

Date Filed: 2019.01.28
Time: 11:50

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-^{CJU}FDA-29

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

INFORMATION FOR COURT USE

1. This proceeding is commenced as a:

Statement of Claim

Fixed Date Application

2. This proceeding falls under the High Court's:

Appellate Jurisdiction

Admiralty Jurisdiction

Commercial Jurisdiction

Criminal Jurisdiction

Family Jurisdiction

Regular Jurisdiction (must check one of these boxes and, except where proceeding is under the regular jurisdiction of the Court, must specify the applicable jurisdiction in the General Heading (Form 4A))

3. The proceeding is a(n):

Admiralty Proceeding in personam

Admiralty Proceeding in rem

Probate Proceeding

Proceeding for Judicial Review

Proceeding for relief under the Constitution

Proceeding for other Administrative Order

Proceeding for Administration


Proceeding commenced under (name of Act)

Other Proceeding



4. I certify that the above information is correct, to the best of my knowledge.

8 January 2019


.....
Kamal Ramkarran
Attorney-at-Law



IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

INFORMATION FOR COURT USE

Kamal Ramkarran
Cameron & Shepherd
2 Avenue of the Republic,
Georgetown,
Tel: 226 2671-3
Fax: 226 7809
Email: csmain@cameronandshepherd.com

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

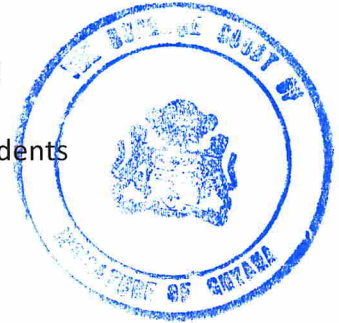
and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

FIXED DATE APPLICATION



URGENT/WITH NOTICE

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant is set out in the following pages.

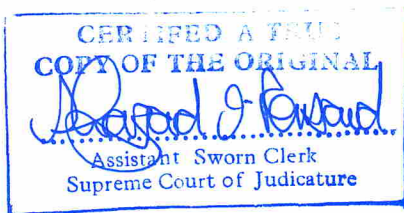
THIS APPLICATION will come on for a hearing on the ^{15th} day of January 2019 at 2:30 pm at the High Court before the Honourable *Madam Chief Justice*

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an attorney-at-law acting for you must forthwith prepare an Affidavit in Defence in Form 10C prescribed by the Civil Procedure Rules 2016, serve it on the Applicant's attorney-at-law or, where the Applicant does not have an attorney-at-law, serve it on the Applicant, and file it, with proof of service, at a Registry, AT LEAST FOUR DAYS before the date fixed for the hearing of the application, and you or your attorney-at-law must appear at the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER OR JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

THIS NOTICE OF APPLICATION has no validity unless it is served on you at least seven days before the date fixed for the hearing of the application.

Date: 8/11/2019



Signature of Registry

Issued by: S. Sampson

Address of Registry where issued: Law Courts, Georgetown

2019/10/08

**TO: THE ATTORNEY GENERAL
95 CARMICHAEL STREET, GEORGETOWN**

**THE LEADER OF THE OPPOSITION
CHURCH STREET, GEORGETOWN**



APPLICATION

1. The Applicant makes application for:
 - (1) A declaration that on 21 December 2018 the National Assembly of Guyana properly, validly and lawfully passed a motion on a vote of confidence provided for by Article 106(6) of the Constitution in which the Government was defeated;
 - (2) A declaration that the passage of the motion provided for by Article 106(6) of the Constitution by the National Assembly on 21 December 2018 requires the resignation of the Cabinet including the President with all convenient speed;

(3) A declaration that, in accordance with Article 106(7) of the Constitution, the Government constituted and comprised of the 33 elected members of the National Assembly coming from the coalition between A Partnership for National Unity and Alliance for Change elected at national and regional elections in 2015, excluding the Cabinet including the President who shall resign with all convenient speed, shall remain in office until after the President takes the oath of office following elections to be held within 90 days of 21 December 2018 or within such extended period as the National Assembly shall determine by resolution supported by not less than two-thirds of the votes of all elected members;

(4) A declaration that the passage of the motion provided for by Article 106(6) of the Constitution by the National Assembly on 21 December 2018 requires that national and regional elections in Guyana be held no later than Thursday, 21 March 2019, that date being the ninetieth day from 21 December 2018;

(5) An order that all timelines prescribed by the Civil Procedure Rules 2016 be abridged as necessary in order that these proceedings be dealt with and determined in the shortest possible time as being of the most urgent public nature.

