

MEMORANDUM

18 April 2005

To Whom It May Concern

RE: THE IMMIGRATION STATUS OF HARMON AND CAROLYN WILFRED

INTRODUCTION:

With regard to the above matter, we have acted for Harmon Wilfred and his wife Carolyn Dare Wilfred since April 2004.

The purpose of this memorandum is to briefly outline the unique and extraordinarily unfair circumstances, events and issues that surround and affect Harmon Wilfred and his wife Carolyn.

This opinion memorandum is a brief summary of the writer's conclusion as to the background history and current position of Harmon Wilfred's continuing immigration status in New Zealand. It should be noted that there is a significant amount of documented and chronicled evidence available for further reference to support this opinion memorandum if required.

BACKGROUND:

Harmon Wilfred ("HW") and his wife Carolyn Dare Wilfred arrived in New Zealand from Canada in August 2001. At that time, HW was a citizen of the United States and Carolyn was and continues to be a citizen of Canada. Since their arrival, they have been lawfully in New Zealand on Visitors Permits, Visas and Work Permits. Subsequently, in August 2004 HW applied to have

his US passport renewed at The United States Consulate, Auckland through this office. Ultimately, the United States Consulate retained his passport and advised him that it would not be renewed as he had 2 'flags' outstanding on his identity check. One related to outstanding arrears owed for spousal maintenance in the State of Colorado, the other related to what was noted as related law enforcement issues stemming from previous contested family court proceedings. It should be noted that these matters originated in 1998.

HW acknowledges the existence of these family court issues; however, to date he has strongly denied the allegations and in any case has been advised by written legal opinion that these family court law enforcement issues have long since expired by Colorado statute of limitation. HW had previously returned to the United States from Canada on 2 separate occasions to resolve these matters specifically in 1998 and 2000, under extreme hardship both financially and emotionally to him and his wife Carolyn.

HW believes and has documented evidence to show that the District Attorney's office involved is acting in a conflict of interest in this matter. This conflict is due to HW, as a former county contractor, having blown the whistle on this DA's deliberate cover-up of a county pension fund embezzlement scheme in 1994 through 1996, that resulted in the embarrassment of the DA and the ultimate conviction of the pension fund administrator and punitive action against other high level county officials. As a result, HW believes that the DA has deliberately failed to take account of his civil rights and due to the DA's lack of evidence and circumstances beyond HW's control, the matters were unable to be heard within the statutory time and therefore were never resolved.

In a further attempt to resolve the matter, while residing in New Zealand, the District Attorney of Colorado was contacted by this office. The DA advised that the matters could not be resolved until HW returned to Colorado yet again, and upon arrival at any United States port of entry, he would be instantly detained and incarcerated until such time as the matters could be heard. At the same time, the District Attorney also stated that the State of Colorado did not warrant the matter to be serious enough to initiate extradition proceedings in New Zealand. In effect, it would appear that Mr. Wilfred is being discouraged from returning to deal with the matters at hand by a deliberately unfair and draconian legal system without due process of law.

As a result of no longer having a passport, HW was at the risk of becoming an unlawful person in New Zealand. Accordingly, upon legal advice, HW lodged an appeal to the Removal Review Authority within the statutory time limit on the grounds that exceptional circumstances of a humanitarian nature existed that would make it unjust or unduly harsh for HW to be removed or deported. This application was submitted in October 2004 and is yet to be assigned to an Authority member for determination.

Due to these past events surrounding HW, as well as his personal beliefs with respect to recent US government policies, he has chosen to formally renounce his American citizenship upon principle at the United States Consulate in Auckland. This was done on 1 March 2005.

CURRENT POSITION:

HW and his wife continue to reside in Christchurch, New Zealand. What must be noted foremost in this matter is that at all times HW has denied and continuously attempted to resolve the alleged law enforcement / family court issues in the United States while in New Zealand. Further, at all times he has been in formal communication with the appropriate authorities through legal counsel, never attempting to evade detection, and/or confrontation.

What appears glaringly obvious is that HW has been placed in an extremely 'unfair' position by the US and Colorado authorities. In effect, in order to have the matter formally resolved he must return to the United States, whereupon entry he will be detained and incarcerated for an extended period until a hearing can be arranged. Alternatively, he is not in a position to make application for any permit in New Zealand beyond the RRA's judicial review as he has no passport and as a result of his renouncement of citizenship he is currently stateless.

It should also be noted that in the opinion of the writer HW is of no threat to New Zealand either physically or politically in any way. HW has never been convicted of any crime and has no record as such. Both he and his wife have contributed enormously to New Zealand since their arrival by investing in and establishing several communications technology companies in Christchurch. They have also made significant contributions through their personal time and financial resources toward NZ charitable organizations to the benefit of the local community and the extended public sector. Significant character references can be provided to confirm this point.

CONCLUSION:

While it must be accepted that in normal circumstances due process and procedure must be abided by and followed correctly, it is our opinion that HW has been placed in what is commonly known as a Catch 22 within the US legal system. All previous attempts to resolve his legal challenges in the US, through no fault of his own, have been unsuccessful.

Ultimately, from the perspective of the DA in Colorado, to resolve the family court issues at hand HW is left with only one option; to return to the United States for what would be the third time, only to be detained and incarcerated indefinitely in the first instance, pending any resolution. In my opinion this is morally and legally unjust, unfair and unacceptable.

Since HW has renounced his United States citizenship, further legal research has disclosed that as a stateless person in New Zealand, he is now entitled to apply directly to the Minister of Internal Affairs for New Zealand Citizenship.

HW is currently considering this option by advice of counsel with the understanding that his appeal to the Removal Review Authority for the opportunity of gaining residency will remain under consideration.

Yours faithfully
BARKER & ASSOCIATES

per: 

Al Manco