified three grounds that would subject administrative action to review, namely illegality, irrationality and procedural impropriety. Lord Diplock, at page 410, opined:

By "illegality" as a ground for judicial review I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided, in the event of dispute, by those persons, the judges, by whom the judicial power of the state is exercisable.

By "irrationality" I mean what can by now be succinctly referred to as "*Wednesbury* unreasonableness" (*Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 K.B. 223). It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. Whether a decision falls within this category is a question that judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system. To justify the court's exercise of this role, resort I think is today no longer needed to Viscount Radcliffe's ingenious explanation in *Edwards v. Bairstow* [1956] A.C. 14 of irrationality as a ground for a court's reversal of a decision by ascribing it to an inferred though unidentifiable mistake of law by the decision-maker. "Irrationality" by now can stand upon its own feet as an accepted ground on which a decision may be attacked by judicial review.

I have described the third head as "procedural impropriety" rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice.

Irrationality – Unreasonableness

[34.] The classical test of irrationality or unreasonableness comes from **Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223**, as cited by Lord Diplock in **Council of Civil Service Unions and others and Minister for The Civil Service. In Associated Provincial Picture Houses Ltd v Wednesbury Corporation** unreasonableness was defined as where a decision on review is “so unreasonable that no reasonable authority could have reached it”. In that case, Lord Greene MR formulated a 2-limb test at pages 233- 234:

The court is entitled to investigate the action of the local authority with a view to seeing whether they have taken into account matters which they ought not to take into account, or, conversely, have refused to take into account or neglected to take into account matters which they ought to take into account. Once that question is answered in favour of the local authority, it may be still possible to say that, although the local authority have kept within the four corners of the matters which they ought to consider, they have nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it. In such a case, again, I think the court can interfere.

[35.] The law lord also explained that reasonableness included having regard to relevant matters and disregarding irrelevant matters at page 229:

It is true the discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word "unreasonable" in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably." Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington L.J. in *Short v. Poole Corporation* (1) gave the example of the red-haired teacher, dismissed because she had red hair. That is unreasonable in one sense. In another sense it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith; and, in fact, all these things run into one another.

Procedural Impropriety and Fairness

[36.] **Council of Civil Service Unions and others Appellants And Minister for The Civil Service Respondent** considers that procedural impropriety includes, and is wider than, “natural justice” and procedural fairness. That case also recognises legitimate expectation as one manifestation of fairness.

[37.] Where a public authority withdraws a valuable permission or benefit, fairness will often require notice of the case to be met, disclosure of the substance of the allegations, an opportunity to respond, and reasons sufficient to permit the affected person to understand the decision. The Applicant relies on the case of **Maxwell v. Department of Trade and Industry; Same v. Stable And Another** [1974] Q.B. 523 for those principles. That case was recently considered by the Privy Council in **R (on the application of John Calder Hart) v Chin (Trinidad and Tobago)** [2025] UKPC 5.

[38.] In **R (on the application of John Calder Hart) v Chin (Trinidad and Tobago)**, the ruling of the Apex Court flowed from an appeal related to a public inquiry into a failed housing project in Trinidad and Tobago. A Commission of Enquiry had been established to investigate the project and ultimately made adverse findings against Mr. Hart, former chairman, for his role in the project. Mr. Hart sought judicial review, arguing that he was not given notice of the adverse findings or an opportunity to respond before the report was published, violating principles of natural justice and procedural fairness. The Board found that the Commission failed to meet the requirements of natural justice by not giving Mr. Hart notice or a chance to answer the criticisms before publication. In that case, the court dealt with the requirement of procedural fairness in public inquiries and noted that fairness is context-specific.

[39.] While the case before me does not concern a public inquiry which, admittedly, requires a certain type of analysis, the opinion of Lord Clark on natural justice and procedural fairness is helpful in this context. At paragraph 32, Lord Clark, in writing the judgment of the Board, opined:

32. The law on when a person should receive notice in advance of adverse comments or findings, as a matter of natural justice and procedural fairness, is well-established. It is covered in a number of authorities, but the key elements can be summarised as follows:

- (i) The standards of fairness are neither immutable nor are they to be applied identically in every situation: *Pyaneandee v Lam Shang Leen* [2024] UKPC 27 (para 68).

(ii) Rather, the requirements of fairness in any given case depend crucially upon the particular facts and circumstances: *Permanent Secretary, Ministry of Foreign Affairs v Ramjohn* [2011] UKPC 20 (para 39), under reference to *R v Secretary of State for the Home Department, Ex p Doody* [1994] 1 AC 531, 560; and *R v Chief Constable of the Thames Valley Police, Ex p Cotton* [1990] IRLR 344, CA (para 60).

(iii) Fairness will very often require that a person who may be adversely affected by the decision will have an opportunity to make representations on his own behalf either before the decision is taken with a view to producing a favourable result, or after it is taken, with a view to procuring its modification, or both: *R v Secretary of State for the Home Department, Ex p Doody*, at p 560, referred to in *Pyaneandee v Lam Shang Leen* (para 69).

(iv) Since the person affected usually cannot make worthwhile representations without knowing what factors may weigh against his interests, fairness will very often require that he is informed of the gist of the case which he has to answer (*ibid*).

(v) While cases may arise in which it can properly be held that denying the subject of a decision an adequate opportunity to put his case is not in all circumstances unfair, that will rarely occur: *R v Chief Constable of the Thames Valley Police, Ex p Cotton* (para 60).

(vi) The more finality there is in the conclusions reached by an inquiry and reflected in its report and the greater the strength of their expression, the more that is required to be done by the inquiry to ensure that the process is fair: *Pyaneandee v Lam Shang Leen* (para 70).

(vii) Breach of the requirements of fairness is a serious matter even if it is devoid of practical consequences: *R v Chief Constable of the Thames Valley Police, Ex p Cotton* (para 65), under reference to *R v Chief Constable of Thames Valley Police, Ex p Stevenson* (unreported), 6 March 1987.

[40.] Those stated principles are to be applied *mutatis mutandis* in this case.

[41.] In the case before me, the power being exercised is one of public law and is pursuant to statute. A public decision-maker must understand the law regulating the decision-making power and give effect to it. He must come to his decision lawfully. A decision-maker exercising discretion must consider relevant matters, disregard irrelevant matters, and act within the bounds of reasonableness. The decision ought not to be arrived at irrationally or in breach of natural justice and rules of procedural fairness. Procedural

fairness may require reasons where reasons are necessary to make representations or to challenge a decision.

ISSUE 1: Whether the 30 July 2025 communication was a revocation/cancellation or withdrawal in substance.

[42.] On review of the pleadings and the evidence, it seems to me that the case for the Respondent rests on either of 2 limbs: (1) the approval was unauthorized and therefore *void ab initio* and (2) there were sufficient deficiencies in the application, as well as the behaviour of the Applicants, that would cause the Board to “rationally and justifiably revoke” the work permits.

[43.] Proposition 1 will be treated with under Issue 1 and Proposition 2 will be treated with under Issue 2.