2. The grounds for the application are:

(1) On 21 December 2018, on a vote of all the elected members of the National Assembly, the Government was defeated on a vote of confidence brought on a motion in the name of the Leader of the Opposition, which motion was passed with 33 votes in favour of it and 32 votes against.

(2) Article 106(6) of the Constitution provides in imperative terms for the Cabinet including the President, which term is defined by Article 106(1) of the Constitution, to



resign if the Government is defeated on a vote of confidence.

(3) Section 39 of the Interpretation and General Clauses Act, which is specifically applicable to constitutional interpretation by virtue of Article 232(9) of the Constitution, provides that where no time is prescribed or allowed in a written law within which anything shall be done, such thing shall be done with all convenient speed.

(4) Eighteen days have elapsed since the defeat of the Government on 21 December 2018 and neither the President nor Cabinet has expressed an intention to resign and no date prior to or on 21 March 2019 has been fixed for national and regional elections nor has a resolution supported by no less than two-thirds of the National Assembly determined that elections should be held within a longer period.

(5) The failure of the Cabinet including the President to resign with all convenient speed and a date for elections fixed no later than 21 March 2019 has led the country into uncertainty and will lead to a constitutional crisis if neither of those things happen in accordance with the provisions of the Constitution by 21 March 2019.

The following documentary evidence will be used at the hearing of the application:

(1) Affidavit of Christopher Ram sworn to on 8 January 2019

8 January 2019



.....

Kamal Ramkarran, Attorney-at-Law

Cameron & Shepherd, 2 Avenue of the Republic,

Georgetown Tel: 226 2671

Email: csmain@cameronandshepherd.com

Attorney-at-Law for the Claimant of 161 Lodge Housing Scheme,
Georgetown

The Registry is located at The Law Courts Georgetown, Demerara. The office is open to the public between 8:30 a.m. and 3:30 p.m. Mondays to Thursdays and 8:30 a.m. and 2:30 p.m. on

Fridays, except holidays.



IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

FIXED DATE APPLICATION

Kamal Ramkarran
Cameron & Shepherd
2 Avenue of the Republic,
Georgetown,
Tel: 226 2671-3
Fax: 226 7809
Email: csmain@cameronandshepherd.com

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents



NOTICE OF APPOINTMENT OF ATTORNEYS-AT-LAW

The Applicant has appointed Kamal Ramkarran as the Applicant's Attorney-at-Law of record.

Dated 8 January 2018



Christopher Ram

Kamal Ramkarran
Cameron & Shepherd, 2 Avenue of the Republic,
Georgetown
Tel: 226 2671 Email: csmain@cameronandshepherd.com

To: The Attorney General
95 Carmichael Street, Georgetown

The Leader of the Opposition
Church Street, Georgetown

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

NOTICE OF APPOINTMENT OF ATTORNEYS-AT-LAW

Kamal Ramkarran
Cameron & Shepherd
2 Avenue of the Republic,
Georgetown,
Tel: 226 2671-3
Fax: 226 7809
Email: csmain@cameronandshepherd.com

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents



AFFIDAVIT OF CHRISTOPHER RAM

I, CHRISTOPHER RAM, of 157 "C" Waterloo Street, Georgetown MAKE OATH AND SAY:

1. I am a citizen of the United Kingdom and of Guyana and I am registered to vote at elections in Guyana.
2. I am deeply interested in the rule of law and in compliance with the provisions of the Constitution by the State.
3. In this regard, I have observed that the Cabinet including the President has not complied with the provisions of Article 106(6) and 106(7) of the Constitution since the defeat of the Government on a vote of confidence in the National Assembly on 21 December 2018 to which I refer more fully below.
4. I make this affidavit in support of the fixed date application filed by me in these proceedings.
5. The matters to which I herein depose are within my personal knowledge.

6. On 21 December 2018, on a vote of all the elected members of the National Assembly, the Government was defeated on a vote of confidence brought on a motion in the name of the Leader of the Opposition, which motion was passed with 33 votes in favour of it and 32 votes against.

7. I am advised by my Attorney-at-Law and verily believe that Article 106(6) of the Constitution provides in imperative terms for the Cabinet including the President, which term is defined by Article 106(1) of the Constitution, to resign if the Government is defeated on a vote of confidence.

8. I am also advised by my Attorney-at-Law and verily believe that section 39 of the Interpretation and General Clauses Act, which is specifically applicable to constitutional interpretation by virtue of Article 232(9) of the Constitution, provides that where no time is prescribed or allowed in a written law within which anything shall be done, such thing shall be done with all convenient speed.

