

**Decision on application for
referral to the Guidance and
Appeals Panel**

Applicant: [GAP-AAA]
Respondents: [GAP-AAB]; Child Support Registrar
Tribunal Number: 2024/BC027893
GAP Reference Number: 2024-001-026
Decision-maker: Justice Kyrou, President
Place: Melbourne
Date: 6 December 2024

Decision:

1. The applicant's application for an oral hearing of the application for referral to the Guidance and Appeals Panel of the Tribunal's decision made on 25 October 2024 is refused.
2. The applicant's application to refer the Tribunal's decision made on 25 October 2024 to the Guidance and Appeals Panel is refused.
3. The applicant's application to stay the operation of the Tribunal's decision made on 25 October 2024 is refused.

.....[sgd].....

Justice Kyrou, President

Catchwords

PRACTICE AND PROCEDURE – application for referral of a Tribunal decision to the Guidance and Appeal Panel for further review – application for oral hearing of referral application – application for stay order – meaning of ‘may contain an error of fact or law’ – meaning of ‘materially affecting the Tribunal decision’ – discretionary considerations relevant for referral to the Guidance and Appeals Panel – application for oral hearing refused – application for referral refused – application for stay order refused

Legislation

Administrative Review Tribunal Act 2024

Cases

Hossain v Minister for Immigration and Border Protection (2018) 264 CLR 123

LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2024] HCA 12

Minister for Immigration and Border Protection v SZMTA (2019) 264 CLR 421

MZAPC v Minister for Immigration and Border Protection (2021) 273 CLR 506

Nathanson v Minister for Home Affairs (2022) 276 CLR 80

Secondary Materials

Revised Explanatory Memorandum, Administrative Review Tribunal Bill 2024

Names used in this published decision are pseudonyms. Any references appearing in square brackets indicate that information has been removed from this decision and replaced with generic information so as not to identify involved individuals as required by subsections 16(2AB)-16(2AC) of the *Child Support (Registration and Collection) Act 1988*.

Statement of Reasons

INTRODUCTION

1. These reasons deal with an application under s 124(1) of the *Administrative Review Tribunal Act 2024* ('ART Act') by the applicant for referral, pursuant to s 128(1), to the Guidance and Appeals Panel ('GAP') of a decision made by the Tribunal on 25 October 2024 ('Tribunal Decision').¹
2. Section 128(1) of the ART Act provides that if a person applies to refer a Tribunal decision to the GAP, 'the President may refer the Tribunal decision to the [GAP] or refuse the application.' Section 128(2)(b) provides that the President 'may refer the Tribunal decision to the [GAP] if the President is satisfied that ... the Tribunal decision may contain an error of fact or law materially affecting the Tribunal decision.' Section 128(2)(a) provides for referral to the GAP of Tribunal decisions which raise 'an issue of significance to administrative decision-making'. These reasons are confined to s 128(2)(b) because s 128(2)(a) is not presently relevant.
3. Where a decision is made under s 128(1) of the ART Act to grant or refuse an application to refer a Tribunal decision to the GAP by the President or a member to whom the power to make such a decision has been delegated by the President,² the President is not required by the ART Act to provide reasons for their decision. That is because such a decision does not fall within ss 111(1) or 112(1) of the ART Act, which deal with the provision of a statement of reasons by the Tribunal. Further, s 112(2) expressly provides that s 112 does not apply to a decision under s 128.
4. The absence of a requirement in the ART Act for the President to provide reasons for a referral decision recognises two important practical considerations. First, if detailed reasons are provided for a decision that a Tribunal decision be referred to the GAP based on a finding that it may contain an error of fact or law materially affecting it, there may be a perception that the finding may pre-empt the outcome of the review by the GAP. Conversely,

¹ The cover sheet to the Tribunal Decision is dated 11 October 2024. That is the date of the hearing rather than the date the Tribunal Decision was made.

² References below to 'the President' include a delegate.

if detailed reasons are provided for a decision that a Tribunal decision not be referred to the GAP based on a finding that it did not contain an error of law materially affecting it, the finding may discourage a party adversely affected by the decision from appealing to the Federal Court. Further, if that party does appeal, there may be some awkwardness in the President making detailed findings on matters to be decided by the Court.

