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

AND

IN THE MATTER OF AN APPEAL
REGARDING KELECHI MADU
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Appeal to the Benchers Panel

Erin Runnalls, KC – Chair
John Evans, KC – Bencher
Levonne Louie – Lay Bencher
Jim Lutz, KC – Bencher
Afshan Naveed, KC – Bencher
Sandra Petersson, KC – Bencher
Ali Rakka – Lay Bencher

Appearances

Ken McEwan, KC and Evan Cribb – Counsel for the Law Society of Alberta (LSA)
Perry Mack, KC and Joyce Bolton – Counsel for Kelechi Madu, KC

Hearing Date

February 24, 2026

Hearing Location

Virtual Hearing

APPEAL PANEL DECISION

Overview

1. Kelechi Madu, KC was called to the Alberta bar on September 15, 2014, after having first been called to the bar in Nigeria in 2003. Mr. Madu practiced as a sole practitioner in Alberta in the areas of corporate commercial, real estate, family, immigration and employment law. He was elected as a Member of the Legislative Assembly in 2019 and, on August 25, 2020, was appointed Alberta's Minister of Justice and Solicitor General, becoming the first Black Minister of Justice and Solicitor General in Alberta and in Canada. Mr. Madu returned to private practice in May 2023.

2. On March 10, 2021, while Minister of Justice and Solicitor General, Mr. Madu was stopped by a constable of the Edmonton Police Service (EPS), Constable R.B., (the Traffic Stop) and who issued a violation ticket for distracted driving (the Ticket). Mr. Madu denied using his cell phone. Minutes later, Mr. Madu called the Chief of the EPS, Chief D.M., on the Chief's cell phone (the Call).

3. On June 17, 2024, a Hearing Committee convened a hearing into the conduct of Mr. Madu, based on the following citation directed to hearing by a Conduct Committee Panel on July 5, 2023 (Citation):

    1) It is alleged that Kelechi Madu, KC engaged in conduct that undermined respect for the administration of justice when he contacted the Edmonton Police Services Chief of Police regarding a traffic ticket he received on March 10, 2021, and that such conduct is deserving of sanction.

4. The Hearing Committee found Mr. Madu guilty of conduct deserving of sanction on the Citation pursuant to section 71 of the *Legal Profession Act*, RSA 2000, c L-8 (*Act*). Following a joint submission on sanction and costs, the Hearing Committee reprimanded Mr. Madu and ordered him to pay costs of $38,801.42. Payment was stayed until the conclusion of this appeal and, subject to its outcome, is due within one year of its conclusion.

5. The Hearing Committee's full decision and its reasons are detailed in its hearing reports dated October 15, 2024 on the merits (Merits Decision), and April 14, 2025 for sanction (Sanction Decision) (collectively, the Hearing Decision).[1]

6. Pursuant to section 75 of the *Act*, Mr. Madu appealed the Hearing Decision by Notice of Appeal filed November 12, 2024, and Amended Notice of Appeal filed May 1, 2025.

7. This Appeal Panel conducted a hearing on the appeal of Mr. Madu on February 24, 2026.

8. Although Mr. Madu's submissions before this Appeal Panel critique the composition of the Hearing Committee in the context of cultural competence, no objection was raised to the constitution of the Hearing Committee or its jurisdiction below, and no allegation of bias was advanced as a ground of appeal. Further, there were no objections to the constitution of this Appeal Panel or its jurisdiction, and a private hearing was not requested, so a public hearing on Mr. Madu's appeal proceeded. Mr. Madu did not raise the issue of cultural competence or any allegation of bias in respect of the Appeal Panel.

9. After reviewing the Hearing Decision and the hearing record, and considering the representations of Mr. Madu and the LSA, for the reasons set out below, the Appeal Panel quashes the Hearing Committee's finding of guilt.

[1] *Law Society of Alberta v. Madu*, 2024 ABLS 20 and *Law Society of Alberta v Madu*, 2025 ABLS 11 , respectively.

The Hearing Committee's Decision

10. The Hearing Committee found Mr. Madu guilty of conduct deserving of sanction on the Citation. It held that the facts needed for a finding of guilt were "essentially not in dispute".[2] Mr. Madu received the Ticket and disputed it. Almost immediately afterwards, he used his position and the information it gave him to call Chief D.M. on the Chief's private cell phone. During the Call, he told the Chief about the Ticket and raised concerns about racial profiling and illegal surveillance. Public processes were available to him to address both the Ticket and any concern about police conduct.

