

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2010- 05104

IN THE MATTER OF THE JUDICIAL REVIEW ACT, CHAPTER 7:08

AND

**IN THE MATTER OF THE SEIZURE OF AND THE FAILURE OF THE CHIEF IMMIGRATION
OFFICER TO RESTORE THE TRINIDAD AND TOBAGO PASSPORTS OF SUSAN RUTH JACKSON
AND JORDAN MATTHEW LEIBA NOS. T678180 & T1078403 ISSUED IN 2000 AND 2004
RESPECTIVELY**

BETWEEN

SUSAN RUTH JACKSON

AND

JORDAN MATTHEW LEIBA (an infant)

(suing by his next friend and mother Susan Ruth Jackson)

Claimants

AND

THE CHIEF IMMIGRATION OFFICER

THE MINISTER OF NATIONAL SECURITY

Defendants

APPEARANCES :

Mr. Ian Benjamin, Ms. Marvo Harper, Mr. Heffes-Doon for the Claimants.

Mr. Duncan Byam, Ms. Zelica Haynes, Ms. Coreen Findley, Ms. M. Ramdass, Mr. E. Pierre.

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JUDGMENT

Background

1. The first named applicant was born in Jamaica on the 5th November 1981. She was adopted on the 25th May 1983 by Trevor and Jean Jackson (her adoptive parents) in Jamaica. At that time they were domiciled in Jamaica, though they remained citizens of Trinidad and Tobago. An adoption order was made by the Supreme Court of Jamaica. She was, over the years, the holder of four (4) passports of the Republic of Trinidad and Tobago issued on the 14th July 1983 and thereafter.

2. The second named applicant is her child. He was born in Jamaica on the 17th day of March 2004. He was the holder of a Trinidadian passport issued in December 2004.

3. On or around the 20th September 2010 the applicants' passports were retained by the Trinidadian consulate in Canada on the basis that the applicants were not entitled to hold such passports, not being citizens of Republic of Trinidad and Tobago.

4. The applicants were granted leave by this court to apply for judicial review on 14th December, 2010 challenging the decisions of the Chief Immigration Officer to revoke/ seize the Trinidad and Tobago passports of the Claimants, and their now expired passports were returned on or about the 27th December 2010.

5. The respondent contends that the actions of the consulate were justified in that the applicants were never citizens of the Republic of Trinidad and Tobago and therefore not entitled to be issued, or to hold, passports of the Republic of Trinidad and Tobago.

6. The facts, which are not in dispute, are set out in greater detail further in this judgment.

Issues

7.

1. Whether the adoption of the first named applicant by order of the court in Jamaica (the adoption order) was valid and legal.
2. Whether the adoption order should be recognized by the courts and law of Trinidad and Tobago.
3. If so, whether the effect of such recognition of the adoption order as valid affects the interpretation of the legal provisions relating to citizenship of the Republic of Trinidad and Tobago, and in particular:
 - i. Whether, by virtue of the recognition of the adoption order, the First Named Claimant is a citizen of Trinidad and Tobago by adoption, and
 - ii. Whether the Second Named Claimant is thereby a citizen of Trinidad and Tobago by descent?

Disposition

8. I find that the application of the relevant principles of constitutional interpretation leads to the conclusion that the first named applicant became a citizen of the Republic of Trinidad and Tobago by virtue of her adoption and the second named applicant became a citizen of the Republic of Trinidad and Tobago by descent.

