



Australian Government
Department of Immigration and Border Protection

**RECORD OF DECISION OF REVOCATION OF CANCELLATION UNDER
SECTION 131 OF THE *MIGRATION ACT 1958***

01/10/2015

PART A: PERSONAL AND VISA DETAILS

1. Personal particulars of visa holder

Family Name: NEWMAN-MARIOTTI
Given Names: Troy Edward
Date and Place of Birth: 11/06/1966, USA
Citizenship: USA
Marital Status: Married
Sex: Male
Application ID: 1355584786

2. Visa Details

Date of visa grant: 04/08/2015
Visa class/subclass: UD601
Visa expiry date: 04/09/2015
Stay period of visa: 3 Months
Previous visa cancellations: No previous cancellations
File Number: BCC2015/2841709

PART B: ORIGINAL VISA CANCELLATION

Date notified of cancellation of visa: 29/09/2015

Particulars of grounds for visa cancellation:

It appears there are grounds for cancellation of the visa holder's visa under section 128 of the Migration Act (the Act), relying on the grounds at section 116(1)(e) of the Act.

Section 128 of the Act states:

128. If:

(a) the Minister is satisfied that:

- (i) there is a ground for cancelling a visa under section 116; and*
- (ii) it is appropriate to cancel in accordance with this Subdivision; and*
- (b) the non-citizen is outside Australia;*

the Minister may, without notice to the holder of the visa, cancel the visa.

3. In accordance with section 128(a)(i) shown above, section 116 of the Act states (in part):

Section 116 Power to cancel

116(1) Subject to subsections (2) and (3), the Minister may cancel a visa if he or she is satisfied that:

(e) the presence of its holder in Australia is or may be, or would or might be, a risk to:
(i) the health, safety or good order of the Australian community or a segment of the Australian community.

Evidence of grounds for cancellation:

Troy Edward Newman-Mariotti was granted a class UD subclass 601 Electronic Travel Authority (ETA) on 4 August 2015.

Open source information indicates that Troy Edward Newman-Mariotti is a prominent anti-abortion activist in the United States of America. Troy Edward Newman-Mariotti has led a number of anti-abortion protests in the United States of America and in March 2015, he was arrested for protesting against abortion outside the office of John Boehner. In 2003, Troy Edward Newman-Mariotti authored a book titled *Their Blood Cries Out* where he presented an argument that "abortion is a most savage act of violence".

Troy Edward Newman-Mariotti intends to deliver a seminar series in Australia (02 October 2015 to 09 October 2015) on the topic of the sale of body parts of aborted fetuses by Planned Parenthood clinics in the United States of America. The media has reported that there has been a strong reaction against Troy Edward Newman-Mariotti's visit from members of the public who support the choice of women to have an abortion. An online petition calling for Troy Edward Newman-Mariotti to be denied entry to Australia has a large number of signatures.

Based on this information, I am satisfied there is a risk that the public would have an adverse reaction to Troy Edward Newman-Mariotti's presence in Australia that would result in protests similar to those that took place in the United States of America, that is, Troy Edward Newman-Mariotti's presence in Australia would be a risk to the good order of the Australian community.

"Good order", in the context of 116(1)(e) is concerned with actions by a visa holder which have an impact on public activities or which manifest themselves in a public way, including the risk of an adverse reaction by certain members of Australian society to a visa holder's presence in Australia. Therefore, it appears Troy Edward Newman-Mariotti's presence in Australia would be a risk to the good order of the Australian community and I am satisfied that there is a ground to cancel the visa under section 116(1)(e).

Former visa holder responded to notice of intention to consider cancellation: Yes
If yes, date: 01/10/2015

Visa holder's response:

In seeking revocation of this decision, you stated that you believed the decision is subjective in nature. You stated that anti-abortion is a standard position, and while it is more common in the US there are still people in Australia who support this position. You stated you have never advocated for violence, nor have you been convicted of violent acts and that claims otherwise are falsehoods spread by your political opponents.

You stated that the decision record takes a quote from your 2003 book - specifically that "abortion is a most savage act of violence" - out of context, and that this statement is factually true.

