

**THIS DECISION HAS BEEN REDACTED BY
ORDER OF THE EXECUTIVE DIRECTOR
UNDER RULE 2-103**

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

DANIEL CLAYTON GALLANT

APPLICANT

**DECISION OF THE HEARING PANEL
ON APPLICATION FOR ENROLMENT**

Hearing date: May 24, 2017

Panel: Nancy G. Merrill, Chair
Lance J. Ollenberger, Public representative
Peter D. Warner, QC, Lawyer

Discipline Counsel: Henry C. Wood, QC
Counsel for the Applicant: Sarah J. Rauch

OVERVIEW

- [1] The Applicant Daniel C. Gallant is 42 years of age and graduated from Thompson River University (“TRU”) Faculty of Law in May 2017. He previously completed a Bachelor of Arts in First Nations Studies in 2011 and a Master in Social Work in 2014, both degrees taken at the University of Northern British Columbia (“UNBC”).

[2] The Applicant applied to the Law Society of BC for enrolment in the Admission Program, and the Credentials Committee ordered a hearing pursuant to Section 19(2)(c) of the *Legal Profession Act* and Law Society Rule 2-29(3)(c) to determine whether the Applicant meets the criteria for admission set out in Section 19(1) of the *Act*:

19(1) No person may be enrolled as an articulated student, called and admitted or reinstated as a member unless the benchers are satisfied that the person is of good character and repute and is fit to become a barrister and a solicitor of the Supreme Court.

[3] As detailed below, the Applicant led a life of crime and violence, ending 16 years ago. He then embarked on an admirable and successful 16-year journey of recovery and redemption to the present day, which the Panel and his peers have every reason to believe will continue. For the reasons set out below, the Panel has found the Applicant today to be of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

EVIDENCE AND FINDINGS OF FACT

[4] Throughout the hearing there were no disputes or challenges on the facts of this case. The Applicant had prepared a detailed, transparent written response to credentials staff questions, and expanded on it unhesitatingly during his testimony, providing the Panel with an honest and complete history of his life, his dark years and his long recovery process.

[5] The Applicant's childhood was marred by a family life involving drug abuse, gang affiliation, physical abuse and constant moving. He attended 11 different schools across Canada by age 13. He left home for good at age 12 and resided on the Saulteau First Nations and West Moberly First Nations Reserves, dropping out of school during grade eight, leaving him, until age 26, with a grade seven education.

[6] He [became] adept at fighting, and he became homeless in Vancouver's downtown east side for several years. His life of crime was aggravated by drug and alcohol abuse, gang involvement and affiliation with right wing extremist groups.

[7] His criminal convictions included assaults, assaults causing bodily harm, uttering threats, fighting and prohibited weapon possession. There were charges of assaults, marijuana possession and unlawful confinement that did not go to trial, and one seizure of hate literature at Canada Customs. He abused many drugs and alcohol and worked as a bouncer and enforcer for organized crime. Having been raised in an environment of crime, gangs, abuse and drugs, it is no surprise that he fell into

the downtown east side's readily available environment of gangs and violent extremism. He became successful in both spheres, eventually becoming adept at online and in person recruiting of radical extremists. He told us this was all he knew growing up and he had to unlearn it.

- [8] His grandmother was a strong positive influence, and his visits to her on her reserve from time to time, encouragement from other family members, and a growing sense of guilt eventually led him to seek help and guidance. He did two terms at a drug treatment facility, joined Alcoholics Anonymous, became involved in "Red Road" healing and participated in First Nations ceremonies, with the result that, since age 26, he has abstained from all drug and alcohol use.
- [9] He followed advice and took a social worker course as a form of rehabilitation. This led to years of counselling training for which he earned certificates, in addition to research employment at the University of Alberta, and finally to his studies and degrees at UNBC described in paragraph [1] above.
- [10] His education, positive attitude and his forged networks with elders, counsellors, educators, law enforcement agencies, governments and researchers have put him and kept him on his 16-year path of healing and redemption. He received a pardon for his criminal convictions in 2008 and is currently a Registered Social Worker in good standing with the BC College of Social Workers. The Panel received a clearance letter from the BC Ministry of Justice dated February 4, 2014 confirming a criminal records search and their opinion that the Applicant did not present a risk to children or vulnerable adults.
- [11] When asked how he can assure us that his days of violence are over, the Applicant said he has developed a process of listening and thinking that is task-focused, that heat or tension from others does not affect his determination to proceed calmly towards his task and its success. He said he knows that he must always be honest and transparent about who he was and who he is now, whether he is accepted or not, as that builds integrity and self-esteem. He said he knows his values, words and behaviours must all line up. He said he wants to be a voice for people who had to live a life like his own, and believes he can be a good advocate for them and for change that affects them.
- [12] His record of academic, public and law enforcement service is extensive. From 2012 to 2017 he published 18 articles. From 2005 to 2016 he performed 44 conference speaking engagements, delivering speeches in Paris, London, New York and Ottawa, including one for UNESCO in Paris entitled "Youth, Radicalization and the Internet." He has done over 110 media interviews on radio,

