

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 161

OF 2014

BETWEEN ROSWORTH McLAUGHLIN

PLAINTIFF

AND MINISTRY OF HOME AFFAIRS
ex parte Eric Bush, Chief Officer

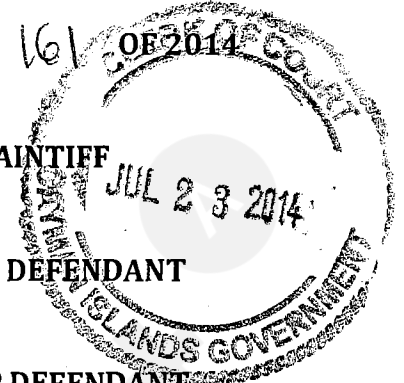
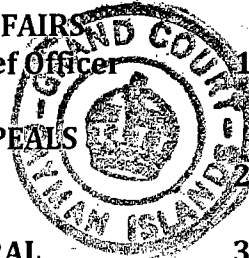
1ST DEFENDANT

AND THE CIVIL SERVICE APPEALS
COMMISSION

2ND DEFENDANT

AND THE ATTORNEY-GENERAL

3RD DEFENDANT



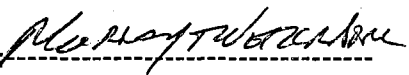
EX-PARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To The Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and Description of applicant(s)	Rosworth McLaughlin 430 Northward Road, Bodden Town Grand Cayman Deputy Chief Fire Officer of the Cayman Islands Fire Services
Judgment, order decision or other proceeding in respect of which relief is sought	(1) Decision of the 29 th April 2014 of the First Defendant to retire the Plaintiff from his post of Deputy Chief Fire Officer; (2) Decision of the Second Defendant made on the 1 st July 2014 not to proceed with the hearing and determine the Plaintiff's Appeal against the decision of the First Defendant in (1) above
Relief Sought	
(1) A Declaration that the First Defendant on the 29 th day of April 2014 made a final decision to retire the Plaintiff on the purported ground that it was in order to improve the efficiency of the Cayman Islands Fire Service (CIFS) and in doing so acted contrary to section 44(6) and 44(8) of the Public Service Management Law, Regulation 44 of the Personnel Regulations (2012 Revised) and the Constitution.	
(2) An Order for Certiorari to quash the decision of the First Defendant made on the 29 th day of April 2014 to retire the Plaintiff from his position of Deputy Chief Fire Officer and to deny him the compensation and/or damages	

properly payable to him in the circumstances

(3) An Order for Certiorari to quash the decision of the Second Defendant made on the 1st day of July 2014 and communicated to the Plaintiff on the 15th day of July 2014 not to hear and determine the Appeal of the Plaintiff to that body against the decision of the First Defendant to retire the Plaintiff as aforesaid.

(4) An Order to set aside the said decisions and/or grant to the Plaintiff monetary relief against the Crown for the unlawful and unconstitutional action taken against him and that such damages should reflect loss of income, loss of prospects of promotion, contravention of the Plaintiff's rights, disadvantage in the employment market, smear of the Plaintiff's reputation, loss of opportunities and emotional distress.

Name and address of applicant's attorneys, or, if no attorney acting, the address for service of the applicant	Murray & Westerborg Attorneys-at-Law 2 nd Floor, South West Wing Cayman Shipping Centre Building 10 Shipping Lane George Town, Grand Cayman Cayman Islands
Signed:  Murray & Westerborg Plaintiff's Attorneys-at-Law	Dated the 22 nd day of July 2014

GROUND OF WHICH RELIEF IS SOUGHT

- (i) The First Defendant acted unfairly and in a manner which is inconsistent with Part VII of the Public Service Management Law and Regulation 44 of the Personnel Regulation (2012 Revised);
- (ii) The decision of the First Defendant is unlawful and *ultra vires* because the First Defendant failed to advise the Plaintiff both orally and in writing of the factual or other material on the basis on which the decision was taken;
- (iii) The First Defendant failed to conduct a genuine re-evaluation of the effects of retiring the Plaintiff and/or to notify the Plaintiff both orally and in writing of the results of the re-evaluation;

- (iv) The said decision of the First Defendant was not lawful, rational, proportionate or procedurally fair as required by section 19(1) of the Cayman Islands Constitution;
- (v) The First Defendant did not provide the Plaintiff with any copies or adequate particulars of the alleged review of the Cayman Islands Fire Service (CIFS) by the UK Chief Fire and Rescue Advisor so as to provide the Plaintiff with a fair opportunity to respond to his notification;
- (vi) The decision purports to be based on the results and/or recommendation of a review of the CIFS but the contents of the review were not provided to the Plaintiff so as to give him a fair opportunity to respond;
- (vii) The decision to retire the Plaintiff is unfair as it deprived the Plaintiff of the opportunity to be considered for appointment as Chief Fire Officer;
- (viii) The decision was not taken so as to ensure that an open and fair employment process operated as required by section 44(8) of the Public Service Management Law;
- (ix) Implicit in the decision of the First Defendant is an adverse finding with respect to the performance of the Appellant and his suitability to hold the post of Deputy Chief Fire Officer and/or Chief Fire Officer, although no opportunity was given to him prior to the decision to retire him to respond to any evidence or allegation to that effect.
- (x) The decision of the Second Defendant not to proceed with the hearing of the Plaintiff's Appeal to that body against the decision of the First Defendant is unlawful, irrational, unreasonable and amounts to wrongful inaction on the part of the Second Defendant.
- (xi) That the decision of the Second Defendant is unfair to the Plaintiff as it effectively allows the First Defendant to remedy the breaches complained of in paragraphs (i) to (ix) inclusive hereof and require the Plaintiff to be subject to a decision process conducted by the First Defendant who had already declared his intention.
- (xii) That the decision of the Second Defendant in refusing to hear the Plaintiff's Appeal effectively amounts to a refusal to carry out the statutory duty imposed on that body or to exercise its jurisdiction.

(xiii) That the decision of the Second Defendant has effectively denied the Plaintiff of the right to be heard and to have his case fairly assessed and determined.

Dated the 22nd day of July 2014



Murray & Westerborg
Plaintiff's Attorneys-at-Law

THIS EX-PARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW is filed by Murray & Westerborg, Attorneys-at-Law, for and on behalf of the Plaintiff, whose address for service is that of his said Attorneys-at-Law, The Second Floor (South West Wing) Cayman Shipping Centre Building, 10 Shipping Lane, George Town, Grand Cayman.