Evidence of the Applicants

[44.] On July 30, 2025, the Respondent sent a communication to Mr. Munroe, the First Applicant, that the applications for work permits for the Second and Third Applicants were “not approved”. This communication followed the issue of approval letters, the payment of fees and the receipt of work permit cards by the Applicants.

[45.] The evidence of Mr. Munroe was that he made an application to the Department of Immigration for work permits for Tavor Howell and Alex McNee after having been granted the requisite labour certificates for them. By Affidavit filed August 27, 2025, Mr. Munroe avers, in part:

8. That In the month of June 2025 I made application to the Department of Labour situate at Rosetta Street Palmdale for labour certificates for the Second and Third Applicants. I paid the Department \$50.00 each for the Second and Third Applicants as required. I was given receipts for the said two payments. There is now shown and exhibited OM-2 and OM-3 copies of the said receipts to the Department of Labour.

9. That upon being granted Labour Certificates for the Second and Third Applicants, I made formal Application to the

Immigration Department at Hawkins Hill New Providence for two (2) work permits respectively for TRAVOR HOWELL and ALEX GARTH MCNEE.

10. That I paid into the Immigration Department the required processing fee of \$210.00 for each of the said Second and Third Applicants. There is now shown and Exhibited OM-4 and OM-5 copies of the said application fee receipts from the Immigration Department.

11. That on 5 Aug 2025 at 7:34 PM I received an email from the Immigration Department informing that my Application has been received. There is now shown and Exhibited OM -6 and OM-7 copies of the emails confirming receipts of the applications.

12. That on Mon, Aug 11, 2025 around 5:19 PM, I received two emails from the Immigration Department that the applications for the work permits for TRAVOR HOWELL and ALEX GARTH MCNEE were approved.

13. That the said work permits were approved on the 30th of June 2025. There is now shown and Exhibited OM-8 and OM-9 documents from the Immigration Department approving the said work permits.

14. That on the 24th day of July 2025, I received an email from the Immigration Department with an attachment that the applications for TRAVOR HOWELL and ALEX GARTH MCNEE have been approved on the 30th of June 2025.

15. That on the 25th of July 2025, I paid the Immigration Department by Scotia Debit Card the sum of \$4,000.00 for the permits. There is now shown and Exhibit OM-10 a copy of the receipt of payment.

16. That on the 30th day of July 2025 I received an Email from the Immigration Department that the work permits 2078273111 for ALEX GARTH MCNEE and 2091543631 TRAVOR HOWELL have not been approved. There are now Exhibited OM-11 and OM-12 copies of the unapproved work permits.

17. That on the 6th of August 2025, I made an appearance with my Attorney at the Immigration Department before Mr. Stephen Laroda Director of Immigration and Mr. Chadwill Adams Acting Assistant Director of Immigration. At the meeting Mr. Adams expressed great hostility towards me. His tone of voice was extremely aggressive. The negative attitude was coupled with a long wait of almost two (2) hours waiting to be seen to address my dispute.

18. That in the meeting, it was discussed the circumstances of Second and Third Applicants' application for work permits being unapproved, notwithstanding I complied with all the processes required. No reason for the rescinding of the approval was offered.

[46.] Mr. Munroe's evidence is also that "the un-approval was executed by William Pratt a former director of Immigration who demitted office on the 25th day of July 2025, which was five (5) days before the unapproved work permits were executed." His case

is that “as no longer sitting director of Immigration, Mr. Pratt acted out of the scope of authority.”

[47.] On cross-examination, Mr. Munroe denied that he was ever told why the work permits were “unapproved”. His evidence is (at pages 12 to 13 Hearing Transcript):

Okay. Let's go to 18. You said that in the meeting I was -- that in the meeting, it was discussed, the circumstances of the Second and Third Applicants' application for work permit being unapproved; notwithstanding, I complied with all of the processes required.

Is that correct that you did go and you did have a meeting with the director?

A. Yeah.

Q. Yes or no? Yes or no?

A. Yeah.

Q. Okay. And in doing so, you had an opportunity to express your views, yes?

A. No.

Q. Okay. I put to you that you did have an opportunity to express your views, okay?

A. Where?

And you were also afforded the opportunity to -- and you were informed as to the reason why, sorry, the permits were revoked, yes?

A. No.

Q. Okay. I put to you that it was.

[48.] On cross-examination, Mr. Munroe agreed that “if a person were to breach any conditions of a work permit, it is subject to being revoked”. (page 15 Hearing Transcript). Asked about an incident involving Mr. Howell and Mr. McNee, Mr. Munroe disagreed with the characterization of the incident but his evidence also is that approvals were issued after the incident and that he “figured that” the Board approved the applications (at pages 18 to 19 Hearing Transcript):

Q.....So would you agree with me, then, that at the end of the day, the board, with the information, they would have, had the application been before them, acted rationally and justifiably in revoking their work permit?

A. No, sir. Because they had approved it aside from the situation being known.

Q. Okay. Now, how do you know that the board approved it?

A. Excuse me?

Q. How did you know that the board approved the applications?

A. Because when I got the approval letter and I paid my fines, which was \$2,000 per applicant, I figured it went before the board.

Q. Okay. You figured that it went before the board.

A. Sorry. I don't understand.

Q. Okay. You said that you figured that it went before the board, yes?

A. Because if the situation happened before the application can be accepted or refused, I figured they would have refused it beforehand, correct?

Q. Okay. But at the end of the day, you was informed by the director that it was not before the board, yes?

A. No, I was not informed by the director.

Q. Okay. Thank you, Mr. Munroe.

A. Thank you, sir.

[49.] Mr. Munroe's evidence is that he had approvals, they were withdrawn and he was not told the reason for the "unapproval".

Evidence of the Respondent

[50.] Chief Immigration Officer Mr. Andrew Gittens was the main witness for the Respondent. By his affidavit "in reply to Omar Munroe", filed March 10, 2026, he explains the nature of the application system, that he conducted an investigation into the work permit approvals in this case and that such approval was unauthorized. He avers, in part:

1. I am Chief Immigration Officer Andrew Gittens and I am currently attached to the Investigation Unit, Department of Immigration. I am duly authorised to make this affidavit on behalf of the Respondent.
 2. I was directed by the Director of Immigration (Director) to investigate the application of work permit regarding the applicants that was not approved by the Board of Immigration (Board).
 3. This affidavit outlines the Respondent's response to the Affidavit in Support of the First Applicant filed on 27 August 2025 and to oppose the facts as the Applicant alleges.
 4. This affidavit was prepared on my behalf by counsel representing the Respondent following in person and telephone discussions with them.
-

Timeline of the Purported Approval

32. On 24th July, 2025, a letter was transmitted to the First Applicant indicating that the work permits had been approved. Marked and exhibited "AG6"

33. On 25th July, 2025, payment for the work permits was made. Marked and exhibited "AG7"
34. On 30th July, 2025, a letter was sent advising that the work permits for the Second and Third Applicants had not been approved and the Applicants have 21 days to wind up his affairs in Th Bahamas. Marked and exhibited "AG8".

