

**IN THE MATTER OF PART 3 OF THE
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

AND

**IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF RYAN PERSAD
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Linda Long, QC – Chair
Doug McGillivray, QC – Adjudicator
Edith Kloberdanz – Adjudicator

Appearances

Miriam Staav – Counsel for the Law Society of Alberta (LSA)
Jeinis Patel – Counsel for Ryan Persad

Hearing Date

September 16, 2020

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. Ryan Persad, a member of the Law Society of Alberta practicing criminal law, faced a complaint made about him which led to the issuance of citations under s. 71 of the *Legal Profession Act* (the *Act*). Mr. Persad was employed in the Special Prosecutions Department of Alberta Justice during the relevant time frame giving rise to the complaint (June to July, 2018). He ceased his employment as a Prosecutor prior to this hearing.
2. It was alleged that Mr. Persad created a fake divorce document in order to prove to a third party with whom he wished to have a personal relationship that he was divorced from his wife when, in fact, he was not. It was further alleged that he impersonated his wife in text messages to the third party to falsely corroborate that he and his wife were divorced.

Hearing Committee

3. On September 16, 2020 the Hearing Committee (Committee) convened a video conference hearing via Zoom into the conduct of Ryan Persad, based on two citations:

- a. It is alleged Ryan S. Persad created a fraudulent document and that such conduct is deserving of sanction; and
 - b. It is alleged Ryan S. Persad impersonated another individual in communications to a third party and that such conduct is deserving of sanction.
4. After reviewing all of the evidence and exhibits and hearing the submissions of the LSA and Mr. Persad, and in particular having regard to the Statement of Admitted Facts, Exhibits and Admissions of Guilt, the Committee made a determination that Mr. Persad has committed conduct deserving sanction on two citations, pursuant to section 71 of the *Act*.

Preliminary Matters

5. There were no objections to the constitution of the Committee or its jurisdiction.
6. A private hearing was not requested so a public hearing into Ryan Persad's conduct proceeded.
7. A member of the public attended the hearing without prior notice to the LSA or counsel for Mr. Persad. The member of the public made a commitment on the record that there would be no recording of the proceedings by her and that the proceedings would not be discussed by her outside of the hearing, except for communications with the member. As this was a public hearing, the individual was permitted to remain on that basis by the Hearing Committee.

Agreed Statement of Facts/Background

Citation 1

8. Ryan Persad and LSA agree on the following facts in relation to Citation 1:
 - a. In or about June, 2018 Mr. Persad fabricated an alleged Danish divorce certificate (the "Fake Divorce Certificate") for the purpose of convincing his girlfriend that he was divorced from his wife.
 - b. He was not, in fact, divorced from his wife at that time.
 - c. He used Denmark as the jurisdiction because he and his wife had lived there at one time.
 - d. He sent a picture of the "Fake Divorce Certificate" to his girlfriend in an effort to mislead her. He used his work phone. He did not attempt to mislead anyone else with the Fake Divorce Certificate.

Citation 2

9. Ryan Persad and LSA agree on the following facts in relation to Citation 2:

- e. In or about July, 2018 Mr. Persad's girlfriend asked to contact Mr. Persad's wife to confirm the divorce. Mr. Persad did not want his girlfriend to have contact and potentially aggravate his wife as his wife was due to give birth to Mr. and Ms. Persad's first child a few weeks hence.
- f. In response Mr. Persad sent his girlfriend messages from a fake phone number, pretending to be his wife. The text messages contained false and misleading information about Mr. Persad's marriage.
- g. Subsequently Mr. Persad's girlfriend sent the Fake Divorce Certificate to Mr. Persad's wife through Facebook and asked whether or not Mr. and Ms. Persad were divorced.
- h. In response, in September, 2018 Mr. Persad's wife contacted the Danish Consulate in Calgary for assistance translating the Fake Divorce Certificate, and to determine if a divorce was actually executed. Subsequently an Assisting Consular Officer advised her that the Fake Divorce Certificate was fake.
- i. On October 29, 2018 a complaint was received by the LSA alleging unprofessional and unethical conduct by Mr. Persad arising from these events. Citations were issued in October, 2019.

