

**IN THE EASTERN CARIBBEAN SUPREME COURT
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO. GDAHCV2023/0221

**IN THE MATTER OF A CLAIM BY THE CLAIMANT APPLYING FOR AN
ADMINISTRATIVE ORDER PURSUANT TO PART 56 OF THE EASTERN CARIBBEAN
SUPREME COURT CIVIL PROCEDURE RULES 2000 AS AMENDED**

AND

**IN THE MATTER OF THE CLAIMANT CLAIMING REDRESS PURSUANT TO SECTION
16 OF THE CONSTITUTION OF GRENADA ALLEGING THAT THE FUNDAMENTAL
RIGHTS GUARANTEED UNDER SECTION 3, 8, 10, 12 AND 13 THEREOF HAVE BEEN,
ARE BEING AND ARE LIKELY TO BE CONTRAVENED WITH RELATION TO HIM**

AND

**IN THE MATTER OF THE IMMIGRATION ACT CAP 145 OF THE 2010 CONTINUOUS
REVISED EDITION OF THE LAWS OF GRENADA**

AND

**IN THE MATTER OF THE EVIDENCE ACT CAP 92 OF THE 2010 CONTINUOUS
REVISED EDITION OF THE LAWS OF GRENADA**

AND

**IN THE MATTER OF THE CITIZENSHIP ACT CAP 54 OF THE 2010 CONTINUOUS
REVISED EDITION OF THE LAWS OF GRENADA**

AND

**IN THE MATTER OF A DECISION OF THE DEFENDANTS ON FEBRUARY 23, 2023 TO
FORTHWITH REMOVE THE CLAIMANT FROM GRENADA**

BETWEEN:

OLEG FIRER

Claimant

and

**THE CHIEF IMMIGRATION OFFICER
THE MINISTER RESPONSIBLE FOR IMMIGRATION
THE ATTORNEY GENERAL OF GRENADA**

Defendants

Before:

The Hon. Justice Raulston L.A Glasgow

High Court Judge

Appearances:

Mr. Benjamin Hood and Mr. Dylan Charles for the Claimant

Mr. Adebayo Oluwu for the Defendants

2024: February 13th
April 16th
May 17th

JUDGMENT

Background

[1] **GLASGOW, J.:** This matter concerns an originating motion brought by the Claimant (Mr. Firer) for redress and review of the decisions of the Grenada's Chief Immigration Officer, Minister of Immigration, and Citizenship by Investment Committee. Mr. Firer alleges breaches of his constitutional rights as a citizen of Grenada. His main complaint stems from the Chief Immigration Officer's decision to refuse him entry into Grenada on 22nd February, 2023. Mr. Firer claims that the acts of detainment and refusal of entry into Grenada breach his rights to personal liberty, protection of the law, freedom of movement, and freedom from discrimination pursuant to sections 3, 8, 12 and 13 respectively of the Constitution of Grenada.

- [2] Mr. Firer also asks this court to estop the defendants from denying that he is a citizen of Grenada, or alternatively to find that he had a legitimate expectation that no decision would be made to remove him from Grenada as done by the Chief Immigration Officer. Mr. Firer pleads that the decision to remove him from Grenada was arbitrary, irrational, and ultra vires the Immigration Act. Mr. Firer further claims that a publication by the Citizenship by Investment Committee (CBIC) in March, 2023 contravenes his right to protection of the law pursuant to section 8 of the Constitution of Grenada, and that the publication was likely to contravene his right to freedom of expression pursuant to section 10 of the Constitution of Grenada. Mr. Firer seeks to recover general and exemplary damages, interest and costs.
- [3] The Office of the Attorney General (OAG) vigorously opposes Mr. Firer's claim. The OAG denies that Mr. Firer is a citizen of Grenada or that any representations had been made to create a legitimate expectation that Mr. Firer would not be refused entry into Grenada. The OAG further avers that as Mr. Firer was no longer in service to the Government of Grenada on the 22nd February, 2023, he could properly be denied entry into Grenada. Further, the OAG asserts that the decision to deem Mr. Firer an undesirable visitor was properly exercised by the Chief Immigration Officer and the Minister of Immigration in accordance with the provisions of the Immigration Act. The OAG refutes the claim that Mr. Firer was entitled to any of the relief sought and asks that his claim be dismissed.

Chronology of Evidence

Mr. Firer's affidavit in support of Originating Motion

- [4] Mr. Firer recites that he was born in Ukraine, is of Jewish origin, and is a citizen of the United States of America (USA), having obtained USA citizenship in 1996. Mr. Firer says he started his career in 1991 as an entrepreneur and businessman, and was later appointed to several diplomatic roles and positions, where he received numerous awards for entrepreneurship and diplomacy. Mr. Firer was engaged by the Government of Grenada in 2015 after introduction to its former Prime Minister,

and during that time, he says he worked with the Grenada Postal Corporation. Mr. Firer was later appointed by the Ministry of Foreign Affairs of Grenada to the diplomatic post of ambassador. Pursuant to that appointment, he was first issued a diplomatic passport by the Government of Grenada on 18th August, 2018. This diplomatic passport was subsequently renewed on 16th January, 2020.

- [5] Mr. Firer explains that the diplomatic passport became his main travel document when he worked and travelled on behalf of the Government of Grenada. Mr. Firer states that he was very happy when he received the diplomatic passport, as it confirmed his status as a citizen of Grenada. As ambassador, Mr. Firer says he began working with the Government of Grenada to set up a full diplomatic mission in Moscow, Russia. He recounts that he worked with the Grenadian Government from 2016 – 2019, during which time he attended several international meetings with the Grenadian delegation and assisted the Minister of Foreign Affairs by preparing briefs.
- [6] After Mr. Firer's appointment as ambassador, he opened a full diplomatic mission in Moscow, Russia. The cost of the opening and operating the mission, he says, were fully borne by him. After several discussions with the then Prime Minister, Mr. Firer posits that he became convinced that Grenada would benefit greatly from the mission and embassy in Russia. While stationed in Russia, Mr. Firer was appointed by the Government of Grenada as a non – resident ambassador to Monaco, Czech Republic, Serbia and Kazakhstan on 22nd June, 2020 and to Albania and Bulgaria on 25th June, 2021. Mr. Firer recites the work he purportedly did for Grenada in the economic, cultural, investment and medical spheres. This work included negotiating visa waiver agreements and trade contracts, strengthening diplomatic relations with other countries, promoting economic trade and investment by the creation of various forums, encouraging investors to support Grenada by acquiring properties for the major developments in Grenada and sourcing donations of medical equipment.
- [7] Mr. Firer states that from his first visit to Grenada in 2015, he enquired about acquiring citizenship in Grenada. He alleges that he was informed that citizenship

could be granted to him based on years of service to the Government. He states that this assurance caused him to dedicate himself to bringing benefits and advancement to Grenada. Mr. Firer claims to have had several conversations with officials in the Ministry of Foreign Affairs, who he says assured him that citizenship would be resolved in his favour. He also claims to have been told that there was no immediate issue, since he was the holder of a Grenadian diplomatic passport, which stated that he was a citizen. Prior to obtaining the diplomatic passport from Grenada, Mr. Firer explains that he used his ordinary USA passport to travel to and from Grenada by himself or accompanied by family. Even after being issued the diplomatic passport, Mr. Firer recounts that he never had issues with entering Grenada.

- [8] Mr. Firer claims that he obtained property in St. George's, and that during one of his visits, he spoke to officials from the Ministry of Foreign Affairs about obtaining a Grenadian driver's license. Mr. Firer states that he filled out the required form to obtain a Grenadian driver's license and submitted same to the Ministry of Foreign Affairs. Mr. Firer discloses that he subsequently received his first Grenadian driver's license on 24th January, 2019, which indicated that he was a citizen. Mr. Firer believes that as the diplomatic passport and the driver's license delineated on their face that he was a citizen, his citizenship status had been confirmed by the Government of Grenada. For this reason, he says that he did not see the need to have any other document presented to him which confirmed his citizenship.
- [9] Mr. Firer further pleads that he became unsure of his position with the Government of Grenada, given that elections had been scheduled to be held in 2022. Mr. Firer testifies that this caused him to engage legal counsel to obtain an ordinary Grenadian passport, as it was clear to him that he held a political appointment. Mr. Firer says he was made aware of several negative statements made by the current administration during their political campaign before elections, regarding diplomatic appointments made by the then Government of Grenada. This caused him to hold grave apprehension regarding the way he would be treated after the general elections scheduled for June, 2022. After the general elections, Mr. Firer says he

attempted to communicate with the newly elected administration, but his attempts were futile, as he received no response to his communications.

