

Settled by their Honours

FULL COURT

CORAM: DOYLE CJ, VANSTONE AND WHITE JJ

NO.1246/2004

TUESDAY, 1 FEBRUARY 2005 AT 10.27 A.M.

LEGAL PRACTITIONERS BOARD v GRANT DAVID CHESTERMAN

DOYLE CJ: On the basis of the report by the Legal Practitioner's Disciplinary Tribunal, which report I am prepared to accept and on which I am prepared to act, I am satisfied that the practitioner has been guilty of unprofessional conduct. I accept in particular the findings as to unprofessional conduct made by the Tribunal. That unprofessional conduct is, in some of its aspects, quite serious, although I accept that some other aspects of it are not particularly serious. Nevertheless, viewed as a whole, I am satisfied that it leads to the conclusion that the practitioner's name should be removed from the roll. The unprofessional conduct is sufficiently serious to warrant the making of that order.

If there were other material before the Court that led me to the conclusion that the conduct was due to a temporary difficulty the practitioner was experiencing and that there was no real risk of a further breach of the standards of conduct required by a practitioner, I accept that it might be that some order other than removal from the roll of practitioners might suffice, making due allowance for the public interest.

I am prepared to accept the submission made by Mr Germein that the practitioner is a practitioner who practised for some 20 years without any

apparent problems in terms of maintenance of professional standards. I am also prepared to accept that the unprofessional conduct is linked in a significant way to his state of health and in particular his state of mind. There is no reason to think that the practitioner is dishonest. There is good reason to think that he became overburdened by other factors, including his own state of health.

However, the material before the Tribunal as to his state of health leads to the conclusion that the Court could not find that there was no risk of a further departure from the required standards of conduct. To say that is not to suggest that the practitioner's name is removed from the roll because of his state of health, or that he is being punished because of his state of health. Rather, it is simply that the state of the practitioner's health prevents the Court saying that the past episodes of unprofessional conduct can now be put to one side because there is no risk of them being repeated, or that the public interest does not require to be protected through the removal of the practitioner's name from the roll.

Accordingly, for those reasons, and acting in the public interest as the Court acts in such proceedings, and to ensure the maintenance of proper standards of professional conduct, I would order that the practitioner's name be removed from the roll of practitioners.

VANSTONE J: I agree.

WHITE J: I agree with the order proposed by the Chief Justice and with his reasons.

DOYLE CJ: The orders of the court are as follows:

1. That the name of Grant David Chesterman be removed from the roll of practitioners.
2. That the respondent Chesterman pay the costs of the application to the court agreed at \$13,500 which amount is inclusive of the costs of the inquiry before the Legal Practitioner's Disciplinary Tribunal.
3. That no process issue to enforce that order until 1 February 2006.

ADJOURNED 10.33 A.M.