

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV 2005

UNDER Section 115 A of the Immigration
Act 1987

IN THE MATTER of an appeal from the decision of
the Removal Review Authority
Appeal No. AAS45984 dated 9
August 2005

BETWEEN **HARMON LYNN WILFRED** of
Christchurch, Company Director

Appellant

AND **THE CHIEF EXECUTIVE OF
THE DEPARTMENT OF
LABOUR**

Respondent

NOTICE OF APPEAL
Monday the 15th day of August 2005

WYNN WILLIAMS & CO
SOLICITORS
CHRISTCHURCH

Solicitor: P F Whiteside

Appellant's Solicitors
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TAKE NOTICE that the Appellant intends to appeal to the High Court against the decision of the Removal Review Authority (the "Authority") in an appeal under Section 47 of the Immigration Act 1987 by Harmon Lynn Wilfred, Appeal Number AAS45984, **UPON THE GROUNDS** that the decision of the Removal Review Authority is erroneous in points of law.

The decision is erroneous in law because: -

1. The Authority was wrong not to determine that exceptional circumstances of a humanitarian nature existed that would make it unjust or unduly harsh for the Appellant to be removed from New Zealand because:
 - a. The Appellant is a stateless person and this is an exceptional circumstance of a humanitarian nature which would make it unjust for the Appellant to be removed from New Zealand because as a stateless person the Appellant is denied:
 - i. The universal right to citizenship of a nation state;
 - ii. The rights associated with citizenship of a nation state including the right to establish residence in such a nation state.
 - b. The Appellant's children would suffer significant economic and emotional harm as a result of the removal of the Appellant from New Zealand because:
 - i. The Appellant would no longer be able to provide child support payments which significantly contribute to their welfare;
 - ii. The Appellant's children's mother has previously abused the children and would exact retribution on the children if child support is not paid.
 - c. The Appellant's wife, Carolyn Ruth Dare-Wilfred, would suffer significant economic and emotional harm from the removal of the Appellant from New Zealand because:

- i. Mrs Dare-Wilfred is a Company Director of Wilfred Investments Limited, which owns Combined Technology New Zealand Limited;
 - ii. Mrs Dare-Wilfred is an applicant for a long term business visa;
 - iii. Mrs Dare-Wilfred is entirely reliant on the Appellant's financial acumen and skill to operate her business enterprises as well as his emotional support.
 - iv. The forced removal of the Appellant from New Zealand would require Mrs Dare-Wilfred to abandon Wilfred Investments Limited and Combined Technology NZ Limited and her application for a long term business visa and would also impose a long term separation between her and her husband.
- d. The removal of the Appellant from New Zealand will cause significant economic harm to Combined Technology NZ Ltd and its employees. That company and its subsidiaries which have an annual turnover of nearly \$1,000,000.00 would almost certainly have to be shut down if the Appellant is removed from New Zealand.
 - e. The removal of the Appellant from New Zealand will prevent the Appellant from continuing with the significant charitable contribution that he makes to New Zealand society including the work performed through La Famia Foundation NZ which is incorporated under the Charitable Trusts Act 1947 and which was established by the Appellant to provide funding and expertise toward the nurturing and strengthening of the human family. La Famia Foundation NZ would not be capable of continuing with its charitable work in the absence of the Appellant.
 - f. The Appellant would suffer physical danger, and economic and emotional harm by being removed from New Zealand and returned to the United States of America because of the circumstances of the Appellant in relation to:
 - i. The United States justice system;

- ii. As a former financial contractor with the US Central Intelligence Agency;
 - iii. Evidence of the injustice which would result to the Appellant upon his return to the United States of America.
2. That the Authority erred in law at paragraph 25 of its decision in deciding that the circumstances of the Appellant in relation to:
- a. The United States justice system;
 - b. As a former financial contractor with the US Central Intelligence Agency;
 - c. Evidence of the injustice which would result to the Appellant upon his return to the United States of America;
- are not issues which fall within the ambit of the test under Section 47 (3) of the Immigration Act 1987.
3. That the Authority erred in law in paragraph 36 of its decision by asking itself whether there are exceptional humanitarian circumstances or whether it would be unjust or unduly harsh for the Appellant to leave New Zealand instead of asking itself whether there are exceptional circumstances of a humanitarian nature which would make it unjust or unduly harsh for the Appellant to be removed from New Zealand.
4. That the Authority erred in law at paragraph 31 of the of the decision by failing to take proper account of the Appellant's rights under the International Covenant on Civil and Political Rights and International Law in the particular circumstances of the Appellant.

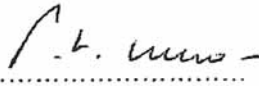
Wherefore the Appellant seeks:

- a. A direction from the High Court that there are exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the Appellant to be removed from New Zealand and that it would not, in all the circumstances, be

contrary to the public interest to allow the Appellant to remain in New Zealand;

- b. An order that the Respondent or an immigration officer be required to grant the Appellant a residence permit;

DATED at Christchurch this 15th day of August 2005.


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P F Whiteside

Counsel for Appellant

TO: The Registrar, High Court of New Zealand

AND TO: The Removal Review Authority

AND TO: The Respondent.

THIS Notice of Appeal is filed by Peter Frederick Whiteside solicitor for the abovenamed Appellant of the firm of Wynn Williams & Co. The address for service of the abovenamed Appellant is at the offices of Wynn Williams & Co, 7th Floor, BNZ House, 129 Hereford Street, Christchurch.

DOCUMENTS for service on the abovenamed Appellant may be left at that address for service or may be:-

- a. Posted to the solicitor at P O Box 4341, Christchurch; or
- b. Left for the solicitor at a Document Exchange for direction to WP21518, Christchurch