5. Secondly, the Tribunal's statutory objective in s 9(b) and (e) of the ART Act requires it to provide an independent mechanism of review that: ensures that applications to the Tribunal are resolved as quickly, and with as little formality and expense as a proper consideration of the matters before the Tribunal permits; and promotes public trust and confidence in the Tribunal. The Tribunal has inherited from its predecessor, the Administrative Appeals Tribunal ('AAT'), a large volume of cases awaiting hearing and determination. The Tribunal's efforts to hear and determine outstanding cases, and achieve its statutory objective, would not be advanced if the President were required to provide detailed reasons in respect of referral decisions in addition to the reasons provided by the Tribunal for the initial Tribunal decision and, where a decision to refer to the GAP is made, the reasons for the GAP decision.
6. Having regard to the above considerations, a decision under s 128(1) of the ART Act will usually be communicated to the parties by a notice of decision in accordance with s 129(2) rather than by a decision and a statement of reasons. I have departed from the usual position in the present case because it provides the first opportunity to set out some general principles to assist parties in other cases who may be considering making an application for referral in reliance on s 128(2)(b), and delegates who may be required to make decisions in relation to such applications. The general principles are neither comprehensive nor exhaustive. They are also not prescriptive, as each case must be considered on its own merits. Further, the general principles may be refined with the benefit of further experience in dealing with applications for referral to the GAP.
7. The general principles address the following issues:
 - (a) the granting of a request for an oral hearing of an application to refer a Tribunal decision to the GAP;
 - (b) the granting of an application for a stay of a Tribunal decision the subject of an application for referral to the GAP;

- (c) the meaning of the phrase ‘the Tribunal decision may contain an error of fact or law’ in s 128(2)(b) of the ART Act;
- (d) the meaning of the phrase ‘materially affecting the Tribunal decision’ in s 128(2)(b) of the ART Act; and
- (e) the discretionary considerations that may inform a decision whether to grant an application for referral to the GAP.

GRANTING AN ORAL HEARING FOR A REFERRAL APPLICATION

8. Paragraph 6.2 of the *Administrative Review Tribunal (Guidance and Appeals Panel) Practice Direction 2024* (‘GAP Practice Direction’) states that the President will determine whether to grant or refuse a referral request without conducting an oral hearing except where a party seeks an oral hearing and the President determines an oral hearing is necessary in the interests of justice. This approach is informed by the need to determine whether matters will be referred to the GAP as quickly as the circumstances of each case permit and to avoid a multiplicity of hearings and the additional costs and delays associated with them.
9. I have already referred to the Tribunal’s statutory objective in s 9(b) and (e) of the ART Act. If an oral hearing is granted for a referral application and a Tribunal decision is referred to the GAP, there would potentially be three oral hearings: the hearing resulting in the Tribunal decision, the hearing of the referral application, and the hearing before the GAP. Such a multiplicity of oral hearings would not assist the Tribunal to achieve its statutory objective and would potentially add to the parties’ costs.
10. The GAP Practice Direction requires the parties to provide detailed information and submissions to assist the President to decide whether to grant a referral application. Ordinarily, the information and submissions provided by the parties will be sufficient on their own to enable a decision to be made on the referral application and thus the interests of justice would not require an oral hearing.

GRANTING AN ORDER STAYING A TRIBUNAL DECISION

11. Section 127(1) of the ART Act provides that the making of a referral application does not affect the operation of the Tribunal decision the subject of the application or prevent the

taking of action to implement it. Section 127(2) provides that, upon application by a party, the Tribunal may make an order staying or otherwise affecting the operation or implementation of the Tribunal decision the subject of a referral application if the Tribunal considers that it is desirable to do so for the purpose of ensuring the effectiveness of the referral application.³ Section 127(7) requires the Tribunal to give the parties a reasonable opportunity to make submissions in relation to the making of a stay order before making such an order, and to take into account the interests of any person who may be affected by the decision affirmed, varied or set aside by the Tribunal decision.

