

SUPREME COURT OF SOUTH AUSTRALIA
(Full Court)

LAW SOCIETY OF SOUTH AUSTRALIA v DE SOUZA

Judgment of the Full Court (ex tempore)
(The Honourable the Chief Justice, the Honourable Justice Prior and the Honourable Justice Vanstone)

8 September 2003

PROFESSIONS AND TRADES — LAWYERS — REMOVAL OF NAME FROM ROLL

Respondent admitted as a practitioner of this Court on 7 October 1997 - application by Law Society of South Australia to have order for admission revoked and respondent's name struck off Roll of Practitioners pursuant to inherent jurisdiction of this Court.

Held: Respondent obtained admission in this state by providing false and misleading information about her academic and practical qualifications - order for admission revoked - respondent's name struck off the Roll of Practitioners.

Legal Practitioners Act 1981 s 82; Supreme Court Act 1935 s 17, referred to.

Applicant: LAW SOCIETY OF SOUTH AUSTRALIA
LAW SOCIETY OF SOUTH AUSTRALIA
Respondent: NICOLE ERIKA ANN DE SOUZA
LISACEK & CO

Counsel: MR H ABBOTT - Solicitors:

Counsel: MR A LISACEK - Solicitors:

Hearing Date/s: 03/09/2003, 08/09/2003.

File No/s: SCCIV-03-260

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Judgment No. [2003] SASC 316

THE LAW SOCIETY OF SOUTH AUSTRALIA v DE SOUZA

[2003] SASC 316

Full Court: Doyle CJ Prior and Vanstone JJ

1 **DOYLE CJ:** I am satisfied that the respondent procured her admission as a practitioner of this Court by making a false statement about her academic and, to a lesser extent, practical qualifications and by the use of forged documents. The respondent also concealed from this Court the dishonesty involved. In short, the order for admission was obtained by fraud. The matters, the subject of the fraud, cannot be dismissed as minor or ancillary matters. In my opinion, it is not for this Court to consider whether she could in any event establish an entitlement to admission on the basis of the true facts. Were she now to apply for admission, that would require from the Board of Examiners and from the court a thorough examination of the conduct involved.

2 Accordingly, I am satisfied that an order should be made revoking the respondent's admission as a practitioner of this Court and removing her name from the Roll of Practitioners. I agree in substance with the reasons of Prior J.

3 **PRIOR J:** The respondent was admitted as a practitioner of this Court on 7 October 1997. By these proceedings the Law Society seeks to have the order for admission revoked and the respondent's name struck off the Roll of Practitioners.

4 It is alleged that the respondent obtained a favourable report from the Board of Examiners by fraud, falsifying her academic transcript from the University of Birmingham in a number of respects and falsely claiming to have completed one year of Articles of Clerkship in a law firm in Kenya. In communicating with the Board of Examiners, the respondent forged a document, which was neither written nor signed by the registrar of the New South Wales Admission Board. By these false representations the respondent is said not to be of good character and not to have complied with admission rules.

5 Conduct subsequent to admission is also said to establish that the respondent is not of good character, nor a fit and proper person to be a practitioner of this Court. That complaint includes the respondent relying upon the fact of her admission in this Court in support of her application for admission to the Supreme Court of Victoria. She was admitted to practise as a barrister and solicitor of that court on 4 March 1998. The Law Society says that the respondent should have disclosed to that court the matters the subject of complaint with respect to her application for admission in this State. Besides that, it is alleged that in October 1998, the respondent provided false and misleading information to a Melbourne recruitment firm by asserting that she

had been admitted to practise in the United Kingdom and New South Wales and that she had received a Diploma in Law from the University of Sydney.

6 It is not necessary to refer to the other dishonest deeds alleged. The respondent has not filed any defence in answer to the allegations made and orders sought. She has filed an affidavit sworn on 24 May 2002. In that affidavit the respondent admits to changing documents. The explanation given for doing that is that she was isolated and on the verge of a breakdown when first in Adelaide.

7 I think that the Society is entitled to bring these proceedings, invoking the inherent jurisdiction of this Court, without any charges being laid under s82 of the *Legal Practitioners Act* 1981. This Court is entitled to act upon the allegations that are before it and proceed to make the orders sought given the respondent's failure to file a defence or make any adequate answer to the allegations made by the Society.

8 The respondent appears to have obtained her admission in this State by false and misleading information about her professional qualifications. I would therefore order that the order made on 7 October 1997, admitting the respondent as a practitioner of this Court, be revoked and that the name of the respondent be struck off the Roll of Practitioners.

9 **VANSTONE J:** I agree with the orders proposed.

10 **DOYLE CJ:** The orders of the court are:

1. That the order made by this Court on 7 October 1997 admitting the respondent as a practitioner of this Court be revoked.
2. That the name of the respondent be struck off the Roll of Legal Practitioners maintained pursuant to the *Legal Practitioners Act* 1981.
3. That the respondent pay the applicant's costs of and incidental to the proceedings.



DJW:LSS:de Souza S/C

19 September 2003

Ms Sue Raymond
Director
Legal Practitioners Conduct Board
DX 361
ADELAIDE

Dear Ms Raymond

Re: Nicole Erika Ann de Souza

We write to advise that by Order dated 8 September 2003, the order made by the Supreme Court of South Australia on 7 October 1997 admitting the above named as a practitioner of the court was revoked and the name of the practitioner was struck off the Roll of Legal Practitioners. A copy of the Order is enclosed for your information.

We also *enclose a copy of the judgment in this matter for your information.

Yours sincerely,

DENISE J WATKINS
Director

PROFESSIONAL STANDARDS

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