9. Today is the eighteenth day since the defeat of the Government on 21 December 2018 and neither the Cabinet nor the President has expressed a public intention to resign nor fixed a date prior to or on 21 March 2019 for the holding of national and regional elections nor has a resolution supported by no less than two-thirds of the National Assembly determined that elections should be held after an extended period.

10. The failure of the Cabinet including the President to resign with all convenient speed and to fix a date for elections no later than 21 March 2019 has led the country into uncertainty and will lead to a constitutional crisis if neither of those things happen in accordance with the provisions of the Constitution by 21 March 2019.



11. A constitutional crisis, and the uncertainty and instability resulting from it, is likely to cause investors to be reluctant to invest in Guyana and could have dire consequences for democracy and the rule of law in Guyana, for the economy and for the international reputation of the country.

12. I am aware that there are several arguments which have been made in support of the contention that the motion on the vote of confidence was not passed on 21 December 2018.

Among those are the following contentions:

- As a result of the use of the words “the vote of a majority of all the elected members of the National Assembly” in article 106(6) of the Constitution, the motion required 34 and not 33 votes to pass; and,
- Charrandass Persaud, an elected member of the National Assembly on the Government list who voted in favour of the passage of the motion, is a citizen of Canada and, as a result, was not entitled to vote at the National Assembly.

13. On the first contention, I am advised by my Attorney-at-Law and I verily believe that both on a grammatical and ordinary meaning of the words “the vote of a majority of all the elected members of the National Assembly” in article 106(6) of the Constitution as well as on a technical meaning of the words in the general context of the Constitution, the votes of 33 members of the National Assembly constitute the vote of a majority of all the elected members of the National Assembly.

14. I am also advised by my Attorney-at-Law and verily believe that, on the first contention, motions and bills brought in the National Assembly have from time immemorial passed on a majority of the votes of 33 members of the 65 member National Assembly. I am also aware that in the National Assembly between 2011 and 2015 matters brought by the Government were

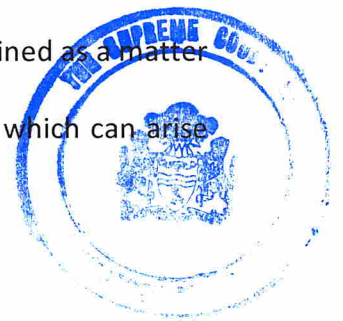


defeated by the opposition which held a majority of 33 members in the National Assembly and between 2015 and 2018, matters brought by the Government were passed in the National Assembly on the Government's majority of 33 members in the National Assembly.

15. On the second contention, I am advised by my Attorney-at-Law and I verily believe that, even if it were proven that Charrandass Persaud were a citizen of Canada and established that such citizenship disqualified him from membership of the National Assembly, the fact that he made and subscribed before the National Assembly to the oath of office in accordance of Article 167 of the Constitution meant that he was validly elected as a member of the National Assembly and a later declaration by a Court that he was not entitled to be elected as a member of the National Assembly cannot, in accordance with Article 165(2) of the Constitution, invalidate any proceedings in the National Assembly, including the passage of the motion.

16. I am also advised by my Attorney-at-Law and verily believe that on the second contention, even if it were if it were proven that Charrandass Persaud were a citizen of Canada and established that such citizenship disqualified him from membership of the National Assembly, Article 158 of the Constitution provides the penalty where a person sits or votes in the National Assembly knowing or having reasonable ground for knowing that he is not entitled to do so and where an Act sets out specific penalties it is presumed that those are intended to be the only ones available.

17. The resolution of this matter as quickly as possible is of the most urgent national importance in order to avoid a constitutional crisis in Guyana and it is my application that all timelines be abridged as necessary in order that the proceedings can be determined as a matter of utmost priority so as to prevent the country from suffering the dire effects which can arise from a constitutional crisis and the ensuing chaos, confusion and uncertainty.



18. Attached hereto is:

(1) A copy of the letter written by the Clerk of the National Assembly to the Leader of the Opposition informing him of the result of the vote marked "CR1"; and

(2) A copy of the resolution passed by the National Assembly as a result of the vote marked "CR2".