- [10] In January, 2023, Mr. Firer says that Permanent Secretary in the Ministry of Foreign Affairs, Mrs. McLeish – Hutchinson reached out to him via WhatsApp, and informed him that she wished to convene a meeting to discuss administrative matters about the Embassy in Russia. They discussed his availability, and Mr. Firer says he informed her that he intended to travel to Grenada in February, 2023. Mr. Firer further says that he requested that they confirm arrangements for the meeting after he arrived. On 22nd February, 2023 Mr. Firer indicates that he travelled to Grenada using his USA passport, and when he reached the front of the immigration line, Mr. Firer says that he went to the next available immigration officer and presented his USA passport. He alleges that the immigration officer handed the USA passport to one ASP Leroy Joseph, the Head of the Immigration Department.
- [11] Mr. Firer expresses that he felt that Mr. Joseph was waiting for his arrival, as he was standing near to the immigration officer's booth. Mr. Firer says that Mr. Joseph demanded that he accompany him to the office, asked him if he had the Grenadian diplomatic passport with him and commanded that he hand it over. Mr. Firer indicates that he complied with the demand, as he was unaware of what was happening or what was to come. Mr. Firer recalls that he thought he was being detained by Mr. Joseph, and enquired of the reason for his detention. He alleges that Mr. Joseph responded - "*he did not know as we have to wait for some decisions to be made.*" Mr. Firer says that he remained with Mr. Joseph in the office for almost 2 hours, and Mr. Joseph left the room from time to time to take phone calls.
- [12] While in the room, Mr. Firer professes that he glanced at the screen which displayed the title "*Border Control Management System*". Next to his name, Mr. Firer claims, he saw "Watch List Status with a red encircled "X" next to it. Mr. Firer's name was the only one on the list with the symbol, and he notes that the column representing nationality next to his name had the letters "GRD". From his

international experience, Mr. Firer claims that he knew "GRD" refers to a citizen of Grenada. After one of Mr. Joseph's telephone calls, Mr. Firer alleges that Mr. Joseph informed him that a decision was made to deny him entry into Grenada, and no further questions were asked. Mr. Firer laments that he was not served with any document to remove him from Grenada, and complains that at no time prior to 22nd February, 2023 was he made aware or given any notice of any decision to deny him entry into Grenada. He deduces that he was ordered to leave Grenada because he had the diplomatic passport in his possession.

[13] Mr. Firer pleads that Mr. Joseph handed him an economy ticket back to London, but he informed Mr. Joseph that he only utilizes business class when he flies commercially. Mr. Firer says that Mr. Joseph did not respond, and ordered him to board the flight and return to London. Mr. Firer states that he was deeply embarrassed by the way he was treated, and instructed his attorney to write to the authorities and request the grounds or reasons for his denial of entry into Grenada. This was done twice, alleges Mr. Firer, but a substantive response was never received. Mr. Firer's case is that there is no power to lawfully detain or expel a citizen from Grenada as done by the Chief Immigration Officer. He expresses the view that his detention and removal was due to his appointment by the former administration of the Government of Grenada of the New National Party. Mr. Firer also asks the court to declare that he was detained and expelled from Grenada on account of the contrary political opinions that he was perceived to have held.

[14] The next month on 28th March, 2023, without any prior communication or warning to him, Mr. Firer claims that the CBIC published a notice on their website. Mr. Firer alleges that the publication contained the innuendo that he was involved in activities and practices contrary to law, and he finds the publication to be patently embarrassing, accusative, highly injurious and defamatory to his character. Mr. Firer says he again instructed his attorney to write and seek an explanation and reasons for the international publication by the CBIC, but he says no response has ever been received. Mr. Firer alleges that the international publication was made without due process, in contravention of his right to protection of the law, and the

purpose and intent of the publication was to unlawfully restrict his right to freedom of expression.

Ms. Elyan Purcell's affidavit in response to Mr. Firer's affidavit

[15] Ms. Purcell is the Officer in Charge at the Immigration and Passport Department. She states that Mr. Firer, not being a Grenadian citizen, arrived in Grenada on 22nd February, 2023 on a British Airways flight. At that time, she says that Mr. Firer was no longer in the service of the Government, as the records showed that Mr. Firer was appointed and later recalled by the previous administration. Upon Mr. Firer's arrival, she claims that Mr. Firer presented an American passport, and he was also in possession of the diplomatic passport. Ms. Purcell deposes that the diplomatic passport was taken from Mr. Firer, as it was government property. Further, she indicates that Mr. Firer presented the diplomatic passport at the time of his departure from London, even though he knew of his recall as ambassador.

[16] As with all in bound arrivals in Grenada, Ms. Purcell states that Mr. Firer's record was checked, and he was found to have been declared an undesirable visitor in accordance with section 4(1)(f) of the Immigration Act. She alleges that Mr. Firer was interviewed, refused landing on those grounds, and accordingly informed. She also says that Mr. Firer later flew back to London on the same flight on which he arrived. Ms. Purcell's answer to Mr. Firer's claims is that as Mr. Firer was not a citizen, he was rightfully denied entry, and could be removed from Grenada by law. She denies that Mr. Firer was detained, but rather that he was put on hold to board another flight back to London. Ms. Purcell concludes that Mr. Firer's refusal of entry was not unlawful, arbitrary or contrary to law, and claims that Mr. Firer was never treated as a detainee, as he was afforded all privileges necessary while awaiting his flight back to London.

Mrs. Roxie McLeish – Hutchinson's affidavit in response to Mr. Firer affidavit

[17] Mrs. McLeish – Hutchinson is the Permanent Secretary in the Ministry of Foreign Affairs, Trade and Export Development. She accepts that Mr. Firer was appointed

by the Government of Grenada as an ambassador to the Russian Federation, and as non – resident ambassador to Albania, Bulgaria, Hungary, Monaco, Czech Republic, Serbia and Kazakhstan. Mrs. McLeish – Hutchinson states that Mr. Firer was given a diplomatic passport based on his ambassadorial post to facilitate his movement, but denies that his citizenship had been determined by the diplomatic passport. She equally denies certain aspects of the work that Mr. Firer claims he did during his time as ambassador.

- [18] Mrs. McLeish – Hutchinson states that the grant of diplomatic citizen status during Mr. Firer's ambassadorial posting was a privilege attached to the diplomatic passport, which was withdrawn after Mr. Firer's recall. Mrs. McLeish – Hutchinson asserts that the Ministry of Foreign Affairs had no record of assisting Mr. Firer with obtaining a driver's license, and further asserts that a driver's licence obtained on the status of a diplomatic passport did not qualify Mr. Firer for citizenship. Mrs. McLeish – Hutchinson states that Mr. Firer was never declared a citizen, and no issue of deprivation of citizenship arose. Mrs. McLeish – Hutchinson says that Mr. Firer was recalled by the previous administration as ambassador, and informed of his recall as ambassador to Russia by letter addressed to him on 9th May, 2022. She explains that Mr. Firer was later informed of his recall as non – resident ambassador by letter addressed to him on 29th May, 2022.
- [19] Mrs. McLeish – Hutchinson decries Mr. Firer's allegation that he was terminated after the election in June, 2022. She replies that even if he was terminated then, it is normal for a new administration to review and revamp its policies. Mrs. McLeish – Hutchinson further elucidates that prior to Mr. Firer's recall as ambassador, he refused to comply with a request sent to all heads of missions to submit monthly financial reports about the operations of their embassies. She says that Mr. Firer resisted his recall and ignored letters sent to him. Further, she says he continued to host activities at the embassy in Russia, in defiance of instructions from the Ministry of Foreign Affairs. In view of Mr. Firer's actions, Mrs. McLeish – Hutchinson testifies that the Minister of Immigration was well informed of Mr. Firer's behaviour as a security threat to Grenada, and deemed Mr. Firer an undesirable

visitor under section 4(1)(f) of the Immigration Act. Further, the Minister instructed that Mr. Firer be refused entry she says, having deemed Mr. Firer persona non grata due to his conduct towards Grenada before and following his recall. Mrs. McLeish – Hutchinson claims that she contacted Mr. Firer via WhatsApp in 2023 to discuss administrative matters about the embassy in Russia, but avers that there was no arrangement to meet in person, or in Grenada. During that conversation, she states that Mr. Firer only agreed to send the financial information which was being requested from the Ministry of Foreign Affairs. Mrs. McLeish – Hutchinson says the information was never sent.

- [20] In relation to the CBIC publication, Mrs. McLeish – Hutchinson explains that she was informed by the CEO of CBIC, Mr. Thomas Anthony, that stakeholders in the international community were making enquiries about Mr. Firer's involvement and connection to CBIC's marketing and other services. On this basis, Mr. Anthony informed her that the CBIC could not individually address all of the queries about Mr. Firer. This led to the publication, as the most practical way to reach the CBIC's local, regional and international community. Mrs. McLeish – Hutchinson explains that Mr. Thomas informed her that this method of publication has often been utilized by the CBIC and was not meant to disparage or embarrass Mr. Firer. Rather the publication simply served, she expresses, to indicate that Mr. Firer was not a marketing agent, given his close association with Grenada. Mrs. McLeish – Hutchinson concludes that Mr. Firer's averments of owning property, obtaining a driver's license and diplomatic passport, or providing services to Grenada during his ambassadorship neither qualify Mr. Firer's acquisition of citizenship nor form a basis for allowing a security threat to enter Grenada. As such, Mrs. McLeish – Hutchinson asks that Mr. Firer's originating motion be dismissed.

Mr. Firer's affidavit in response to the affidavits of Ms. Purcell and Mrs. McLeish – Hutchinson

- [21] Mr. Firer repeats that he was never informed of the reasons for his removal upon being detained, and says that he only learned of the rationale in Ms. Purcell's

affidavit. In response to Mrs. McLeish – Hutchinson's affidavit, Mr. Firer states that the diplomatic passport issued to him listed his nationality as Grenadian, and there is no provision in the Citizenship Act which speaks to diplomatic citizenship. Mr. Firer says that he was always led to believe that his citizenship was confirmed.

[22] Mr. Firer also repeats that the Ministry of Foreign Affairs assisted him in obtaining a Grenadian driver's license. He produced a Memorandum dated 17th January, 2019 signed by the former Permanent Secretary in the Ministry of Foreign Affairs, Mr. Alva Browne to support this allegation. This memorandum was directed to the licensing department of Grenada and requested that Mr. Firer be issued a driver's license for 3 years. Mr. Firer opines that if there was any illegality, it was on the defendants' part, since they issued him the official documents. Mr. Firer further contends that if his citizenship was withdrawn, it had to be done legally, and no evidence of this was presented.