9. The following orders are accordingly granted:

(a.) A Declaration is granted that the First Defendant's decision to seize, and his subsequent decision to refuse to restore, ("the decisions") to the First Claimant the First Claimant's Trinidad and Tobago Passport No. T678180 and the Trinidad and Tobago Passport No. T 1078403 ("the Passports") of her son, the Second Claimant, is illegal, and is *ultra vires*, invalid, null and void, and of no effect;

(b.) An Order of Certiorari is granted to remove into this Court and quash the said decisions;

(c.) A Declaration is granted that the First Claimant is a citizen of Trinidad and Tobago by reason the First Claimant's lawful adoption on the 25th May, 1983 by Trevor Anthony Jackson and Jean Umilta Jackson, citizens of the Republic of Trinidad and Tobago by birth;

(d.) A Declaration is granted that the Second Claimant is a citizen of the Republic of Trinidad and Tobago by reason of the fact that he is born of a citizen of Trinidad and Tobago.

(e.) A declaration is granted that the claimants are entitled to the renewal and /or the reissue of the said passports.

(f.) Costs of this application are payable by the defendants to the claimants to be assessed in default of agreement.

(g.) Liberty to apply.

Analysis and Reasoning

Facts not in dispute

10. The facts set out in the affidavits filed on behalf of the claimants are not in dispute.

Law

Whether the adoption of the first named applicant by order of the court in Jamaica is valid and legal.

11. In the course of oral submissions counsel for the respondent indicated that no issue was being taken with the validity of the Jamaican adoption order.

The effect of the adoption order

Adoption Act -Trinidad

12. **Sections 15 and 17** of the **Adoption of Children Act Chap. 46:03** (“Adoption Act”) provide:

“15. (1) For all purposes, as from the date of the making of an adoption order-

(a.) The adopted child becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child; and

(b.) The adopted child ceases to be the child of the person who was his parent before the adoption order was made and that person ceases to be the parent of the adopted child,

as if the adopted child had been born in lawful wedlock to the adopting parent.

(2) The relationship one to another of all persons whether the adopted child, the adopted parent, the kindred, of the adopting parent, the parent before the adopting order was made, the kindred of the former parent or any other person, shall, for all purposes, be determined in accordance with subsection (1) ...

17. (1) The Court having jurisdiction to make adoption orders under this Act shall be the High Court or, at the option of the applicant, any Court of summary jurisdiction within the jurisdiction of which either the applicant or the child resides at the date of the application for the adoption order.”

13. Section 15(1) of the Jamaican Adoption of Children Act is to the same effect, as is section 13 (1) of the 1958 Adoption Act UK, which was the act in force in the UK at the time that *Re Valentine's Settlement* (infra) was decided.

14. The effect of an adoption order under the law of Jamaica, which is in all material respects identical in this regard to the law of Trinidad and Tobago, (and to the law of the United Kingdom in 1965), is to extinguish the rights of the first named applicant's birth parents, and confer the rights and status of those birth parents upon the first named applicant's adoptive parents.

Principles of Private International Law -Recognition

Whether the adoption order should be recognized by the courts and law of Trinidad and Tobago.

15. The respondent indicated that no issue was being taken with respect to its recognition by the courts and law of Trinidad and Tobago, but that recognition of the adoption order and citizenship were two distinct and unrelated concepts, and such recognition had no impact on the citizenship of the applicants.

16. According to the 2006 edition of Dicey and Morris on the Conflict of Laws the rule at common law is that,

*"...An adoption made in any country outside Great Britain and valid by its law will be recognised in England at common law if at the time of the adoption order **the adopter was domiciled** in that country."* (At page 1081 paragraph 20R-117).

“Adoption affects status and traditionally the law of the domicile has a paramount controlling influence over the creation of status.” (At page 1084 para 20-127)”

17. The case of ***Re Valentine’s Settlement*** [1965] 2 All E.R. 226 was cited and the judgment of the Honourable Lord Denning as follows:- at page 230 (emphasis added)

*“Our courts should recognize a jurisdiction which mutatis mutandis they claim for themselves; see *Travers v Holley and Holley* ([1953] 2 All ER 794 at p 800 [1953] P 246 at p 257). We claim jurisdiction to make an adoption order when the adopting parents are domiciled in this country and the child is resident here. So also, **out of the comity of nations, we should recognize an adoption order made by another country when the adopting parents are domiciled there and the child is resident there.***