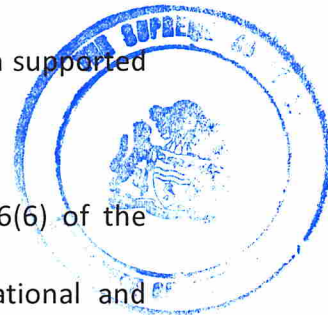
19. I therefore make application for:

(1) A declaration that on 21 December 2018 the National Assembly of Guyana properly, validly and lawfully passed a motion on a vote of confidence provided for by Article 106(6) of the Constitution in which the Government was defeated;

(2) A declaration that the passage of the motion provided for by Article 106(6) of the Constitution by the National Assembly on 21 December 2018 requires the resignation of the Cabinet including the President with all convenient speed;

(3) A declaration that, in accordance with Article 106(7) of the Constitution, the Government constituted and comprised of the 33 elected members of the National Assembly coming from the coalition between A Partnership for National Unity and Alliance for Change elected at national and regional elections in 2015, excluding the Cabinet including the President which shall resign with all convenient speed, shall remain in office until after the President takes the oath of office following elections to be held within 90 days of 21 December 2018 or within such extended period as the National Assembly shall determine by resolution supported by not less than two-thirds of the votes of all elected members;

(4) A declaration that the passage of the motion provided for by Article 106(6) of the Constitution by the National Assembly on 21 December 2018 requires that national and



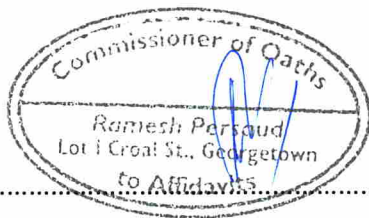
regional elections in Guyana be held no later than Thursday, 21 March 2019, that date being the ninetieth day from 21 December 2018;

(5) An order that all timelines prescribed by the Civil Procedure Rules 2016 be abridged as necessary in order that these proceedings be dealt with and determined in the shortest possible time as being of the most urgent public nature.

20. This affidavit was drawn by Kamal Ramkarran, Attorney-at-Law for the Applicant, whose address for service is Cameron & Shepherd, Attorneys-at-Law, 2 Avenue of the Republic, Georgetown; Tel: 226 2671; Email: csmain@cameronandshepherd.com, and is filed on behalf of the Applicant.

Sworn to before me at Georgetown, Demerara

on the 8th day of January, 2019



COMMISSIONER OF OATHS TO AFFIDAVITS

A blue ink handwritten signature, appearing to read "CHRISTOPHER RAM".

CHRISTOPHER RAM





PARLIAMENT
OF THE CO-OPERATIVE REPUBLIC OF
GUYANA

PARLIAMENT OFFICE,
PUBLIC BUILDINGS,
BRICKDAM,
GEORGETOWN,
GUYANA.

Tel: (592) 226-8456-9

24th December, 2018.

Mr. Bharrat Jagdeo, M.P.,
Leader of the Opposition,
Office of the Leader of the Opposition,
Church Street,
Georgetown.

THIS is the Document marked **CR 1**
referred to in the foregoing affidavit
of **Alan**, Sworn before
me this **21st** day of **Jan**
2019

A Commissioner of Oaths.

Dear Sir,

This is to inform you that the motion of No-Confidence in the Government of Guyana was considered and was passed in the National Assembly on Friday, 21st December, 2018, on the following division:

FOR

Mr. Bharrat
Ms. Veerasammy
Mr. Gill
Mr. Anamayah
Mr. Dharamlall
Mr. Charlie
Mr. Damon
Dr. Mahadeo
Mr. Chand
Mr. Neendkumar
Mrs. Pearson-Fredericks
Mr. G. Persaud
Mr. Mustapha

AGAINST

Mr. Rutherford
Mr. Rajkumar
Mr. Figueira
Mr. Carrington
Mr. Allen
Mr. Adams
Ms. Bancroft
Ms. Wade
Ms. Patterson
Dr. Henry
Mrs. Charles-Broomes
Dr. Cummings
Mr. Sharma

FOR

Ms. Selman
Dr. Westford
Mrs. G. Persaud
Dr. Ramsaran
Mr. Croal
Mr. Hamilton
Mrs. Chandarpal
Dr. V. Persaud
Mr. Seeraj
Bishop Edghill
Mr. Lumumba
Mrs. Campbell-Sukhai
Dr. Anthony
Ms. Manickchand
Mr. Nandlall
Mr. Ali
Ms. Teixeira
Mr. Rohee
Mr. Jagdeo
Mr. C. Persaud

33


AGAINST

Mrs. Garrido-Lowe
Mrs. Ferguson
Mrs. Hastings-Williams
Mr. Holder
Mr. Gaskin
Mrs. Hughes
Mr. Patterson
Mrs. Lawrence
Mr. Trotman
Mr. Jordon
Dr. Norton
Mr. Bulkan
Dr. Roopnaraine
Lt. Col. (Ret'd) Harmon
Ms. Ally
Mr. Williams
Mr. Ramjattan
Mr. Greenidge
Mr. Nagamootoo

32

A copy of the Resolution is attached.

