

**MEMBER FOR HILLARYS**

*Mustafa Kunduraci — Visa — Personal Explanation*

**MR P.A. KATSAMBANIS (Hillarys)** [2.58 pm]: Mr Speaker, I wish to make a personal explanation under standing order 148.

**The SPEAKER:** Proceed.

**Mr P.A. KATSAMBANIS:** Thank you. I would like to make a personal explanation on a matter that the Premier raised in question time both yesterday and today, and to set the record straight —

Several members interjected.

**The SPEAKER:** Members!

**Mr P.A. KATSAMBANIS:** — so there is absolutely no doubt about the circumstances the Premier was referring to.

**The SPEAKER:** Member, could you get on. There is no debate; it is just a straight answer, please.

**Mr P.A. KATSAMBANIS:** In 2007, as a member of the Migration Review Tribunal, I considered the matter of a person called Mustafa Kunduraci, who had applied for a spouse visa to remain in Australia. As a member of the tribunal, like every other member, I was bound to apply the law as it stood at the time of making a decision on the matter that was before me. I need to spend a bit of time setting out the brief fact circumstances. This gentleman had been in Australia for quite a long period without a long-term visa. He eventually applied for a spouse visa based on a marriage that he had had with an Australian lady. Between the time of the application and the time the matter was determined by the department of immigration at first instance, the relationship had ended. The delegate of the department found that the relationship was no longer standing and that they were no longer living together so he was not entitled to the visa. He sought a review at the Migration Review Tribunal. Between the time that he sought a review and the matter was adjudicated at the tribunal by me, the gentleman provided corroborated evidence that a child had been born of the relationship. That child was his child and he had further sought and been granted orders from the Family Court to have access to that child and be entitled to see that child.

Several members interjected.

**The SPEAKER:** Members!

**Mr P.A. KATSAMBANIS:** As I said, I was charged with applying the law as it stood at that time, and I did. The law stated that if someone has applied for a spouse visa, irrespective of whether the relationship has ended or not, if they have a child born of that relationship and they are able through court orders to have continuing ongoing relationship with that child, they meet that criteria for grant of a spouse visa. That was the finding that I made. If I had made any other finding on the facts before me, the matter could and would have been appealed to a higher court and been overturned. I make it clear that I did not make the determination to grant a visa to this person. I could not. All I could do was make a finding on whether he met that specific criteria. Because he met the criteria, I determined to return the matter to the department for it to conclude other investigations prior to it granting the visa. Part of those investigations were to determine the character of the person. There were no issues to character that I was aware of and clearly none that the department discovered, despite this person having been in Australia at that stage for around 12 years on various bridging and other visas.

Unfortunately and horrifically, after he was granted the visa, this man undertook a series of horrible crimes.

**The SPEAKER:** Get straight to the point.

**Mr P.A. KATSAMBANIS:** I will try to keep it short.

He undertook a series of horrific crimes, including, eventually—there were other crimes as well; there was an escalation—a double murder, which was horrible and horrific. Reading the facts and circumstances is frightful for me and would be for anyone else who reads it.

**The SPEAKER:** Member!

**Mr P.A. KATSAMBANIS:** However, I point out that I was charged with an administrative review-making capacity to make a legal and lawful decision based on the facts circumstances at the time, like every judge is and tribunal member is. For members of this house on either side to come in here and make unfair imputations is incorrect.

**The SPEAKER:** Member, no! You cannot debate it.

Several members interjected.

**Mr P.A. KATSAMBANIS:** I hope —

**The SPEAKER:** Sit down! I said that you cannot debate it and you kept going, so that is it. You have had your opportunity.