[23] Mr. Firer admits receiving the letter of 9th May, 2022 about his recall as ambassador of Russia, but he denies receiving the letter of 29th May, 2022 which recalled his non – resident ambassadorial appointment. Mr. Firer states that no notes of his recall were served on any of the states to which he was appointed. This is since Mr. Firer claims to have continued to receive communication from those states, asking him to present his credentials. Mr. Firer also alleges that he had a conversation with the then Minister of Foreign Affairs, who specifically told him to ignore any communication until the end of elections. Mr. Firer denies that he refused to provide financial information to the Ministry, stating that he in fact provided the financials to the Permanent Secretary in the Ministry. Mr. Firer denies that he was a security risk to Grenada, as he always acted in the interest of Grenada. In conclusion, Mr. Firer maintains that in relation to the CBIC publication, he has never inquired or applied for a CBIC license, provided any quotations to prospective citizens or collected any fees. He says he only assisted the CBIC by working with marketing agents in the region, which the Ministry knew about, through the then Permanent Secretary.

PRELIMINARY POINT – MR. FIRER’S CLAIM FOR CONSTITUTIONAL RELIEF ON THE BASIS OF GRENADIAN CITIZENSHIP

[24] Having read the factual and legal contentions on the originating motion, I enquired of counsel at the hearing on 13th February, 2024 whether Mr. Firer could properly bring a claim for constitutional relief on the basis of his alleged Grenadian citizenship. From Mr. Firer’s evidence, it was clear to me that he was relying on 2 grounds to establish his citizenship – the presumption of regularity and estoppel under section 114 of the Evidence Act, Cap. 92 of the laws of Grenada. Mr. Firer’s evidence posits that the declarations by the relevant authorities that he was a citizen of Grenada were clothed with the presumption of regularity that applies to decisions made by public authorities.

[25] He further proposes that the Defendants were precluded by section 114 of the Evidence Act Cap. 92 from denying his citizenship, based on the representations made to him and the statements in the official driver’s license and diplomatic passports that he is a citizen of Grenada. Mr. Firer argues that the diplomatic passports and driver’s licence constitute declarations or acts which conclusively indicate his citizenship¹. The OAG strenuously denies that Mr. Firer could rely on either ground to establish Grenadian citizenship.

[26] Each of Mr. Firer’s contentions will be addressed hereunder.

PRESUMPTION OF REGULARITY

¹ See paragraph 30 of Mr. Firer’s affidavit sworn on 30th April, 2023.

[27] The presumption of regularity is an established common law maxim taken from the Latin maxim of *omnia praesumuntur rite et solenniter esse acta donec probetur in contrarium*, meaning – all things are presumed to be done correctly until the contrary is proved². The maxim applies to several areas of law, including legislation, and official acts done pursuant to legislation by public officers, including the production of documents³. Through the maxim, it is presumed that any acts, decisions or documents prepared by public officials in execution of their public duties are done in accordance with the legal requirements, until the contrary is proved. The presumption of regularity can also be rebutted if there is a manifest, glaring or capricious exercise of discretion⁴. As stated by Lord Diplock in **Regina v Commissioners of Inland Revenue ex parte Rossminster**⁵

“Where Parliament has designated a public officer as decision maker for a particular class of decisions, the High Court, acting as a reviewing court ... is not a court of appeal. It must proceed on the assumption of *omnia praesumuntur rite esse acta* until that presumption can be displaced by the applicant for review – upon whom the onus lies of doing so. Since no reasons have been given by the decision maker and no unfavourable inference can be drawn ..., the presumption that he acted *intra vires* can only be displaced by evidence of facts which cannot be reconciled with there having been reasonable cause for his belief ...”

THE EVIDENCE ACT OF GRENADA

² Bennion, Bailey and Norbury on Statutory Interpretation, Chapter 9 at section 9.8.

³ Regina v Commissioners of Inland Revenue ex parte TC Coombs & Co 64 TC 124 at 144 – 146.

⁴ Elizabeth Darius – Clarke v The Attorney General of Saint Lucia SLUHCVAP2020/0002 at 52.

⁵ [1980] AC 952 at 1013.

[28] **Section 114 of the Evidence Act**⁶ deals with the issue of estoppel, and the section provides:

“When one person has by his or her declaration, act or omission intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, otherwise than but for that belief he or she would have acted, neither he or she nor his or her representatives in interest shall be allowed in any suit or proceeding between himself or herself and such person or his or her representative in interest to deny the truth of that thing.”

[29] With respect to Mr. Firer, I have found that the presumption of regularity cannot assist him in his assertion that he is a citizen of Grenada. Further, the provision of the Evidence Act referenced is also of no assistance, as it deals generally with evidence in proceedings. I have found that the presumption of regularity is rebutted on Mr. Firer’s own evidence. The law on the acquisition of citizenship in Grenada will show why Mr. Firer’s claim for citizenship and any constitutional relief on that basis are untenable.

ACQUISITION OF CITIZENSHIP IN GRENADA

[30] The law is clear that the burden of proving citizenship lies on the individual asserting it⁷. Notwithstanding Mr. Firer’s indications about his service to Grenada, and the alleged representations made to him, the acquisition of citizenship is primarily governed by the Constitution of Grenada, which is the supreme law of the state⁸. A person can acquire citizenship by virtue of the Constitution of Grenada through birth⁹, naturalisation¹⁰, parentage¹¹ or marriage to a Grenadian citizen¹².

⁶ Cap 92 of 2010 Continuous Revised Laws of Grenada.

⁷ *Mokuolu v Secretary of State for the Home Department* [1989] Imm AR 51.

⁸ Section 106 of the Grenada Constitution Order 1973.

⁹ Sections 94 and 96 of the Grenada Constitution Order 1973.

¹⁰ Section 94 of the Grenada Constitution Order 1973.

¹¹ Sections 96 and 97 of the Grenada Constitution Order 1973.

¹² Sections 95 and 98 of the Grenada Constitution Order 1973.

Mr. Firer has not shown on his evidence that he falls within any of the categories for the grant of citizenship under the Constitution of Grenada as I have stated above.

- [31] The Constitution of Grenada also permits parliament to make provisions for the acquisition, deprivation and renunciation of citizenship by persons who are not eligible to obtain citizenship under the Constitution of Grenada¹³. In this regard, Parliament enacted the Citizenship Act¹⁴ in 1976. Sections 5 and 7 of the Citizenship Act outline the criteria for the registration of persons who wish to become citizens of Grenada. The material aspects of **sections 5, 7, 8 and 11 of the Citizenship Act** for the purposes of this discussion provide:

“5(1) Upon application made to the Minister in the prescribed manner, the Minister may cause any person of full age and capacity who is a Commonwealth citizen or a citizen of the Republic of Ireland to be registered as a citizen if the Minister is satisfied –

- (a) That the person is of good character;
- (b) That he or she has an adequate knowledge of the English language;
- ...
- (c) ...
- (d) ...”

- [32] Moreover, **section 7 of the Citizenship Act** provides:

“(1) The Minister may grant a certificate of naturalisation to any person of full age and capacity who makes application therefor in the prescribed manner and satisfies the Minister –

- (a) That he or she has the qualifications specified in section 5(1)(a) and
- (b);

¹³ Section 99 of the Grenada Constitution Order 1973.

¹⁴ Cap 54 of 2010 Continuous Revised Laws of Grenada.

- (b) That he or she has resided in Grenada throughout the period of twelve months immediately preceding the date of his or her application;
- (c) That during the seven years immediately preceding the said period of twelve months he or she has resided in Grenada or has had service under the Government or has had partly such residence and partly such service, for periods amounting in the aggregate to not less than five years; and
- (d) That he or she intends in the event of a certificate being granted to him or her to reside in Grenada or to enter or continue in service under the Government.

(2) The Minister may, in such cases as he or she thinks fit –

- (a) allow a continuous period of twelve months ending not later than six months before the date of the application to be reckoned for the purpose of subsection (1)(b) as if it had immediately preceded that date; and
- (b) allow periods of residence or service under the Government earlier than the seven years preceding the date of the application to be reckoned in computing the aggregate period mentioned in subsection (1)(c).

(3) Notwithstanding the provisions of subsections (1) and (2), the Minister may, in such special circumstances as he or she may prescribe, subject to the approval of both Houses of Parliament grant a certificate of naturalisation to an alien or British protected person of full age and capacity.

(4) An alien or a British protected person shall not be granted a certificate of naturalisation until he or she takes the oath of allegiance.

Section 8 of the Citizenship Act reads:

“A person to whom a certificate of naturalisation has been granted shall become a citizen by naturalisation as from the date of the certificate.”

Section 11 of the Citizenship Act reads:

“(1) The Minister in such cases as he or she thinks fit on the application of a person with respect to whose citizenship of Grenada a doubt exists, whether as a question of fact or law, may certify that that person is a citizen of Grenada.

(2) A certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation, or concealment of a material fact be conclusive evidence that that person was a citizen of Grenada on the date thereof, but without prejudice to evidence that he or she was a citizen of Grenada at an earlier date.” (Bold emphases mine)

[33] Clearly there is a distinction between an application for citizenship made according to section 5 and section 7 of the Citizenship Act. Section 5 refers to applications by those who may be termed non-alien, being persons who are citizens of the Commonwealth, the Republic of Ireland, or those married to citizens of Grenada. Section 7 refers to applications made by persons who the Citizenship Act classes as aliens. The Citizenship Act defines an alien as a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland¹⁵.

