

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***Law Society of B.C. v. Dempsey***,
2007 BCSC 442

Date: 20070205
Docket: L050983
Registry: Vancouver

Between:

The Law Society of British Columbia

Petitioner

And:

John Ruiz Dempsey

Respondent

Before: The Honourable Mr. Justice Davies

Oral Reasons for Judgment

In Chambers
February 5, 2007

Counsel for the Petitioner:

P.G. Voith, Q.C.
S.P. Ramsay

Acting on his own behalf:

J.R. Dempsey

Place of Trial/Hearing:

Vancouver, B.C.

[1] **THE COURT:** This judgment concerns an application by the Law Society of British Columbia (the “Law Society”) to have the respondent found in contempt of court under Rule 56 of the *Rules of Court* and penalized for that contempt by incarceration.

[2] The history of this matter was thoroughly canvassed by Justice Williams in ***Law Society of British Columbia v. Dempsey***, 2005 BCSC 1277, so I need not and will not repeat the circumstances that gave rise to the orders made by Justice Williams. In summary, however, after a full hearing, Justice Williams found that the respondent had wrongfully engaged in the practise of law contrary to the provisions of the ***Legal Profession Act***, S.B.C. 1998, c 9 and enjoined him from doing so in future.

[3] The specific terms of Justice Williams’ orders which are now the subject of this application are that:

- (1) Until such time as he becomes a member in good standing of the Law Society of British Columbia, John Ruiz Dempsey is permanently prohibited and enjoined from holding himself out as a lawyer, practicing or non-practicing, or as a member of the Law Society of British Columbia.
- (2) Until such time as he becomes a member in good standing of the Law Society of British Columbia, John Ruiz Dempsey is permanently prohibited and enjoined from:
 - a. appearing as counsel or advocate;
 - b. drawing, revising or settling a document for use in a proceeding, judicial or extra-judicial;
 - c. drawing, revising, or settling a document relating in any way to proceedings under a statute of Canada or British Columbia;

- d. doing any act or negotiating in any way for the settlement of, or settling, a claim or demand for damages;
- e. giving legal advice;
- f. offering to provide to a person the legal services set out in (a) to (e) above; and
- g. holding himself out in any way as being qualified or entitled to do anything set out in (a) to (f) above

for or in the expectation of a fee, gain, or a reward, direct or indirect, from a person for whom the acts are performed.

- (3) Until such time as he becomes a member in good standing of the Law Society of British Columbia, John Ruiz Dempsey is permanently prohibited and enjoined from commencing, prosecuting, or defending a proceeding in any court in his own name or in the name of another, except where he is an individual party to a proceeding acting solely on his own behalf.
- (4) John Ruiz Dempsey is declared a vexatious litigant pursuant to s. 18 of the *Supreme Court Act*. Accordingly, he is prohibited and enjoined from commencing any legal proceeding on his own behalf in any court in British Columbia without leave of the court.
- (5) John Ruiz Dempsey is required to inform the Law Society of British Columbia of any proceedings presently instituted or which may be instituted in any court in British Columbia in which he seeks to apply for privilege of audience.

[4] That order was entered on November 21, 2005. While an appeal was taken, it was dismissed by Justice Donald of the Court of Appeal due to Mr. Dempsey's failure to prosecute the appeal in a timely way.

[5] The Law Society's notice of motion on this application seeks that:

- (1) the respondent be committed to prison for 30 days or a period that this court deems appropriate;

- (2) in the alternative, a fine be imposed upon the respondent in the amount of \$15,000 and he be required to complete 250 hours of community service or such other amount that this court deems appropriate;
- (3) in the alternative, a warrant in Form 63 be directed to a sheriff or other officer of the court or to a peace officer that the defendant is to be apprehended and brought before the court;
- (4) the respondent pay special costs; and
- (5) such further other relief as the court may deem necessary for his contempt of this court for disobeying the order pronounced September 13, 2005, and entered November 21, 2005, in this proceeding.

[6] The Law Society has filed authorities as well as substantial volumes of evidence relating to the allegations of contempt raised in its notice of motion. All material was served upon Mr. Dempsey as required by the *Rules of Court* and the issues are properly before the court.