Investigation Findings

35. An investigation conducted by the Department confirmed that the applications were never placed before the Board of Immigration.
36. The applications were never placed on the agenda of the Board for consideration.
37. The investigation revealed that the letter dated 24th July, 2025 was transmitted by individuals acting outside the scope of their authority.
38. Direct instructions had been given within the Department that the work permits cards were not to be issued.

Immigration Identity Document Management System (IDMS) System Evidence

39. The Applicant has exhibited a purported photograph of work permit cards for the Second and Third Applicants.
40. By order of the Director of Immigration these cards were to be withheld and to be turned over to the directorate, however the unauthorized cards were missing
41. The Department utilizes IDMS for the issuance and tracking of immigration cards issued by them.
42. Records within the IDMS confirm that the work permits cards relating to the Second and Third Applicants were never issued by them.
43. The permit cards remain recorded within the system as unissued documents.
44. Though the Applicants may have received a letter indicating approval does not constitute the lawful issuance of the work permit cards.
45. Based on information received during the course of this investigation, it is believed that the First Applicant and a female accompanying him may have received the work permit cards from Immigration personnel connected with the matters under investigation.

Meeting 5th August, 2025

46. That I was informed, a meeting was also held involving the Applicant, his counsel, and the Director, during which the Applicant and his counsel were given an opportunity to be heard and expressed their disapproval of the work permits no longer being approved.
47. That the Director informed the First Applicant and his counsel, under the Immigration Act, Chapter 191, the granting of a work permit is discretionary.
48. The decision to grant or refuse a permit rest with the Director of Immigration and the Board of Immigration.
49. The Director also retains the authority to cancel or invalidate any permit improperly issued.
50. Further there is no vested right to a work permit. And the letter dated 24th July was issued without authority.

...

Conclusion

54. Based on the investigation and departmental records, the work permits were never lawfully approved or issued.
55. The purported approvals are therefore invalid and of no legal effect.
56. I make this affidavit in support of the Respondent's opposition to the Applicants' application for Judicial Review.

[51.] In cross-examination, Chief Immigration Officer Mr. Andrew Gittens (CIO Gittens') accepted that certain of the documents relied upon by the Applicants, including the July 24, 2025 letters of approval with an effective issue date of June 30, 2025, were Department documents or documents scanned into the Department's system. This is consistent with his evidence by affidavit.

[52.] In cross-examination, CIO Gittens accepted that the Department sends notifications of approval by email and that work-permit approvals may carry identifying numbers. CIO Gittens is familiar with the signature of Mr. Pratt, former Director of Immigration. Shown the letter of approval for Mr. McNee, Mr. Gittens confirmed that the signature thereon "appears to be the signature of Mr. William Pratt". The letter of approval for Mr. Howell bears a similar signature.

[53.] In his affidavit, CIO Gittens referred to Mr. Munroe's exhibited photocopies of the disputed work permit cards. In cross-examination, by way of rebuttal to Mr. Gitten's evidence, the Applicants were allowed to produce the original of the photocopy exhibits. On being shown the originals and what the Applicants say were issued to them as work-permit cards from the Department of Immigration, CIO Gittens testified that the cards were authentic. He explained that the cards bore special features used by the Department.

[54.] At the same time, CIO Gittens maintained that the Department's records showed that the cards were not issued and not activated. His evidence was (pages 111 to 112; Hearing Transcript)

Q. ...And can you say whether or not the applicants were issued with work permit cards?

A. In my investigation, the records reflect the cards were not issued.

Q. Records, okay. Very well.

MR. DAMES: Can you repeat that again, please.

THE WITNESS: In my investigation, records reflect that the cards were not issued, which is what 15 is referring to here. It said issue to the department's official system. **The cards should still be at immigration. If I go there and ask for them now, they should be able to pull the cards and produce them to me**

so I could bring them here for the court.

Q. What if I told you that the cards were issued?
Do you accept that?

A. Say again. Repeat that.

Q. What if I told you the cards were issued,
would you accept that?

A. Not without going through this. It probably
was issued through the system.

Q. Can you turn to page 22 of that same document.

A. This one?

Q. The one in your hand.

...

Q. Do you see the two items exhibited there?

A. Yes.

Q. And what are those?

A. **These appear to be copies of work permit cards
for Mr. Alex Garth McNee and Mr. Tavor Howell.**

Q. **Do you still say the cards were never issued?**

A. Well, with regards to our records, they were
never issued.

Q. Yeah, but isn't that records that it was
issued?

A. I seeing it here, but the records reflect that
they were not issued. I could take you to the system
and bring it up to you at Hawkins Hill, and it will show
that they were not issued.

[Emphasis supplied]

[55.] Upon the original of the cards being produced to Mr. Gittens, his evidence was (at
page 117 Hearing Transcript):

THE WITNESS: These cards are authentic. The
records reflect they were not issued.

THE COURT: Your evidence is that these cards
are authentic, but the record reflects that they were
not issued.

THE WITNESS: They were not issued.

THE COURT: How do you know that they're
authentic?

THE WITNESS: By certain features on it that
they have, special features, that we put into all the
cards that we produce.

THE COURT: Thank you.

MR. DELEVEAUX: Thank you, my Lady.

BY MR. DELEVEAUX:

Q. Now, Mr. Gittens, would you agree that

Mr. Pratt issued those cards -- let me rephrase that. At the time those cards were issued, Mr. Pratt was director of immigration, would you agree?

A. The records reflect that the cards weren't issued. So I can't say --

Q. At the time, at the date, when did Mr. Pratt demit office?

A. I think it was on the 25th of July, 2025.

Q. 25th of July, we will accept that.

And can you say whether or not there was a disapproval of those cards?

A. Yes. Our records reflect that there was --

Q. And when was --

THE COURT: Mr. Deleveaux, I'm trying to write, and I'm going to ask you to allow the witness to answer your question.

MR. DELEVEAUX: I apologize, my Lady.

THE COURT: Mr. Gittens, your answer is your records reflect what?

THE WITNESS: Our records reflect that they were not issued.

[56.] Mr. Gittens' evidence was that the physical cards were missing but that the Department's system showed that they were not issued. His testimony about the cards that he was shown is "I can't speak to how these are here" (page 142 Hearing Transcript).

The July 30 letters

[57.] CIO Gittens also accepted that the July 30, 2025 "not approved" letters appeared to bear the signature of Mr. William Pratt, although Mr. Pratt had demitted office days earlier. Mr. Gittens could not explain how a document dated July 30, 2025 came to bear Mr. Pratt's signature.

[58.] In relation to this matter and the policy of cancellation of work permits, Mr. Gittens' evidence was that he could not speak for Mr. Pratt or for the Board. At page 107 – 108:

At page 107 - 108

Q. And at the time that the applicants made this application, who was sitting in the seat as director?

A. At the time, I believe it would have been Mr. Pratt.

Q. And he is recognized in that position; isn't that correct?

A. Yes, up until he demitted office.

Q. *Would you agree that any act by Mr. Pratt as the director was regarding these applicants here, would*

have been legitimized?

