

Gail Lynn Bell

Vancouver, BC

Called to the Bar: May 20, 1988

Became a non-practising member: January 1, 1997

Discipline hearing: April 13, 2000

Panel: G. Ronald Toews, QC, Chair, Robert W. McDiarmid, QC and Anita Olsen

Report issued: April 13, 2000; indexed as [2000] LSBC 06

Non-publication application to the Benchers: February 2, 2001

Panel: Richard S. Margetts, QC, Chair, Ralston S. Alexander, QC, Jo Ann Carmichael, QC, Jaynie Clark, Robert Crawford, QC, Anna K. Fung, QC, Gerald J. Kambeitz, QC, Peter J. Keighley, QC, Gerald J. Lecovin, QC, Marjorie Martin, Patricia L. Schmit, William J. Sullivan, QC, Russell S. Tretiak, QC and Ross D. Tunnicliffe

Report issued: March 14, 2001

Counsel: Henry C. Wood (*facts, verdict and penalty*) and Jessica Gossen (*non-publication application*), for the Law Society; Christopher E. Hinkson, QC, for Ms. Bell

Summary

As a result of illness, Ms. Bell failed to serve clients in a conscientious, diligent and efficient manner by failing to perform work promptly, communicate with clients and opposing counsel or keep clients reasonably informed in a number of matters. At the time, she was suffering from an illness and she subsequently withdrew from practice. The hearing panel found that Ms. Bell had incompetently carried out her duties as a lawyer. The panel ordered that Ms. Bell remain in treatment and, on returning to practice, submit to a number of conditions, including supervision of her practice by a lawyer approved by the Practice Standards Committee.

Facts

A Law Society review of Ms. Bell's practice in 1996 revealed that Ms. Bell had failed to perform legal work promptly, failed to communicate with clients and opposing counsel and failed to keep clients reasonably informed on their files. Ms. Bell acknowledged the problems in her practice and agreed to take a series of remedial steps, which were accepted by the Competency Committee (later known as the Practice Standards Committee), with the addition of some conditions.

At the time of these matters, Ms. Bell was suffering from an illness, which was responsible for her difficulties and her failure to provide legal services competently. In

September, 1996 she acknowledged in an affidavit that she had been advised to take a leave of absence from practice for an indeterminate period, for medical reasons.

In January, 1997 Ms. Bell became a non-practising member. A discipline citation was issued against her on January 30, 1997. In February she gave her undertaking to the Law Society Discipline Committee not to practise law until the Society had received a favourable report as to her fitness for practice from her treating specialist and until relieved of her undertaking by the Committee or a hearing panel.

Decision

Ms. Bell incompetently carried out duties she had undertaken in her capacity as a lawyer.

Penalty

The panel ordered Ms. Bell to:

1. remain in treatment in accordance with the recommendations of her specialist, and have regular reports submitted to the Practice Standards Committee;
2. on returning to practice, have her practice supervised by a lawyer approved by the Practice Standards Committee at her expense, until the Committee determines the supervision is no longer necessary;
3. within six months of returning to practice, report to the Practice Standards Committee on her office systems, in particular to address recommendations of the 1996 practice review report;
4. remain under the jurisdiction of the Practice Standards Committee until the Committee determines she needs no further practice assistance; and
5. attend a CLE or other course on law office management, to be approved by the Executive Director and completed within one year of her return to practice.

The hearing panel relieved Ms. Bell of her earlier 1997 undertaking not to practise law and confirmed that the balance of her undertakings given at that time had been fulfilled.

(Ms. Bell, however, was a non-practising member and remained subject to her undertaking as a non-practising member not to practise law.)

* * *

On March 14, 2001, the Benchers rejected Ms. Bell's application for non-publication of the discipline matter. While acknowledging that publication of a finding of incompetence would be embarrassing to Ms. Bell, that alone was not sufficient to proscribe publication. It was in the interest of the public and the profession to know that the Law Society disciplines lawyers for incompetence. Before the Benchers order non-publication, there

must be special or undue prejudice to a lawyer, established by expert or other compelling evidence, so as to outweigh the public interest.

The Benchers noted that, in these circumstances, they could not conclude that publication would impede Ms. Bell's recovery and, in fact, they were pleased to be informed by her counsel that she had recovered from her problems.

Discipline Case Digest — 2002: No. 11 October (Bell)*

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