Yours sincerely,


.....
S.E. ISAACS, A.A.,
Clerk of the National Assembly

**CLERK OF THE
NATIONAL ASSEMBLY**


**Copies: Hon. Moses Nagamootoo, J.P., M.P.,
 First Vice-President and Prime Minister**

**Hon. Anna Ally, M.P.,
Minister of Social Protection and Government Chief Whip**

**Ms. Gail Teixeira, M.P.,
Opposition Chief Whip**



THIS is the Document marked CR2
referred to in the foregoing affidavit
of C. Ram, Sworn before
me this 21st day of Jan
2018


A Commissioner of Oaths.

ELEVENTH PARLIAMENT OF GUYANA
FIRST SESSION (2015-2018)
NATIONAL ASSEMBLY

RESOLUTION NO. 101

RESOLVED,

That this National Assembly has no confidence in the Government.

Passed by the National Assembly on 21st December, 2018


CLERK OF THE
NATIONAL ASSEMBLY

S.E. ISAACS, A.A.,
Clerk of the National Assembly

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

AFFIDAVIT OF CHRISTOPHER RAM

Kamal Ramkarran
Cameron & Shepherd
2 Avenue of the Republic,
Georgetown,
Tel: 226 2671-3
Fax: 226 7809
Email: csmain@cameronandshepherd.com

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CIVIL JURISDICTION

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-

BETWEEN:

CHRISTOPHER RAM

Applicant

and

1. THE ATTORNEY GENERAL

2. THE LEADER OF THE OPPOSITION

Respondents

BEFORE THE HONOURABLE
MADE THE DAY OF 2019

Kamal Ramkarran for the Applicant
for the first Respondent
for the second Respondent



JUDGMENT

THIS APPLICATION was heard this day at the Law Courts, Georgetown.

ON READING the application and affidavit of evidence sworn to by Christopher Ram on 8 January 2019 and the affidavit of evidence of and on hearing the submissions of the Attorneys-at-law for the Applicant and the Respondents

IT IS DECLARED that on 21 December 2018 the National Assembly of Guyana properly, validly and lawfully passed a motion on a vote of confidence provided for by Article 106(6) of the Constitution in which the Government was defeated;

AND IT IS DECLARED that the passage of the motion provided for by Article 106(6) of the Constitution by the National Assembly on 21 December 2018 requires the resignation of the Cabinet and the President with all convenient speed;

AND IT IS DECLARED that, in accordance with Article 106(7) of the Constitution, the Government constituted and comprised of the 33 elected members of the National Assembly coming from the coalition between A Partnership for National Unity and Alliance for Change elected at national and regional elections in 2015, excluding the Cabinet including the President who shall resign with all convenient speed, shall remain in office until after the President takes the oath of office following elections to be held within 90 days of 21 December 2018 or within such extended period as the National Assembly shall determine by resolution supported by not less than two-thirds of the votes of all elected members

AND IT IS DECLARED that the passage of the motion provided for by Article 106(6) of the Constitution by the National Assembly on 21 December 2018 requires that national and regional elections in Guyana be held no later than Thursday, 21 March 2019, that date being the ninetieth day from 21 December 2018;

AND IT IS ORDERED THAT all timelines prescribed by the Civil Procedure Rules 2016 be abridged as necessary in order that these proceedings be dealt with and determined in the shortest possible time as being of the most urgent public nature.



IF YOU FAIL TO COMPLY WITH THE TERMS OF THIS ORDER, YOU WILL BE IN CONTEMPT OF COURT AND MAY BE LIABLE IMPRISONMENT OR TO HAVE YOUR ASSETS CONFISCATED.

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA

CONSTITUTIONAL AND ADMINISTRATIVE DIVISION

2019-HC-DEM-CJW- FDA-29

BETWEEN:

CHRISTOPHER RAM

Applicant

and

- 1. THE ATTORNEY GENERAL**
- 2. THE LEADER OF THE OPPOSITION**

Respondents

DRAFT ORDER

Kamal Ramkarran
Cameron & Shepherd
2 Avenue of the Republic,
Georgetown,
Tel: 226 2671-3
Fax: 226 7809
Email: csmain@cameronandshepherd.com