[7] Mr. Dempsey filed no substantive defence to the Law Society's allegations of contempt. It is clear from his submissions before Justice Williams, before the Court of Appeal and before me today that he does not accept that this Court has any jurisdiction over his actions. He also does not accept that the ***Legal Profession Act*** is in any way binding upon him. Rather than offering a defence to the contempt allegations, Mr. Dempsey seeks to rely upon the proposition that Justice Williams' order is void and of no consequence to him because it was obtained without jurisdiction over him.

[8] Accordingly, while Mr. Dempsey sought to invoke such considerations as the ***Charter of Human Rights*** of the United Nations as well as s.15 of the ***Criminal***

Code which he says does not require him to obey “*de facto* laws,” he placed no substantive defence before the Court.

[9] As I explained to Mr. Dempsey, Justice Williams’ order is a subsisting order of this Court and, by reason of the doctrine of *res judicata*, I cannot consider any attack upon its validity.

[10] The remedy of contempt of court is founded upon the court’s power to uphold its dignity and process. Disobedience of court orders undermines the rule of law which is directly dependant on the ability of the courts to enforce their process. While people may disagree with court orders, they may not ignore those orders. It is fundamental to the existence of our democratic society that court orders will be honoured.

[11] Mr. Dempsey’s beliefs are not at issue in this proceeding. He is, of course, as a citizen of this country fully entitled to his beliefs. However, what he may not do, is deliberately ignore or flaunt the orders of this Court or the laws upon which they are based.

[12] The Law Society as the petitioner in this matter has the burden of proving beyond a reasonable doubt both that Mr. Dempsey had notice of Justice William’s order and that he intentionally engaged in conduct that disobeyed that order.

[13] It is not necessary that Mr. Dempsey intended to show disrespect for this Court by breaching its order. It is sufficient that he deliberately and intentionally engaged in conduct that had that effect.

[14] There is no doubt that by no later than September 15, 2005, Mr. Dempsey had knowledge of Justice Williams' order. That knowledge is evidenced by his e-mail to the *Vancouver Province* newspaper of that date. There is also no doubt that Mr. Dempsey has engaged in deliberate conduct that had the effect of contravening the order.

[15] The evidence is, in fact, overwhelming and establishes that on five separate occasions Mr. Dempsey offered to assist clients in pursuing claims including negotiating, settling, and if necessary, litigating such claims against financial institutions in exchange for a fee. Those offers all contravene paragraph 2(f) of the order which prohibits Mr. Dempsey from offering to provide various legal services for a fee including:

doing any act or negotiating in any way for the settling of or settling a claim or demand for damages.

[16] Further, in breach of paragraph 3 of the order, Mr. Dempsey has commenced two actions in which he is not an individual party acting solely on his own behalf. In the first action, Mr. Dempsey is one of six named plaintiffs acting "on behalf of the people of British Columbia". In the second action Mr. Dempsey advances not only his own claim but that of his wife. In addition, Mr. Dempsey has purported to act on behalf of other litigants including by signing court documents on their behalf in banking litigation in a class action proceeding that was dismissed after Justice William's order.

[17] Those actions were all commenced without leave of the Court contrary to paragraph 4 of Justice Williams' order, and Mr. Dempsey has sought privilege of audience on at least three separate occasions without advising the Law Society of his intention to do so, all in breach of paragraph 5 of the order.

[18] The deliberateness of Mr. Dempsey's actions is also proven beyond a reasonable doubt.

[19] I note for example the following:

- (1) In an excerpt from Mr. Dempsey's September 15, 2005 e-mail to the *Vancouver Province*, he stated:

I have already told Mister Justice Williams in advance that unless he dismisses the petition filed by the Law Society against me, I am not going to accept any order he makes for such will be a void order.

- (2) Mr. Dempsey's letter of September 28, 2005, to counsel for the Law Society stated:

This is to acknowledge receipt of your letter dated September 26, 2005, with a draft order of Mister Justice Williams' order. Please TAKE NOTICE that the said draft order is being returned to you void. I have no desire to enter into any verbal or written contract with you or the judge. Neither will I accept or acknowledge any adhesion contracts arising out of your filing any court order not approved by me until this matter is dealt with properly by a court of competent jurisdiction.