11. On the legal test, the Hearing Committee held that the analysis under section 49 of the *Act* is "necessarily objective".[3] Public perception, objectively determined, governs, not the lawyer's motivation or intent. It held that "the fact of the Call, in the circumstances of this case, undermines the administration of justice".[4] For that reason, it said it was "strictly speaking, unnecessary" to address Mr. Madu's submission that the reason for the Call should end the matter.[5]

12. The Hearing Committee found that Mr. Madu's conduct, "regardless of his intent, created the appearance of impropriety".[6] In its view, the Minister of Justice and Solicitor General "could sidestep the processes available to members of the public faced with the same situation", and his conduct "is reasonably perceived as sidestepping the process entirely and thus eroding public confidence in the administration of justice and in the legal profession."[7] It found that a reasonable member of the public would perceive Mr. Madu as trying "to use his position to, at a minimum, bring forward a personal issue to the Chief of Police to have it addressed."[8] Although it stated that it was not holding Mr. Madu to a different standard than other lawyers, it found that he "was in a unique position given that his political position was so closely entwined with his duties as a lawyer", and that the case was "a prime example of the heightened risk" contemplated in the Commentary to Rule 7.4-1 of the LSA Code of Conduct (Code).[9]

13. In reaching that view of public perception, the Hearing Committee found there was "no objective basis" for linking the Traffic Stop with racial profiling or illegal surveillance.[10] It noted that Mr. Madu did not raise any such concern with Constable R.B. at the roadside. It found that these factors, together with the Ticket and the timing of the Call, "would weigh more heavily" in a reasonably informed member of the public's mind than any

[2] Merits Decision, paragraph 155.
[3] Merits Decision, paragraph 145.
[4] Merits Decision, paragraph 142.
[5] Merits Decision, paragraph 170.
[6] Merits Decision, paragraph 165.
[7] Merits Decision, paragraph 165.
[8] Merits Decision, paragraph 164.
[9] Merits Decision, paragraphs 166-167.
[10] Merits Decision, paragraph 178.

public knowledge of the work regarding racial profiling that Mr. Madu and his staff were doing.[11]

14. The Hearing Committee also found that Mr. Madu raised the possibility of racial profiling or illegal surveillance "in the context of seeking his own private remedy". It found he was not "advocating to encourage public respect for or to try to improve the administration of justice."[12] It noted that other avenues were open to him, including the EPS complaint process and his ministerial office. It further held that, even if it fully accepted that he called only to seek assurance, he "nonetheless used his position as Minister of Justice and Solicitor General to privately address a personal issue."[13]

15. Although it found the purpose of the Call strictly unnecessary to decide, the Hearing Committee addressed it. It did not accept that seeking assurances was "the sole reason, or in our view even the primary reason" for the Call.[14] Its reasons included Mr. Madu's demeanour at the Traffic Stop and afterwards, and the immediacy and private nature of the Call. It also relied on Chief D.M.'s understanding that the Ticket was a reason for the Call. It further pointed to Mr. Madu's admission that the Chief could not give the assurances he sought, together with his inability to explain, even after a long pause, why he sought them. Finally, the Hearing Committee noted that he took no further steps after the Call. Where the evidence conflicted, it preferred the evidence of Chief D.M. and of Constable R.B. to that of Mr. Madu. It concluded that the Ticket was "at a minimum, a reason for the Call and one of the subjects of the Call."[15]

16. Following a joint submission, the Hearing Committee reprimanded Mr. Madu and ordered him to pay costs of $38,801.42.[16]

Grounds of Appeal

17. Mr. Madu advances several grounds of appeal from the Hearing Decision. He submits that the Hearing Committee made errors of law and of principle, and that its decision is not reasonably sustainable.