[34] From the evidence presented by Mr. Firer, he would qualify as an alien under the Citizenship Act, given his USA citizenship. Mr. Firer has neither indicated that he qualified nor applied for citizenship. Equally he has not shown that the Minister had at any time exercised his powers under section 7(3) of the Citizenship Act in Mr. Firer's favour. Further, Mr. Firer has neither produced to the court a certificate of

¹⁵ section 2(1) of the Citizenship Act Cap 54 of the 2010 Continuous Revised Laws of Grenada.

citizenship confirming his citizenship status, nor stated that at any time he took the oath of allegiance. There is also no evidence of Mr. Firer seeking recourse to the Minister's powers of confirmation of his citizenship status under section 11 of the Citizenship Act.

[35] While Mrs. McLeish – Hutchinson denies that Mr. Firer was a citizen, she makes reference in her evidence to the fact that Mr. Firer was granted 'diplomatic citizenship status while he was ambassador'¹⁶. It is unclear what law in Grenada creates or permits such a concept, but it does not appear to me to form any part of the laws of Grenada. On Mr. Firer's own evidence, the presumption of regularity as to his status as a citizen by virtue of the public documents is rebutted. I pause to note my disquiet with the fact that Mr. Firer had in his possession and was able to present to this court, documents issued by public authorities, namely the driver's license and diplomatic passports which recited on their face that he was a citizen of Grenada. These declarations are not supported by any of the constitutional or statutory requisites to which I have alluded above.

[36] All in all, the facts do not support Mr. Firer's assertion that he is a citizen of Grenada or that he ought to have been treated as such on the day in question. This finding materially affects Mr. Firer's claim for constitutional relief on the basis of his being a Grenadian citizen. For the reasons that I have stated above, he was not entitled to be treated as a citizen on the day in question and as such he is not entitled to any of the reliefs for the rights allegedly breached by the defendants as a citizen.

LEGITIMATE EXPECTATION

[37] In the alternative to the finding of citizenship, Mr. Firer asks the court to declare that he had a legitimate expectation that he would not be removed from Grenada in the way that he was on 22nd February, 2023. Based on Mr. Firer's evidence, I find that this aspect of his claim is arguable.

¹⁶ See paragraphs 18, and 22(c) of the affidavit of Mrs. McLeish – Hutchinson filed on 7th June, 2023.

[38] The law on legitimate expectations has been expounded on fulsomely by Baptiste JA in **Patricia Yvette Harding v The Attorney General of Anguilla**¹⁷, relying on the dicta of Laws LJ in *R (Bhatt Murphy) v The Independent Assessor*¹⁸:

“Legitimate expectation is now a well-known public law headline which encompasses two kinds: procedural legitimate expectation and substantive legitimate expectation... legitimate expectation of either kind may arise in circumstances where a public decision maker changes, or proposes to change an existing policy or practice. The doctrine will apply in circumstances where the change or proposed change of policy or practice is held to be unfair or an abuse of power. Unfairness and abuse of power march together and it is notorious that what is fair or unfair depends on the circumstances of the case...

Procedural legitimate expectation arises where a public authority has provided an unequivocal assurance, whether by means of an expressed promise or an established practice that it will give notice or embark upon a consultation before it changes an existing substantive policy. In the paradigm case, the court will not allow the decision maker to effect the proposed change without notice or consultation, unless the want of notice or consultation is justified by the force of an overriding legal duty owed by the decision maker, or other countervailing public interest such as the imperative of national security...

Substantive legitimate expectation arises where the court allows a claimant to enforce the continued enjoyment of the content – the substance – of an existing policy in the face of the decision maker's ambition to change or abolish it. Thus, it is to be distinguished from a mere procedural right...

Presumably there will either be an authoritative representation of what the relevant policy is and will continue to be, or else simply the fact of a policy

¹⁷ AXAHC VAP2013/0003.

¹⁸ 2008 EWCA Civ 755.

being settled and established in practice. A promise or practice: but not the kind of promise or practice found in the paradigm case of a procedural legitimate expectation. In the procedural case, we find a promise or practice of *notice or consultation* in the event of a contemplated change. In the substantive case, we have a promise or practice of present and future substantive policy. This difference is at the core of the distinction between procedural and substantive legitimate expectation.¹⁹

[39] In **R (Bibi) v Newham London Borough Council**²⁰, the court identified 3 questions to be determined in all cases concerning the alleged breach of a legitimate expectation:

- “(1) To what has the public authority, whether by practice or promise, committed itself;
- (2) Has the authority acted or does it propose to act unlawfully in relation to its commitment? and
- (3) What should the court do?”

[40] Mr. Firer seems to be saying that even if he is simply a citizen of the USA, there was an expectation that he would not be denied entry due to the visa waiver arrangements between Grenada and the USA, and that denial of entry or removal from Grenada must be accompanied by cogent reasons and adoption of the correct procedures. In rebuttal, the OAG avers that as Mr. Firer was an alien, he could properly be deemed an undesirable visitor and refused entry.

[41] An alien is defined in the Immigration Act²¹ as a person who is not a citizen of Grenada. It follows from the above discourse that Mr. Firer was also an alien by definition under that Act. The Defendants submit that Mr. Firer was denied entry under **section 4(1)(f) of the Immigration Act**, which provides:

¹⁹ n17 at 37 – 39.

²⁰ [2002] 1 WLR 237

²¹ See section 2 of Cap 145 of the 2010 Continuous Revised Laws of Grenada.

“Except with the authority of the Minister and subject to such conditions as to duration and place of residence, occupation or any other matter or thing as the Minister may think expedient, **an immigration officer shall not grant leave to an alien to enter Grenada if the alien is a prohibited alien** that is to say –

A person who, from information or advice received from the government of any other country through official or diplomatic channels is deemed by the Minister to be an undesirable inhabitant of or visitor to Grenada.”

Section 4(2) of the Immigration Act reads:

“The decision of the Minister under subsection (1)(f) ...shall not be brought into question in any court.”

Section 4(3) of the Immigration Act is also of import:

“Notwithstanding anything contained in this Act, the Minister may prohibit the entry of any alien into Grenada.” (bold emphases mine)

- [42] From the cumulative reading of these sections, the defendants would appear to be correct that they acted within the scope of their powers under the Immigration Act by refusing Mr. Firer entry on 22nd February, 2023 as an alien. However, Mr. Firer’s riposte is that at the time he arrived in Grenada on 22nd February, 2023, he was still in the service of the Government of Grenada. Mr. Firer asks to court to find that this fact restricted the manner in which the Chief Immigration Officer was able to exercise his discretion to refuse Mr. Firer entry on the basis of legitimate expectation. The OAG conversely refutes Mr. Firer’s charge that he was in service to the Government at the material time.

[43] It appears that Mr. Firer is trying to invoke the protection afforded to persons in service of the Government as provided in **section 7 of the Immigration Act** which provides:

“The following persons or classes of persons **shall not be prohibited aliens** for the purposes of this Act namely –

- (a) Members of Her Majesty’s regular naval, military or air forces;
- (b) **Persons in the service of the Government;**
- (c) Persons who are duly accredited to Grenada by or under the authority of Her Majesty or the Government of a foreign state, or the wife, family, staff or servants of any such persons;
- (d) Any other specified persons or classes of persons to whom this section may be applied by the Minister by Order.” (Bold emphasis mine)

[44] The parties could not agree on the evidence as to whether Mr. Firer was in the service of the Government of Grenada on 22nd February, 2023. This engages the question of whether Mr. Firer was in fact properly recalled from his office of ambassador. The question of whether Mr. Firer was recalled from office would have a substantial impact on if there could be a legitimate expectation, whether procedural or substantive, about the treatment Mr. Firer would be afforded when he attempted to enter Grenada on 22nd February, 2023.

REMAINING ISSUES FOR THE COURT’S DETERMINATION

[45] After assistance from counsel for the parties, it was the court’s view that the question of whether Mr. Firer was in service of the Government of Grenada and more particularly whether he was properly recalled as ambassador could be distilled by answering the following questions:

- (1) Whether Mr. Firer's diplomatic status was revoked or more properly, whether he was recalled as ambassador prior to 22nd February, 2023?
- (2) If Mr. Firer's diplomatic status had in fact been revoked prior to 22nd February, 2023, whether the State was obligated to inform Mr. Firer of his recall?
- (3) If Mr. Firer was notified of his recall, was the State required to give Mr. Firer an opportunity to make representations prior to the recall?
- (4) Whether Mr. Firer could properly be declared an alien or undesirable person, and if so, whether Mr. Firer was entitled to any due process before he was so declared?; and
- (5) Whether Mr. Firer is entitled to any relief?

[46] The parties were invited to file written submissions with authorities and any supplemental evidence on these issues, which will be discussed seriatim. The OAG previously filed written submissions and authorities on 30th January, 2024 and chose to rely on those submissions on the issues. Mrs. McLeish – Hutchinson also filed a supplemental affidavit on 4th March, 2024. Counsel for Mr. Firer filed written submissions and authorities on 4th March, 2024.

LEGAL ANALYSIS & DISCUSSION

WHETHER MR FIRER'S DIPLOMATIC STATUS WAS REVOKED PRIOR TO 22ND FEBRUARY, 2023?

[47] Counsel for Mr. Firer submits that Mr. Firer's diplomatic status had not been validly revoked. This was based on the non-compliance with section 3 of the Diplomatic Privileges Act, as counsel claims that the Minister was required to issue a notice to the world and to Mr. Firer personally that his privileges were revoked. According to counsel for Mr. Firer, this is the common practice in Grenada, and a copy of the Government Gazette dated 22nd September, 2023 was exhibited as an example of this practice. By virtue of this failing, counsel advances that Mr. Firer remained entitled to his privileges and status as ambassador, and therefore remained in service to the Government of Grenada.