Submissions of the LSA

10. Counsel for the LSA submitted that in view of the admitted facts, combined with Mr. Persad's candid and cooperative admission to the LSA of his guilt, Mr. Persad was guilty of conduct deserving of sanction.
11. The LSA submitted that a suspension of six months is severe, and will act as a specific and general deterrent of the member's conduct.
12. The LSA submitted that in light of all the circumstances and the evidence, the proposed sanction is consistent with the principle of rehabilitation, and should ensure that the public is protected in the future, thereby permitting the public to maintain a high degree of confidence in the regulatory process.
13. The LSA submitted that there were both aggravating and mitigating factors considered in arriving at the proposed joint sanction.
14. The primary aggravating factor was that Mr. Persad's conduct was committed by a specialized crown prosecutor.
15. There were a number of mitigating factors cited by the LSA, including:
 - a. The lack of a disciplinary record in a senior practitioner of 17 years;
 - b. Mr. Persad was cooperative and he admitted the facts and guilt forthrightly;
 - c. The events occurred over two months during a high stress period in his life;
 - d. The related issues were personal to him, his then-wife and his girlfriend; and

- e. Mr. Persad provided several strong reference letters to support that these events were an aberration and not consistent with his known past behaviour as a lawyer.
- 16. The LSA submitted that in view of Mr. Persad's cooperation throughout, he should pay a substantial portion, but not all of the costs of these proceedings.
- 17. The LSA submitted that in the circumstances of fraud attending the citations, the provisions of section 78 (5)-(8) of the *Act* are engaged and a referral to the Attorney General is appropriate.
- 18. The LSA submitted that a Notice to Profession is required when a member is suspended.
- 19. The LSA submitted that the proposed sanction was not unfit nor unreasonable and it was not contrary to the public interest.

Submissions of Ryan Persad

- 20. Counsel for Mr. Persad supported the LSA submissions in their entirety.
- 21. Counsel for Mr. Persad stressed that the joint sanction submission was negotiated with LSA and a great deal of time and effort had gone into crafting a mutually acceptable outcome.
- 22. Counsel for Mr. Persad submitted that the breach of Mr. Persad's prosecutorial oath was a significant aggravating factor warranting suspension and that Mr. Persad fully recognized that in agreeing to the joint sanction.
- 23. Counsel for Mr. Persad submitted that in mitigation, Mr. Persad is no longer serving as a specialized prosecutor; indeed, he is no longer employed with Alberta Justice. There are other consequences in play besides those of the regulator.
- 24. Counsel for Mr. Persad submitted that early intervention is appropriate in assisting the member through the period of the suspension to address the underlying personal factors which led to the conduct. He submitted that the conduct was entirely out of character for Mr. Persad, whose career is now headed in a different direction as a result of the conduct.
- 25. Counsel for Mr. Persad stressed that Mr. Persad has previously found "honour" through his participation in the legal profession and is deeply disappointed in himself for dishonouring the profession in this way.
- 26. Counsel for Mr. Persad submitted that Mr. Persad is governable and has more contributions to make to the public interest when these events are behind him. In

particular, he submitted that the law provides that a regulatory sanction is not to be imposed as a punishment, rather it is a mechanism to protect the public interest while providing specific deterrence and a general example to the profession.

27. Counsel submitted that the suspension will give Mr. Persad time to address the personal issues which underlay his conduct.
28. Finally, counsel for Mr. Persad stressed that Mr. Persad is deeply remorseful and has made candid apologies within his communities which have been affected by his conduct, that there is little risk of recurrence, that the appropriate approach is remedial and the proposed joint sanction supports that approach while protecting the public interest.

Analysis and Decision

Legislation, Rules, Guidelines

29. The legislation applicable to these citations are the *Act*, sections 49, 60, 72, 78 and 85, and the Rules of the Law Society, Rules 99 and 107.
30. The Committee was referred to Halsbury's Laws of Canada, HCR-361 (Forgery) and HRC-380 (Offences in relation to identity).
31. The Committee received submissions from both the LSA and Mr. Persad citing other cases to aid in determining if the proposed joint sanction falls within an appropriate range of sanctions. These were: *Law Society of Alberta v. Shustov*, 2014 ABLS 23 (CanLII), *Law Society of Alberta v. Woollard*, [1996] L.S.D.D. No. 272, *Law Society of British Columbia v. Strandberg*, [2001] L.S.D.D. No. 36, *Law Society of Ontario v. Morton*, 2018 ONLSTH 141 (CanLII), and *Law Society of Upper Canada v. Sabourin*, 2016 ONLSTH 13 (CanLII). The Hearing Committee also referenced *Law Society of Alberta v. Torske*, 2016 ABLS 27 (CanLII).
32. The Committee was referred to the LSA Hearing Committee Guideline in relation, particularly, to treatment of joint submissions on sanction.
33. The relevant case in relation to joint submissions on sanction is *R. v. Anthony-Cook*, 2016 SCC 43 (CanLII), [2016] 2 SCR 204.
34. The relevant sections of the *Act* in relation to a referral to the Minister of Justice and Solicitor General are section 78 (5) – (8).
35. The admitted facts and admission of guilt support a finding of guilt on Citations 1 and 2 and we so find. They also support the referral under section 78 of the *Act*, a Notice to Profession, and a costs award against Mr. Persad.