A. I can't speak to -- I can't speak to acts what he may have done. I can only speak within the confines of, like, what in my investigation with the board and the other stuff. Whatever he do, I can't speak to acts like that. A decision that he would have made, he would not make that information known or privy to me.

Q. Who signs off on approvals for work permits?

A. Well, 1st first time work permits, a board decision would have been made. And renewals, they would give the director leeway for renewals.

[Emphasis supplied]

[59.] And again, the evidence of CIO Gittens was that he cannot speak to Board matters (at page 129 Hearing Transcript):

Q. Right. But however, Mr. Gittens, am I correct in saying that sometimes it is at the discretion of the department to grant a work permit, even though the persons are within the jurisdiction of the Commonwealth of The Bahamas?

A. I can't speak to the board matters and the director with their decisions will allow for that or not. I can't speak to that or not.

Analysis

[60.] I consider under this issue, the first proposition by the Respondent i.e. the approval was unauthorized and therefore *void ab initio*.

[61.] If the Respondent's case is that the July 24, 2025 approvals were unauthorised, the Department should be able to identify, at least in substance, how the conclusion that the approvals were unauthorized was reached, who reached it, and under what power the Applicants were notified by a subsequent letter that the permits were not approved. No such evidence was provided to this Court. CIO Gittens was unable to give this evidence.

[62.] CIO Gittens' evidence is that of an investigator. He spoke of the investigation but it is clear that CIO Gittens had to have acted on hearsay information and the source of such information is not revealed in his affidavit. For example, if CIO Gittens is neither the

Director nor a member of the Board, by what means does he confirm that the July 24, 2025 approvals were unauthorized or that they were not placed before the Board? There is no investigative report before the court. There are no Department logs or Board minutes. By what means did CIO Gittens learn that “direct instructions had been given within the Department that the work permits cards were not to be issued”? Who gave those direct instructions? Was it a lawful instruction by an authorized officer?

[63.] CIO Gittens’ *viva voce* evidence under oath is that he is not “privy” to decisions made by the Director “***regarding these Applicants here***”. Yet CIO Gittens was offered as the Respondent’s witness who carried out an investigation into “the application of work permit regarding the applicants” per his affidavit evidence.

[64.] It appears that the Respondent has adopted and thrown its weight behind the letter denying approval of the work permits. That letter is dated July 30, 2025 and bears the signature of Mr. Pratt who was, by then, no longer the Director. The Respondent concedes that at the time that that letter was issued, Mr. Pratt had already demitted office and handed over. There is no suggestion, or evidence, that Mr. Pratt was authorized to act for the Department of Immigration on July 30, 2025. Yet, there is no explanation to this Court as to how and why such a document was issued by, on the face of it, an unauthorized officer. No such explanation or evidence was forthcoming. Nor was any cogent reason offered as to why a letter issued after the signatory demitted office, ought to take precedence over approval letters which were issued by the Department and which, on the face of them, were issued by Mr. Pratt while he was in office. At the time that the approval letters were issued, Mr. Pratt would be deemed to be an authorized officer, being the Director of Immigration.

[65.] I am not satisfied that the July 24, 2025 letter ought not to be construed as the act of the Department. CIO Gittens’ evidence is that it was issued on their system. The Applicants had received communications indicating approval, the First Applicant had paid the substantive permit fees, and the Applicants produced work-permit cards which the Respondent’s own witness accepted were authentic Department cards.

[66.] The evidence is that the Applicants took several steps that required interfacing with the Department subsequent to the issue of the July 24, 2025 approval letters. Those steps served to confirm what had been communicated in the July 24, 2025 letters. Until the issue of the July 30, 2025 letter purportedly over the hand of a Director of Immigration who no longer held office, there was nothing to indicate to the Applicants that the approvals, and subsequent steps confirming approval, were “unauthorized”. It is my determination that the Applicants are entitled to rely on the representations of the July 24, 2025 letter that the letter was issued by the Department.

[67.] There is no credible or direct evidence from the Respondent that the July 24 2025 letters were unauthorized. The evidence in this regard from CIO Gittens is hearsay evidence and is very general. Evidence in that state is insufficient and unpersuasive.

[68.] I accept the Applicants' submission that the July 30, 2025 communication was a revocation or cancellation in substance. It is not determinative that the Department used the expression "not approved" rather than "revoked" or "cancelled". A Court is concerned with the practical effect of the decision. The practical effect of the July 30, 2025 letter was to undo the July 24, 2025 decision. The effect was to deprive the Second and Third Applicants of the benefit which the Department had represented as granted. That decision attracted public-law duties of fairness and rationality.

ISSUE 2 - Whether the Respondent has shown that the proper statutory decision-maker made a lawful contemporaneous decision.

[69.] I consider proposition 2 of the Respondent's case which is that there were sufficient deficiencies in the application, as well as the behaviour of the Applicants, that would cause the Board to "rationally and justifiably revoke" the work permits. The Applicants agree that the work permits were issued subject to conditions.

[70.] Counsel for the Respondent sought to elicit evidence in cross-examination to show that there were defects in the applications, an infringement of a "first-time applicant" policy, a deportation order against the Third Applicant and a conviction of the Second and Third Applicant.

Application Deficiencies

[71.] Mr. Munroe's evidence is that he relied on a consultant agency to assist with the paperwork. He accepted that he did not personally review every part of the forms. He said that any errors were not intentional and that he expected the Department to alert him to any mistakes in due process.

Both Mr. Howell and Mr. McNee accepted that immigration applications should contain accurate information. Mr. Howell also accepted that the passport information on his form was incorrect as it referred to Haiti and he was a Jamaican national.

[72.] CIO Gittens' evidence was that applications and supporting documents were scanned into the system. In this instance, he did not see where the newspaper

advertisements relevant to receipt of the Labour Certificate, had been scanned into the system. His reference was not to the Labour Certificate but to the newspaper advertisements. CIO Gittens was asked what would happen if there was missing information from the applications. He confirmed that usually someone from the Department would inform the applicant. His evidence was:

Q. And where there is as an error or omission, wouldn't it be the department's policy to call the person and question them about that error or omission on any application?

A. Yes. The department will call recall and request them to submit it or provide proof that they put the submission in for the public to know.

Q. And would it be at the fault of the applicants if they were not called in and the application proceeds?

A. In the requirements list, that would be in it as well, and the application, it would be -- that mean they would probably know prior to them submitting it that they need that.

Q. Mr. Gittens, I asked you: Would it be the fault of the applicants if there was an oversight on behalf of the immigration department by omission that something is missing on the file?

A. I --

Q. According to you, what you said, you said you normally call them in. And if you didn't call them in, it would be an error on your behalf, wouldn't it?

A. Yeah. It would be an error on whoever's processing it.

First-Time Applicant Policy

[73.] The Respondent relied on a policy that first-time work-permit applicants must be outside The Bahamas when the application is submitted. CIO Gittens described it as a long-standing general policy but accepted that it was not then contained in a written policy issued to applicants. He said it was communicated verbally and sometimes in writing (page 134 Hearing Transcript):

THE WITNESS: They tell the employers and perspective employee that they need to be out of the country. We say the term is "regularized your status," which means you need to leave the country and then come back.

