

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *The Law Society of British Columbia v.
Boyer,*
2016 BCSC 342

Date: 20160210
Docket: S1510783
Registry: Vancouver

Between:

The Law Society of British Columbia

Petitioner

And

Marc Pierre Boyer

Respondent

Before: The Honourable Madam Justice Adair

Oral Reasons for Judgment

In Chambers

Counsel for the Petitioner:

M.J. Kleisinger

Appearing on his own behalf:

M. Boyer

Place and Date of Hearing:

Vancouver, B.C.
February 10, 2016

Place and Date of Judgment:

Vancouver, B.C.
February 10, 2016

[1] **THE COURT:** This, then, is my ruling today. I have concluded that the petition must be granted. These, then, are my reasons.

[2] The petitioner, the Law Society of British Columbia, applies for orders against the respondent, Marc Pierre Boyer, under s. 15(1), (4), and (5) of the **Legal Profession Act**, S.B.C. 1998, c. 9, relying on s. 85(5) and (6) of the **Legal Profession Act**. The details of the orders sought are set out in Part 1, paragraphs 1, 2, and 3 of the petition:

1. Marc Pierre Boyer, until such time as he becomes a member in good standing of the Law Society, be permanently prohibited and enjoined from engaging in the practice of law as defined in section 1 of the *Legal Profession Act*, including:
 - (a) appearing as counsel or advocate;
 - (b) drawing, revising or settling
 - (i) a document for use in a proceeding, judicial or extrajudicial,
 - (ii) a document relating in any way to a proceeding under a statute of Canada or British Columbia;
 - (c) doing an act or negotiating in any way for the settlement of, or settling, a claim or demand for damages;
 - (d) giving legal advice;
 - (e) making an offer to do anything referred to in paragraphs (a) to (d);
 - (f) making a representation that he is qualified or entitled to do anything referred to in paragraphs (a) to (d); andfor or in the expectation of a fee, gain or reward, direct or indirect from the person for whom the act is performed.
2. Mr. Boyer, until such time as he becomes a member in good standing of the Law Society, be permanently prohibited and enjoined from commencing, prosecuting or defending a proceeding in any court, regardless of whether he charges a fee, except when representing himself as an individual party to a proceeding brought against him acting without counsel solely on his own behalf; and
3. Mr. Boyer, until such time as he becomes a member in good standing of the Law Society, be permanently prohibited and enjoined from representing himself as being a lawyer, barrister and any other title that connotes he is entitled or qualified to engage in the practice of law[.]

[3] Mr. Boyer filed material in response to the petition (including a supplementary response) which is part of the application record before me. I must say, however, that much of what Mr. Boyer filed is incomprehensible and irrelevant to the issues that are raised by the petition. In Mr. Boyer's oral submissions today, very little time was spent addressing the substance of the issues raised in the petition. Rather, Mr. Boyer's submissions appeared to me, to the extent I understood them, to be primarily focussed on the jurisdictional arguments that he has advanced in the past and wishes to advance in the future concerning matters under the ***Controlled Drugs and Substances Act***.

[4] In those circumstances, the Law Society's evidence on this petition is, for all intents and purposes, uncontradicted.

[5] I am going to say, Mr. Boyer, that filing material with the court that is irrelevant and inadmissible is a complete waste of your time, the opponent's time, and the judge's time. Engaging in that kind of conduct is antithetical to justice and creates anarchy, which is incompatible with the rule of law.

[6] I turn, then, to the facts.

[7] Mr. Boyer resides in Vancouver. He is not and never has been a member of the Law Society of British Columbia. In May of 2005, Former Chief Justice Brenner ordered that Mr. Boyer be prohibited from commencing or continuing any proceedings in the Supreme Court, except if he was represented by a solicitor.

[8] Mr. Boyer has been convicted of possession of marijuana for the purposes of trafficking on a number of occasions and has been sentenced to incarceration in respect of those offences. He is referenced in a judgment from the Alberta Court of Queen's Bench, ***Fearn v. Canada Customs***, 2014 ABQB 114, at paragraphs 128, 129, and 137, as a person who engages in what the judge in that case called "Organized Pseudolegal Commercial Arguments" that were wasteful of court and Crown resources. Again, I must say that that has been my experience in dealing with the matters before me today.

[9] Mr. Boyer's conduct in relation to two matters in particular is the subject of the Law Society's application.

[10] The first matter I will refer to as the Fortt matter, and the details concerning Mr. Boyer's conduct are found in the affidavit of Rosellina Dattilio. I will outline the facts briefly.