12. A stay order will not be granted as a matter of course. Section 127(2) of the ART Act makes it clear that the power to make such an order is discretionary. A precondition to the exercise of the discretion to grant a stay order is the existence of material before the Tribunal indicating that the effectiveness of the referral application will be adversely affected in the absence of a stay. The effectiveness of a referral application will be adversely affected if the party seeking a stay would suffer irreversible prejudice if the stay sought were not granted, such as where a successful outcome before the GAP would be rendered nugatory. The existence of such prejudice would militate in favour of granting a stay.
13. The fact that the party seeking a stay is able to point to material indicating that the effectiveness of the referral application will be adversely affected in the absence of a stay does not necessarily mean that the Tribunal is required to exercise the discretion in favour of granting a stay order. That is because any prejudice to the party seeking a stay if the stay sought is not granted must be balanced against any prejudice to the party opposing a stay if the stay sought is granted. Thus, if the party opposing a stay would suffer irreversible prejudice if the stay sought is granted, that would militate against the granting of the stay.
14. It follows that consideration of an application for a stay will involve an examination of any prejudice to the party seeking a stay if the stay sought is not granted and any prejudice to the party opposing a stay if the stay sought is granted.

³ The wording of s 127(2) is similar to that of s 32(2), which deals with a stay of a reviewable decision. Section 32(2) in turn is based on s 41(2) of the *Administrative Appeals Tribunal Act 1975*, in respect of which there is considerable case law.

15. Ultimately, a decision about whether to grant a stay will depend on a balancing of all the considerations militating in favour of a stay with those militating against granting it, and reaching a decision based on what the interests of justice require in the particular circumstances of the case.

MEANING OF 'MAY CONTAIN AN ERROR OF FACT OR LAW'

16. The principles for distinguishing between errors of fact and errors of law are well known and will not be repeated here. However, it is necessary to mention the distinction between primary facts and inferences drawn from primary facts. Where more than one inference is reasonably open from a primary fact, if a member of the Tribunal were to draw one inference whereas another member were to draw one of the other reasonably open inferences, that would not mean that either member would have made an error of fact.
17. The distinction between primary facts and inferences is best illustrated by an example. Assume that a member heard a case involving a 55 year-old witness who, in the course of giving evidence, shed a tear. Also assume that the witness' age and the shedding of a tear are objective facts because the age can be proved by official identification documents, such as a birth certificate, and the shedding of a tear was clearly visible to everyone in the hearing room. I comment as follows:
- (a) If the member were to state in their decision that the witness was 70 years of age, the member would have made an error of fact.
 - (b) If the member were to state in their decision that the witness was distressed while giving evidence, the member would be drawing an inference from the shedding of a tear. The fact that another member may have stated in their decision that the witness remained composed notwithstanding momentarily shedding a tear does not mean that either member made an error of fact if both inferences are reasonably available on the whole of the evidence.
 - (c) If one member were to state in their decision that the witness was 'old' whereas another member would have stated that the witness was 'of mature years' and another member would have stated that the witness was 'middle-aged', none of the members would have made an error of fact. That is because some factual matters involve questions of degree upon which reasonable minds may differ, or may involve concepts which may be expressed in various ways without being inaccurate.

18. I will now discuss the meaning of ‘may contain’.
19. The word ‘may’ indicates that it is not necessary for the President to conclude that a Tribunal decision definitely contains an error of fact or law and that the possibility that such an error exists may suffice. However, the possibility of an error may range across a spectrum from a fanciful possibility to a possibility that is just short of a certainty. It can be confidently concluded that s 128(2)(b) of the ART Act did not intend that a fanciful possibility of an error of fact or law would suffice or that a possibility that is just short of certainty is required. The difficult question is, where along the spectrum of possibilities between those extremes is sufficient for the purposes of s 128(2)(b)?
20. In my opinion, the answer to the above question is that there are no fixed points along the spectrum of possibilities between the two extremes that are either sufficient or insufficient for the purposes of 128(2)(b) of the ART Act. Rather, the underlying principle is that the stronger the possibility of error, the greater the prospect that the requirement that a Tribunal decision may contain an error of fact or law will be satisfied.
21. In the light of the considerations set out at [4] to [6] above, the President’s statement whether a Tribunal decision may contain an error of fact or law in a notice of decision under s 128(2)(b) of the ART Act will be brief and of a general, broad-brush nature rather than of a detailed analytical nature.

MEANING OF ‘MATERIALLY AFFECTING THE TRIBUNAL DECISION’

22. Consistent with High Court authority, an error of fact or law which materially affects a Tribunal decision is an error in relation to an issue which is of sufficient importance to the Tribunal decision that, if the error had not been made, there is a realistic possibility that the outcome of the proceeding could have been different.⁴ The reference to ‘realistic possibility’ means that a possibility that is fanciful or entirely abstract will not suffice.