18. Mr. Madu argues that the LSA did not prove the Citation. The Citation alleges that he contacted Chief D.M. "regarding a traffic ticket". He says the evidence of both witnesses to the Call was that he asked for nothing about the Ticket, was offered nothing, and received nothing. Chief D.M. did nothing about the Ticket and had no power to do anything about it in any event. He says this evidence from Chief D.M. "ought to have been dispositive of the case". He submits that the Hearing Committee linked the fact of

[11] Merits Decision, paragraph 163.
[12] Merits Decision, paragraph 169.
[13] Merits Decision, paragraph 174.
[14] Merits Decision, paragraph 176.
[15] Merits Decision, paragraph 196.
[16] Sanction Decision.

the Call to its own view of public perception, instead of first deciding on the evidence what the conduct was.

19. Mr. Madu argues that the Hearing Committee made several connected errors in assessing the evidence. He says it manufactured a credibility issue where there was none on the Citation. It devoted pages to contrasting his evidence with Constable R.B.'s about the Traffic Stop, which was not the subject of the Citation. It then used those findings to reject his evidence on the purpose of the Call. He submits that his evidence and Chief D.M.'s "line up", and that there is "no credibility issue as it relates to the Citation". He argues that the LSA breached the rule in *Browne v Dunn*[17] by never putting to him that he called to have the Ticket dealt with, while still asking the Hearing Committee to draw that inference. He also argues that the Hearing Committee turned its disbelief of his explanation into positive proof that he was seeking a "private remedy", without any positive evidence for it.

20. Mr. Madu argues that the Merits Decision effectively bars a Minister of Justice from calling a Chief of Police on a critical policy matter because the call was prompted by personal experience. In his submission, that amounts to regulating a Minister for political actions. He says he was "sharing something personal, not seeking something personal".

21. Mr. Madu argues that the Hearing Committee ignored the context of the Call and his subjective intent. He is a Black man who has experienced racism in Alberta, and he was Canada's first Black Minister of Justice and Solicitor General. He had just finished an intense period of engagement with racialized communities about carding and racial profiling, and he was actively working on reforms to address it. Relying on *Groia v Law Society of Upper Canada*, 2018 SCC 27, he submits that whether conduct is professional misconduct is a contextual and fact-specific inquiry. He submits further that there is a mental element that the Hearing Committee wrongly treated as irrelevant. He argues that by suggesting he should have complained formally or litigated the Ticket, the Hearing Committee substituted its own view of how a racialized person ought to respond to perceived racial profiling.

22. Closely related, Mr. Madu argues that the Hearing Committee applied a reasonable member of the public standard that excluded the lived experience of racialized Canadians. He relies on *R v S (RD)*, [1997] 3 SCR 484 for the proposition that the reasonable person is aware of the history of discrimination faced by disadvantaged groups and is cognizant of local racial dynamics. Mr. Madu argues that the proceedings were tainted by a lack of cultural competence. He points to the Hearing Committee's adoption of Constable R.B.'s descriptions of him as "animated", "immediately opposed", and "definitely defensive". He says this language invokes the "angry Black man" trope.

23. Finally, Mr. Madu argues that the Hearing Committee erred at the sanction stage. Despite the joint submission, he says, it delivered an unnecessarily harsh public

[17] *Browne v. Dunn,* 1893 CanLII 65 (FOREP)

reprimand in inflammatory language, before his community and the national media, and repeated that language in the Sanction Decision. He also argues that the Hearing Committee wrongly treated his continued assertion of innocence as aggravating. He asks that the finding of guilt be set aside, or in the alternative, that the reprimand be varied.

Standard of Review

24. Pursuant to section 76(1) of the *Act*, an appeal to the Benchers is a hearing to consider the hearing report and the hearing record and to hear the representations of the member. It is not a hearing de novo.

25. Mr. Madu and the LSA agree that *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98 (*Yee*) applies to the standard of review before this Appeal Panel.