THE COURT: How would they tell them, by what means?

THE WITNESS: We tell them verbally, by face to face with them. And in some cases, they would have

it written in a letter stating that the person needs to be outside the country.

[74.] Mr. Gittens could not say whether the policy had been communicated to Mr. Munroe.

[75.] Both Mr. Howell and Mr. McNee accepted that they were present in The Bahamas before the application was submitted. Mr. Howell's evidence was that this policy was not communicated to him.

Conviction and Deportation Order

[76.] The Respondent's case is that the Second and Third Applicants had criminal convictions and that Mr. McNee had been subject of a deportation order.

[77.] Mr. McNee was challenged in cross-examination that he had a criminal conviction and that he had been deported from The Bahamas. He denied having been convicted of overstaying, denied appearing before the Magistrate's Court for overstaying, denied having been deported, and denied that the signature on the deportation order was his. Mr. McNee accepted that he pleaded guilty in an assault matter but stated that he did so not of his own will. He denied having a conviction. Mr. Howell accepted that he was before the Magistrate's Court in relation to assault and obstruction charges and that he pleaded guilty, although he said he did so not of his own will.

[78.] Mr. Gittens' evidence by way of affidavit is as follows:

Criminal Conduct of the Applicants

24. On 12th October, 2023, Immigration officers conducted an apprehension exercise during which the Third Applicant was questioned in relation to his legal status in The Bahamas. He was unable to produce proof of any lawful status. He was cautioned, arrested, and transported to the Carmichael Road Detention Centre for further assessment and processing.

25. The Third Applicant was charged with overstaying, appeared before the Magistrate's Court, and pleaded guilty to the offence. A copy of the charge sheet is marked and exhibited as "AG3".

26. The Third Applicant was thereafter made subject to a deportation order issued by the Minister of Immigration, as well as a detention order, both of which he signed and accepted. A copy of the same is marked and exhibited as "AG4".

27. The Third Applicant was deported to Jamaica on 18th October, 2023.

28. On 27th June, 2025, (four days after the Second and Third Applicant work permit applicant was submitted), the Second and Third Applicants

assaulted Immigration Officers and obstructed an Immigration Officer in the execution of his duties.

29. On 30th June, 2025, the Second Applicant and the Third Applicant were arraigned before Magistrate's Court No. 1 before Magistrate Algernon Allen Jr.

30. The charges included Assault of an Immigration Officer contrary to section 133 of the Penal Code and Obstruction contrary to section 247 of the Penal Code. A copy of the charge sheet is marked and exhibited "AGS".

31. In relation to count 1, each Applicant were ordered to compensate the two complainants on the amount \$600.00 each. In default the Applicants were to serve two (2) months at the Bahamas Department of Correctional Services (BDOCS), if compensation was not paid in full. The charge of Obstruction was discharged and the court granted a conditional discharge for both Applicants.

[79.] On cross-examination, Mr. Gittens contended that both Applicants had a criminal conviction although he could not, at the time, produce the court record to that effect. Mr. Gittens also relied on a copy of a deportation order purporting to show Mr. McNee's signature.

[80.] The Respondent's second witness, Mr. Perry McHardy, attorney-at-law, sought to put in a transcript of the Criminal proceedings from the Magistrate's court. The exhibited copy of a Transcript signed by the Magistrate, confirmed that both Mr. McNee and Mr. Howell were "absolutely discharged". This transcript conflicts with the affidavit evidence of Mr. Gittens that there was a "conditional discharge" and with his evidence under oath that both Mr. McNee and Mr. Howell had convictions. By affidavit, Mr. McHardy avers, inter alia,:

6. I am informed by Counsel having conduct of this matter that the Respondent is desirous of placing before this Honourable Court the criminal proceedings which transpired in the Magistrate's Court on 30th June, 2025 involving the Second and Third Applicants.

7. I am further informed by Counsel with carriage of this matter that these events are crucial to the issues arising herein.

8. Annexed hereto is a transcript of the criminal proceedings involving the Second and Third Applicants, which is marked "PM1".

9. I am further informed by Chief Immigration Officer Gittens that, as a result of what transpired in the Magistrate's Court, a recommendation was made in respect of the Second and Third Applicants. This recommendation was not available to the Director of Immigration or the Board of Immigration, as the application was not properly brought before them for approval.

[81.] Mr. McHardy was cross-examined on whether the Applicants had criminal convictions. Mr. McHardy's evidence was that the discharge did not amount to a conviction but that it was also not an acquittal. His evidence was (at pages 96 to 97 Hearing Transcript):

Q. And I want you to go to the paragraph at the bottom of that exhibit. And the last sentence in it, it says, "The prosecution withdrew the complaint of obstruction and both defendants were discharged pursuant to section 232(b)(1)

A. I see it, yes.

Q. And as a practicing attorney, are you familiar with that?

A. I am familiar with it, yes. Yes, sir.

Q. Yes. And being familiar with that, what does that tell you?

A. Well, it tells me that this particular provision or section in the criminal procedure code give the magistrate the authority to do a discharge or provide a discharge for certain offenses.

Q. Does it operate as a conviction against the person discharged?

A. A conviction -- well, a discharge is not technically a conviction.

Q. So no, I didn't ask you that, Mr. McCardy. Does it operate as a conviction against the defendant, or would it be so in the records as a conviction on the defendant?

A. No. It would not be a conviction. There would be no criminal record in that instance.

Q. So is it safe for me to say that based on this here, there is no criminal conviction against the applicants, Trevor Howell and Alex McNee and Trevor Howell?

A. No. An absolute discharge would not result in a criminal record.

[82.] The evidence is that Mr. Howell and Mr. McNee were brought before the Magistrate's court on charges of assault. The Respondent's case was that they held criminal convictions.

[83.] Evidence from the Respondent's own witness, Mr. Perry McHardy, clarified that the matter resulted in an absolute discharge, that the obstruction matter was withdrawn or discharged, and that the absolute discharge did not result in a criminal record.

Analysis

[84.] The Respondent has sought to show that there were good and sufficient reasons for the “non-approval”. The Respondent's submission is that the Department of Immigration is vested with discretion to revoke work permits, to cancel work permits, and to determine not to issue work permits with good reason. I accept that to be so. However, it is not ordinarily sufficient for a public authority, after litigation has begun, to identify reasons which might have justified the decision if those reasons were not in fact reasons considered at the time.

[85.] Much of the Respondent's case focused on why the Department of Immigration would have had good reason to refuse the grant of a work permit. This approach fails to deal with the fundamental question that the court has to determine which is: *Did* the Department exercise its discretion lawfully? This is not a question of whether the decision is meritorious. Nor is it a question of what the Department *could have* taken into account. This court must consider what *in fact* the Department is shown to have taken into account. What the Respondent ought to demonstrate is the actual consideration of those reasons in coming to the decision in its decision-making process. The Court is concerned with the decision actually made, and later explanations cannot ordinarily cure inadequate contemporaneous reasons.