*Apart from international comity, **we reach the same result on principle.** When a court of any country makes an adoption order for an infant child, it does two things. (i) It destroys the legal relationship theretofore existing between the child and its natural parents, be it legitimate or illegitimate; (ii) **it creates the legal relationship of parent and child between the child and its adopting parents, making it their legitimate child. It creates a new status in both, namely the status of parent and child.** Now it has long been settled that questions affecting status are determined by the law of the domicile. This new status of parent and child, in order to be recognised everywhere, must be validly created by the law of the domicile of the adopting parent. You do not look to the domicile of the child; for that has no separate domicile of his or her own. The child takes his or her parents’ domicile. You look to the parents’ domicile only. **If you find that a legitimate relationship of parent and child has been validly created by the law of the parents’ domicile at the time the relationship is created, then the status so created should be universally***

***recognised throughout the civilised world,** provided always that there is nothing contrary to public policy in so recognizing it.*

*There then arises the second question: **What is the effect of this recognition?** Does it give the adopted children the self-same rights and benefits as natural-born children, especially in regard to succession to property? Or only the same rights and benefits as adopted children? ...*

In my opinion, when English law recognizes a foreign adoption order as conferring the status of a child, it does not give to the child all the self-same rights and benefits of succession as a natural-born child. It only gives the child the self-same rights and benefits as a child adopted in England by an English adoption order.”

18. Thus according to Lord Denning, under the common law of England an adoption order made by the Court in Jamaica in which the adopters were domiciled will be regarded as determinative of the status of adopters and adoptee. The creation of that legal status of the parties will be given legal recognition at common law but the adopted child will only be given such rights and benefits as if the child were adopted in England by the order of the English Court.

19. The court considered that the English courts would / should recognize foreign adoptions by virtue of the principle of “comity of nations”, and on principle, and that children validly adopted under the law of the adoptive parents’ domicile would have the same rights as children adopted in the UK, no more, no less.

20. The effect of that adoption at common law is the same in Trinidad as it is in Jamaica, and as it is in the UK. As set out above it extinguishes the rights of the first named applicant’s birth parents, and confers the rights and status of those birth parents upon the first named applicant’s adoptive parents.

21. The reasoning and principles in **Re Valentine’s Settlement** were not in dispute. The effect of **Re Valentine’s Settlement** is that the adoption of the first named applicant should be

recognized at common law by the courts of Trinidad and Tobago, as well as the effect of that adoption. Accordingly the first named applicant would have the same rights as a child adopted in Trinidad, no more, no less.

Whether the effect of such recognition of the adoption order as valid affects the interpretation of the legal provisions relating to citizenship of the Republic of Trinidad and Tobago

22. The respondent contends that the relevant sections of

- (1) The **Citizenship of the Republic of Trinidad and Tobago Act Chap. 1:50** (“Citizenship Act”), and
- (2) The **Constitution**,
- (3) The **Adoption of Children Act Chap. 46:03** (“Adoption Act”),

properly construed make it clear that the adoption of the applicant in Jamaica, even if valid, does not confer upon her citizenship of the Republic of Trinidad and Tobago, and the applicants therefore never became citizens of the Republic of Trinidad and Tobago.

23. **Sections 5, 6 and 8 of the Citizenship of the Republic of Trinidad and Tobago Act Chap. 1:50** (“Citizenship Act”) provide:

*“5. (1) The Minister shall **cause a child born outside of Trinidad and Tobago of a citizen of Trinidad and Tobago by descent to be granted a certificate of citizenship of Trinidad and Tobago upon receipt of the prescribed application made –***

(a.) by the responsible parent or guardian of such child before the child attains full age; or

(b.) *by the child within one year of his attaining his majority according to the law of the country of which he is a citizen or on attaining his full age.*