[48] The OAG presents the contrary position, indicating that Mr. Firer was in fact recalled as set out in Mrs. McLeish – Hutchinson's evidence. Mrs. McLeish - Hutchinson further submits that the Diplomatic Privileges and Immunities Act was inapplicable, as that Act compares privileges and immunities granted to the representatives of Grenada by foreign countries. The OAG observes that section 3 of the Diplomatic Privileges and Immunities Act gives the Minister a discretionary power to determine whether to publish in the Gazette, but this was not necessary in Mr. Firer's case, as the state does not grant immunity to its own diplomats, but to diplomats of other countries.

[49] **Section 3 of the Diplomatic Privileges and Immunities Act²²** is headed 'Withdrawal of Privileges and Immunities' and it provides:

"If it appears to the Minister that the privileges and immunities accorded to a mission of Grenada in any State, or to persons connected with that mission, are less than those conferred by this Act on the mission of that State, the Minister may, by Order published in the Gazette withdraw such of the privileges and immunities so conferred from the mission of that

²² Chapter 82 of the 2010 Continuous Revised Laws of Grenada.

State or from such person connected with it as appears to the Minister to be proper.”

- [50] With respect to counsel for Mr. Firer, this section speaks to reciprocal treatment of diplomats. The section addresses the case where, as it says, diplomats in the service of Grenada in a foreign state are accorded lesser treatment than that accorded by Grenada to diplomats of that foreign state. In such a case, the Minister of Foreign Affairs, may by order published in the Official Gazette, withdraw the privileges and immunities accorded to diplomats of that state in Grenada. Those are not the facts of this case.
- [51] The question of whether Mr. Firer was recalled as ambassador still remains. The relevant evidence in this context is the Cabinet Conclusion dated 28th February, 2022 and signed by the Secretary to the Cabinet. In this Cabinet Conclusion, the Government of Grenada made the determination to recall Mr. Firer’s diplomatic appointments with effect from 21st February, 2022. From this evidence, it is clear that Mr. Firer’s diplomatic appointments were in fact recalled by the executive arm of the Government of Grenada in February, 2022.
- [52] I pause here to note that the date of this document is of particular importance to this discourse. The last general election in Grenada was held in June 2022. Mr. Firer was first appointed as ambassador under the government in power prior to those June 2022 elections. As Mrs. McLeish – Hutchinson rightly pointed out, Mr. Firer was recalled under that administration and not the current administration. Mr. Firer is therefore also incorrect in his contention that his removal was due to discrimination based on political affiliation with the previous administration, since he was removed from office by the same political administration which had in fact also appointed him.

IF MR. FIRER HAD IN FACT BEEN RECALLED AS AMBASSADOR PRIOR TO 22ND FEBRUARY, 2023, WHETHER THE STATE WAS OBLIGATED TO INFORM MR. FIRER OF HIS RECALL?

- [53] As determined in the preceding issue, I find that Mr. Firer had been recalled as ambassador by the Government of Grenada as early as 15th February, 2022. On this issue, counsel for Mr. Firer indicates that there was the duty to notify Mr. Firer of his recall. Mr. Firer says that the Minister failed to show any evidence that he had received the notice of recall in accordance with section 3 of the Diplomatic Privileges and Immunities Act. I have above stated that counsel for Mr. Firer's reliance on section 3 is misplaced but the question of whether there was a duty to properly notify Mr. Firer remains.
- [54] The OAG concedes that the Government of Grenada had the duty to notify Mr. Firer of his recall, but Mrs. McLeish – Hutchinson counters that Mr. Firer was in fact informed through letters sent directly to Mr. Firer, and conversations which she held with him. Mr. Firer asks the court to find that he only received one letter notifying him of his recall, and further submits that the defendants have failed to prove or show to the court any proof of service that he was properly notified.
- [55] The court was provided with a letter dated 9th May, 2022 issued from the Ministry of Foreign Affairs, International Business and Caricom Affairs under the hand of Mrs. Roxie McLeish – Hutchinson, which was addressed to Mr. Firer. The subject line of the letter read: **“Re: Recall from the post of Ambassador of Grenada to the Russia Federation”**. This letter indicates that Mr. Firer's post as ambassador of Grenada to the Russian Federation was being recalled effectively on 9th May, 2022, and thanked Mr. Firer for his service and dedication during his tenure as ambassador. Note Verbales addressed to various embassies were also produced dated 12th May, 2022, which explained that Mr. Firer's appointment as ambassador to Russia ended on 9th May, 2022.

- [56] The court was also provided with a letter dated 29th May, 2022 issued from the Ministry of Foreign Affairs, International Business and Caricom Affairs under the hand of the Permanent Secretary, Mrs. Roxie McLeish – Hutchinson, which was also addressed to Mr. Firer. The subject line of the letter of 29th May, 2022 read: **“Recall from the post of Non-resident Ambassador to Serbia, Czech Republic, Hungary, Bulgaria, Kazakhstan, Albania and Monaco.”** This letter indicates that Mr. Firer was being recalled as non – resident ambassador, as the Ministry was conducting a review of non – resident accreditations. Mr. Firer was again thanked for his service and dedication during his tenure as non – resident ambassador.
- [57] It is the 2nd letter of 29th May, 2022 which Mr. Firer claims that he never received, having acknowledged on his evidence receipt of the 9th May, 2022 letter. In rebuttal, Mrs. McLeish – Hutchinson referred to WhatsApp conversations where she sent the letters to Mr. Firer. The court was only presented with screenshots of the WhatsApp conversations between Mr. Firer and Mrs. McLeish – Hutchinson to support the notification of his recall. Neither counsel objected to my consideration of these exhibits.
- [58] What these exhibits showed is that Mrs. McLeish – Hutchinson did in fact send the letter of 9th May, 2022 to Mr. Firer on 10th May, 2022. Mr. Firer did not respond to this message. The exhibits further showed that on 16th May, 2022, Mrs. McLeish – Hutchinson requested a virtual meeting with Mr. Firer, to which he promptly responded, agreeing to so meet. Mrs. McLeish – Hutchinson also indicates in her affidavit filed on 4th March, 2023 that she held several virtual consultations with Mr. Firer in February, 2022, where she informed him of Cabinet’s decision to recall him as non – resident ambassador, prior to sending the May, 2022 letters.
- [59] Mrs. McLeish – Hutchinson states that she also sent WhatsApp messages to Mr. Firer in July and September, 2022 regarding the recall. The court was provided with screenshots of these conversations with no objections from counsel. From these exhibits, the court is able to glean that Mr. Firer indicated to Mrs. McLeish – Hutchinson that he had not received the correspondence of 29th May, 2022.

However, in subsequent messages to Mrs. McLeish – Hutchinson, Mr. Firer referenced the recall notes and queried who he ought to be handing over the affairs of the embassy to. I therefore disbelieve Mr. Firer's evidence that he was not notified of his recall as ambassador as early as 10th May, 2022.

[60] Even if I accept that Mr. Firer did not receive the letter of 29th May, 2022, which I do not accept, the letter of 9th May, 2022, which he acknowledges receiving, was clear that his diplomatic postings were at an end. I therefore find that Mr. Firer was notified of his recall. In passing, I also wish to pause and caution public officials that in exercising their public duties, they ought to do so scrupulously and prudently according to best practices. While the court is cognizant of the digital age in which we live, important matters such as recall of diplomatic appointments should as a best practice be properly served. If electronic communication is engaged in this regard, it should at least, be dispatched from an official government issued email address, at the highest. The practice of WhatsApp correspondences on such important matters, though perhaps a more speedy form of communication, should be avoided unless absolutely necessary.

IF MR. FIRER WAS NOTIFIED OF HIS RECALL, WAS THE STATE REQUIRED TO GIVE MR. FIRER AN OPPORTUNITY TO MAKE REPRESENTATIONS PRIOR TO HIS RECALL?

[61] Mr. Firer in his own evidence highlights the fact that he was aware that his appointment as ambassador was political²³. Both counsel properly concede that persons under such political appointments have no general right to be given an opportunity to make representations prior to their recall. The law highlights that

²³ See paragraph 34 of Mr. Firer's affidavit filed on 2nd May, 2023 in support of originating motion.

persons appointed on purely political considerations, such as ambassadors and diplomats, hold these positions at the pleasure of the Government, and can therefore be dismissed at any time. This is in contradistinction to other public officers who are provided protection under the constitution and statute, and are therefore not dismissible at the pleasure of the State.

[62] This reasoning was confirmed in **Endell Thomas v The Attorney General**²⁴, where Lord Diplock in discussing the concept of dismissal at pleasure stated:

“To speak of the right of the Crown to dismiss its servants at pleasure is to use a lawyer’s metaphor to cloak a political reality. “At pleasure” means that the Crown servant may lawfully be dismissed summarily without there being any need for the existence of some reasonable cause for doing so... dismissal at pleasure would make it possible to operate what in the United States at one time became known as the “spoils” system upon a change of government, and would even enable a Government, composed of the leaders of the political party that happened to be in power, to dismiss all members of the public service who were not members of the ruling party and not prepared to treat the proper performance of their public duties as subordinate to the furtherance of that party’s political aims.”