[11] In April 2015, the Crown charged Joseph William Fortt with a four-count Information alleging offences contrary to the ***Controlled Drugs and Substances Act***. The evidence discloses that, since June of 2015, Mr. Boyer has attempted to represent Mr. Fortt in the criminal proceedings before the B.C. Provincial Court, despite the fact that Mr. Fortt, at least for some period of time, had a Legal Aid lawyer appointed to represent him. Mr. Boyer has attempted to argue that the Crown lacks jurisdiction to prosecute Mr. Fortt due to Mr. Fortt's involvement with the Marijuana Party and that the court also lacks jurisdiction to hear the matter.

[12] The evidence discloses that, since June of 2014, Mr. Boyer has engaged in the following acts on Mr. Fortt's behalf: he has drafted court documents and application materials to be filed with the court; he has attended the office of the Crown prosecutor to serve documents and correspondence and to discuss matters with Crown counsel; he has attended at various preliminary hearings with and on Mr. Fortt's behalf; and he has attempted to present arguments to the court on Mr. Fortt's behalf.

[13] To date, the court has not allowed Mr. Boyer to speak on Mr. Fortt's behalf and has had him removed from the courtroom on at least one occasion. Prior to Mr. Fortt's trial, the Provincial Court has set aside three days in April 2016 to hear the so-called jurisdictional arguments, and the court is prepared to devote the first day to addressing Mr. Boyer's ability to represent Mr. Fortt at the trial.

[14] In addition, Mr. Boyer has represented himself as a "barrister" to the court, to counsel, and in various documents that he has prepared. Mr. Boyer has suggested that as a "barrister," he is entitled to act on Mr. Fortt's behalf.

[15] On August 20, 2015, Mr. Fortt informed the Provincial Court that Mr. Boyer was a “professional witness” and that, as such, Mr. Boyer should be paid.

[16] I turn, then, to the second matter, which is the Skopnik matter. The details of this matter are set out primarily in the affidavit of Martin Buhler.

[17] Around October 2015, Mr. Boyer prepared and filed a notice of civil claim, in which Mr. Skopnik was named as the plaintiff, in Vancouver Supreme Court Action No. 158600. The notice of civil claim is attached as Exhibit “A” to Mr. Buhler’s affidavit. I will say that, in my opinion, it is unrecognizable as a pleading that would be in compliance or acceptable under the **Supreme Court Civil Rules**. The action appears to be brought in Mr. Skopnik’s name and also on behalf of the Vancouver East Marijuana Party. Attached to the notice of civil claim were two other documents that Mr. Boyer prepared titled, “Under Protest: Writ of Mandamus under common law,” and “Application to appear before a Judge on short leave in order to civilly seek an amicable resolution.” How exactly those documents might comply with any provision in the **Supreme Court Civil Rules** is a mystery.

[18] Mr. Boyer has corresponded with defence counsel on Mr. Skopnik’s behalf, and the evidence discloses that in conversations with counsel, Mr. Boyer has referred to himself as “barrister.” Mr. Boyer informed defence counsel that he intended to represent Mr. Skopnik in the matter and that he had drafted all the documents. After hearing of the vexatious litigant order against Mr. Boyer, and after Mr. Boyer’s threatening comments, defence counsel refused to discuss the case with Mr. Boyer.

[19] Despite this, the evidence discloses that Mr. Boyer continued to correspond with counsel.

[20] I turn, then, to the legal basis for the relief sought.

[21] Section 3 of the **Legal Profession Act** requires the Law Society “to uphold and protect the public interest in the administration of justice by ensuring that those who are unqualified, either in terms of competence or moral standing, are not given

the right to practice law.” Further, under s. 85(1)(a) of the **Legal Profession Act**, it is an offence for any person to contravene s. 15. As I mentioned above, under subsection 85(5) and (6) of the **Act**, the Law Society may apply for and the Supreme Court may grant an injunction if it is satisfied that there is reason to believe that there has been or will be a contravention of the **Legal Profession Act**.

[22] In this case, I am satisfied on the evidence that there is reason to believe that there has been and will be, unless enjoined, a contravention by Mr. Boyer of the **Legal Profession Act**.

[23] The evidentiary threshold for obtaining an injunction under the **Legal Profession Act** is low because the injunction merely operates to prohibit breaches of the statute, which is impermissible conduct in any event. I cite Mr. Justice Savage’s decision in **Law Society of British Columbia v. Gorman**, 2011 BCSC 1484, at para. 37, in that regard.