(2) *A person to whom a certificate of citizenship of Trinidad and Tobago is granted under subsection (1) is a citizen of Trinidad and Tobago by descent for all purposes of the law relating to citizenship save that nothing in subsection (1) applies to a child of a person who became a citizen of Trinidad and Tobago by reason of that subsection.*

6. *Where **under a law in force** in Trinidad and Tobago relating to the adoption of children, an adoption order is made by a **competent** Court in respect of a minor who is not citizen of Trinidad and Tobago, then, if the adopter, or in the case of a joint adoption, either of the adopters, is a citizen of Trinidad and Tobago, the minor shall become a citizen of Trinidad and Tobago **as from the date of the order.***

8(1) *the Minister may cause the minor child **born outside Trinidad and Tobago** of a **citizen of Trinidad and Tobago** to be **registered a citizen** of Trinidad and Tobago **upon receipt of the prescribed application** made by the responsible parent or the guardian of such child.*

(2) *The Minister in such special circumstances as may be prescribed may cause a minor to be registered as a citizen of Trinidad and Tobago.*

(3) *A person who becomes a citizen of Trinidad and Tobago by virtue of this section shall cease to be a citizen of Trinidad and Tobago one year after attaining full age unless he has taken the oath of allegiance.”*

24. Section 37 of the Trinidad and Tobago *Adoption of Children Act*, No. 67 of 2000 , passed by both houses, assented to but not proclaimed ,expressly provides for the recognition of adoption orders validly effected overseas as follows:-

“Effect of overseas adoptions

*Where a child has been adopted by a **national** or resident of Trinidad and Tobago, whether before or after the coming into force of this Act, **in any place outside of Trinidad and Tobago, according to the law of that place**, then for the purposes of this Act, and all other written law, **the adoption shall have the same effect as an adoption order validly made in accordance with this Act.**”*

25. By the *Adoption of Children Act*, No. 67 of 2000 recognition is expressly accorded to foreign adoptions by nationals, once valid according to the law of the foreign State. However Chapter 46:03 is still the existing law with respect to the adoption of children.

26. At present under the settled common law rules of private international law, which form part of our legal system, recognition of a Jamaican adoption would still be afforded if the adopters were domiciled within the jurisdiction of the foreign court, as they were in the instant case.

Citizenship of the First Claimant

The Citizenship Act

27. The Claimants' case in law is, inter alia, that she is a citizen of Trinidad and Tobago under **Section 6** of the **Citizenship Act, Chapter 1:05**, which provides:

'Where under the law in force in Trinidad and Tobago relating to the adoption of children, an adoption order is made by a competent Court in respect of a minor who is not a citizen of Trinidad and Tobago, then, if the adopter, or in the case of a joint adoption, either of the adopters, is a citizen of Trinidad and Tobago, the minor shall become a citizen of Trinidad and Tobago as from the date of the order.'

28. **Sections 15 and 17** of the **Adoption of Children Act Chap. 46:03** ("Adoption Act") have been set out supra.

29. The law in force in Trinidad and Tobago includes the common law, which as established in *Re Valentine's Settlement*, recognizes valid foreign adoption orders made by a competent foreign court.

The Constitution

30. The First Claimant also claims that she is entitled to citizenship under **Section 17(3) and (5)** of the **Constitution** which provides:

*17.(3) A person **born outside Trinidad and Tobago** after the commencement of this Constitution **shall become a citizen** of Trinidad and Tobago **at the date of his birth** if at that date **either of his parents** is, or was, but for his parent's death, **a citizen of Trinidad and Tobago** otherwise than by descent.....*

*(5) A person born outside Trinidad and Tobago after the 30th August 1962 whose **mother** was a citizen of Trinidad and Tobago otherwise than by descent at the date of his birth but who did not become a citizen at that date **shall be deemed to have become a citizen at that date** and shall continue to be a citizen of Trinidad and Tobago under this Constitution.”*

Principles of Constitutional Interpretation

31. **In the cases of Allan Henry and others v Commissioner of Prisons CV2007-03406, CV2007-03881, CV2007-03399, HCA: 2548 of 2003, CV2007-04450, CV2008-01123 delivered December 1st 2009 this court considered that -**

“It is well established that the Constitution should be afforded a generous, liberal and purposive construction and, conversely, a court should not derogate from rights conferred by the Constitution by an unduly restrictive construction.” –page 18 -24

It considered the following authorities to be supportive of this proposition.