- (3) In Mr. Dempsey's October 31, 2005 letter to counsel for the Law Society, he's stated:

Such order unlawfully made by a certain James W. Williams, a defunct and dishonoured public servant who is inferior to me, a Child of God and Minister of God of indisputable title, a sovereign, free born, sentient, breathing and living man, is a void order, made without jurisdiction and therefore does not have any applicability to either JOHN RUIZ DEMPSEY or his Authorized Agent, Intervener & Real Party in Interest, John-Ruiz: Dempsey.

[20] After having considered all the evidence filed by the Law Society and in the absence of any material filed by Mr. Dempsey, I have concluded that the Law Society has established the breaches of the order of November 21, 2005, to which I have referred and I find that those breaches were deliberate and in contempt of that order.

[21] The question then becomes what is the appropriate sentence in this case.

[22] As I attempted to explain to Mr. Dempsey, I have been very concerned about the fact that what is sought by the Law Society is incarceration for contempt.

[23] In the determination of the appropriate punishment for contempt, there are a number of factors to consider. Those include: deterrence, the seriousness of the contempt, the protection of the public, the ability to pay a fine and the degree of intention involved in the contemptuous conduct.

[24] The Court does not wish to incarcerate individuals for breaches of its orders. The power to punish for contempt is a power which must be used most sparingly. Every opportunity must be given in appropriate circumstances for individuals who are found in contempt of court to purge that contempt. Penalties short of incarceration must always be considered.

[25] This case is problematic in that I doubt that any order that I may make or that any sentence that I may impose will be recognized by Mr. Dempsey as being an order made with jurisdiction over him. He has his own views of society and of the role of government and the courts in society. I have little doubt that any sentence that I may impose will be considered by him to be simply a further intrusion of the courts and of society upon his own assessment of his right and entitlements.

[26] Also, while a fine is a possible punishment consideration, I reject a fine as being appropriate in this case. I have no doubt that any fine would not be paid since the evidence before Justice Williams establishes that Mr. Dempsey is, in all respects with respect to court matters, either judgment proof or impecunious. A fine would have no deterrent or rehabilitative effect.

[27] I cannot, however, be deterred from my responsibility to the citizens of this country and the need to protect this Court and its process by the fact that it is unlikely that what I do will assist in ensuring that its orders affecting Mr. Dempsey are in future complied by him.

[28] Justice Williams was painstaking in his analysis of the harm that can and has been the result of Mr. Dempsey's past involvement in purporting to as a lawyer. The

evidence before me establishes that the damage referred to by Justice Williams has not abated. While Mr. Dempsey does not accept that his conduct causes harm, the fact remains that the public is entitled to protection from non-practising lawyers.

[29] Those whom he has convinced to allow him to represent himself suffer not only the result of ill-prepared and ill-thought-out arguments, they also suffer the potential for a loss of their funds and perhaps even loss of legitimate rights they may no longer be able to advance by reason of their association with him. The public must be protected from such actions even though Mr. Dempsey himself believes that they are taken appropriately.

[30] It is instructive that what Justice Williams attempted to do by his previous order was to put breaks upon Mr. Dempsey's ability to interfere in other's lives by requiring leave of the Court in certain circumstances before he could proceed and by requiring that the Law Society be advised of his intention to act representing individuals. Those orders were intended to protect the public and have been ignored by Mr. Dempsey because he simply refuses to accept that this Court has jurisdiction over him or that the laws of this country are binding upon him.

[31] In all of the circumstances, I am, with great reluctance, satisfied that the only remedy available which may have some prospect of deterrence is the incarceration of Mr. Dempsey. I take no pleasure in reaching that decision because I accept that he holds the views that he holds sincerely. However, an orderly democratic society cannot countenance wilful decisions calculated both to defy the court's authority and

interfere with the administration of justice. In my view nothing short of detention will effectively sanction Mr. Dempsey's conduct.

[32] I accordingly direct the sheriff to take Mr. Dempsey into custody. He will be held in custody for a period of 30 days. I will sign the necessary forms to achieve that purpose.

[33] I must also address the issue of costs.

[34] I am concerned that the Law Society has had to incur costs in enforcement of due process and an order of this Court. The authorities are clear that the beneficiary of a court order is entitled to have it obeyed without further expense.

[35] However, the order I make for incarceration is a serious one. While the Law Society might well be entitled to special costs, I am, in all of the circumstances, going to order costs on Scale B.

"B.M. Davies, J."
The Honourable Mr. Justice B.M. Davies