

THE LAW SOCIETY OF BRITISH COLUMBIA

In the matter of the *Legal Profession Act*, SBC 1998, c. 9

and a hearing concerning

DAVID ANDREW RIDDELL

RESPONDENT

**DECISION OF THE HEARING PANEL ON
FACTS AND DETERMINATION**

Written materials: April 29, 2021

Panel: Michael F. Welsh, QC, Chair
Nan Bennett, Public representative
Sandra E. Weafer, Lawyer

Discipline Counsel: Mandana Namazi
Counsel for the Respondent: Molly Shames

INTRODUCTION

[1] A citation was issued against the Respondent on May 12, 2020, pursuant to the *Legal Profession Act* and the Law Society Rules (the “Citation”). The Citation was amended on May 20, 2020. The Respondent admits service of the Citation.

[2] The amended Citation reads:

On September 9, 2019, you were convicted of possessing child pornography, contrary to section 163.1(4) of the *Criminal Code of Canada*, which you committed between January 1, 2015 and July 4, 2017, and for which act you were sentenced on February 24, 2020.

This conduct constitutes conduct unbecoming the profession, pursuant to s. 38(4) of the *Legal Profession Act*.

- [3] This Panel received an application from counsel for the Law Society, consented to by the Respondent, to conduct a hearing on the written record. On May 10, 2021, the Panel granted the application to conduct the hearing in writing and proceeded to consider the matter on the basis of an agreed statement of facts (the “ASF”), a Book of Exhibits and the written representations of the parties.
- [4] The Respondent admits that he was charged with possession of child pornography. He admitted the conduct and pleaded guilty to the offence in September 2019. He was sentenced in February 2020. As a result, the Law Society issued the Citation against the Respondent for conduct unbecoming the profession.
- [5] In the ASF the Respondent admits that he engaged in the misconduct alleged in the Citation, and further admits that the misconduct constitutes conduct unbecoming the profession.
- [6] This Panel has considered the ASF and the evidence contained in the Book of Exhibits, and has considered the Respondent’s admission. For the reasons that follow, the Panel finds that the Respondent committed conduct unbecoming the profession.

ISSUE

- [7] Notwithstanding the admission, this Panel must be satisfied that the evidence establishes that the Respondent committed the acts alleged and that this constitutes conduct unbecoming the profession, pursuant to the *Act*. The burden remains at all times on the Law Society to prove the allegation in the citation on the balance of probabilities: *Foo v Law Society of British Columbia*, 2017 BCCA 151 at para. 63.

FACTS

Professional background

- [8] The Respondent obtained his law degree at the University of Cambridge in the UK. He was called to the Bar of England and Wales in 1993 and practised as a barrister in Manchester until he and his wife immigrated to Canada in 2001.
- [9] The Respondent became a member of the Law Society of British Columbia in June, 2003, and between 2008 and 2012, he practised as an associate at a firm in Maple

Ridge. In 2013, the Respondent became a sole practitioner within the group of lawyers at that same firm, and practised primarily in the areas of real estate and commercial law.

- [10] The Respondent changed his status to non-practising in July 2018 in the face of the criminal proceedings that resulted in the conviction.

Criminal investigation and disposition

- [11] As a result of a report from the BC Integrated Child Exploitation Unit, the RCMP conducted an investigation that revealed that child pornography was uploaded to a computer with an IP address associated with the Respondent's home address.
- [12] The RCMP obtained a search warrant, and on July 4, 2017, seized electronic devices from the Respondent's residence. Those devices were determined to contain over 150 images of child pornography.
- [13] On July 18, 2017, the Respondent voluntarily undertook to the Law Society not to practise family or criminal law and not to represent anyone under the age of 19, or be in the presence of anyone under 19, in relation with his law practice, unless accompanied by an adult.
- [14] On July 4, 2018, the Respondent was arrested and charged with one count each of making and possessing child pornography, contrary to the *Criminal Code*.
- [15] As a result of the charge, on July 8, 2018 the Respondent entered into a voluntary undertaking not to engage in the practice of law, not to act as a designated paralegal and to change his status with the Law Society to non-practising. The Respondent became a non-practising member of the Law Society on July 9, 2018.
- [16] On September 9, 2019, the Respondent pleaded guilty to one charge of possession of child pornography.
- [17] The Respondent's sentencing hearing took place on February 14, 2020. Pursuant to a joint sentencing proposal, the Court was asked to sentence the Respondent to a nine-month conditional sentence, followed by 15 months of probation. The charge of making child pornography was stayed.
- [18] Pre-sentence reports were entered into evidence at the sentencing hearing. These reports indicated that the Respondent had suffered from repetitive work burnout and financial stresses, and that, without intervention, he would have continued to access child pornographic materials. He expressed remorse and took responsibility for his actions, including attending extensive counselling to address the offence.

[19] After reserving, on February 24, 2020, the Court accepted the joint recommendation and sentenced the Respondent to a nine-month conditional sentence order, followed by a 15-month probation order. In addition to the mandatory conditions of the conditional sentence order, the Respondent had conditions that included a prohibition on contact with persons under 16, except as permitted, to take treatment as directed and not to possess or access any child pornography.

CONDUCT UNBECOMING THE PROFESSION

[20] This Citation concerns conduct unbecoming the profession, which is defined in the *Act* as conduct that, in the judgment of the benchers or a panel, is contrary to the best interest of the public or the legal profession, or causes harm to the standing of the legal profession. Essentially, conduct unbecoming refers to matters that are in a lawyer's private life. This is in distinction to misconduct related to the professional practice of a lawyer, which could be the subject of a citation for professional misconduct.

[21] The Law Society, as a self-governing profession that regulates in the public interest, has an obligation, where appropriate, to discipline for misconduct in a lawyer's life that falls outside of the professional practice of law. The rationale for regulating the private lives of lawyers was stated succinctly in *Law Society of BC v. Berge*, 2007 LSBC 07 at para. 38:

The Benchers find that lawyers in their private lives must live up to a high standard of conduct. A lawyer does not get to leave his or her status as a lawyer at the office door when he or she leaves at the end of the day. The imposition of this high standard of social responsibility, with the consequent intrusion into the lawyer's private life, is the price that lawyers pay for the privilege of membership in a self-governing profession.

[22] The test for conduct unbecoming is met in this case. We agree with counsel for the Law Society that this is an obvious case. Unfortunately this is not the only case of this type. There is precedent for finding that a conviction for possession of child pornography constitutes conduct unbecoming a member of the profession. In *Law Society of BC v. Rea*, 2012 LSBC 22, the hearing panel found that using the internet to view child pornography is conduct unbecoming. We echo that panel's comments at para. 14:

The conduct was very serious. It perpetuates violation and abuse of children. It not only makes victims of the children who were abused in the pictures, it also makes possible future abuse and violation of children.

- [23] The Respondent viewed and accessed pornographic material involving young children on several devices over a lengthy period of time, namely, January 2015 to July 2017. He was charged criminally, convicted and sentenced. This is clearly conduct that causes harm to the standing of the legal profession, and we have no hesitation in finding that the Law Society has proven the conduct and that it constitutes conduct unbecoming the profession.

CONCLUSION

- [24] Having reviewed all of the evidence, this Panel finds that the Respondent has committed conduct unbecoming the profession.