- Application Deficiencies

[86.] Immigration applications should contain truthful information. These matters could properly be considered by the statutory decision-maker. However, the existence of potentially relevant grounds is not enough. The question is whether the proper decision-maker actually relied on those grounds at the time, under the correct statutory power, and after a fair process.

[87.] The evidence of CIO Gittens is that it is the policy of the Department to call applicants if something is missing from the file. In this case, there is no evidence that there was any communication going to Mr. Munroe, or to any of the named Applicants in these proceedings, to indicate that something was amiss. I note that one of the alleged defects is the error by Mr. McNee which lists his passport as “Haitian”. Notably, much of his documentation referred to “Jamaica” and the approval letter issued by the Department on June 24, 2025 referred to his nationality as “Jamaican”. Was this the sort of error that misled the Department? Or was the Department content to issue the approvals, defects notwithstanding?

[88.] The alleged deficiencies do not save the 30 July decision. There is no evidence that these were considered by the Respondent at the time that the “not approved” decision was

made. The defects may be matters to be considered on remittal provided the Applicants are told the matters relied upon and given an opportunity to respond. There is no proof that any of the application defects were considered in coming to the July 30, 2025 decision.

- First-Time Applicant Policy

[89.] There is no clear evidence that this policy was communicated to the named Applicants, including Mr. Munroe, either before or at the time that the applications were made. Nor was the policy identified in the 30 July 2025 communication as a reason for the decision.

[90.] CIO Gitten's evidence is that first time applicants are to be outside of the territory at the time that the application is made. The policy may be relevant on reconsideration. However, where it was not shown to have been clearly communicated and where it was not identified as the basis for the decision, it cannot cure the procedural unfairness of the July 30, 2025 decision.

- Criminal Conviction and Deportation

[91.] The case of the Respondent is that the Applicants were guilty of criminal conduct, had criminal convictions and that one of the Applicants had been deported. On the Respondent's own evidence, it was shown that while the Applicants appeared before the Magistrate, they were absolutely discharged which meant that there was no conviction. Therefore if the Respondent's case is that a conviction was a consideration taken into account by the decision-maker, the decision would be faulty because the evidence is that there was no conviction.

[92.] Criminal conduct, as a general principle, would likely be a relevant consideration. However, the Respondent's own evidence is that a recommendation as a result of what transpired in the Magistrate's court was not considered. The evidence of Mr. McHardy is that the "recommendation was not available to the Director of Immigration or the Board of Immigration, as the application was not properly brought before them for approval." Another significance of Mr. McHardy's evidence is that this was never a matter that was considered by the decision-maker.

[93.] Counsel for the Applicants challenged what was presented as a copy of a deportation order. He also sought to show that the nature of the charge brought against Mr. McNee could not have been made the subject of a deportation order under the Immigration Act. I do not find it necessary to decide that point because there is no evidence

that a deportation of Mr. McNee was a factor taken into account in coming to the July 30, 2025 decision.

[94.] I mention and consider a variation of Proposition 2 for completeness. The first proposition is that there was good and sufficient reason to revoke the work permits. The variation is that the work permits were not approved because of the deficiencies.

[95.] I have already found that the “non approval” amounted, in my view, to a cancellation or revocation. Even if I were wrong on that conclusion, it remains the position that there is nothing before this Court to show that the Board, or the Director, took into account these matters in coming to a decision to “not approve” the work permits. On an evaluation of the evidence, it is my opinion that the matters offered by Counsel for the Respondent are matters advanced as a result of hindsight and submission, not as a matter of chronological evidence. The offered post-decision reflection cannot support a decision that did not take into account those things now characterized as relevant considerations.

[96.] If the Respondent’s case is that the work permits were cancelled or revoked because conditions were breached, the Department should show that the statutory cancellation power was engaged and that the relevant decision-maker was satisfied of the breach. The Respondent must show that these matters were taken into account at the time of the decision. There is no such evidence before me. There is no contemporaneous Board minute, official record or notes of a decision.

[97.] I found CIO Gittens to be an honest and forthright witness but honest witnesses can be mistaken. I find that CIO Gittens was mistaken on the matter of the conviction and the work permits. I also note that there are gaps in the evidence that he could not cover because he was limited by his capacity. Much of CIO Gittens’ testimony depended on matters of instruction to him. He was put in charge of an investigation. He could not, or did not, give information on how the July 24 2025 letters came to be issued. He could not, or did not, give information on how the July 30 2025 letters came to be issued. What is also concerning is that the July 30, 2025 letter issued by the Department of Immigration bears the signature of the former Director of immigration and there is no explanation as to why his signature appears on a document at a time that he no longer held the position.

[98.] CIO Gittens did not issue, nor was involved in issuing, either set of letters. He did not speak on behalf of the Director or the Board. His information was that the letters were issued and that only one set was authorized. His affidavit is devoid of his sources of information. On matters of importance, through no fault of his own, CIO Gitten’s evidence failed to support the case advanced by the Respondent.

[99.] A court is not concerned with the merits of a decision per se. A Court does not give effect to a decision because there could have been good reasons for the decision, had the decision-maker taken them into account. The decision is that of the decision-maker and the discretion to be exercised on making the decision is the discretion of the decision maker. The law requires that the discretion is to be exercised lawfully.

[100.] My conclusion is that there is no evidence that the July 30, 2025 decision, however styled, took into account the reasons proffered by the Respondent as lawful grounds for either (i) not approving the applications or (ii) revoking/cancelling the permits.

ISSUE 3 - Whether a legitimate expectation arose and whether the Applicants were afforded procedural fairness and adequate reasons.

[101.] The Applicants submit that approval communications, payment of fees, and possession of the cards created a legitimate expectation that they “would have the benefits of working in The Bahamas”.

[102.] The Respondent submits that while the First Applicant had successfully secured work permits in the past, the Second and Third Applicants were not persons who had previously enjoyed the benefit of such permits and thus “there was no established practice or past benefit from which a legitimate expectation could arise.” The Respondent also submits that at the First Applicant’s meeting with Director Mr. Stephen Laroda, the First Applicant acknowledged that, during the meeting, the Director did not promise or assure him that the work permits would be granted to the Second and Third Applicants and that, therefore, in “the absence of any clear representation or undertaking by the decision-maker, there can be no legitimate expectation that the permits would be approved”. The Respondent also submits that the doctrine of legitimate expectation cannot arise from an unlawful act or a representation made without authority.

[103.] In **Council of Civil Service Unions v Minister for the Civil Service**, Lord Diplock set out 2 categories of what he termed as “legitimate expectations”. Those categories were (1) where a person is deprived of a benefit or advantage which he had been permitted by the decision-maker to enjoy in the past and which he could legitimately expect to continue until he receives rational grounds for its withdrawal and is given the opportunity to comment on same; and (2) where a person is deprived of a benefit or advantage which he had been assured by the decision-maker would not be withdrawn without first giving him an opportunity to advance reasons why the benefit or advantage should not be withdrawn.