⁴ *Hossain v Minister for Immigration and Border Protection* (2018) 264 CLR 123, 134-35 [30], 147-48 [72]; *Minister for Immigration and Border Protection v SZMTA* (2019) 264 CLR 421, 445-46 [45]-[50]; *MZAPC v Minister for Immigration and Border Protection* (2021) 273 CLR 506, 524-25 [39]-[40], 543-44 [101]; *Nathanson v Minister for Home Affairs* (2022) 276 CLR 80, 103 [32]; *LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2024] HCA 12, 3 [7], 5 [14], 6 [16].

23. Accordingly, if a Tribunal decision contains an error of fact or law but it can be concluded that the outcome of the proceeding would have been the same had the Tribunal decision not contained the error of fact or law, that error cannot be said to have materially affected the Tribunal decision.

DISCRETIONARY CONSIDERATIONS RELEVANT TO REFERRAL TO THE GAP

24. A Tribunal decision cannot be referred to the GAP under s 128(2)(b) of the ART Act unless the President determines that the Tribunal decision may contain an error of fact or law materially affecting the Tribunal decision. However, the fact that these preconditions are met does not mean that the President must then refer the Tribunal decision to the GAP. The President retains a discretion to refuse to do so even where those preconditions are met. The existence of this discretion is apparent from the phrase 'may refer' in s 128(1) and (2), and is put beyond doubt by s 128(5), which provides:

To avoid doubt, the President is not required to refer any decision of the Tribunal to the [GAP].

25. Section 128(4) of the ART Act provides that, in deciding whether to refer a Tribunal decision to the GAP, the President must have regard to the circumstances of the parties and any other matters that the President considers relevant. The reference to any other matters indicates that the President's discretion to refuse to refer a Tribunal decision to the GAP, even if all the statutory preconditions for a referral are satisfied, is very broad.

26. The breadth of the President's discretion to refuse to refer a Tribunal decision to the GAP, even if all the statutory preconditions for a referral are satisfied, is emphasised in the Revised Explanatory Memorandum to the Administrative Review Tribunal Bill 2024 ('REM'). The REM relevantly states the following:

828. Even if the President is satisfied that the Tribunal decision meets either of these criteria, the President retains the discretion regarding referral and is not obliged to refer the Tribunal decision to the [GAP].

...

832. *In deciding whether to refer a decision to the [GAP], the President must consider the circumstances of the parties, and any other matters they consider are relevant (subclause (4)). Factors that the President might consider could include (but are not limited to): the financial burden on a party to have a matter heard by the [GAP], the risk of trauma that further proceedings may have on a party, whether parties have adequate representation, concerns over the safety, health or confidentiality of a party, and any other concern.*

...

835. *Subclause (5) clarifies that the President is not required to refer any decision of the Tribunal to the [GAP]. Subclause (5) is an avoidance of doubt provision, which functions to underscore the considerations outlined above. This ensures the referral power may be exercised appropriately and proportionately when considering what types of matters are appropriate for [GAP] review, and what types of matters are better left to other review pathways. For example, complex taxation matters and certain regulatory matters may be more appropriately dealt with through judicial review.*

27. Paragraphs 5.8 and 5.10 of the GAP Practice Direction state the following:

5.8 In determining whether to refer a Tribunal decision that may contain a material error of fact or law, other relevant considerations may include:

- (a) the likelihood that the error occurred, and its significance to the Tribunal's decision on review;*
- (b) whether the error is one that is likely to be repeated if not identified and resolved;*
- (c) whether the error involves a matter of law that is better left to the courts to determine;*
- (d) the impact on the resources of the Tribunal and parties to the review of conducting a further review into the matter; and*
- (e) any other factor the President considers relevant.*

...

5.10 Other discretionary factors may also be relevant. Examples of discretionary factors that may justify refusal of a referral application include:

- (a) where there may be an error of fact or law which may have materially affected a Tribunal decision but the error involved a very small monetary amount;*
- (b) where, after a Tribunal decision was made, one of the parties to the earlier Tribunal proceeding offered to place the GAP applicant in the position the GAP applicant would have been in if the Tribunal decision had been entirely in favour of the GAP applicant, but the GAP applicant unreasonably refused the offer;*
- (c) where one of the parties has appealed to the Federal Court, on a question of law, from the Tribunal decision; and*
- (d) where a referral to the GAP would hinder the Tribunal's ability to effectively pursue the objective in section 9 of the Act.*

28. The references to 'the impact on the resources of the Tribunal ... of conducting a further review' and 'where a referral to the GAP would hinder the Tribunal's ability to effectively pursue the objective in s 9 of the [ART] Act' in the GAP Practice Direction are particularly pertinent in the current circumstances of the Tribunal. Those circumstances are that the Tribunal was established on 14 October 2024 and inherited from the AAT a large volume of cases awaiting hearing, which has continued to grow significantly since then.

