

Terrace (formerly of Golden), B.C.

Called to the Bar: September 13, 1983

Discipline hearing panel: September 4, 1997

D.W. Gibbons, Q.C., as a one-Bencher panel

K.E. Neilson, Q.C., for the Law Society

R.S. Sugden, Q.C., for Mr. MacAdam

Summary

Mr. MacAdam purported to advise a client whom he knew was represented by another lawyer. In another matter, he failed to hold in strict confidence information given to him by a client. Mr. MacAdam was discourteous on several occasions to another client; he was also discourteous to a probation officer and made an inappropriate comment to the officer.

Facts

Advising a client represented by another lawyer

In August, 1994 Mr. MacAdam referred B, who was charged with assault and failure to appear, to another lawyer (S) because Mr. MacAdam had a conflict of interest in the matter.

The day before B's court appearance, S met with her for the first time, interviewed her and concluded that there was no defence to the assault charge. S recommended that the best course of action would be for B to plead guilty to assault if the Crown agreed to a conditional discharge and dropped the failure to appear charge. B agreed, and S reached agreement with Crown on this basis.

Mr. MacAdam was in Provincial Court the next day when B was to appear in court. He spoke to B prior to the court hearing, and he then asked to speak to S and B together. In an interview room, Mr. MacAdam told S in front of B that S had given her client bad advice and that B should not plead guilty. S told B that she could only have one lawyer and it must be someone in whom B had confidence. She said B would have to decide whose advice to accept. B said she had confidence in S, but was concerned about a criminal record. S expressed regret that B had been put in this position; S apologized and left the interview room.

Mr. MacAdam followed S into the courtroom where a number of people were waiting for court to begin. In their presence, Mr. MacAdam said to S, "How could you plead her guilty? She has an absolute defence." S told him to stop discussing the matter in public.

When the client's case was called, Mr. MacAdam spoke to it and obtained an adjournment for B to retain new counsel. With new counsel, B ultimately pleaded guilty to the assault charge and received a conditional discharge and stay of the failure to appear charge.

Disclosure of confidential information

In 1993-94, Ms. D was living common law with Mr. T. Mr. T had previously lived with Ms. P and they had a child together. In June, 1993 Mr. MacAdam began acting for Ms. P in seeking custody of her child, who was then living with Ms. D and Mr. T.

Ms. P gave Mr. MacAdam information in confidence about Ms. D and Mr. T for the custody proceedings. Ms. P did not give, and Mr. MacAdam did not ask for, permission to disclose the information. Shortly thereafter, G, a friend of Ms. D and Mr. T, asked Mr. MacAdam to prepare an agreement to permit Ms. D and Mr. T to act as guardians for G's daughter while G was away at school. Mr. MacAdam advised G that Ms. D and Mr. T were not suitable people to care for her child. He failed to hold in strict confidence information Ms. P had given him about the couple, in particular, allegations of instability, violence, welfare abuse and drug abuse and Ms. D's history of keeping people's children.

Ms. P's custody proceeding was ultimately settled by the parties themselves without a hearing. Ms. D and Mr. T complained to the Law Society; Ms. P was not a complainant.

Discourtesy to a client and a probation officer

While representing W in a custody proceeding between 1993 and 1994, Mr. MacAdam made offensive remarks to her on a number of occasions. He told W (a seamstress) that "sewing is a front for prostitution;" he also told her strip dancing was a front for prostitution. Mr. MacAdam made crude and discourteous remarks to W and accused her of offering sex to a probation officer in return for a more favourable child custody and access report.

In June, 1994, a probation officer (P) called Mr. MacAdam to discuss a concern that he had. The conversation turned acrimonious, and Mr. MacAdam made discourteous comments. On a separate occasion, Mr. MacAdam inappropriately suggested to P that P ask W out on a date.

Decision

Under Law Society Rule 469, Mr. MacAdam admitted, and the hearing panel found, that his conduct constituted professional misconduct.

Penalty

The panel accepted Mr. MacAdam's proposed discipline penalty and ordered that he be:

1. be reprimanded;
2. send letters of apology to S, P, D and W; and
3. pay \$500 as costs of the hearing, at \$50 per month beginning October 1, 1997.

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