

**BETWEEN:** Zheng Wu Wei  
Claimant

**AND:** Minister of Internal Affairs  
First Defendant  
Vanuatu Immigration Services  
Second Defendant

*Date:* 17 January 2019  
*Before:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr W Zheng, in person

---

**JUDGMENT**

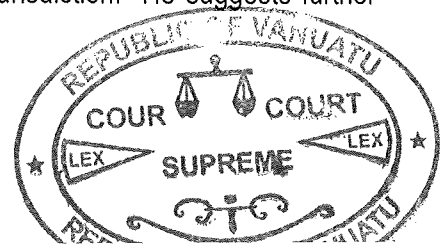
---

A. Introduction

1. Mr Zheng, without the benefit of legal advice, has filed an Urgent Application for Judicial Review and *ex parte* Restraining Orders. He has filed sworn statements in support and statements as to Urgency. He complains of what amounts to a conspiracy to deport him illegally and without good reason from Vanuatu – and he maintains he has good reason to stay.

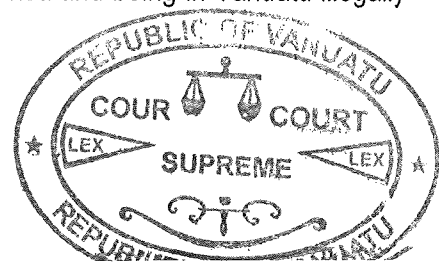
B. Background

2. Mr Zheng was permitted to work in Vanuatu by dint of a 2-year Special Category Visa granted to him on 23 March 2016 – he was the General Manager for Vanuamadia Digital Media Limited (“Vanuamadia”), a company set up in conjunction with Vanuatu Broadcasting and Television Limited (“VBTL”).
3. Mr Zheng states that, while on holiday and out of Vanuatu on 23 March 2018, VBTL made application to liquidate Vanuamadia. Mr Zheng maintains there is something sinister about the timing of the application, especially while he was out of the jurisdiction. He suggests further



that VBTL and the Immigration authorities are working together to oust him from the jurisdiction.

4. Mr Zheng completed his holiday and returned to Vanuatu on 16 April 2018. His application, made on arrival, for an extension or renewal of his Special Category visa was declined. Instead he was permitted to apply for a Visitor's visa, which was duly granted.
5. Almost immediately, Mr Zheng received a Penalty Notice requiring him to pay a fine of VT 200,000 for working contrary to his Visitor's visa.
6. On 19 April 2018, it appears he was visited by Immigration officers who demanded and eventually took away his Passport, telling Mr Zheng that he was not permitted to work in Vanuatu.
7. On 14 May 2018, Mr Zheng was told by Immigration personnel to leave Vanuatu within 2 days. Mr Zheng sought legal advice and Mr J Malcolm wrote to the Principal Immigration Officer and the Minister of Internal Affairs asking for a review of Mr Zheng's status, the return of Mr Zheng's passport and seeking an extension of his former Special Category Visa.
8. Mr Zheng was given back his passport the following day having paid his penalty of VT 200,000. He was told that he should leave Vanuatu by the following day.
9. The same day, Mr Zheng instructed Mr D Yahwa to also send a letter to the Principal Immigration Officer and the Minister of Internal Affairs, again asking for his former Special Category visa to be re-instated.
10. On 18 May 2018, Mr Zheng was given a second Penalty Notice for working contrary to his Visitor's visa, this time for VT 250,000. Mr Zheng then applied to the Minister for Internal Affairs for a Review of the decision to impose the Penalty, and asking that the previous decision to decline his Special Category visa be reversed.
11. On 25 June 2018, Mr Zheng received formal advice from the Acting Director of Immigration Services that he had been declared a "prohibited immigrant", and urging him to leave Vanuatu voluntarily.
12. By order of the Supreme Court Vanuamadia was put into Liquidation on 6 August 2018; which decision was upheld by the Court of Appeal on 16 November 2018. The effect of those decisions is that Mr Zheng's purpose for residing in Vanuatu to continue the Vanuamadia set-up was no longer sustainable. However Mr Zheng maintains that the Liquidator is not properly attending to the liquidation, and that the investors who contributed US\$ 4.3 million were not being protected as they should. He submits he needs to be able to remain in Vanuatu to deal with those matters; and he intends shortly to launch litigation against the Liquidator's conduct.
13. On 31 December 2018 Mr Zheng received a Removal Notice from the Minister of Internal Affairs, advising of his intention to remove Mr Zheng and affording him 14 days to explain why such removal should not take place. The Notice cites 4 transgressions by Mr Zheng – incorrectly alleging that he had failed to pay his Penalty fees; but on more solid grounds also citing his failure to apply for a new visa, working contrary to visa and being in Vanuatu illegally since the expiry of his visa.



