

2014 : No. 01 Spring

## William Jacob Mastop

Vernon, BC

Called to the bar: May 19, 1995

Non-practising member: January 26, 2010

**Summary proceeding under Rule 4-40 (Conviction)** : November 13, 2013

**Benchers**: Leon Getz, QC, Chair, Lynal Doerksen, Jan Lindsay, QC, Benjimen Meisner, Thelma O'Grady, Lee Ongman, David Renwick, QC and Kenneth Walker, QC

**Decision issued** : December 20, 2013 (2013 LSBC 37)

**Counsel** : Jaia Rai for the Law Society; Richard Fernyhough for William Jacob Mastop

### Facts

A client of William Jacob Mastop was the acknowledged leader of a criminal organization known as "the Greeks." This client, along with four other members of the Greeks, was charged with the murder of three individuals. During the murder investigations, the police intercepted over 300 conversations between Mastop and members of the Greeks.

Through these intercepted conversations it was learned that Mastop, while representing another client, received an Information to Obtain (ITO) document from the Crown. As an affidavit for the police to obtain a search warrant, the ITO may include sensitive information from an informer about the criminal activity of a suspect. In the criminal drug world, the revelation of an informant's identity can have serious consequences to the informant, including bodily harm or death.

Mastop gave the ITO to his client who, as leader of the Greeks, was interested in the informant's identity. There was no evidence to suggest that, by providing the ITO to his client, any harm was suffered by anyone. Mastop knew, however, that if the identity of an informer was revealed, the informer could face serious violent consequences.

Numerous other incidents showed Mastop's willingness to aid the members of this criminal organization.

On December 20, 2012, Mastop pleaded guilty in the Supreme Court of BC to one count on an indictment alleging that he knowingly participated in or contributed to the activity of a criminal organization for the purpose of enhancing the ability of the criminal organization to facilitate or commit an indictable offence, contrary to the *Criminal Code*. Mastop was sentenced on April 4, 2013 to one year incarceration.

As Mastop was found guilty on an indictable offence, the Discipline Committee referred the matter to the Benchers pursuant to Rule 4-40.

After being charged with the offence, Mastop was released on a Recognizance of Bail on January 26, 2010 with one of the conditions being that he not engage in the practice of law. Mastop has not practised law since that date.

On November 18, 2013 the BC Court of Appeal allowed a Crown appeal and increased Mastop's sentence to two-and-one-half years of incarceration.

### Determination

The issue before the Benchers was whether to summarily suspend or disbar Mastop.

Mastop pointed out that the offence to which he pleaded guilty was a relatively new provision in the *Criminal Code* and, but for its enactment, he would not have been charged. Further, that offence was the least serious of the "trilogy" of new offences relating to aiding a criminal organization.

The Benchers did not consider that a lawyer could not be disbarred or suspended for an offence because other offences may be more serious. They found Mastop's proposition that the *Criminal Code* sections were novel offences and therefore mitigated his blameworthiness had no support in law. It was difficult to imagine someone in a better position to know what the law is in this area than Mastop, a seasoned criminal

lawyer.

Although it was not proven that Mastop providing the ITO to his client caused any harm to anyone, the Benchers did not see that as a mitigating factor. It was difficult to characterize Mastop's conduct as anything but a deliberate attempt to assist a criminal organization in committing an indictable offence.

Mastop claimed that the *Criminal Code* section was not classified as an "Offence Against the Administration of Law and Justice" and, therefore, the Benchers should not conclude that this was an offence that strikes at the heart of the administration of justice.

The Benchers failed to see how the placement of a section in the *Criminal Code* mattered in this case. The trial judge characterized Mastop's offence as "undermining the system of justice."

Mastop asserted that he was simply assisting the Greeks, without any intent to assist the criminal organization to commit an indictable offence. He explained his guilty plea on the basis that "it was foreseeable that his conduct could have the effect of assisting the criminal organization."

Mastop knew that the Greeks were a criminal organization and he well knew what criminal activity they were involved in. These facts alone should have given him pause about his relationship with its members. There was nothing on the record to suggest that he ever questioned or sought advice on how he should provide services to the Greeks.

The Benchers agreed that, if Mastop were permitted to practise law, it was highly unlikely that he would commit such an offence again. The Benchers were also aware of his lack of a prior record, criminal or disciplinary, and his numerous letters of support from family, friends, former clients and colleagues.

Criminal defence lawyers have a difficult task when representing persons charged with criminal offences and especially so when defending persons who are members of a criminal organization. Lawyers are bound to be diligent and vigorously defend their clients' rights and interests, but they must do so within the law.

The Benchers were not persuaded that even a lengthy suspension was appropriate. Mastop used his particular privileged position in the justice system to provide assistance to a criminal organization contrary to the criminal law. In order to maintain public confidence in the legal profession, there should be no possibility of doubt that the Law Society takes such conduct with the utmost seriousness, and the profession needs to know that as well.

## **Disciplinary Action**

The Benchers ordered that Mastop be disbarred.