29. I have already referred to s 9(b) and (e) of the ART Act. Consistent with those provisions, the Tribunal is endeavouring to resolve the large volume of unheard cases, some of which were lodged as far back as 2020. Self-evidently, where the Tribunal has made a decision in a proceeding and the President refers that decision to the GAP for further review, the members conducting that review are not available to hear and determine other cases within the Tribunal's caseload. Many of these cases have remained unheard for several years or involve vulnerable applicants who are significantly impacted by delays.

30. There is an inverse relationship between the number of Tribunal decisions that are the subject of a further review by the GAP and the Tribunal's ability to hear and determine the

large volume of unheard cases during the further review by the GAP. That is, as the number of Tribunal decisions referred to the GAP for further review increases, the Tribunal's ability to deal with its unheard cases during the further review by the GAP decreases. Any diminution in the Tribunal's ability to deal with its unheard cases prejudices parties who have been waiting (in some cases, several years) for their proceeding to be heard and determined. On the other hand, parties applying for referral to the GAP under s 128(2)(b) have already had their case determined by the Tribunal and are seeking a further determination of the same case. They also have the right to appeal to the Federal Court on a question of law or to seek judicial review.

31. In my opinion, in the exercise of the discretion whether to refer a Tribunal decision to the GAP, it is relevant for the President to consider:
- (a) the nature and volume of the cases waiting to be heard at first instance by the Tribunal, in accordance with the Tribunal's statutory objective set out in s 9 of the ART Act; and
 - (b) the fact that every referral of a Tribunal decision to the GAP for further review will diminish to some extent the capacity of the Tribunal to ensure that it undertakes a first instance review of outstanding cases with the degree of expedition required by its statutory objective set out in s 9 of the ART Act.
32. Of course, the considerations referred to at [31] above are not determinative. Where they are taken into account in a particular case, they must be considered alongside all other matters that are relevant in the circumstances of that case.

FACTUAL AND PROCEDURAL BACKGROUND TO THE REFERRAL APPLICATION

33. The applicant and first respondent (collectively 'the parents') are the parents of three children. The parents are separated and the applicant has 100% care of the children.
34. A child support assessment for the children commenced on 17 March 2017. On 8 March 2024, a child support decision-maker made a decision to depart from the administrative assessment to take account of the children's 2024 and 2025 school fees. On 3 May 2024, a child support objections officer set aside the 8 March 2024 decision and replaced it with a new decision that was less generous to the applicant. On 25 October 2024, a general

member made the Tribunal Decision, which set aside the 3 May 2024 decision and substituted a new decision, which varied one aspect of the 3 May 2024 decision.

35. At the heart of the dispute between the parents is whether they had an expectation that the children would attend a Catholic primary school to Year 4 and then another Catholic school from Year 5. There was considerable evidence about a particular Catholic school (which I will refer to as 'the Catholic college') for schooling for two of the children from Year 5. The Catholic college charged higher fees than the Catholic primary school at which all of the children commenced their schooling. The applicant enrolled the oldest child at the Catholic college at the beginning of 2024 to commence Year 5.
36. In the Tribunal Decision, the general member found that the parents did not have the expectation referred to at [35] above. The Tribunal Decision (as was the case with the 3 May 2024 decision) had the effect of requiring the first respondent to meet 50% of the Catholic primary school fees that would have been incurred had the oldest child continued at that school in 2024 and 2025.
37. On 30 October 2024, the applicant applied for referral to the GAP of the Tribunal Decision on the basis that it may contain an error of fact or law materially affecting it ('Referral Application'). It is not clear whether the applicant also contends that the Tribunal Decision raises an issue of significance to administrative decision-making (see s 128(2)(a) of the ART Act). Insofar as the applicant does, that contention must be rejected, as the Tribunal Decision is very specific to the facts of this case.
38. The Referral Application alleges that the Tribunal made numerous errors of fact. The key alleged error relates to the Tribunal's finding that the parents did not have the expectation referred to at [35] above.
39. The Referral Application also alleges that the Tribunal made an error of law by misinterpreting the meaning of the phrase 'the costs of maintaining the child are significantly affected because the child is being cared for, educated or trained in the manner that was expected by his or her parents' in s 117(2)(b)(ii) of the *Child Support (Assessment) Act 1989*.