(1) *In Worme v Commissioner of Police of Grenada* [2004] 2 A.C. 430, the Privy Council stated at paragraph 27. “Where possible, legislation should be interpreted in such a way that it is consistent with the Constitution” per Lord Rodger of Earlsferry.

So where two possible constructions are reasonably available, the courts will choose that interpretation which is consistent with the constitution and reject the one which is not. Or as it was put by the Privy Council in Hector v Attorney General of Antigua [1990] 2 A.C. 312, at p. 319:

....if it is possible to read the statutory language as subject to an implied term which avoids conflict with constitutional limitations, the court should be very ready to make such an implication.

In the case of **Bernard Coard & Ors v The Attorney General Privy Council Appeal No. 10 of 2006** Lord Hoffman stated at paragraph 33

In Hinds v Attorney-General of Barbados [2002] 1 AC 854, 870 Lord Bingham qualified the principle stated by Lord Diplock in *Chokolingo v Attorney General of Trinidad and Tobago* [1981] 1 WLR 106 with this observation:

“It would be undesirable to stifle or inhibit the grant of constitutional relief in cases where a claim to such relief is established and such relief is unavailable or not readily available through the ordinary avenue of appeal. As it is a living, so must the Constitution be an effective, instrument.”

Further in **Charles Matthew v The State Privy Council No. 12 of 2004** at paragraph 42 of the dissenting judgment of Lord Bingham of Cornhill it was stated that:

“The correct approach to interpretation of a constitution such as that of Trinidad and Tobago is well-established by authority of high standing. In Edwards v Attorney-General for Canada [1930] AC 124, 136, Lord Sankey LC, giving the judgment of the Board, classically described the constitution established by the British North America Act 1867 as “a living tree capable of growth and expansion within its natural limits”.

The provisions of the Act were not to be cut down “by a narrow and technical construction”, but called for “a large and liberal interpretation”. Lord Wilberforce spoke in similar vein in Minister of Home Affairs v Fisher [1980] AC 319, 328-329, when he pointed to the need for a “generous interpretation”, “suitable to give to individuals the full measure of the fundamental rights and freedoms referred to” in the constitution and “guided by the principle of giving full recognition and effect to those fundamental rights and freedoms with a statement of which the Constitution commences”. The same approach was commended by Dickson J, giving the judgment of the Supreme Court of Canada in Hunter v Southam Inc [1984] 2 SCR 145, 155:

“The task of expounding a constitution is crucially different from that of construing a statute. A statute defines present rights and obligations. It is easily enacted and as easily repealed. A constitution, by contrast, is drafted with an eye to the future. Its function is to provide a continuing framework for the legitimate exercise of governmental power and, when joined by a Bill or a Charter of Rights, for the unrelenting protection of individual rights and liberties. Once enacted, its provisions cannot easily be repealed or amended. It must, therefore, be capable of growth and development over time to meet new social, political and historical realities often unimagined by its framers. The judiciary is the guardian of the constitution and must, in interpreting its provisions, bear these considerations in mind. Professor Paul Freund expressed this idea aptly when he admonished the American courts ‘not to read the provisions of the Constitution like a last will and testament lest it become one’.”

