

From: Harmon Wilfred [h.wilfred@combined-tech.com]
Sent: Monday, 9 October 2006 1:17 p.m.
To: 'Lisa Kinloch'
Subject: RE: Important Message to David Carter

Attachments: Convention on Statelessness.pdf; De Facto VS De Jure Statelessness.pdf;
UNECE,Statelessness defined, para 17.pdf
[With correction and including attachments...](#)

From: Harmon Wilfred [mailto:h.wilfred@combined-tech.com]
Sent: Monday, 9 October 2006 1:10 p.m.
To: 'Lisa Kinloch'
Subject: RE: Important Message to David
Importance: High

Hello Lisa,

I am sure you have been informed by now of the decision of the High Court to dismiss our Appeal and Judicial Review case. David is now approaching the Associate Minister of Immigration, Clayton Cosgrove for a special discretion decision to receive a long term Business Visa.

As this is my final opportunity to determine our right to stay in New Zealand, I have been doing some research I believe could be helpful to David on his approach to Minister Cosgrove and would like to convey the results as follows:

1. During the entire legal process from our original submission to the RRA for residency through the High Court Appeal and Judicial Review, a key issue that has been looming over the entire case is my having voluntarily renounced my US citizenship to become stateless. The RRA chose to essentially ignore this all important fact to the extent that they assumed that my US passport would somehow magically remain available to me to the extent that I was turned down and given a 7 day notice to leave the country or be deported; again assuming that my passport privileges survived the renunciation.
2. In fact, upon acceptance of my renunciation, my passport was cancelled and The US State Department issued me a formal approval and Certificate of Loss of Nationality of the United States as an alien from that point forward with absolutely no rights and privileges; without making application anew as an alien as such.
3. It was also pointed out by the Judge in his dismissal, by example of case law, that renouncing one's citizenship without first obtaining citizenship elsewhere was "a thoughtless act". As you know David, my decision was anything but thoughtless and I had many legal and other close advisors who in the end agreed with my decision on the highest of principles. In this case, even the High Court Judge dismissed my statelessness as almost "not counting" because it was a voluntary act; however, my statelessness remains a fact.
4. I recently did some extensive research on the definition and rights of stateless people and found what you may already know but may bear repeating:
 - a) The United Nations High Commissioner for Refugees oversees the rights of stateless persons as well as refugees. The UNHCR has always worked closely with New Zealand and is very appreciative of New Zealand's record on supporting human rights.
 - b) In 1954 the Convention Relating to the Status of Stateless Persons (see attached) was ratified by the United Nations and currently holds a membership of 44 Nation States of which New Zealand, the United States and Canada are *not* signatories

(please see the list of signatories in the attached Convention on Statelessness). Prominent members are Australia, Switzerland, Sweden, Italy, France, Germany etc.)

- c) The legitimate status of statelessness is unaffected by whether a person becomes stateless by his own hand (de-facto) or by other means outside of his control (de-jure), see above attachment.
 - d) By the Convention and the UNECE definitions (see attached), I am indeed stateless and fully qualify under the rights and privileges of the Convention Treaty as such.
5. Understanding that I wish to remain in New Zealand as my now home, it is my hope that the NZIS would agree to the spirit of the Convention Treaty as one that is overseen by the UNHCR, even though I understand that there is no requirement to do so.
 6. I only became unlawful in New Zealand by exercising my lawful right of renunciation and receiving a lawful and documented release from the US State Department. It's the fact that I do not have a travel document to continue my visa process that has caused the problem.
 7. The High Court Judge pointed out three key factors beyond the justification of his dismissal of the Appeal case:
 - a) The logical place to send me if deportation becomes a factor is Canada, as my previous country of record.
 - b) I do not have to be returned to the United States
 - c) The issuance of a long term business visa with strict oversight was suggested
 8. I am delighted at the prospect of receiving a long term business visa as my lawful means of remaining in New Zealand. However, should the decision to be deported be the final determination of the NZIS, it would be my preference to jointly apply and be sent to a Convention Treaty signatory country for the following reasons:
 - a) Canada has directly participated with the US in all past documented human rights violations, including multiple violations of The Hague Commission Treaty. Sending me to Canada could likely be just as harmful as sending me to the US. Also, as mentioned above, Canada is a non-participant of the Convention Treaty.
 - b) A Convention Treaty signatory country provides extensive rights and privileges essentially equivalent to citizenship, including a valid international passport and travel documents as a stateless person (please see Convention on Statelessness, Article 28- Travel documents).
 - c) The Convention Treaty provides for deportation under Article 31, Expulsion. As such the minimal requirement even under circumstances of justification as to breaches of the national security or public order (of which there have been none in this case), the stateless person in question is provided "a reasonable period within which to seek legal admission into another country". I need not remind you that Carolyn and I have contributed significantly to New Zealand since our arrival in 2001 both financially with our investments and Technology Company and with significant humanitarian efforts both personally and financially. This should at least have earned the time to leave with dignity, if required.
 9. **Upon advice, I have recently made confidential contact with the offices of UNHCR in Australia to confirm my status and rights as a stateless person. I must re-emphasize that this contact has been in strict confidence with instructions to contact no one in New Zealand. Their legal team has studied my circumstances in considerable detail, and has advised that they would like to present a letter to the NZIS on my behalf. The following is an excerpt from their latest e-mail:**

The "UNHCR is able to make a recommendation to the Minister that he give positive consideration to affording you recognition in New Zealand, on the basis of you being effectively stateless".

In light of your earlier request to keep our communication in confidence, please advise if you have any objections to us taking this course of action.

I have since replied to the UNHCR instructing them to hold until I consult my advisors before giving permission for such a letter to be forwarded. My question in this regard is, would you like such a letter from the UNHCR sent directly to your office for use, or not, as you see fit? I would be very uncomfortable having such a letter sent to the Immigration Minister's office unless you would convince me otherwise. Al Manco is also very cautious at this point and would like your input. Please advise ASAP.

10. Finally, I would like to re-state my position as conveyed at our last meeting. I wish to do what is in the best interest of all parties concerned. Should the NZIS determine that allowing me to stay would somehow compromise their immigration policy or set an un-preferred precedent; then please afford me the minimum of providing ample time to immigrate to a Convention Treaty signatory country so that I can get on with my life with all of my human rights restored. Should the NZIS issue me the lawful right to stay in New Zealand, then Carolyn and I would be delighted to honor that decision by continuing our tradition of contribution in every way.

I await your advice on the offer of letter from the UNHCR. Many thanks again for your kind consideration in representing us to the Associate Minister for his discretionary decision. Please let me know if I can be of any further assistance.

Warmest Regards,

Harmon