

SUPREME COURT OF SOUTH AUSTRALIA

(Full Court)

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LEGAL PRACTITIONERS CONDUCT BOARD v PATTERSON

[2011] SASCFC 102

Judgment of The Full Court

(The Honourable Justice Gray, The Honourable Justice Sulan and The Honourable Justice Blue)

23 September 2011

PROFESSIONS AND TRADES - LAWYERS - COMPLAINTS AND DISCIPLINE - DISCIPLINARY PROCEEDINGS - SOUTH AUSTRALIA - ORDERS

Following findings of guilt of unprofessional conduct, the Legal Practitioners Conduct Board sought an order that the name of the practitioner be removed from the roll of legal practitioners - the practitioner does not oppose the application.

Held: the gravity of the practitioner's conduct necessitates his removal from the roll of practitioners.

Legal Practitioner's Act 1981 (SA), referred to.
Law Society (SA) v Jordan (1998) 198 LSJS 434; *Legal Practitioners Conduct Board v Phillips* (2001) 83 SASR 467; *Legal Practitioners Conduct Board v Hay* (2001) 83 SASR 454; *Pillai v Messiter [No 2]* (1989) 16 NSWLR 197, considered.

Plaintiff: LEGAL PRACTITIONERS CONDUCT BOARD Counsel: MR M BARNETT - Solicitor: LEGAL PRACTITIONERS CONDUCT BOARD

Defendant: CHRISTOPHER JOHN PATTERSON Counsel: MR G MANCINI - Solicitor: GEORGE MANCINI & CO

Hearing Date/s: 15/09/2011

File No/s: SCCIV-11-787

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LEGAL PRACTITIONERS CONDUCT BOARD v PATTERSON
[2011] SASCFC 102

Full Court Gray, Sulan and Blue JJ

THE COURT

1 The Legal Practitioners Disciplinary Tribunal has found the defendant, Christopher John Patterson, guilty of unprofessional conduct and recommended that disciplinary proceedings be commenced in this Court.¹ The Legal Practitioners Conduct Board seeks an order that the name of the practitioner be removed from the roll of legal practitioners. The practitioner does not oppose the application.

2 The practitioner is 64 years of age. On 31 January 2000, he was admitted as a practitioner of the Court. He was then aged 52 years. Prior to his admission, he served as a police officer for 34 years, achieving the rank of acting inspector and he undertook law studies while a police officer.

3 Following admission, he worked as an employee of the law firm Tindall Gask Bentley in the areas of criminal law and criminal injuries compensation. In 2001, he moved to Obst Lawyers and practised in the same areas. On 1 December 2003, he accepted a position as senior associate with the firm Finlaysons, working in the industrial law section of that firm's practice. The practitioner resigned from Finlaysons on 13 May 2005.

4 The conduct giving rise to the Tribunal's findings occurred between the years 2002 and 2009. The Tribunal found that during this period the practitioner engaged in a number of acts of dishonesty. Further, it was found that at times the practitioner engaged in work as a legal practitioner contrary to the terms of his restricted practising certificate and at other times when he did not hold a practising certificate at all.

5 As the practitioner does not oppose the order that he be struck off, it is sufficient to outline his unprofessional conduct in broad terms.

6 Following the practitioner's resignation from Finlaysons, it was discovered that the practitioner had developed what had been described as a "secret client base". While employed by Finlaysons, the practitioner acted for a number of clients in criminal matters without the knowledge or permission of Finlaysons. The clientele were generally persons facing criminal drug charges. The practitioner would undertake legal work in regard to these clients without opening files, recording times, entering into any fee arrangement and without

¹ *Legal Practitioners Act 1981* (SA) section 89.

accounting in any way to Finlaysons. He received cash payments for his services, amounting in total to many thousands of dollars. As noted above, he did not account to Finlaysons at all in respect of this secret clientele. Investigations revealed that the practitioner had acted unprofessionally in a similar manner whilst employed by Obst Lawyers.

7 Unsurprisingly, the Tribunal found the conduct, on the part of the practitioner, to be dishonest. In reaching this conclusion, the Tribunal rejected the practitioner's evidence that the work he had undertaken was minor, *pro bono* and work in respect of which he had no expectation of being paid. The Tribunal considered that the practitioner's recurrent failure to open files and record times also amounted to unprofessional conduct.

8 The remaining findings of unprofessional conduct arose from the practitioner conducting work as a legal practitioner in breach of the terms of his restricted practising certificate and as conducting work as a legal practitioner without holding any practising certificate. The Tribunal found that, although at times he may have been under a misunderstanding as to his right to practise, there were occasions during the year 2005 and later when he deliberately engaged in legal practice, knowing that he was not entitled to do so. The Tribunal concluded that in this respect he was guilty of unprofessional conduct.

9 Counsel for the Board submitted that the totality of the circumstances established that the practitioner lacks the qualities of character and trustworthiness which are necessary attributes of a person entrusted with the responsibilities and privileges of a legal practitioner. It was further submitted that gross departures from proper professional standards had been established and that an order striking out the practitioner's name from the roll should be made. These submissions should be accepted.

10 This Court acts in the public interest and not to punish the practitioner. The public interest is understandably demanding of proper behaviour and accountability from members of the profession. It is appropriate for the Court to accept and act on the findings of the Tribunal pursuant to powers conferred on the Court by the *Legal Practitioners Act 1981* (SA).² The practitioner's conduct and the conclusions of the Tribunal demonstrate that the practitioner is not fit to remain a member of the profession. The orders sought by the Board are the appropriate orders to be made. Absent such an order, public confidence in the profession could be eroded. Only those who observe the required standards expected of the profession are permitted to remain members of it.³

11 The totality of the circumstances before the court indicate that the practitioner lacks the quality of character and trustworthiness which are the necessary attributes of a person entrusted with the responsibilities of a legal

² *Law Society (SA) v Jordan* (1998) 198 LSJS 434, 474-476.

³ *Legal Practitioners Conduct Board v Phillips* (2001) 83 SASR 467, [30].

practitioner.⁴ The practitioner's conduct is of such a kind that, if tolerated, would bring the legal profession into disrepute. The conduct represented a gross departure from proper professional standards.⁵ The conduct amounted to an abuse of privileges which accompany a practitioner's admission to this Court. The conduct is of a nature that would erode public confidence in the legal profession. There is a need to protect the public from unprofessional and dishonest practitioners. The public is to be protected from legal practitioners who are ignorant of the basic rules of proper professional practice or indifferent to rudimentary professional requirements.⁶

¹² The gravity of practitioner's conduct necessitates his removal from the roll of practitioners.

⁴ See *Legal Practitioners Conduct Board v Hay* (2001) 83 SASR 454, [60].

⁵ *Re R (Practitioner of the Supreme Court)* [1927] SASR 58, 61.

⁶ *Legal Practitioners Conduct Board v Phillips* (2001) 83 SASR 467, [42]-[43]; *Pillai v Messiter [No 2]* (1989) 16 NSWLR 197, 201.