Lord Diplock then explained:

“The whole purpose of Chapter VIII of the Constitution which bears the rubric ‘The Public Service’ is to insulate members of the civil service, the teaching service and the police service ... from political influence exercised directly upon them by the Government of the day. The means adopted for doing this was to vest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotions and transfers within the service and

²⁴ [1982] A.C. 113.

power to remove and exercise disciplinary control over members of the service. These autonomous commissions, although public authorities, are excluded ...from forming part of the service of the Crown. Subject to the approval of the Prime Minister they may delegate any of their powers to any of their members or to a person holding some public office ...; but the right to delegate, though its exercise requires the approval of the Prime Minister, is theirs alone and any power so delegated is exercised under the control of the Commission and on its behalf and not on behalf of the Crown or of any other person or authority.”

[63] The case of **Endell Thomas** therefore recognizes that persons appointed to certain public offices such as persons appointed by the public service commission set up under section 83 of the Constitution of Grenada are accorded protection from dismissal at pleasure. Those officers must be dismissed for cause.²⁵ It is quite apparent then that Mr. Firer’s appointment as ambassador does not clothe him with the protections of persons appointed in accordance with section 84 of the Constitution of Grenada²⁶. Instructively, persons who hold diplomatic offices are not accounted for in the Constitution of Grenada at all, and this further buttresses the political nature of their appointment and recall at the whims of the executive.

[64] Accordingly, Mr. Firer cannot be said to enjoy any form of security of tenure, and there is no requirement in law that a minister or cabinet must consult or seek advice from some other person such as the Public Service Commission or the Governor General before determining whether to recall his appointment ²⁷ as was the case with the diplomatic officer in the case of **Elizabeth Darius – Clarke v The Attorney General of St. Lucia**.²⁸ In that case Webster JA, after considering the law on this point, reiterated that ambassadors do not enjoy tenure and insulation from political influence and the doctrine of dismissal at pleasure still obtains for

²⁵ See *Endell Thomas v AG* [1982] A.C. 113 at 124.

²⁶ See Chapter V of the Grenada Constitution Order of 1973.

²⁷ *Gemma Bain – Thomas v The Attorney General of Grenada* GDAHCVAP2015/0013.

²⁸ SLUHCV2020/0002.

such persons.²⁹ In that case, the question of appointment and recall of diplomatic and consular officers was expressly addressed in the constitution of Saint Lucia. As stated above, Grenada's Constitution does not include such provisions.

[65] Counsel for Mr. Firer properly concedes that Mr. Firer was dismissible at pleasure, but counters that Mr. Firer ought to have been informed of the reasons for his recall and given an opportunity to be heard before the recall was effected in light of the evidence filed in the claim. Counsel submits that this was because Mr. Firer's purported recall was subject to, among other things, an allegation of financial impropriety made by Mrs. McLeish – Hutchinson in her evidence. In the case of **Elizabeth Darius – Clarke v The Attorney General of St. Lucia**³⁰, the court was tasked with determining inter alia whether an ambassador had the right to be heard prior to the recall of her appointment. As noted above, the High Court and Court of Appeal ruled that as Mrs. Clarke was dismissible at pleasure, there was no duty to consult her prior to her termination. The learned Webster JA however stated that:

“The duty to act fairly would have arisen if the decision to terminate her appointment was on the basis of a specific allegation made against her. In this situation, Mrs. Clarke would be entitled to an opportunity to respond to the allegation.”³¹ (bold emphasis mine)

[66] In considering the evidence in totality, it is notable that the letters of 9th May, 2022 and 29th May, 2022, contain no allegations of impropriety against Mr. Firer in relation to his recall as ambassador. From the aforementioned documents, it appears that Mr. Firer was recalled from his posting without any specific cause or allegations, as the letter of 9th May, 2022 gave no reason and the letter of 29th May, 2022 references that the government was conducting review of ambassadorial accreditations. If the letters were the only matter for consideration, I would have agreed with the OAG that there was no reason for Mr. Firer to be told of the reason for his recall and that the Government was entitled to recall him at whim.

²⁹ SLUHCV2020/0002 at 46.

³⁰ Ibid.

³¹ SLUHCV2020/0002 at 48.

[67] However, allegations of serious impropriety against Mr. Firer were in fact raised by Mrs. McLeish – Hutchinson in her evidence. The OAG denies that what Mrs. McLeish – Hutchinson put before the court were allegations of impropriety made against Mr. Firer which would have necessitated providing him with reasons for his recall, and affording him the opportunity to make representations. Counsel suggests that I was misreading or misunderstanding what was said in Mrs. McLeish – Hutchinson’s evidence, averring that she simply sought to give an explanation of the reason Mr. Firer was denied entry into Grenada on 22nd February, 2023. The evidence given by Mrs. McLeish – Hutchinson on this issue reads verbatim³²:

“25. Before the recall of the Claimant as ambassador, the Claimant had refused to comply with the request sent to all Heads of Missions to submit monthly financial reports and provide reports regarding the operations of the Embassy of Grenada in Russia. A copy of the request sent to the Claimant in above regard are attached herewith and marked as “Exhibit RH 3&4”.

(sic) 25. In connection to the above, the Defendants state that the Claimant resisted his recall as an ambassador, ignoring the letters sent to him in that regard and continued to host activities at the Grenada Embassy in Russia regardless of the instructions from the Ministry of Foreign Affairs.

26. In view of the posture of the Claimant, the 2nd Defendant was well informed of the way and manner the Claimant had been conducting himself as a security threat to the state of Grenada and as such, the 2nd Defendant deemed the Claimant as an undesirable visitor within the contemplation of section 4(1)(f) of the Immigration Act Cap. 145 of the laws of Grenada and instructed the appropriate department to refuse the Claimant entry into Grenada. **The 2nd Defendant deemed the Claimant**

³² See paragraphs 24 – 27 of the affidavit of Mrs. McLeish – Hutchinson filed on 7th June, 2023.

as persona non grata relative to his manner and conduct towards the state of Grenada before and following his recall as an ambassador...

27. ...While all the detail of the administrative matters were not raised with the Claimant during the Whatsapp contact, **the real reason for the contact**, among others, was because of a diplomatic note received from the Embassy of Russia informing that the Government of Grenada has a debt of over USD 1 million dollars in outstanding rent for the use of the premises housing the Embassy for the period 2020 – 2022. To date, the Claimant has failed and refused to provide the requested information with respect to the running and operations of the Embassy in Russia, **a concern that was expressed previously to the Claimant and which influenced the decision to recall his appointment as an ambassador.** (bold emphasis and underline mine)

[68] From a plain reading, this evidence from Mrs. McLeish – Hutchinson raises 2 issues. Firstly, upon my review of the exhibits referenced in paragraph 25 of the affidavit of Mrs. McLeish – Hutchinson, the memorandum to all heads of overseas missions was dated 4th April, 2022. From the evidence presented, the Government of Grenada took the decision to recall Mr. Firer's appointment in February, 2022, even though he was only informed in May, 2022. Therefore, this reason would not aid the defendants' case, as by the date of that memorandum, 4th April 2022, the decision to recall Mr. Firer from the office of ambassador had already been taken by Cabinet. If the concerns outlined in that 4th April, 2022 memorandum indeed formed one of the bases on which Mr. Firer was removed from office as stated by Mrs. McLeish – Hutchinson, then those concerns should have been put to him prior to the decision to recall him from office.

[69] Further, the allegations referenced in paragraph 25 and 27 of Mrs. McLeish – Hutchinson's evidence hinted at allegations of financial impropriety or dereliction of duty against Mr. Firer. Mrs. McLeish – Hutchinson stated emphatically that these issues influenced the decision to recall Mr. Firer as ambassador. The letters

informing Mr. Firer of his recall did not recite this information. In these circumstances and further to the learning in the case of **Elizabeth Clarke** mentioned in paragraph 65 herein, it is my view that Mr. Firer ought to have been told specifically of these allegations. Additionally, he should have been afforded an opportunity to respond, especially as the evidence from Mrs. McLeish - Hutchinson recites, the allegations founded the basis for the recall.

[70] More specifically, I cannot see any gainsaying that given the serious nature of the charges being laid against Mr. Firer, principles of fairness dictate that he should be afforded these basic procedural safeguards prior to his recall as ambassador. Indeed, none of the parties, correctly in my view, argued that the principles of fairness ought not to apply where serious misconduct is being alleged. The OAG, however, as I have stated above, takes a different view of the facts with which I disagree. In the consolidated appeals of **Permanent Secretary, Ministry of Foreign Affairs & Prime Minister Patrick Manning et ors v Feroza Ramjohn**³³, the Privy Council succinctly addressed the principle in this regard thusly :

“On the face of it, nothing could be clearer than that the sudden revocation of a person’s foreign posting on grounds of suspected criminality without the person concerned being told of the allegation and given an opportunity to respond – without, indeed, any reason whatever being given for the decision... until after the commencement of judicial review proceedings – is unfair.”

[71] Factually, when probed by the court as to whether these allegations were specifically put to Mr. Firer prior to his recall, the OAG submits that Mr. Firer was uncooperative with the Ministry of Foreign Affairs both before and after being notified of his recall. Accordingly, the OAG says that there was no opportunity to dispatch the allegations to him. After some discussion with the court on the matter, Mrs. McLeish – Hutchinson stated that she mentioned the issues to Mr. Firer previously, but she could present no documentary evidence of her having done so.

³³ [2011] UKPC 20.

What she presented was evidence of a general request addressed to all heads of missions, reminding of the need to submit financial information about the operations of the embassies, which I have addressed above. This missed the point of the law in totality. All in all, neither the OAG nor Mrs. McLeish – Hutchinson were able to substantiate the claim that Mr. Firer was specifically told of these allegations or given an opportunity to respond to these allegations prior to his recall.

