

2005 LSBC 08

Report issued: February 22, 2005

Oral Reasons: February 15, 2005

Citation issued: December 5, 2003

The Law Society of British Columbia
In the matter of the *Legal Profession Act*, SBC 1998, c.9
and a hearing concerning

JAMES NEIL RODGERS

Respondent

Decision of the Hearing Panel

On Facts and Verdict

Hearing date: February 15, 2005

Panel: David Zacks, Q.C., Chair, William Jackson, Terence La Liberte, Q.C.

Counsel for the Law Society: Todd Follett

Counsel for the Respondent: Michael Ranspot

Background

[1] On December 5, 2003 a citation was issued against the Respondent pursuant to the *Legal Profession Act* and Rule 4-15 of the Law Society Rules by the Executive Director of the Law Society of British Columbia, pursuant to the direction of the Chair of the Discipline Committee. At the hearing the Law Society moved to amend the citation. The Respondent consented. The citation, as amended, directed that this Hearing Panel inquire into the Respondent's conduct as follows:

1. On September 7, 2003, you pointed a firearm and uttered a threat at J.Q. contrary to the provisions of the Criminal Code of Canada.

This conduct is also contrary to Chapter 2, Rule 1 of the Professional Conduct Handbook which provides that a lawyer must not, in private life, extra-professional activities or professional practice, engage in dishonorable or questionable conduct that casts doubt on the lawyer's professional integrity or competence, or reflects adversely on the integrity of the legal profession or the administration of justice.

[2] The Respondent acknowledged proper service of the citation and waived the requirements of Rule 4-15 of the Law Society Rules.

Agreed Statement of Facts

[3] An Agreed Statement of Facts was filed as Exhibit 2 in these proceedings. The relevant facts are as follows:

1. James Neil Rodgers was born on April 26, 1952 and was called to the Bar in British Columbia on May 14, 1979.
2. By letter dated September 23, 2003 the Law Society received notification from Crown Counsel that Mr. Rodgers had been charged with offences including pointing a firearm, using a firearm in careless manner, unsafe storage of firearms, possessing a weapon for the purpose of committing an offence and uttering threats to cause death or bodily harm.
3. On September 12, 2003 Mr. Rodgers signed a Recognizance of Bail upon the conditions contained in the Conditions Attachment. On September 23, 2003, Mr. Rodgers' bail conditions were varied.
4. On October 9, 2003 Mr. Rodgers gave his undertaking to the Law Society not to practice law until he had "... successfully completed a course of appropriate treatment satisfactory to the Discipline Committee of the Law Society or until the hearing of the citation" .
5. On August 25, 2004 at the Proceedings at Trial (Sentencing) Mr. Rodgers pled guilty and was convicted of pointing a firearm at another person without lawful excuse and uttering a threat, contrary to the *Criminal Code*.
6. Following his plea of guilty, Mr. Rodgers received a Conditional Sentence of two years less a day to be followed by a period of probation for three years, as well as a Mandatory Firearm Prohibition.

[4] The Respondent admits that his conduct, as set out in the Schedule to citation, constitutes conduct unbecoming a member of the Law Society of British Columbia.

[5] Following a consideration of submissions by counsel, we find the Respondent guilty of conduct unbecoming a member of the Law Society of British Columbia.

[6] The Penalty phase of this hearing has been set for Thursday, April 28, 2005.