[24] I will deal first with the Law Society’s position that Mr. Boyer has falsely represented himself as a lawyer. This is in relation to the order that is sought under paragraph 3 of Part 1 of the petition.

[25] Section 15(4) of the **Legal Profession Act** prohibits a person from falsely representing himself or herself as a lawyer. The Law Society, in its submissions, says that the section was enacted to protect the public from those who falsely portray themselves as lawyers who are capable of practicing law and, by doing so, misleading others. I agree.

[26] The court has granted injunctions pursuant to this section to prohibit persons from calling themselves by terms that are synonymous to “lawyer”, including “counsel,” “advocate,” and “attorney,” and, in my view, calling yourself a “barrister”, as Mr. Boyer has done, falls into the same category. In that regard, I agree with the Law Society’s submission that “barrister” is synonymous with “lawyer.” Section 29 of the **Interpretation Act**, R.S.B.C. 1996, c. 238, supports this position, as it defines “barrister” as meaning “a practising lawyer defined in section 1(1) of the *Legal*

Profession Act” when the term is used in an enactment. Section 1(1) of the **Legal Profession Act** defines “lawyer” as a member of the Law Society.

[27] As the evidence discloses, Mr. Boyer has and continues to refer to himself as a barrister in his various documents to the court and to counsel. The Law Society submits, and I agree, that Mr. Boyer should not be permitted to refer to himself as a barrister or by any other title that suggests he is qualified or entitled to engage in the practice of law, unless and until he becomes a member of the Law Society.

[28] I turn next to matters under s. 15(5) of the **Legal Profession Act**, that is, commencing, prosecuting, and defending a proceeding in court. This relates to the order sought in paragraph 2 under Part 1 of the petition.

[29] Section 15(5) of the **Legal Profession Act** prohibits a person from commencing, prosecuting, or defending a proceeding in any court, except as permitted in s. 15(1). Unlike s. 15(1) breaches, evidence of a fee is not required to establish that a person has breached s. 15(5), and I refer in that regard to Mr. Justice Grauer’s decision in **Law Society of British Columbia v. Robbins**, 2011 BCSC 1310. Subsequent to the decision in **Robbins**, the Supreme Court has found that a person will breach s. 15(5) if he or she is the “driving force of the litigation, has conduct, carriage, or the overall direction of litigation, or is acting like a lawyer.”

[30] The Law Society submits, and I agree, that Mr. Boyer’s involvement in the legal matters of Mr. Fortt and Mr. Skopnik has gone beyond – I would say far beyond – isolated assistance on a single occasion. To the contrary, his involvement is comprehensive. The evidence clearly supports that conclusion. Mr. Boyer has prepared and filed documents for the defence of Mr. Fortt’s criminal charges and for the commencement of Mr. Skopnik’s civil action. The positions taken and the arguments advanced in both these proceedings are similar in character to the “Organized Pseudolegal Commercial Arguments” that Mr. Boyer unsuccessfully raised in his earlier criminal trials. Mr. Boyer has appeared in court and corresponded with counsel on behalf of both Mr. Fortt and Mr. Skopnik.

[31] The Law Society submits, and I agree, that Mr. Boyer has attempted to take in hand the overall prosecution and defence of these matters, contrary to s. 15(5) of the **Legal Profession Act**. The evidence discloses that Mr. Boyer has suggested that he has and intends to do so for others.

[32] While the vexatious litigant order made by Chief Justice Brenner prevents Mr. Boyer from bringing litigation in his own name without the assistance of a lawyer, the Law Society submits, and I agree, that Mr. Boyer is attempting to forward his agenda through the litigation of others and by using others. In doing so, he shields himself from the consequences that typically result from such vexatious behaviour.

[33] Unlike Mr. Boyer, those that Mr. Boyer purports to assist, however, face serious consequences. Mr. Fortt, for example, faces incarceration if he is not successful in defending the charges that are brought against him. Mr. Skopnik is exposed to adverse costs consequences if he is unsuccessful in his civil action. In addition, opposing parties and the court are required to spend considerable time, effort, and money to respond to Mr. Boyer's arguments. The Law Society submits, and I agree, that an injunction is required to protect the public, the courts, and the administration of justice generally from Mr. Boyer's particular brand of advocacy.

[34] I turn finally to the issues under s. 15(1). This is in relation to the order sought under paragraph 1 of Part 1 of the petition.