[104.] These categories are wide but are critical to distinguishing a mere “reasonable expectation” from a legitimate expectation. Legitimate expectation can arise from an explicit assurance or implied from established practice (Category 2) or, in my opinion, imputed from the circumstances (Category 1).

[105.] Legitimate expectation does not dictate the result of a decision but it requires that a public body will act in a fair manner. Sometimes that fair manner is the legitimate expectation of consultation and/or the opportunity to be heard and/or the provision of reasons.

[106.] Legitimate expectation is tied closely to the notion of procedural propriety or fairness. Procedural fairness exists independently of the notion of legitimate expectation. Procedural fairness covers rules of natural justice which includes the right to be heard before an adverse decision is made. In a case where there is a legitimate expectation, procedural fairness follows and was enunciated by Lord Diplock in the formulation of the issues before that court in **Council of Civil Service Unions v Minister for the Civil Service** at page 413:

“the prima facie rule of "procedural propriety" in public law, applicable to a case of legitimate expectations [is] that a benefit ought not to be withdrawn until the reason for its proposed withdrawal has been communicated to the person who has theretofore enjoyed that benefit and that person has been given an opportunity to comment on the reason...

[107.] I find that the Respondent’s submissions are misplaced. The expectation was not that the permits would never be revoked. Work permits are discretionary and subject to statutory control. However, the Applicants were entitled to expect that, having been told that the permits were approved, having paid the fees, and having received authentic cards, that the Department would not withdraw the benefit without:

identifying the problem;
disclosing the substance of the case against them;
giving them a fair opportunity to respond prior to issuing a non-approval letter; and
giving intelligible reasons upon ultimately making a determination to revoke approval.

That procedural expectation was not met.

[108.] The later meeting of Mr. Munroe with the then new Director and Acting Assistant Director did not cure the public law defects. The meeting occurred *after* the decision had already been made and communicated. There is no evidence forthcoming from either the then new Director or the Acting Assistant Director who were the personnel from the

Department of Immigration in that room. Mr. Munroe's evidence, which I accept on this issue, was that no adequate reasons were given. There is also no evidence that the matter was reopened with an open mind or that the decision was reconsidered after representations from Mr. Munroe.

[109.] There is no suggestion that the Respondent did not know that approvals had been issued and that money had been collected. In fact, CIO Gittens' evidence is that the approval letters were issued by the Department's system and that there were instructions that the cards were not to be issued. Had the cards not been issued, I think it is fair to say that a reasonable bystander would expect that there would be some explanation by the Departments as to why cards did not issue following letters of approval and the acceptance of payment for the permits. Even more so, it seems to me that once the cards were in fact issued, it became compelling that the Department would offer some explanation for a decision taken to "not approve" the work permits and to "undo" the process engaged by the Applicants and the benefits secured by them.

[110.] The evidence is that the letters of approval dated June 24, 2025 each read:

This approval is granted on the condition that it is accepted no later than thirty (30) days from the date of this letter, otherwise the offer may be withdrawn.

[111.] On a reading of each such letter, the Applicants are deemed to know that failing acceptance of the offer within 30 days, the offer could be (may be) withdrawn. Otherwise, on the acceptance of the offer, the approved work permits would issue. The Applicants, in public law, could legitimately expect that:

1. On payment of the fees, the work permits would issue.
2. Once issued, the work permits would not be cancelled unless a breach was committed. If a breach was alleged, the breach ought to have been communicated to them to give them an opportunity to respond prior to an adverse decision (the cancellation of the permits) being made. And
3. Once issued, the work permits would not be revoked for irregularity such as an alleged "unauthorized issue" without an explanation and an opportunity to respond prior to an adverse decision (the cancellation of the permits) being made.

[112.] The Respondent's later affidavits contain a list of reasons and concerns. Those reasons and concerns are offered as a justification for the decision. Some of them may be relevant. However, those reasons were not set out in the July 30, 2025 decision. They were

not communicated to the Applicants. This Court must also be careful not to permit post hoc rationalisation to replace the reasons that ought to have been given at the time. The Respondent's post-decision evidence of potentially good grounds cannot cure the absence of a lawful and fair decision-making process at the time that the decision was taken.

[113.] This case heightens the importance of procedural propriety, the giving of reasons and affording an opportunity to respond. For example, a reason proffered for the decision is a criminal conviction. On the Respondent's own evidence, the Second and Third Applicants were absolutely discharged in the matter that was brought against them. If the decision-maker considered that they had been convicted of criminal offences, as was submitted by Counsel for the Respondent, the decision-maker would have taken into account a factually incorrect consideration. This demonstrates the need for procedural fairness because the decision-maker would have come to an adverse decision on a factually incorrect ground without giving the Applicants an opportunity to respond.

[114.] The 30 July 2025 letter gave no adequate reasons, no explanation for the decision. The Applicants were left to imagine reasons for the decision. Whether the Department was relying on lack of Board approval, unauthorized issue of cards, application defects, criminal allegations, or presence in The Bahamas were not matters communicated to the Applicants and could not be assumed either (1) to be known by the Applicants or (2) to be known by the Applicants to be reasons for the revocation/cancellation of the approvals.

[115.] It seems to me that if the Department did conduct an investigation that uncovered irregularities, and that decisions were to be taken that would affect persons with prima facie rights, then, at the very least, those persons ought to be informed that their status would be rescinded and they ought to be told why.

[116.] It is manifestly unfair, especially in circumstances where the Department has accepted payment from a person for a benefit and subsequently extended the benefit to the person, to merely notify that person by email that their application is "not approved". Notably, in this case, the Applicants had already passed the state of approval. At the time of the July 30, 2025 decision, Mr. Munroe was no longer an applicant for work permits. Mr. Mcnee and Mr. Howell were holders of work permits with consequential rights. Therefore the timing and nature of the July 30, 2025 letter ought to have been addressed by the Department. To a reasonable onlooker, an explanation would be required. In public parlance, a statement of reasons would "only be just and fair". As a matter of law, what the Respondent did was procedurally irregular and unfair.

[117.] My determination is that reasons were required in the circumstances of this case. The Department had represented approval, accepted payment, and authentic Department cards had come into the Applicants' possession. Withdrawal of that position had immediate and serious consequences for the Second and Third Applicants.

[118.] There is force in the Applicants' submission that the Applicants had a legitimate expectation. I accept that the Department's conduct created, at minimum, a procedural legitimate expectation. I find that the Applicants had a legitimate expectation that the work permits would not be cancelled without a fair hearing and reasons being provided.

[119.] I find that the July 30, 2025 decision was procedurally unfair.

ISSUE 4 - Whether the decision was irrational

[120.] Given the court's findings above, I deem it unnecessary for the purpose of these proceedings to make detailed conclusions under this heading and I decline to do so.

ISSUE 5 - Whether the decision was tainted by bias.

