

LEGAL PRACTICE TRIBUNAL

de JERSEY CJ

MS B CUSHING-SULLIVAN
MR J CORK

No 2514 of 2005

LEGAL SERVICES COMMISSION

Applicant

and

GREGORY PAUL WILLIAMS

Respondent

BRISBANE

..DATE 29/11/2005

REASONS

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE CHIEF JUSTICE: The only charge pursued against the respondent is of serious neglect and undue delay in the prosecution of a damages claim on behalf of Mrs Bickford. That was a claim for damages for - in respect of injuries she sustained when a metal box belonging to the Queensland Ambulance Service fell on her right leg on the 28th of December 2002.

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Mr Bickford, on his wife's behalf, instructed the respondent in January 2003 to bring a claim for damages. For the period January 2003 right up until April 2004 the respondent took no step at all to progress the claim and did not reveal that to the Bickfords. Mr Bickford attempted to contact the respondent on as many as 42 occasions over that period but the respondent did not return his calls.

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Following the receipt of a complaint from the Queensland Law Society the respondent did proceed to deal with the claim meeting with Mrs Bickford on the 29th of April 2004 and submitting a notice of claim under section 9 of the Personal Injuries Proceedings Act 2002. That occurred on the 21st of May 2004. Fortunately that was eventually accepted as a compliant notice.

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The explanations offered by the respondent for his inaction are stress, fatigue and long working hours. Of course they constitute no excuse. Delay and lack of communication of this degree bring the legal profession into serious disrepute.

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Notwithstanding the respondent's eventually dealing with the matter and for no financial return himself, albeit after complaint from the Law Society, 12 months unexplained delay - or 15 months unexplained delay where the client is anxious for news passes unsatisfactory professional conduct and amply warrants the description professional misconduct.

Pursuant to an order of the Solicitors Complaints Tribunal, the predecessor to this Tribunal, which was made on the 30th of April 2005, the respondent was, because of other breaches, suspended from practice for 12 months, fined the sum of \$10,000, required to undertake professional development modules offered by the law society and was required to install a new computer system. That cost him of the order of \$15,000. He also had to pay the society's costs of the proceeding which we are informed amounted to approximately \$11,000.

On the 21st of October 2005 the Court of Appeal upheld part of the respondent's appeal against the orders of the Tribunal and reduced the period of suspension from 12 months to six months. He - as I recall, the respondent in fact stopped practice at about the time his firm was put into receivership by the Law Society. The practice, we are informed, was eventually sold not for a substantial sum.

A consequence of the rearrangement, if I can put it that way, is that the respondent remains saddled with the burden of the payments due in respect of the computer system.

The instant misconduct occurred during the same period as the ethical breaches which concerned the Solicitors Complaints Tribunal when making its determination on the 30th of April 2005. It is right to say therefore that, what we term in the criminal jurisdiction, a principle of totality, has some play. An issue is whether had the Complaints Tribunal in April 2005 been seized of this misconduct as well as the other matters before it, any additional penalty would have been imposed.

We have given serious consideration to that and have reached the view that in all probability, if the Tribunal had then been dealing with these matters as well, it would not have imposed any further penalty. It must be said that the \$10,000 fine was a substantial fine and when seen in the context of the other burdens placed upon the respondent then he was quite severely dealt with. That's certainly my view.

There is also the affidavit from Ms Coleman which shows that the respondent has benefited from the suspension in that he has been starkly reminded of his ethical obligations, and has been given the opportunity now, to develop his professional skills in an appropriately controlled professional situation. And that, it appears, will continue with his likely employment on a longer term basis within Ms Coleman's firm.

In all these circumstances, it does not seem to us that there is any particular justification for imposing some additional nominal fine upon the respondent. His conduct in respect of this matter - his misconduct, was plainly serious, and would

ordinarily attract a substantial fine but it must be seen in the context of the other offending behaviour for which he has already been severely dealt with.

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The orders of the Tribunal are as follows. There will be a public reprimand of the respondent under section 280(2)(e) of the Legal Profession Act 2004. And there will an order that the respondent pay the applicant's costs to be assessed, if not agreed.

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