[35] Under s. 15(1), Mr. Boyer is prohibited from engaging in the practice of law for or in the expectation of a fee, gain or reward, direct or indirect, from the persons for whom he performs services and, as I mentioned, s. 85 allows the court to grant an injunction where there is evidence of a breach of the **Act**.

[36] The Law Society submits, and in my opinion the evidence supports the conclusion, that Mr. Boyer has breached the **Legal Profession Act**, and that a broad injunction is required and justified to prohibit similar breaches in the future. Although Mr. Fortt has informed the Law Society that he did not pay or intend to pay

Mr. Boyer, he did advise the court that Mr. Boyer should be paid as a “professional witness.” Mr. Boyer has also suggested that he has several clients.

[37] The Law Society submits that, in light of the other breaches of the **Legal Profession Act**, a broad order prohibiting Mr. Boyer from engaging in the practice of law as defined in s. 1 is required. I agree and, in my opinion, there is evidence before me, uncontradicted evidence, to support the conclusion that Mr. Boyer, in his actions, is acting in the expectation of a reward, either direct or indirect. I am satisfied that it is in the public interest to prevent Mr. Boyer from breaching the **Legal Profession Act** in the future. Many of the arguments that he has raised and is raising on behalf of Mr. Fortt and Mr. Skopnik are the same unsuccessful jurisdictional arguments that he has raised previously in his personal criminal proceedings.

[38] In my opinion, given his lack of credentials, his history with the criminal justice system, the vexatious litigant order pronounced by Chief Justice Brenner, and the Alberta court’s conclusion that Mr. Boyer’s arguments are “Organized Pseudolegal Commercial Arguments,” Mr. Boyer is, in my opinion, an inappropriate advocate for Mr. Fortt, Mr. Skopnik, or anyone else.

[39] Accordingly, the orders sought in the petition under Part 1, paragraphs 1, 2, and 3 are granted.

[40] MARC BOYER: I pity your immortal soul.

[41] THE COURT: That concludes my ruling.

[42] MARC BOYER: Great, thank you.

[43] THE COURT: Mr. Kleisinger, do you have submissions to make on --

[44] MARC BOYER: That concludes the matter is what you said. Thank you.

[45] THE COURT: That concludes my ruling, sir.

[46] MARC BOYER: Oh.

[47] THE COURT: If you walk out, I am going to hear Mr. Kleisinger on costs, so
–

[48] MARC BOYER: Great, whatever you do, incur whatever costs you want. I will not pay it. Thank you.

[49] THE COURT: You are leaving on your own volition, I take it?

[50] MARC BOYER: That is right.

[51] THE COURT: All right, thank you.

[52] MARC BOYER: You're an insult to god all mighty. Thank you very much. Mon dieu et mon droit.

[53] MR. KLEISINGER: My Lady, we have included – I guess, first, I should ask that the court dispense with Mr. Boyer's requirement to approve the form of the order?

[54] THE COURT: Yes, I will dispense with his requirement to approve the form of order. I do not see any point in the circumstances.

[55] MR. KLEISINGER: Thank you, My Lady. Secondly is the issue of costs. The law cites, at Tab 9 – oh, I'm sorry. Yes, Tab 9, I have prepared a draft bill of costs. This was provided to Mr. Boyer at that time. It is likely the Law Society's perceived – or, incurred more costs than were claimed, however, we merely wish to recover our disbursements plus a small amount of costs. Although the total cost of disbursements that we're claiming is \$3,108.38, I understand Mr. Boyer doesn't have the funds to pay these amounts in any event. So that amount, to settle this before having to go before the Registrar at around \$1,500 would be agreeable to the Law Society.

[56] THE COURT: That is \$1,500, exclusive of taxes?

[57] MR. KLEISINGER: Well, we don't charge taxes on me being here, so.

[58] THE COURT: All right. I assess, then, lump-sum costs to include disbursements of \$1,500.

[59] MR. KLEISINGER: My Lady, I have scribbled up the order here. I am just adding the \$1,500 if Your Ladyship is inclined to sign the order today?

[60] THE COURT: Has the order been vetted?

[61] MR. KLEISINGER: It has not been vetted, My Lady. I can submit it on another date after it has been vetted if Your Ladyship would – if that is the proper course.

[62] THE COURT: I would prefer that.

[63] MR. KLEISINGER: Excellent, My Lady.

[64] THE COURT: All right.

“Adair J.”