on television or in print, and has belonged to numerous committees and boards. This service is focused in the fields of anti-racism, youth radicalization, counter-terrorism, internet and right wing extremism and hate crime. His life experience with crime, addiction, extreme hate groups, counselling and recovery, coupled with his educational paths and work experience have made him a much-valued expert in these fields. He trains law enforcement officers, he advises governments both local and foreign, and he has done work counselling persons trying to leave gangs and hate groups. He has done law enforcement work, and his testimony has resulted in criminal convictions.

- [13] He says that he has become the change that he wishes to see in the world. The Panel agrees, and finds that he has established a genuine and enduring rehabilitation, the benefits of which have extended well beyond his own personal interests, and benefit society as a whole.
- [14] Despite his years of drug and alcohol abuse, the Panel notes his 16 years of abstinence and accepts him when he says that he is not inclined to use drink or drugs as he has other ways to unwind through his outdoor recreation and cultural ceremonies. He said he is often around alcohol and is not tempted.
- [15] Starting seven years ago he was accepted back as a healed and valued member of the Saulteau First Nation, and they contributed thousands of dollars towards his university education, for which he is very grateful. His grandmother remains a very special person in his life, one who has supported him throughout.
- [16] The Panel heard the Applicant's evidence on the circumstances surrounding his cessation of employment with two employers and was satisfied that there were no factors or issues that impacted our inquiry into character, repute and fitness.
- [17] The Panel heard the Applicant's evidence, and he was questioned on his family relationships over the years involving his three children, their mother and her spouses. We were satisfied that there were no events or circumstances that impacted our inquiry.

REFERENCE LETTERS

- [18] The Applicant tendered reference letters from 16 people, all of whom had read his application for enrolment and all of whom strongly recommended him as a fit person for enrolment. Judge William Jackson said that he had prosecuted the Applicant years ago and met him again in one of his criminal law courses at Northern Lights College. He recommended the Applicant as being a productive

and reliable member of society, noting that, as a Life Bencher, he is well aware of the nature and standard of our review.

- [19] Ms. PM with the Ministry of Children and Family Development has known the Applicant for 20 years and said, “He offers transparency, insight and rich experiential knowledge, which translates to relational qualities.”
- [20] Professor RD at TRU wrote saying “The Applicant had one of the highest marks in her Community Lawyering class, ... is dedicated, motivated and committed to succeeding in the legal profession, and has attained the required analytical, research and communication skills needed for success in the profession.”
- [21] Canadian soldier DM, who specializes in right wing extremist and motorcycle gangs and is in a consulting contract with the Applicant, wrote saying, “Daniel is a reformed man who believes in justice, equality, human rights and protection of the innocent, vulnerable and those who cannot defend themselves.”
- [22] Other support letters came from educators, cousins, a First Nation elder, non-practising lawyers and a Pastor, and all bore similar opinions.
- [23] The Panel is satisfied that, in the eyes of this broad cross section of society, the Applicant is of good character and repute and fit to become a barrister and solicitor of the Supreme Court.

THE LAW ON GOOD CHARACTER, REPUTE AND FITNESS

- [24] Under Law Society Rule 2-100, the Applicant bears the burden of proof and the standard of proof is on a balance of probabilities (*Law Society of BC v. McOuat* (2001), 84 BCLR (3d) 242 (CA)).
- [25] In an article by Mary Southin, QC (as she then was) “What is ‘Good Character’” (1977), 35 *The Advocate* 129, it states:

I think in the context “good character” means those qualities which might reasonably be considered in the eyes of reasonable men and women to be relevant to the practice of law in British Columbia at the time of application.

Character within the Act comprises in my opinion at least these qualities:

1. An appreciation of the difference between right and wrong;

2. The moral fibre to do that which is right, no matter how uncomfortable the doing may be and not to do that which is wrong no matter what the consequences may be to oneself;
3. A belief that the law at least so far as it forbids things which are *malem in se* must be upheld and the courage to see that it is upheld.

What exactly “good repute” is I am not sure. However, the *Shorter Oxford Dictionary* defines “repute” as “the reputation of a particular person” and defines “reputation” as:

1. The common or general estimate of a person with respect to character or other qualities; the relative estimation or esteem in which a person is held.
2. The condition, quality or fact of being highly regarded or esteemed; also respectability, good report.

In the context of s. 41 I think the question of good repute is to be answered thus: would a right-thinking member of the community consider the applicant to be of good repute?

