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NEWSLETTER - 159

ABSENCE OF 5 YEARS DOES NOT PREVENT CHILD FROM GETTING CITIZENSHIP ON 10TH BIRTHDAY

OVERVIEW:

In this case, Master Gurnoor Singh Sidhu was born in Australia on 21 March 2010. At the time of his birth, Sidhu's parents were not Australian citizens; they held temporary visas and were non-citizens residing in Australia. As per Australian law, children born to non-citizen parents in Australia are granted birthright citizenship, but they must meet specific criteria to acquire citizenship.

One such criterion is the requirement for the child to be an "ordinary resident" in Australia from birth up to their 10th birthday. The definition of an "ordinary resident" in the context of citizenship has been a subject of legal debate, leading to the need for clarification in this case.

KEY ISSUE:

The primary issue before the court was whether Sidhu met the definition of an "ordinary resident" in Australia and, as a result, was eligible to acquire Australian citizenship upon turning 10 years old. The Minister for Immigration, Citizenship and Multicultural Affairs argued that Sidhu's parents' temporary visa status and potential travel outside of Australia during the child's early years should disqualify him from being considered an "ordinary resident."

COURT'S DECISION:

Initially, that application was approved, and on June 3rd, 2020, a certificate proving citizenship was issued. But only a few weeks after that incident, there would appear to have been doubts about the validity of the administrative decision that had led to the issuance of that certificate within the department now overseen by the Minister for Immigration, Citizenship, and Multicultural Affairs. The father of Master Sidhu received word that the evidentiary certificate will be cancelled. A representative of the Minister determined on October 2, 2020 that Master Sidhu was ineligible for Australian citizenship and subsequently revoked the evidential certificate. Although Master Sidhu requested an internal review of the choice, it was unsuccessful. On February 24, 2022, a further representative of the Minister decided to affirm the cancellation decision.

RESOLUTION OF THE APPEAL:

In a historic decision, the court ruled in favor of Sidhu and his litigation representative, Kaur. The court held that temporary visa status alone should not preclude a child born in Australia from being recognized as an "ordinary resident." The court considered various factors, including Sidhu's continuous presence in Australia, his education, community involvement, and family ties, to conclude that he indeed met the definition of an "ordinary resident" in Australia.

CAPSTONE RESTRUCTURE COMMENCING OCTOBER 2023

Beginning in October 2023, changes to the format and delivery of the Migration Agents Capstone Assessment (Capstone) will be made. The adjustments include:

- combining the two written tests that are currently given into one written test
- expanding the oral examination
- lowering the Capstone's price from \$2690 to \$2156
- lowering the annual intakes from four (4) to three (3).

JUDGE, COMMONWEALTH TO PAY MAN \$300K FOR FALSE IMPRISONMENT

For the false incarceration of a man on a "invalid" order, a federal judge, the state of Queensland, and the Commonwealth have been forced to pay slightly under \$310,000 in damages.

Father-of-two's imprisonment for contempt of court in December 2018 after he failed to provide financial records in a marital lawsuit was judged to include "serious and fundamental issues" by Judge Salvatore Paul Vasta in the then-Federal Circuit Court.

The guy, who was given the alias Mr. Stradford, received a 12-month prison sentence, but only spent seven days in jail before the "gross miscarriage" was overturned by the Federal Court's entire bench.

LAW STUDENT CAUGHT WITH GUNS MAKES PLEA FOR EMPLOYMENT

An ambitious lawyer who was found guilty of owning unlicensed firearms has requested a tribunal to permit him to work at a boutique law firm.

A final-year bachelor of laws student requested that the NSW Civil and Administrative Tribunal (NCAT) consider authorising her employment as a legal secretary at a Central Coast and Newcastle-based firm, neither of which will be named in light of the decision.

The student, who was in his late 20s, was apprehended by police about five years ago while in possession of two rifles that belonged to his late grandfather and two pistols that a sick buddy had entrusted to him. None of the four weapons had been registered, despite the fact that he held a firearms licence.

The student will neither "pose a risk to the public and nor will his employment have a negative impact upon the integrity of the legal profession," according to NCAT, who also noted the student's regret over his offence and the age at which he did it.

The student was accepted as a lay associate, but before entering the legal industry, he will need to submit a new application.

OUTGOING DPP SHANE DRUMGOLD LAUNCHES PROCEEDINGS AGAINST ACT BOARD OF INQUIRY

Former Director of Public Prosecutions of the ACT Shane Drumgold has filed a lawsuit against a board of inquiry that found "several serious findings of misconduct" against him.

The ACT Supreme Court has set the lawsuit brought by Mr. Drumgold against the board of inquiry for September 14th.

It followed the publication of a report by inquiry chair and former Queensland solicitor-general Walter Sofronoff, which found that the abandoned prosecution of Bruce Lehrmann over claims that he had raped Brittany Higgins constituted a "egregious abuse" of the DPP position.

Mr. Lehrmann is still denying the accusations.

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