

The Courts

<u>At the Jerusalem District Court</u>		Adm. Pet. 783/03
<u>Sitting as the Court for Administrative Matters</u>		CR 7254/03
Before:	The Honorable Justice Moussia Arad – Deputy President	29 January 2004

In the matter of:

1. _____ **Ziyad**, has no identity number
2. _____ **Ziyad**
3. _____ **'Isa**
4. _____ **Ziyad**
5. _____ **Ziyad**
6. **HaMoked: Center for the Defence of the Individual**
founded by Dr. Lotte Salzberger
represented by attorney Adi Landau

The Petitioners

v.

1. **The Ministry of the Interior**
 2. **The Director of the Population Administration Office**
 3. **The Director of the Population Administration**
Office in East Jerusalem
- represented by the Jerusalem District Attorney's
Office

The Respondents

Judgment

1. The petition concerns the granting of permanent resident status in Israel to the Petitioner S. Ziyad (hereinafter: **the Petitioner**).
2. The Petitioner, born 1 February 1978, was born in the village Beit Liqya in the West Bank. Upon his birth, the Petitioner received a birth certificate of the Region from the Civil Administration and was registered in the Birth Register. The Petitioner's parents were married at the [Muslim] Shar'i Court in Ramallah. Approximately one year after the birth of the Petitioner, his parents divorced. The Petitioner's mother is a resident of the West Bank and she comes from Beit Liqya. The Petitioner's father was a permanent resident in Israel. In 1979 the father moved his life center to Jordan. The father remarried and he has been living in Jordan until today. The mother also remarried, and abandoned the Petitioner. In the first years, the Petitioner resided with his grandmother, his mother's mother, in Liqya. At 13 the Petitioner moved to reside with his brothers in Jerusalem.

3. The Petitioner has no identifying document whatsoever. The Petitioner's father did not submit an application for him to receive status in Israel. In addition, the Petitioner's parents and the Petitioner himself did not put his registration in the Population Registry in the Region in order.
4. In 1994, when the Petitioner was approximately 16 years old, Petitioner 2, the Petitioner's older brother, was appointed as the Petitioner's guardian by the Shar'i Court in Jerusalem.
5. The Petitioner dropped out of school at a young age and worked in random jobs in various places. Whilst still a youngster, the Petitioner moved to live in Tel Aviv, in Ramla and in the vicinity. The Petitioner currently resides, most of the time, in Tel Aviv. He sleeps at workplaces, with friends and in public gardens. When his money runs out the Petitioner comes to Jerusalem and sleeps at his brothers' house.
6. The Petitioner has mental problems and is addicted to drugs. The Petitioner also has a significant criminal past. In 2000 the Petitioner was convicted of arson and threat offences and was sentenced to eight months of actual imprisonment, as well as a suspended prison sentence. In 2002 the Petitioner was convicted of dealing in dangerous drugs and illegal residency in Israel and was sentenced to six months of actual imprisonment. In addition there are cases pending against the Petitioner for suspicion of perpetrating offences of assaulting policemen, impersonation, and disturbing a policeman whilst fulfilling his duty. Approximately twenty additional cases are registered against the Petitioner, mainly in respect of drug and property offences, which have been closed due to lack of public interest. Recently the Petitioner was arrested in the context of an additional case (CrimC 20772/03) on suspicion of perpetrating an offence of possession of brass knuckles or knife for illegal purposes.
7. Family unification applications submitted in the past for the Petitioner by his brothers who reside in Jerusalem have been denied, *inter alia*, due to criminal preclusion.
8. The Petitioner bases his petition on the claim that his situation is like that of a "person without status" in any place in the world, and that his only link is to the State of Israel. The Petitioner has integrated, he claims, into Israeli society, and he speaks Hebrew fluently. The majority of his friends are Jewish Israelis, and in fact, since the death of his grandmother, he does not know anybody outside of Israel well.
9. During the past year, due to the security situation, the Petitioner has frequently been arrested due to illegal residency in Israel. The Petitioner refuses to agree to his brothers' pleadings and hide at their house in Jerusalem.