You stated you have travelled to Australia to conduct seminars which are legal and associated with a group of good reputation who don't advocate violence or radical political objectives. You stated you are part of an organisation that is involved in investigating the Planned

Parenthood programme in the United States of America, which has resulted in Congressional and State investigations, which is evidence of you supporting political processes and presenting information to the public.

You stated that you are an ordained Presbyterian Minister and as such abide by the church's teachings and base your opinions and actions on a religious framework.

You stated that the protests you carry out in the United States of America are not violent, are within the law and are consistent with the American public persona. Furthermore you state that attendees at your protests must sign a notice of good conduct.

You stated that you present factual information and objective truths, and that this information is already available. You stated that poor reactions to this information should not be construed as a problem of your making.

You stated you are not a hazard to public welfare and are a citizen of good standing with memberships in a number of churches and organisation.

PART C: CONSIDERATION OF REVOCATION

Assessment of whether grounds for cancellation exist:

In considering your response, I do not find that the decision relied on subjective evidence, rather on readily available open source information regarding the Australian public's reaction to your visit to Australia.

While I acknowledge there may be support for anti-abortion positions in the US and within segments of the Australian community, I do not find this diminishes the significance of the community reaction to your visit to Australia.

In relation to your claims you have never advocated violence and have never been arrested for a violent act, the decision record does not provide these as reasons for cancellation of your visa and as such I do not find they diminish the evidence contained within the decision record.

Although you claim the quote from your 2003 book was taken out of context, you did not provide any explanation of this context and reaffirmed your belief in this statement as it reads.

I acknowledge the seminars you intended to conduct in Australia are legal. There is also no evidence available to me that suggests the group they are associated with has advocated violence or radical political action. I further acknowledge you may have in part contributed to the instigation of various investigations in the US. Despite these considerations, I do not find these factors diminish the evidence contained within the decision record in relation to the risk you pose to the good order of the Australian community.

Although you claim your protests in the United States of America are legal and non-violent, and that attendees sign notices of good conduct, I note that in March 2015 you were arrested outside the office of John Boehner during one of your protests.

In relation to your claims regarding your good standing, status as a Presbyterian minister, religious behavioural framework and membership of organisations and churches, I do not find these diminish the risk you pose to the good order of the Australian community.

In relation to your claims regarding the "factual" and "objective" nature of your information, that this information is readily available and that poor reactions to this information are not problems of your making, I am nonetheless satisfied, based on the evidence contained within the decision record, that you continue to pose a threat to the good order of the Australian community.

Assessment of the reasons why the cancellation should be revoked:

You have travelled to Australia to conduct a number of seminars in relation to your position against the practice of abortion. I acknowledge that these seminars have been planned and advertised prior to your travel to Australia, however I find that in conducting these seminars you would pose a risk to the good order of the Australian community, based on community attitudes towards your presence in Australia. As such I apply little weight to your purpose of travel to Australia or the circumstances in which the grounds for cancellation arose.

You have not previously travelled to Australia, as such consideration is unable to be applied in relation to any compliance with previous visa conditions.

While you have not provided any specific claims of hardship which may be caused if the decision to cancel your visa is not revoked, I acknowledge that cancellation of your visa may cause some emotional and financial hardship. I furthermore acknowledge that a decision not to revoke the cancellation of your visa would result in your detention and removal from Australia. Despite this, you chose to travel to Australia despite being advised by the airline you would not be able to do so. As such I apply little weight in consideration of hardship and consequences which may be caused.

There is no information before me that indicates that a decision not to revoke cancellation would impact on Australia's international obligations. As such I apply little weight in assessing revocation of cancellation of your visa.

I acknowledge that you have been cooperative throughout the interview process in relation to your request for revocation of your visa. As such I apply some weight in your favour regarding your behaviour in relation to the Department.

PART D: DECISION

After considering the visa holder's response to the section 129 notice and all other relevant matters, including those set out in the procedures advice manual 3 (PAM3), I have decided not to revoke the cancellation of the visa under section 131 of the *Migration Act 1958*.


Joel

Position number: 1364
Regional Command Vic/Tas
Strategic Border Command
Australian Border Force
Date of decision: 01/10/2015
Time of decision: 10:01