

SUPREME COURT OF SOUTH AUSTRALIA

(Full Court)

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment. The onus remains on any person using material in the judgment to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court in which it was generated.

THE LAW SOCIETY OF SOUTH AUSTRALIA v ABDUL-KARIM

[2013] SASCFC 7

Judgment of The Full Court

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

28 February 2013

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

PROFESSIONS AND TRADES - LAWYERS - UNQUALIFIED PERSONS AND DISQUALIFIED PRACTITIONERS - GENERALLY

Application for an order removing the name of a practitioner from the Roll of Legal Practitioners of the Supreme Court of South Australia - the defendant was admitted and enrolled as a barrister and solicitor of the Supreme Court of New South Wales - pursuant to the Mutual Recognition Act 1992 (Cth), the defendant was admitted and enrolled as a barrister and solicitor of the Supreme Court of South Australia - the defendant's name was subsequently removed from the Roll of Legal Practitioners in New South Wales and his practising certificate was cancelled - whether the defendant's name should be removed from the Roll of Legal Practitioners of the Supreme Court of South Australia.

Held: Application granted - the defendant's name was removed from the Roll of Legal Practitioners of the Supreme Court of South Australia.

Legal Practitioners Act 1981 (SA) s 89; Mutual Recognition Act 1992 (Cth), referred to.

Plaintiff: THE LAW SOCIETY OF SOUTH AUSTRALIA Counsel: MR A WARD - Solicitor: THE LAW SOCIETY OF SOUTH AUSTRALIA

Defendant: MICHAEL SAADEY ABDUL-KARIM No Attendance

Hearing Date/s: 27/02/2013

File No/s: SCCIV-12-1697

A

THE LAW SOCIETY OF SOUTH AUSTRALIA v ABDUL-KARIM
[2013] SASCF 7

Full Court: Gray, Sulan and Anderson JJ

THE COURT

1 This is an application by the Law Society of South Australia for an order removing the name of a practitioner from the Roll of Legal Practitioners of this Court.

2 The defendant, Michael Saadey Abdul-Karim, was admitted and enrolled as a barrister and solicitor of the Supreme Court of New South Wales on 2 August 1991. Following a resolution of the Board of Examiners on 27 January 1998, the defendant was admitted and enrolled as a barrister and solicitor of the Supreme Court of South Australia on 20 April 1998 pursuant to the *Mutual Recognition Act 1992* (Cth). The defendant's name on the South Australian Roll of Practitioners is stated as being Michael *Saddey* Abdul-Karim. This is an error. The correct spelling of the defendant's name is Michael *Saadey* Abdul-Karim. The defendant does not hold, and has never held, a South Australian Practising Certificate.

3 On 25 June 2003, the defendant was found guilty of professional misconduct and unsatisfactory professional conduct by the Administrative Decisions Tribunal of New South Wales. The conduct related to the defendant's representation of a client who was charged with two counts of obtaining a benefit by deception. The client denied the charges and instructed the defendant to represent him in criminal proceedings and a civil action seeking damages for malicious prosecution and false imprisonment. A costs agreement was signed which expressly provided that the defendant's usual hourly rate and court appearance charges would not apply and he was instead to be remunerated for 20 per cent of the amount recovered in proposed civil proceedings.

4 The Tribunal found, *inter alia*, that the written costs agreement was illegal, that the defendant had failed to make certain disclosures relating to costs to his client, that an affidavit filed by him in the Supreme Court proceedings and information put to a costs assessor were false and misleading and that the defendant made misleading representations and false inducements to his client to enter a plea of guilty.

5 On 3 September 2003, the following orders were made by the Administrative Decisions Tribunal of New South Wales:

- That the name of Michael Saadey Abdul-Karim be removed from the roll of legal practitioners in New South Wales.

- That the practising certificate of Michael Saadey Abdul-Karim be cancelled.
- That Michael Saadey Abdul-Karim pay the costs of the Bar Association in the sum of \$98,792.00.

On 17 February 2004, the Appeal Panel of the Administrative Decisions Tribunal of New South Wales dismissed an appeal by the defendant against these orders. On 21 February 2005, the New South Wales Court of Appeal dismissed the defendant's further appeal.

6 By reason of the orders of the Administrative Decisions Tribunal of New South Wales dated 3 September 2003, the defendant was disqualified from practice under the law of New South Wales.

7 Section 89(6) of the *Legal Practitioners Act 1981* (SA) provides:

Where the Supreme Court is satisfied, on the application of the Board, the Attorney-General or the Society, that a legal practitioner is disqualified or suspended from practice under the law of any other State (whether or not that State is a participating State), it may, without further inquiry, impose a corresponding disqualification or suspension under the provisions of this section.

Pursuant to this section it is open to this Court to impose, without further inquiry, a corresponding disqualification.

8 The defendant has been served with a copy of the proceedings, including the statement of claim provided by the Law Society. No defence has been filed. The defendant initially advised the Registrar of this Court that he was unable to afford representation and requested that the proceedings be stayed. However, no application has been made to the Court to stay the proceedings.

9 The defendant has been given notice of this Full Court hearing and in particular that the Law Society would be seeking final orders. On 8 February 2013, the defendant advised the Law Society that he was not in a financial position to travel to South Australia or to obtain legal representation. On 18 February 2013, the defendant, by email, forwarded to the Law Society his signed consent to the immediate removal of his name from the Roll of Legal Practitioners. Mr Abdul-Karim's consent is in the following terms:

I, Michael Saadey Abdul-Karim, do not oppose the Application made by the Society on 12 December 2012 (Supreme Court of South Australia Action No. 1697 of 2012) and consent to the immediate removal of my name from the Roll of Practitioners of the Supreme Court of South Australia and request that the Court make orders accordingly.

Signed: Michael Saadey Abdul-Karim

Dated: 18/02/2013

10 Having regard to the foregoing, this Court is satisfied that Michael Saadey Abdul-Karim is disqualified from practice under the law of New South Wales

and that a corresponding disqualification should be imposed under section 89(6) of the *Legal Practitioners Act*. We order that the name of Michael Saddey Abdul-Karim,¹ the defendant, be removed from the Roll of Legal Practitioners maintained by this Court.

¹ As earlier noted, the correct spelling is Michael Saadey Abdul-Karim.