[26] In the case of *Re: Schuetz*, 2011 LSBC 14, Section 19(1) is referred to as “the gateway to the practice of law,” and the interests of the public are said to be divided into two components:

The first is public protection. The public must be protected from individuals who misuse their position as a lawyer. However, public interest also has a “public inclusive provision”. It is in the interest of the public to have lawyers from diverse backgrounds and diverse experiences.

[27] The *Schuetz* case also refers to *Re: Applicant 3*, 2010 LSBC 23, paras. 12 to 21, which sets out general principles in applying the good character and repute test, summarized as follows:

- (a) The onus of proof is on the applicant;
- (b) Good character is determined at the time of hearing; however, the standard is not one of perfection;
- (c) A person’s character can change over time. Past mistakes do not define one’s essential nature for all time. Rehabilitation is an important consideration;

- (d) The applicant must appreciate the difference between right and wrong. In addition, the applicant must be willing to support the rule of law;
- (e) The applicant must have the moral fibre to do what is right, no matter what the consequences. Generally, an applicant should have the strength of character;
- (f) The applicant should put the client's interests first, no matter what the personal cost;
- (g) The expectations, both of the public and the profession, should be considered; and
- (h) The applicant should be not only truthful, but also completely candid throughout the application and hearing process.

[28] In the Ontario case of *Watt v. Law Society of Upper Canada*, [2005] OJ No. 2431 (Divisional Court), a six-part test for reinstatement of a disbarred lawyer is set out at para. 14:

1. Is there a long course of conduct showing that the applicant is a person to be trusted?
2. Has the applicant's conduct since disbarment been unimpeachable?
3. Has there been a sufficient lapse of time since the disbarment?
4. Has the applicant purged his guilt?
5. Is there substantial evidence that the applicant is extremely unlikely to misconduct himself again, if readmitted?
6. Has the applicant remained current in the law through continuing legal education or is there an appropriate plan to become current?

[29] In *Re: Gayman*, 2012 LSBC 30, the decision of the Benchers on review, Law Society counsel raised the question: can the nature and gravity of the prior misconduct justify a denial of reinstatement despite the applicant having demonstrated significant current good character repute and fitness? That applicant had, as a trustee, knowingly breached a trust instrument resulting in a loss of approximately one million dollars to some 20 investors. The Benchers on review answered that question in the negative.

[30] In the case of *Re: Mangat*, 2013 LSBC 20, we see a similar application for admission by a lawyer from Ontario with many similarities to our case at hand. The applicant had a rough neighbourhood upbringing, veered into gang life in Vancouver in his teens and embarked on a life of crime until age 23. While the crimes involved armed robbery, weapons offences, gang affiliation, theft and drug possession, with a one year period of incarceration, these offences were not as egregious as our Applicant's crimes. Nonetheless, the facts on Mr. Mangat's path of rehabilitation, education and contributions to society from 1997 to 2013 were compelling, as were the many reference letters tendered and so the panel found him to be of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

ANALYSIS AND CONCLUSION

[31] This Panel observes, as other such panels have done in the past, (e.g., *Mangat*), that rehabilitation from a criminal past such as this is not only possible, but is to be encouraged. It is in the public interest to admit lawyers from diverse backgrounds with a view to meeting the legal needs of and protecting all sectors of society.

[32] We also note that this Applicant's extensive academic and in-field work in the areas of combatting radicalization, right wing extremism, hate crimes and terrorism is very important work in this world today, and he is to be encouraged in those efforts. If entry and participation in our legal profession will assist him in those efforts, then such entry ought not to be denied because of crimes committed between 1996 and 2002 when he was a much different person.

[33] Law Society counsel took no position in final argument after hearing the evidence, and observed what the Panel itself has concluded: that the Applicant has overcome significant life problems and was forthright, candid and honest in his testimony, which is a clear sign of integrity and honesty, and evidence of a genuine turnaround.

[34] The Applicant's counsel submitted that, even during his criminal years, the Applicant had never breached a court order or directive and always faced the music. She noted that he has transformed his prior criminal skills at physical fighting into positive lawful fighting skills on behalf of worthy causes.

[35] The Panel finds that this Applicant today meets all of the tests set out in Miss Southin's article (para. 25 above), and all of the relevant tests set out in the *Re: Applicant 3* and *Watt* cases (para. 27 and 28 above), and accordingly the Panel

finds that the Applicant is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

COSTS

[36] We did not seek or receive any submissions on costs, and accordingly, if not agreed upon between counsel, costs can be dealt with by written submissions made within 30 days of the delivery of this decision to counsel. Without prejudice to any such submissions that may be made, the Panel does observe that, despite the Applicant's success in this hearing, it appears that the extent and severity of the Applicant's past criminal behaviour made the holding of this hearing necessary.