Sanction

36. This Hearing Committee may decide to accept or depart from the joint submission on sanction. Mr. Persad confirmed that he was aware of the possibility that we might depart from the joint recommendation. The cases, while helpful, are guides and we must have regard to these facts, and this individual, and either craft our own sanction which is, in our opinion, more fit, or accept the proposed joint sanction.
37. In *Anthony-Cook*, the SCC held that proper test for dealing with joint sanction proposals is one that takes into account the public interest and [the proposals] should only be interfered with where the sanction “would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.” In explaining what that means, the Court held:
- a. [33] [...] a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so “markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system.” And, as stated by the same court in *R. v. B.O.2*, 2010 NLCA 19 (CanLII), at para. 56, when assessing a joint submission, trial judges should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts”.
 - b. [34] [...] a joint submission should not be rejected lightly [...] Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold, and for good reason.
38. Both the LSA and Mr. Persad submitted that the proposed joint sanction protects the public interest while emphasizing that the sanction in this case should engage the rehabilitative and remedial discipline jurisdiction of Mr. Persad’s professional regulator to promote and aid in his future governability, while still sending a strong deterrent message to him and to the legal profession that this kind of conduct is serious and not condoned. We endorse those submissions.
39. Additionally, both the LSA and Mr. Persad submitted that the admitted facts support a Notice to the Attorney General and Solicitor General for Alberta, as the conduct provides “reasonable and probable grounds to believe that the member has committed a criminal offence.” (*Act* section 78 (5)). We agree.
40. The authorities cited support the imposition of a suspension. The length of the proposed suspension is, in this Committee’s view, on the low end of the range but not below it. Combined with the other consequences being experienced by the member in his private and business life, and while low, the six-month suspension “is not so markedly out of line

with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the [regulatory] system.” *R. v. Anthony-Cook*, 2016 SCC 43 (CanLII), [2016] 2 SCR 204.

41. The Hearing Committee found the submissions of both counsel on behalf of the LSA and the member to be eloquent and persuasive, and thoroughly grounded in the facts and the law. They were of substantial assistance in our decision to accept the proposed joint sanction.
42. Accordingly, we see no reason to disrupt a fairly negotiated resolution and the certainty that brings to the matter.
43. Therefore, effective September 18, 2020 Ryan Persad is suspended from the practice of law for a period of six months from that date.
44. Mr. Persad is ordered to pay costs of \$7,000, which must be paid no later than January 15, 2021.

Concluding Matters

45. There should be a Notice to the Attorney General pursuant to section 78 (5)-(8) of the *Act* as this Committee is of the view that section 78 of the *Act* is engaged on the facts of the case.
46. A Notice to the Profession is required in view of the suspension.
47. While not imposing further conditions on Mr. Persad, and purely by way of commentary, the Hearing Committee felt it important to orally advise Mr. Persad that his return to practice will necessarily involve an application to a Reinstatement Committee which, we anticipate, might view with great interest what steps towards the rehabilitation and addressing of his personal issues are taken by Mr. Persad during the period of his suspension.
48. This Committee supports Mr. Persad's return to practice, but the success of that journey is, of course, entirely in his own hands. We wish to note that Mr. Persad has made very significant contributions to his community throughout his career and we sincerely hope that he will find his way back to being a full, honourable and contributing legal professional once he moves past this very challenging time in his life.
49. That said, the members of this Hearing Committee wish to make it very clear that we denounce the decisions Mr. Persad made which resulted in the citations against him. His conduct crossed lines not only with regards to his duty as a lawyer but in the risk to the public that his deceit and manipulation created. By all accounts it appears he is taking steps to stabilize his personal life. He must. His loved ones are members of the

public. We wondered, in coming to our decision, that if Mr. Persad was capable of such conduct towards those for whom he has/had strong feelings (love), what is his potential towards people for whom he has no feelings? The demonstrable steps Mr. Persad takes to show change in meaningful ways will be the prime indicator of risks to the public of his future practice as a lawyer.

50. The exhibits, other hearing materials, and this report will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that identifying information in relation to persons other than Mr. Persad will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, September 27, 2020.

Linda Long, QC

Doug McGillivray, QC

Edith Kloberdanz