[121.] The Applicants advanced serious allegations of bias and improper motive. Ms. Morgan-Mackey is the mother of the Second and Third Applicants. She gave evidence of prior encounters with Immigration officers, alleged hostility toward Jamaicans, and alleged targeting of her business and sons. Her evidence included prior encounters with Mr. Chadwill Adams, one of the officers who met with Mr. Munroe on August 6, 2025 concerning the work permits for the Second and Third Applicants.

[122.] I do not find it necessary to make a final finding that the July 30, 2025 decision was motivated by bias. Nor do I find that the evidence establishes actual bias by the Board or the Director or, indeed the Minister, the named Respondent. Much of the evidence concerns prior interactions with individual officers and is not directly tied to the statutory decision under review.

[123.] However, the evidence forms part of the factual context and reinforces the importance of transparent reasons and a proper decision-making record.

STATUS QUO

[124.] A *status quo* order is a court order intended to preserve the existing position between the parties until the court can decide the dispute at trial, or at a later hearing.

[125.] As part of the request for relief, the Applicant sought an order for status quo pending the determination of the proceedings. The Court made that order. The letter of July 30, 2025 included the following:

In the event that the above-named person is in the country, he/she should wind up his/her affairs and leave The Bahamas within twenty-one (21) days from the date of this letter.

Please also inform this Department of the date of their departure and the transportation used to effect same.

Failure to comply may result in the applicant and the Company/employer being charged before the courts.

[126.] I note for the record that a *status quo* order is meant to preserve the parties' existing position until the court can decide the case. In Immigration and Judicial Review proceedings, it is useful to prevent the dispute from becoming moot or irreversible before the court rules on the challenged administrative decision. So, for example, it may stop removal, deportation, or enforcement action, it could preserve a person's presence in the jurisdiction, and it could suspend the effect of an impugned decision. In practical terms, it is an interim protective order: it does not usually determine the merits finally, but it holds matters in place pending determination.

[127.] The Respondent, in its closing submissions, disputes the Court's jurisdiction to grant a *status quo* order. Counsel submits that there are no proceedings to which such an order was applicable and equated it to an injunction. This is also a point that I find it unnecessary to make conclusions on at this point for the reason that that order is spent now that the matter has been determined.

[128.] Counsel for the Respondent also suggested that the *status quo* order gave the Applicants the relief that they sought. The purpose of the *status quo* order was not to give the Applicants a right that they had not established. Instead, it was to give them the opportunity of establishing a right.

[129.] I also note for the record that, notwithstanding the court's orders to hold the *status quo*, attempts were made to remove the Second and Third Applicants from the territory, purportedly after they travelled and returned to the territory.

[130.] Having determined that the Department of Immigration acted wrongfully in revoking/cancelling the work permits without reason, this Court, as Counsel for the Respondent rightly submitted, cannot require the Department to exercise a decision in favour of the Applicants. This Court's determination is to quash the decision and remit same to the decision maker.

[131.] The Applicants also seek an award of damages. There are very limited circumstances in which an award of damages may be made: Rule 54.7 CPR. This is a matter that is to be addressed separately by way of submissions and, if appropriate, evidence.

CONCLUSION

[132.] The Respondent argues that the Court should not usurp the decision-making authority of the Respondent. I agree with that submission and this ruling does not purport to do so. Nothing in this judgment prevents the Respondent from investigating the circumstances in which the approval communications and authentic cards came to be issued or possessed. Nor does this judgment prevent the Respondent from relying, on reconsideration, on any application defects, immigration history, criminal history, policy considerations, or statutory grounds that are lawfully available.

[133.] The determination of this judgment is narrower but important: where a public authority has represented approval, accepted substantial fees, and authentic cards have come into the Applicants' possession, any withdrawal of that position must be done transparently, lawfully, and fairly. That did not occur here.

[134.] In the premises, I come to the following conclusions:

1. The 30 July 2025 letter was a revocation or cancellation in substance;
2. The Respondent has not demonstrated a lawful contemporaneous decision by the proper statutory decision-maker;
3. The Applicants had at a legitimate expectation that any revocation or cancellation of the work permits would occur only after notice, reasons, and an opportunity to respond;
4. The Respondent failed to give adequate reasons;

5. The Respondent failed to afford procedural fairness and
6. The Court does not make a final finding of actual bias.
7. The judicial review application is therefore allowed in part.

[135.] I decline to order the outright restoration of the work permits. The grant of work permits remains a matter for the statutory decision-maker. The Court should not substitute its own decision for that of the Director or the Board.

[136.] It is my determination that the appropriate remedy is quashing and remittal. On remittal, the Respondent must identify the statutory basis on which it proceeds. If the Respondent's position is that the permits were never lawfully approved, it must identify the factual and legal basis for that position. If the Respondent seeks to cancel or revoke the permits, it must identify the statutory power, the alleged condition or restriction breached, and the evidence relied upon.

[137.] The Applicants must be given a reasonable opportunity to make representations. The decision-maker must give reasons sufficient to allow the Applicants to understand the decision.

[138.] The Court will convene to issue directions concerning the sought relief of damages.

COSTS

[139.] Taking into account the provisions of Part 71, CPR and in particular the provisions of Part 71, Rule 71.6, I find no reason to depart from the general rule that the unsuccessful party should pay the costs of the successful party. Therefore, in this matter, the Respondent shall pay the costs of the Applicants, to be assessed by a Registrar, if not agreed.

ORDER

[140.] The ORDER and directions of this Court are as follows.

1. The Respondent's decision communicated on or about 30 July 2025, by which the Respondent and / or the Department of Immigration stated that the work

permits for Travor Howell and Alex Garth McNee had not been approved is quashed.

2. The matter is remitted to the proper statutory decision-maker for reconsideration in accordance with law.
3. On remittal, the Respondent shall identify the statutory basis upon which the matter is reconsidered, including whether the Respondent contends that:
 1. the work permits were never lawfully approved or issued;
 2. the work permits were issued but are liable to cancellation or revocation; or
 3. the applications are to be reconsidered as applications for the grant of work permits.
4. Before making any fresh adverse decision, the Respondent shall provide the Claimants with the substance of the grounds relied upon, including any alleged application defects, policy grounds, immigration-history matters, criminal-history matters, or alleged unauthorised issuance of approval communications or permit cards.
5. The Applicants shall have 14 days from service of the Respondent's notice of grounds to make written representations and to provide any supporting documents.
6. The Respondent shall consider any representations and supporting documents provided by the Claimants before making a fresh decision.
7. The Respondent shall give written reasons for any fresh decision. For the avoidance of doubt, nothing in this Order requires the Respondent to grant, restore, or renew any work permit. The grant, refusal, cancellation, revocation, or validation of any work permit remains a matter for the proper decision-maker acting lawfully and in accordance with this Order.
8. The Respondent shall pay the Claimants' costs of the claim for these judicial review proceedings, to be assessed by a Registrar, if not agreed.
9. The Court shall convene to give directions on the hearing of the question of damages.

Dated this 13th day of July 2026

A handwritten signature in black ink, appearing to read 'Carla D. Card-Stubbs, J.', with a stylized, cursive script.

Carla D. Card-Stubbs, J