40. The applicant contends that the errors of fact and law relied upon materially affected the Tribunal Decision.
41. The applicant has requested an oral hearing of the Referral Application. The applicant has also applied for a stay of the Tribunal Decision pending the determination of the Referral Application and, if the Referral Application is granted, pending the determination of the GAP proceeding.
42. The first respondent opposes the Referral Application. The first respondent contends that the Tribunal Decision does not contain any error of fact or law materially affecting it. The first respondent does not require an oral hearing of the Referral Application.
43. The second respondent supports the Referral Application. The errors of fact and law upon which the second respondent relies are much more confined than those upon which the applicant relies. The second respondent does not require an oral hearing of the Referral Application.
44. The parents appear to have prepared all documents relating to the Referral Application themselves, without the assistance of a representative. The second respondent is legally represented.

DECISION ON THE REQUEST FOR AN ORAL HEARING

45. The applicant has requested an oral hearing of the Referral Application for the following reasons:

As an unrepresented party I am fearful that I have not expressed myself well enough or clearly enough in writing. If a Hearing is allowed, I may consider seeking approval to be represented at the Hearing. This matter is about the education of my children so I place an enormous amount of emphasis on the outcome and want to ensure I am best positioned to be successful in this appeal.

46. As I have already stated, neither respondent has requested an oral hearing of the Referral Application.

47. The applicant's Referral Application includes a five-page attachment setting out detailed submissions as to why the Tribunal Decision should be referred to the GAP. In my opinion, those submissions clearly articulate the applicant's contentions, and therefore an oral hearing of the Referral Application is not necessary in the interests of justice. Accordingly, the applicant's request for an oral hearing must be refused.

DECISION ON WHETHER TO GRANT THE REFERRAL APPLICATION

48. In considering whether to grant the Referral Application, I have had regard to the circumstances of the parties to the proceeding and the materials they have relied upon in support of, or in opposition to, the Referral Application.
49. The general member has correctly referred to the relevant statutory provisions and judicial decisions dealing with them in her reasons for decision. The general member has also stated the applicable principles. The legal contentions advanced by the applicant (including in relation to issue estoppel) based on an earlier decision of the AAT concerning the parents disclose a misunderstanding of the legal effect of a decision of an administrative tribunal and cannot succeed. Whilst other possible legal errors upon which the applicant and the second respondent have relied cannot be described as fanciful, they are at the low end of the spectrum of possibilities. On their own, they are nowhere near sufficient to warrant referral to the GAP in the light of the strong discretionary considerations referred to at [24] to [32] above which militate against such referral.
50. I now turn to the possible errors of fact upon which the applicant and the second respondent have relied. The alleged errors do not appear to relate to primary facts, other than in relation to some inconsequential details. The main focus appears to be inferences drawn by the general member from primary facts and conclusions reached by her when applying the relevant legal principles to the primary facts and inferences. I accept that the general member has used some imprecise language in her reasons. I also accept that the possible errors of fact relied upon by the applicant and the second respondent are slightly more arguable than the possible errors of law they rely upon. However, overall the possible errors of fact that they rely upon are insufficient to warrant referral to the GAP in the light of the strong discretionary considerations referred to at [24] to [32] above which militate against such referral.

51. In the light of the above conclusions, it is not necessary for me to discuss whether the possible errors of law or fact materially affected the Tribunal Decision.
52. It follows that the Referral Application must be refused.

DECISION ON THE APPLICATION FOR A STAY

53. As I have decided to refuse the Referral Application, the applicant's application for a stay of the Tribunal Decision pending the determination of the Referral Application and, if the Referral Application is granted, pending the determination of the GAP proceeding, is no longer relevant and must be rejected.

I certify that the preceding 53 paragraphs are a true copy of the written reasons for the decision of Justice Kyrrou, President

.....[sgd].....

Associate:

Dated: