

Sheldon Goldberg

Vancouver, BC

Called to the bar: January 3, 1973

Bench Review : October 25, 2007

Benchers: Gordon Turriff, QC, Chair, Kathryn Berge, QC, Ken Dobell, Bruce LeRose, QC, Barbara Levesque, Robert Punnett and James Vilvang, QC

Report issued : December 17, 2007

Counsel : Jaia Rai for the Law Society and Sheldon Goldberg appearing on his own behalf

Background

A majority of the hearing panel (facts and verdict 2005 LSBC 10) determined that Sheldon Goldberg was guilty of professional misconduct by improperly withdrawing from a criminal trial and abandoning his client, Mr. T, in mid-trial, contrary to Chapter 10 of the *Professional Conduct Handbook*, and by being discourteous and disrespectful to the court. The minority concluded that Mr. Goldberg's conduct was ill-advised and contrary to the provisions of the Handbook, but did not amount to professional misconduct.

Another criminal case (*R v. D*) was set for trial on the same day that Mr. Goldberg was representing Mr. T. In the other trial, the accused, Ms. D, was representing herself. Mr. Goldberg advised Judge Godfrey, the trial judge in Mr. T's case, that he had just been retained by Ms. D to represent her and that the trial was scheduled to start immediately in another courtroom. Judge Godfrey granted Mr. Goldberg a brief adjournment in Mr. T's case so he could request an adjournment in Ms. D's case.

The judge in the other courtroom was unable to hear the adjournment application so *R v. D* was returned to Judge Godfrey who then recalled the case. She refused Mr. Goldberg's application for an adjournment on the grounds that the date was preemptory. She ordered the case be sent to another courtroom for hearing. Without explanation to the court, Mr. Goldberg then left the courtroom and represented Ms. D in her trial in another courtroom, leaving Mr. T. unrepresented. Mr. Goldberg did not inform Mr. T of his intent to represent Ms. D; nor did he seek Mr. T's instructions to absent himself from Mr. T's trial.

As a result of his having left Mr. T. to fend for himself, Judge Godfrey banned Mr. Goldberg from appearing again in her courtroom.

The majority of the hearing panel (penalty 2005 LSBC 22) ordered that Mr. Goldberg:

1. be suspended for 30 days commencing December 5, 2005; and
2. pay costs.

Application for Fresh Evidence

The Benchers dismissed Mr. Goldberg's application to introduce affidavits from Mr. T and Mr. F, Mr. Goldberg's assistant. In his affidavit, Mr. T commented on Judge Godfrey's attitude towards Mr. Goldberg and said that he told Judge Godfrey that he would proceed with the trial without counsel. Mr. F's affidavit addressed the true effect of Judge Godfrey's ban. The Benchers found that Mr. T's affidavit conflicted with Mr. Goldberg's own evidence at the hearing before the panel and his submissions to the Benchers that he had not obtained Mr. T's approval to leave him unrepresented. They further found that Mr. F's evidence about Judge Godfrey's ban would not have affected the penalty the panel imposed because the panel had

considered the ban and its effect.

Decision

The Benchers decided that the majority of the panel had not been incorrect in finding that Mr. Goldberg's conduct was professional misconduct and had not been incorrect in fixing the penalty. The Benchers ordered Mr. Goldberg to pay costs of the review.