10. The Petitioner asserts that his difficult life circumstances fall within the category of exceptional cases in respect of which there are special considerations which justify the granting of permanent resident status. They [sic] assert that the Respondents' refusal to grant the Petitioner status violates the Petitioner's basic rights. The Respondents [sic] further assert that the Respondents' position is contrary to the international law, deviates from the bounds of reasonableness and does not meet the tests of purposefulness, proportionateness and fairness.

11. The Respondents assert that the Petitioner was born in the West Bank, grew up there during his childhood and his mother's family is also from the West Bank. Therefore, he is required to be registered there.

The Respondents further assert that the Petitioner's criminal past is enough to justify the denial of his application to receive permanent resident status in Israel.

With regards to receiving status in the Region, the Respondents refer to Article 28 of the Civil Annex to the Interim Agreement between Israel and the Palestinian Authority, according to which amendment of the Population Registry's file in the Region and the granting of visiting and residence permits in the Region is entrusted to the Palestinian Authority. The authority to decide a family unification application in the Region is vested in the Palestinian Authority, subject to the authorization of the competent Israeli entity. Currently, in view of the political and security situation since September 2000, applications for family unification in the Region are not being handled in Israel. Therefore, it will not be possible to grant the Petitioner's application to put his status in the Region in order.

12. In these circumstances, and in order to prevent the Petitioner from residing in Israel illegally until it will be possible to put the Petitioner's status in the Residents' Register in the Region in order, the Respondents agree to grant the Petitioner temporary status parallel to a B/1 residence permit for a period of one year. All provided that the Petitioner will undertake to submit an application to the Palestinian Authority to register him in the Population Registry in the Region, which will immediately be handled upon resumption of the operation of the proceedings for handling such applications and also subject to his brothers' undertaking to keep him away from his criminal pursuits and to take responsibility for his rehabilitation, so long as he is in Israeli territory. The Petitioner can submit an application to extend the period of the residence permit, and his application will be examined considering the totality of considerations and circumstances, and subject to his meeting the foregoing conditions.

13. The Petitioner's life circumstances are difficult and extraordinary. This is a young man who was abandoned by his parents at a young age. The Petitioner grew up with his grandmother and subsequently with his brothers, without a stable family framework. The Petitioner also has no legal status in the Region or in Israel. It is to be assumed that as a consequence of these circumstances the Petitioner was caused mental and other problems, and he even turned to a life of crime.
14. Although I understand the Petitioner's distress, I am not able to intervene in the Respondents' decision. The authority, pursuant to Hoq ha-Kenisa le-Yisra'el [the Entry into Israel Law], 5712-1952, is vested in the Minister of the Interior. This authority grants the Minister of the Interior (and to whoever operates according to delegation from the Minister) broad discretion in all matters relating to the granting of entry visas and residence permits in Israel (see HCJ 758/88 *Kendell v. The Minister of the Interior*, *Pisqe Din* 46(4) 505, 520). The reason for this derives from the right of the State – like any civilized country – to inspect and supervise the proceedings for the conferral of rights on those that seek to enter the country (see HCJ 482/71 *Launia Meah Clarke and 7 others v. The Minister of the Interior et al.*, *Pisqe Din* 27(1) 113, 116; HCJ 1031/93 *Eliann Hawwa Pasro (Goldstein) v. The Minister of the Interior*, *Pisqe Din* 49(4) 661, 705).
15. The Petitioner's situation justifies special consideration due to his personal circumstances and since in the existing situation the Petitioner is unable to obtain status in the Region. The Respondent indeed considered the Petitioner's difficult situation. Therefore, the Respondent is agreeable, despite the Petitioner's criminal behavior, to grant him legal status, albeit temporary, subject to the foregoing conditions. In these circumstances, the Respondent's decision is not tainted by any of the defects which justify the Court's intervention.
16. Therefore, I dismiss the petition.

The Office of the Court Clerk will send the judgment to the parties' counsels via fax.

Issued today, 28 Tevet 5764 (22 January 2004), in the absence of the parties.

Moussia Arad,
Deputy President