[72] Mr. Firer in his evidence indicates that he did in fact send information about the finances of his operations to the defendants, and attached an email addressed to Mrs. McLeish – Hutchinson, which he says are the financials which were requested. It is clear that he was not aware about the concerns about his handling of the affairs of the missions until the answer to this claim was filed by the defendants. In particular, I find that he was certainly not aware of the charges by the Russian Government about the allegedly exorbitant rents that were due and unpaid in respect of the embassy in Russia. Indeed, as I have found above, the letters received by him in May, 2022 made no such assertions or allegations against him. I therefore find that Mr. Firer's recall without being told of these allegations or being afforded the opportunity to be heard was unfair and unlawful in the circumstances of this particular case, on the basis that the recall was done without the required procedural fairness.

[73] The foregoing discourse raises the query of what sort of remedy should be given for this breach. For the reasons to appear, this question is directly relevant to the issue of whether Mr. Firer was properly removed from Grenada on the day in question. On his originating motion, Mr. Firer requests several declarations, orders for damages, costs and interests. He has not asked for any of the decisions of the executive to be quashed or for any mandatory orders directing the defendants to take any steps. Particularly, in paragraph (ii) of his originating motion, Mr. Firer seeks –

“A declaration that the decision of the Defendants to remove the Claimant from Grenada is arbitrary, irrational and ultra vires the powers of the

Defendants under the Immigration Act, CAP 145 of the 2010 Continuous Revised Edition of the Laws of Grenada.”

[74] It is by now quite trite that on administrative claims, the remedies are discretionary. Indeed, the CPR 56.11(3) gives the court the discretion to “...grant any relief that appears to be justified by the facts proved before the judge, whether or not such relief should have been sought by an application for an administrative order.” In considering the appropriate relief, which remains in the court’s discretion, I am inclined to follow the approach of the court in **Chief Constable of North Wales v Evans**³⁴ where their Lordships found that the grant of a quashing order or mandamus were unwarranted. In that case, the claimant did not request damages and as such none was ordered. In **Permanent Secretary, Minister of Foreign Affairs and Manning (prime Minister) v Ramjohn**³⁵, the Court of Appeal of Trinidad set aside the trial judge’s order to quash a decision made by the Prime Minister, even though acknowledging that the decision was made without affording procedural fairness to the person affected. The Court of Appeal also set aside orders as to damages. The Privy Council concurred with the Court of Appeal that, in the circumstances, a declaration that the right to procedural fairness was breached was an appropriate remedy³⁶.

[75] I am of the view that a declaratory order in Mr. Firer’s favour is quite appropriate on the facts of this case. This discourse so far has highlighted the fact that matters of appointment and recall of ambassadors are deeply imbued with political colourations and considerations with which a court ought not to concern itself. In **Evans**, the court endorsed a speech made by Lord Evershed, as set out below, that courts should avoid the danger of usurpation of power under the pretext of having regard to the principles of natural justice –

³⁴ [1982] 1 WLR 1155.

³⁵ TT 2009 CA 32.

³⁶ [2011] UKPC 20.

"I do observe again that it is not the decision as such which is liable to review, it is only the circumstances in which the decision is reached, and particularly in such a case as the present the need for giving to the party dismissed an opportunity for putting his case... Judicial review is concerned, not with the decision, but with the decision making process. Unless that restriction on the power of the court is observed, the court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power.³⁷"

[76] Equally, it is also beyond trite as well, that the court will not lightly interfere with the state's decision unless there is a lack of jurisdiction or other ultra vires acts or omissions. In those circumstances, it would seem to me that the quashing of the decision to recall Mr. Firer from office for failure to afford him an opportunity to be heard would be tantamount to this court interfering with the executive functions of the state to determine who should hold diplomatic offices or be recalled from such offices. This is since the effect of such a quashing order would have the effect of nullifying the decision to recall Mr. Firer. The implication of that, in turn, would be that Mr. Firer is still in fact holding the post, until properly removed therefrom. Such an outcome would be patently untenable since it would directly implicate powers that ought to be exercised entirely by the state. Such an outcome would be exacerbated on the particular facts of this case where the executive has made it clear by its action in February 2022 that it no longer wishes to be represented by Mr. Firer in its foreign affairs. Accordingly, Mr. Firer is granted a declaration that the decision to recall him as ambassador without putting specific allegations of alleged impropriety to him and without affording him an opportunity to be heard or respond to those allegations was unfair and in breach of his right to procedural fairness.

WHETHER MR. FIRER COULD BE DECLARED AN UNDESIRABLE VISITOR, AND IF SO WHETHER MR. FIRER WAS ENTITLED TO ANY DUE PROCESS BEFORE HE WAS DECLARED AN UNDESIRABLE VISITOR?

³⁷ [1982] 1 WLR 1155 at 1173.

- [77] Mr. Firer initially submitted that as a citizen of Grenada, there was no jurisdiction given to any authority to deny him entry into or remove him from Grenada. I have already found that Mr. Firer is not a citizen of Grenada, but an alien. As an alien, under the Immigration Act, the Chief Immigration Officer and the Minister of Immigration could properly have deemed Mr. Firer to be an undesirable visitor under section 4(1)(f) of the Immigration Act, if the requirements of subsection (1)(f) were satisfied.
- [78] Moreover, the OAG submits that the Immigration Act also provides that any determinations made about undesirable visitors are not reviewable by the court, especially in cases of national security risks. I do accept that Mrs. McLeish – Hutchinson made reference in her evidence, to the Minister's finding that Mr. Firer was a threat to national security. Mr. Firer avers that he could not be seen to be a national security risk, and that he was entitled to due process before this decision was taken.
- [79] Where a decision to deem a person a prohibited alien or undesirable visitor on the grounds of national security concerns are being challenged, the case law suggests that the court will only intervene to review such decisions in certain limited circumstances. Where procedural fairness is concerned in such circumstances, the case law also suggests that persons are not entitled to the right to be given reasons prior to being determined a prohibited alien³⁸.
- [80] Guidance for this proposition has been provided in the case of **Council for Civil Service Unions et ors v Minister for Civil Service**³⁹, where the court held that issues of national security were for the executive and not the courts to decide in any particular case. In such instances, the requirements of national security may outweigh those of fairness. Lord Scarman explained that:

³⁸ *Terron Hosten v Minister of National Security et ors* GDAHCV2015/0394 at paragraphs 27 – 30.

³⁹ [1985] AC 374.

“...Where a question as to the interest of national security arises in judicial proceedings the court has to act on evidence. In some cases, a judge or jury is required by law to be satisfied that the interest is proved to exist; in others, the interest is a factor to be considered in the review of the exercise of an executive discretionary power. Once the factual basis is established by evidence so that the court is satisfied that the interest of national security is a relevant factor to be considered in the determination of the case, **the court will accept the opinion of the State or its responsible officer as to what is required to meet it, unless it is possible to show that the opinion was one which no reasonable minister advising the State could in the circumstances reasonably have held.** There is no abdication of the judicial function, but there is a commonsense limitation recognised by the judges as to what is justiciable; and the limitation is entirely consistent with the general development of the modern case law of judicial review.⁴⁰”

Lord Diplock equally reasoned in **Council for Civil Service Unions** that:

“National security is the responsibility of the executive government; what action is needed to protect its interests is ... established and itself dictates, a matter upon which those whom the responsibility rests, and not the courts of justice must have the last word. It is par excellence a non – justiciable question. The judicial process is totally inept to deal with the sort of problems it involves. The executive government likewise decided... that the interests of national security required that no notice should be given of the decision before administrative action had been taken to give effect to it.⁴¹ (Bold emphases mine)

[81] In **R (XH) v Secretary of State for the Home Department**⁴², it was stated:

⁴⁰ [1985] AC 374 at 406 – 407.

⁴¹ [1985] AC 374.

⁴² [2017] EWCA Civ 41.

“The question of whether something is in the interest of national security is not a question of law. It is a matter of judgment and policy. Whether something is or is not in the interest of national security is not a matter of judicial decision. They are entrusted to the executive.”

- [82] Further in **The Minister of Immigration et ors v Sharon Nettlefield et ors**⁴³, Redhead JA in finding that court’s powers of review are limited under the Immigration Act of Grenada, and should only be utilized to review a decision to correct excess or abuse of power found that:

“If ...the Minister deems an alien to be an undesirable inhabitant from information received from another government or diplomatic channels, the Minister may in order to maintain good diplomatic relationship with the government or diplomatic channels providing him with the information, wish to keep the information confidential ...

In this regard the learned judge would not be in a position to know the information the Minister acted on... If that is so then, of course the learned judge cannot interfere with the exercise of that power unless it is shown that he exceeded the power given to him under the Act⁴⁴.” (Bold emphasis mine)

- [83] Where national security implications arise, the courts have determined that these are questions to be considered by the executive, and are not for the consideration or review of the court except in the limited instances that I have stated above. This is because the ministers and other arms of the executive are best placed to receive classified and confidential information to determine what decisions to make. In Mrs. McLeish – Hutchinson’s evidence, she recounts that Mr. Firer’s acts referenced above, were some of the considerations by the Minister which informed that Mr. Firer should be refused entry.

⁴³ Civil Appeal No. 6 of 2002.

⁴⁴ Civil Appeal No. 6 of 2002 at 41 – 42.

- [84] From the evidence and law recited above, I find that it was open to the Minister to find that to allow Mr. Firer entry may have presented a national security risk, and as such no prior consultation was necessary, before he was deemed an undesirable visitor. In **The Attorney General of Grenada v Muhammed Ehsan**⁴⁵ it was accepted that national security requirements are recognized as bases on which procedural fairness may be displaced. There does not exist in this case, any evidence of excess or abuse of power by the Chief Immigration Officer or the Minister of Immigration which requires correction or review.
- [85] However, this is not the end of the discourse in this case. Mr. Firer alleges that he was an ambassador in the service of the government on the date in question. Section 7 of the Immigration Act frontally addresses whether such persons could be deemed a prohibited immigrant. From the evidence, Mr. Firer was recalled in February, 2022, and he attempted to enter the state of Grenada a year later in February, 2023. As I have found above, by that time, he cannot be said have been in service of the Government of Grenada, as he was clearly recalled at that date.
- [86] The evidence presented by Ms. Purcell is that Mr. Firer used his diplomatic passport when he left London to travel to Grenada. Mr. Firer did not challenge this allegation, and I have found that he was aware of his recall by that date. Accordingly, he ought not to have used the diplomatic passport in light of that recall. I find that Mr. Firer remained an alien on 22nd February, 2023, as he was not in the service of the Government of Grenada. There therefore could not be any substantive or procedural legitimate expectation that he would not be refused entry into Grenada. I also find that he was properly refused entry into the state of Grenada on national security grounds. For the reasons stated above, Mr. Firer was not entitled to be provided with reasons for his removal or an opportunity to be heard on this issue.

WHETHER MR. FIRER IS ENTITLED TO THE RELIEF SOUGHT?

⁴⁵ GDAHCVAP2019/0020 at 79.

- [87] As Mr. Firer was not found to have Grenadian citizenship, I decline to order any of the declarations sought in his originating motion on the grounds that he was a citizen on the day that he attempted to enter Grenada. I have already addressed the reasons why he will only be granted a declaration that the decision to recall him as ambassador without giving him the reasons for his recall and without affording him an opportunity to be heard was unfair and in breach of his right to procedural fairness.
- [88] During the trial of this matter on April 16th, 2024, the court enquired of counsel for Mr. Firer what relief Mr. Firer wanted to seek, in light of the finding of the breach of Mr. Firer's right to procedural fairness. Counsel for Mr. Firer rightly pointed out that an order that Mr. Firer be returned to his ambassadorial office would not be prudent, as it would operate to force Mr. Firer on the executive, who clearly wanted him recalled. Counsel therefore submitted orally that compensation would be the most appropriate in the circumstances.
- [89] In view of the fact that Mr. Firer has specifically requested an award of damages in his originating motion, I invited counsel for both parties to file submissions within 7 days on whether compensation should be awarded, and the extent of the requested award for compensation. See CPR 56.6(2) which empowers the court to grant, among other reliefs, an award of damages where the claimant seeks an award on the claim for administrative relief. The OAG filed submissions and authorities on 24th April, 2024 which were supplemented on 6th May, 2024. Counsel for Mr. Firer filed submissions and authorities on 3rd May, 2024.
- [90] On the issue of compensation, in its initial submissions filed on 24th April, 2024 the OAG submitted that Mr. Firer is not entitled to damages for the breach of his right to procedural fairness, as this issue was not pleaded, and none of the declarations sought in the originating motion ought to be granted. The OAG further submitted that it is only if the court is granting all or any of the declarations sought or an amendment is made to Mr. Firer's pleadings, that the issue of damages could arise.

[91] These submissions by the OAG miss the specific provisions of CPR 56.6 (2) which states:

“In particular the court may, on a claim for judicial review or for relief under the Constitution award - (a) damages; (b) restitution; or (c) an order for return of property to the claimant; if the claimant has included in the claim form a claim for any such remedy arising out of any matter to which the claim for an administrative order relates; or (ii) facts set out in the evidence or statement of case justify the granting of such remedy or relief; and (iii) court is satisfied that, at the time when the application was made the claimant could have issued a claim for such remedy.”

[92] It is clear to me that Mr. Firer has included a request for damages in the claim form, and that in any event, on the facts, he could have issued a claim for damages for breach of the right to procedural fairness. The evidence suggests that Mr. Firer was not even aware that his right to procedural fairness had been breached until his claim was filed, and an answer put in by the defendants. I have also found that the facts as set out in this case justify a grant of damages as an appropriate means of vindicating the breach of his right⁴⁶ to be informed of the reasons for his recall due to the allegations of impropriety and to be given an opportunity to be heard as to why he should not be recalled.

[93] On the issue of the quantum to be awarded, counsel for Mr. Firer submits that Mr. Firer ought to be awarded compensation, split into pecuniary and non – pecuniary damages, for what occurred on 22nd February, 2023 when Mr. Firer was refused entry. This submission is premised on counsel for Mr. Firer arguing that Mr. Firer was in service to the Government on the date that he was refused entry into Grenada and removed therefrom. I have already addressed why this is not so.

⁴⁶ Dail Crawford v The Public Service Commission of St. Kitts and Nevis SKBHCV2015/0189.

[94] What I do find however, is that Mr. Firer's recall as an ambassador was in breach of procedural fairness. Consistent with CPR 56.6.(2), if sufficient facts are shown on his claim to justify such an award, damages can be awarded to Mr. Firer for his recall as ambassador in breach of procedural fairness⁴⁷. As counsel for Mr. Firer's submissions are premised on compensation for Mr. Firer's unlawful removal from Grenada, no award is made under this head of damages.

[95] As noted above, counsel for Mr. Firer did not explore damages for breach of procedural fairness which resulted in Mr. Firer's recall from office, nor his claim for exemplary damages as requested on the originating motion. On the issues of aggravated/exemplary damages, the OAG submits that Mr. Firer has not satisfied the test as set out in **Rookes v Bernard**⁴⁸ that there were oppressive actions, conduct calculated to make a profit or that statute provided for such an award. I agree with the OAG on the issue of aggravated/exemplary damages. Clearly this is a case where the State should have given Mr. Firer an opportunity to respond to the concerns that it held about him before he was recalled from his diplomatic post, but he has not shown that there was any political ill will, mischief or highhandedness involved in his recall. As such an award of aggravated/exemplary damages is not warranted and I make no such award.

[96] The OAG also submits that if the court is minded to make an order for Mr. Firer's recall from his ambassadorial post, the defendants would suggest, without conceding that damages ought to be awarded, that a nominal sum of \$6, 000.00 be awarded, as Mr. Firer has not proven loss or damage. With respect to damages, I find that they ought to reflect or vindicate the breach of his right to procedural fairness, and I do find that an award is warranted⁴⁹.

[97] As stated in **The Prime Minister and Samuel v Sir Gerald Watt**⁵⁰,

⁴⁷ *Inniss v The Attorney General of Saint Christopher and Nevis* [2008] UKPC 42.

⁴⁸ (1964) AC 1129.

⁴⁹ *Otto Sam v Tyrone Burke, Chief Personel Officer* SVGHCV2010/0399.

⁵⁰ ANUHCVP2012/0005.

“the trial judge should not have been hesitant to find the claim for substantial as compared to nominal damages to have been made out in the circumstances, where there was the breach of a right which bore the nature of a constitutional right, even though not entrenched in the Constitution”.

[98] If nothing else, I find that the breach of Mr. Firer’s procedural right ought to be vindicated, as I am sure he would have suffered loss of reputation and possible public odium by his recall for the reasons that have emerged. The award in my view ought to reflect a sum that indicates the seriousness of the right engaged and egregiousness of the breach of that right. I am of the view that the sum of \$50,000.00 is a fair award.

COSTS

[99] On the issue of costs, counsel for Mr. Firer submits that as the matter went to trial, the applicable costs regime is that of prescribed costs, and Mr. Firer is entitled to 100% of the costs as calculated. Counsel for Mr. Firer submits that costs ought to be awarded calculated cumulatively as \$44, 881. 26 XCD, but this calculation was based on counsel’s calculation of damages in the sum of \$250,000.00 for Mr. Firer’s unlawful removal from the state. The OAG did not address the issue of costs. Having determined that the appropriate compensation is \$50,000.00 as aforesaid, and Mr. Firer’s partial success in this claim, I will award him the prescribed costs on that amount in the sum of \$10,000.00

CONCLUSION

[100] I note in parting that Mr. Firer did not pursue the claim in respect of the CIBC relief and as such I make no pronouncements on the matter. For the aforementioned reasons, Mr. Firer’s claims for constitutional relief on the grounds that he was at the material time a citizen of Grenada are refused. I have however found that Mr.

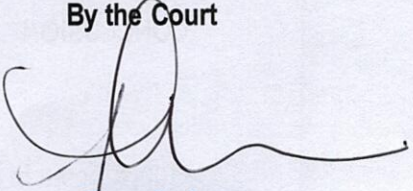
Firer's common law right to procedural fairness was breached in that he was not informed of the specific allegations against him which influenced his recall as ambassador prior to his recall and given an opportunity to respond to those allegations. It is therefore ordered as follows:

- (1) The prayers for declarations in the originating motion on the grounds that Mr. Firer was at all times a citizen of Grenada are all refused;
- (2) It is declared that the decision to recall Mr. Firer as ambassador of Grenada without informing him of the specific allegations of impropriety against him and allowing him an opportunity to make representations prior to his recall breached his right to procedural fairness;
- (3) Mr. Firer is awarded the sum of \$50, 000.00 as damages for the breach of his right to be informed of the specific allegations of impropriety against him and allowing him an opportunity to make representations prior to his recall;
- (4) No order is made for exemplary and/or aggravated damages; and
- (5) Prescribed costs are payable to Mr. Firer in the sum of \$10,000.00.

[101] I thank counsel for the parties for their helpful submissions and their patience in awaiting a ruling on the issues.

Raulston L.A. Glasgow
High Court Judge

By the Court



Registrar
Supreme Court
Grenada