In Attorney-General of Trinidad and Tobago v Whiteman [1991] 2 AC 240, 247, Lord Keith of Kinkel, giving the judgment of the Board, said:

*“The language of a Constitution falls to be construed, not in a narrow and legalistic way, but broadly and purposively, so as to give effect to its spirit, and this is **particularly true of those provisions which are concerned with the protection of human rights**.”*

In his dissenting opinion Lord Nicholls of Birkenhead in **Charles Matthew** at Paragraphs 70 and 71 stated as follows:

“Self-evidently, an interpretation of the constitutions which produces this outcome is unacceptable. A supreme court of a country which adopts such a literal approach is failing in its responsibilities to the citizens of the country. A constitution should be interpreted as an evolving statement of a country’s supreme law.

This is not to substitute the personal predilections of individual judges for the chosen language of the constitution. Rather, it is a recognition that the values underlying a constitution should be given due weight when the constitution falls to be interpreted in

changed conditions. A supreme court which fails to do this is not fulfilling its proper role as guardian of the constitution. It is abdicating its responsibility to ensure that the people of a country, including those least able to protect themselves, have the full measure of protection against the executive which a constitution exists to provide.

32. While it is recognized that some of these dicta are particularly directed to the interpretation of the fundamental rights provisions, I consider that nevertheless Section 17(3) of the Constitution must be interpreted in accordance with the spirit of these principles, especially as the right of the individual to respect for his private and family life has been enshrined as a fundamental right in section 4(c)..

33. In **Fisher**, for example, the words “child and step-child” found in the Bermudan Constitution were interpreted to include an illegitimate child. Their Lordships so held in reliance on the consistency of this interpretation with the fundamental right of “*respect for family life*”. (See page 114)

34. The defendants contend that:-

- a. Only individuals **born** to parents who are citizens of Trinidad and Tobago (otherwise than by descent) automatically become citizens of Trinidad and Tobago.
- b. The First Claimant was not born to Trinidadian parents. The First Claimant was adopted by Trinidadian parents.
- c. To bestow citizenship pursuant to this section would be to bestow a greater benefit on an individual adopted outside of Trinidad and Tobago than one who was adopted in our jurisdiction. **Section 16** of the **Citizenship Act** provides that an adopted

child shall become a citizen of Trinidad and Tobago from the date of the adoption order and not from birth as provided for in **Section 17** of the **Constitution**. If s. 17(3) applied to the First Claimant, it would mean that the First Claimant would be a citizen from the date of her birth.

35. It is considered that these are not arguments against a constitutional interpretation that is generous, purposive and consistent with this country's international treaty obligations.

All that is required for the citizenship of the first named applicant is an interpretation of the word *parent* as including *adoptive parent*.

36. The status of adoptive parent is equated with that of birth parent under the adoption acts of Trinidad, Jamaica, and the United Kingdom. The first named claimant has no other parent after the adoption order. The status of the first named applicant's adoptive parents as her de jure parents is recognized at common law.

37. The authorities demonstrate that such an interpretation is required by considerations of

- a. international comity,
- b. principle
- c. the common law
- d. principles of statutory interpretation,
- e. principles of constitutional interpretation.

Citizenship of the Second Claimant

38. The Claimants contend that the Second Claimant is entitled to be treated as a citizen of Trinidad of Tobago by virtue of the fact that he is the child of a citizen. In support of this contention the Claimants rely on **sections 5 and 8** of the **Citizenship Act**.

39. As the First Claimant is a citizen of Trinidad and Tobago, the Second Claimant likewise is therefore a citizen, as he claims his citizenship through descent from the First Claimant.

Legitimate expectation

40. The respondent contends that if the statutory provisions, properly construed, do not confer citizenship on the applicants, then the fact they had been issued with passports of the Republic of Trinidad and Tobago previously could confer no legitimate expectation that they should be issued such passports in future as they were not legally entitled to such.

41. The respondent contends therefore, and I accept, that the principle of legitimate expectation takes their case no further as they would be entitled to passports/ citizenship if their construction of the statutes/ Constitution is upheld, and not so legally entitled if it is not upheld. They could have no legitimate expectation to a passport if a passport could not be legally issued.

42. In the case of **Al Ghamdi v Canada (Minister of Foreign Affairs & International Trade) Ahmad Saeed Abdullah Al Ghamdi (Applicant) and the Minister of Foreign Affairs and International Trade (Respondent)** 2007 FC 559, 64 Imm. L.R. (3d) 67 the

Applicant was born in Canada to parents who were diplomats from Saudi Arabia. He was granted a Canadian passport which he held for three years, and a letter from the Canadian Government stating that he is a citizen. In applying for a new passport he was informed that he was not a citizen and could not therefore obtain a Canadian passport. The Court stated therein that:

“The Applicant has previously been issued a passport in error and has even been erroneously advised that he is a Canadian citizen by birth on Canadian soil. None of these circumstances can change the fact that he is not, as a matter of law, a citizen of Canada and therefore not entitled to a Canadian passport... An administrative error cannot change requirements prescribed in law.” (Emphasis added)

Interference with the Claimants’ Constitutional rights

43. The Claimants claim an infringement of their constitutional rights to freedom of movement under section 4(g) of the Constitution, and that the action of the Chief Immigration Officer has effected the arbitrary exile of both claimants from Trinidad and Tobago in contravention of section 5(1)(a).)

I do not accept that this is so.

Freedom of movement

44. The Honourable Kangaloo JA in the case of **Ferguson and Galbaransingh v the Attorney General of Trinidad and Tobago Civil Appeal 2010-185** at paragraph 59 of his judgment therein stated in relation to this right as follows:

“The right to freedom of movement set out in section 4(g) of the Constitution can be regarded as an essential component of the wider concept of liberty of man. To my mind it clearly includes the right to travel within, reside in and leave Trinidad and Tobago.”

45. I accept that the state has placed no deliberate or mandatory restriction on the Claimants’ right to move about as freely as they wish, and in fact nothing prevented their return to this jurisdiction, save for the concern that they might not be able to return to Canada, an issue that was dependent not on the defendants, but on the Canadian authorities.

Conclusion and Disposition

46. I find that the application of the relevant principles of constitutional interpretation leads to the conclusion that the first named applicant became a citizen of the Republic of Trinidad and Tobago by virtue of her adoption and the second named applicant became a citizen of the Republic of Trinidad and Tobago by descent. The decisions of the respondents are therefore based on an erroneous interpretation of the applicant’s rights and are therefore void. However no constitutional breach has occurred.

47. The following orders are accordingly granted:

- a) A Declaration is granted that the First Defendant's decision to seize, and his subsequent decision to refuse to restore, ("the decisions") to the First Claimant the First Claimant's Trinidad and Tobago Passport No. T678180 and the Trinidad and Tobago Passport No. T 1078403 ("the Passports") of her son, the Second Claimant, is illegal, and is *ultra vires*, invalid, null and void, and of no effect;
- b) An Order of Certiorari is granted to remove into this Court and quash the said decisions;
- c) A Declaration is granted that the First Claimant is a citizen of Trinidad and Tobago by reason the First Claimant's lawful adoption on the 25th May, 1983 by Trevor Anthony Jackson and Jean Umilta Jackson, citizens of the Republic of Trinidad and Tobago by birth;
- d) A Declaration is granted that the Second Claimant is a citizen of the Republic of Trinidad and Tobago by reason of the fact that he is born of a citizen of Trinidad and Tobago.
- e) A declaration is granted that the claimants are entitled to the renewal and /or the reissue of the said passports.
- f) Costs of this application are payable by the defendants to the claimants to be assessed in default of agreement.

g) Liberty to apply.

48. Finally, I wish to express the court's indebtedness to counsel for all parties and their teams for the diligence and industry which characterised their submissions and their invaluable assistance provided to the Court.

Dated this 7th day of June 2011.

Peter A. Rajkumar

Judge.