14. On 14 January 2019, Mr Zheng was visited by Immigration officials who arrested him and took away his passport, ostensibly until Mr Zheng gave his explanation to the Minister as to why he should not be removed.

C. Remedy Sought

15. Mr Zheng sought the return of his passport, an order requiring Vanuatu Immigration Services to issue him with a valid visa such that he could conclude his business activities in Vanuatu, an order prohibiting his removal from Vanuatu until his business activities were completed, an order quashing the VT 200,000 and VT 250,000 Penalty Notices, and an order quashing the 31 December 2018 Removal Notice.

D. Discussion

16. The validity of the two Penalty Notices is questionable. The documents purport to rely on Part 4 of the Immigration Act No. 17 of 2012. I am unable to find such an Act. This may just be a typo – the actual year being 2010. However, the provisions relied upon to justify the imposition of the fines, namely section 21(3)(b) do not fit the bill. At this stage, as this an ex parte application, and while I am minded to grant the application, I reserve the issue for a response from Crown Law in due course.

17. It seems inappropriate, without knowing the full circumstances, to direct the grant of a visa to Mr Zheng or to quash the Removal Notice. Again, some input from Crown Law is required as to these aspects.

18. Mr Zheng has not been treated according to the law. Twice his passport has been taken off him without any lawful justification. As well, when he sought a formal review, the Minister was obliged by law, namely section 58(5) and (6) of the Immigration Act No. 17 of 2010 to make a decision, record it in writing and to advise Mr Zheng of that decision by delivering a copy of it to him. If the decision were not to Mr Zheng's liking, then he has a final right of appeal to the Supreme Court.

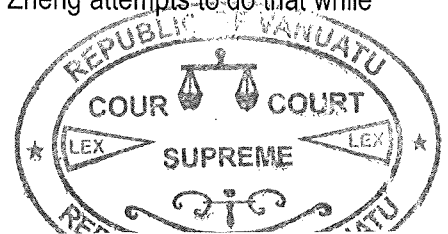
19. In this instance, there appears to have been no response whatever by the Minister to the Review application. That is a breach of Mr Zheng's rights. He has been denied the Minister's decision and the ability to appeal such decision. It matters not that the Minister's attitude is quite plain from his subsequent actions. He has an absolute obligation to comply with the requirement of the Immigration Act.

E. Decision

20. Mr Zheng's passport is to be returned to him forthwith. It is not to be again removed from him.

21. Prior to taking any further action to remove Mr Zheng from Vanuatu the Minister of Internal Affairs is to comply with section 58(5) and (6) of the Immigration Act - and to complete that task within 10 days.

22. This Court cannot grant Mr Zheng a Special Category visa. Accordingly, he is not presently permitted to work in Vanuatu. Even though he may wish to take the Liquidator of Vanuamadia to task for his handling of the liquidation, that is an offence if Mr Zheng attempts to do that while



in Vanuatu. If he wants to take those steps, he needs to have the appropriate status in Vanuatu – or do it from overseas.

23. There will be a conference at 8am on 6 February 2018 for Crown Law to advise their position in relation to this case as a whole.

24. This decision is to be served on Crown Law forthwith.

25. There is no order as to costs.

Dated at Port Vila this 17th day of January 2019

BY THE COURT

*G.A. Andrée Wiltens*  
Justice G.A. Andrée Wiltens