26. Justice Slatter in *Yee* set out the following guideline for the standard of review:

> When reviewing the decision of a discipline tribunal, the appeal tribunal should remain focused on whether the decision of the discipline tribunal is based on errors of law, errors of principle, or is not reasonably sustainable. The appeal tribunal should, however, remain flexible and review the decision under appeal holistically, without a rigid focus on any abstract standard of review: Halifax (Regional Municipality) v Anglican Diocesan Centre Corporation, 2010 NSCA 38 at para. 23, 290 NSR (2d) 361. The following guidelines may be helpful:
>
> (a) findings of fact made by the discipline tribunal, particularly findings based on credibility of witnesses, should be afforded significant deference;
>
> (b) likewise, inferences drawn from the facts by the discipline tribunal should be respected, unless the appeal tribunal is satisfied that there is an articulable reason for disagreeing;
>
> (c) with respect to decisions on questions of law by the discipline tribunal arising from the profession's home statute, the appeal tribunal is equally well positioned to make the necessary findings. Regard should obviously be had to the view of the discipline tribunal, but the appeal tribunal is entitled to independently examine the issue, to promote uniformity in interpretation, and to ensure that proper professional standards are maintained;
>
> (d) with respect to matters engaging the expertise of the profession, such as those relating to setting standards of conduct, the appeal tribunal is again well-positioned to review the decision under appeal. The appeal tribunal is entitled to apply its own expertise and make findings about what constitutes professional misconduct: Newton at para. 79. It

obviously should not disregard the views of the discipline tribunal, or proceed as if its findings were never made. However, where the appeal tribunal perceives unreasonableness, error of principle, potential injustice, or another sound basis for intervening, it is entitled to do so;

(e) the appeal tribunal is also well-positioned to review the entire decision and conclusions of the discipline tribunal for reasonableness, to ensure that, considered overall, it properly protects the public and the reputation of the profession;

(f) the appeal tribunal may also intervene in cases of procedural unfairness, or where there is a reasonable apprehension of bias.[18]

Admissibility of the Kent Report

27. In January 2022, the Call became public when, according to Mr. Madu, it was "leaked" to the media. He described what followed as a "media firestorm" and a "political issue." Premier Kenney asked Mr. Madu to "step back" and, on or about January 24, 2022, appointed retired Justice Adele Kent of the Alberta Court of King's Bench to conduct an independent investigation into the events of March 10, 2021.[19]

28. Justice Kent was appointed by the Premier and given a mandate to answer two questions, but was otherwise left on her own to determine how to do so. She was not a trial judge or arbitrator, and she was not appointed with the force or benefit of a statutory framework that prescribed her role or her process.[20]

29. Justice Kent summarized the questions before her as follows:

> In considering both the content and context of the Phone call [of March 10, 2021 by Mr. Madu to Chief D.M.], whether: a) In making the Phone Call, Minister Madu interfered or attempted to interfere with the administration of justice; or b) The Phone call created a reasonable perception of an interference with the administration of justice.[21]

30. Justice Kent's focus was on "interference" with the administration of justice, which she defined as "to hinder, prevent or obstruct".[22] Her mandate concerned Mr. Madu's conduct relative to his political role as Minister of Justice and Solicitor General, not his conduct as a member of the legal profession.[23] Following her investigation, Justice Kent concluded that, even though Mr. Madu did not actually interfere with the administration of

[18] *Yee*, paragraph 35.
[19] Merits Decision, paragraphs 14-15.
[20] Merits Decision, paragraph 109.
[21] Kent Report, preamble, as quoted in the Merits Decision, paragraph 98.
[22] Merits Decision, paragraph 102.
[23] Merits Decision, paragraph 104.

justice as the Minister of Justice and Solicitor General, he attempted to do so, and that there was a reasonable perception that he had so interfered.[24]

31. At the outset of the hearing, counsel for the LSA sought to introduce the Kent Report as an exhibit, and counsel for Mr. Madu objected. The LSA did not rely on the Kent Report as proof of the truth of the facts summarized in it, but did "seek to rely upon the truth of Justice Kent's conclusions, based on the facts before her, as some evidence in support of the Citation."[25] Counsel for Mr. Madu submitted that the Kent Report was at best Justice Kent's opinion, and that her conclusions "come perilously close to deciding the ultimate issue, all without following the usual protections of producing an expert witness, duly qualified and subject to cross-examination."[26]

32. The Hearing Committee admitted the Kent Report "as some evidence in support of the Citation, with the weight, if any, to be determined by the Committee."[27] In doing so, it found as follows:

> The Committee determined that Justice Kent's conclusions are clearly opinion and hearsay. We were also not satisfied that the public documents exception to hearsay squarely applied. However, there is no issue, nor was one truly raised by counsel for either of the parties, that her pedigree and experience would qualify her as an expert witness able to give opinion evidence had she been tendered as such.
>
> However, we determined that the Kent Report, and its publication, provided context for both the Complaint and the Citation and there is a factual nexus between Justice Kent's investigation and conclusions and the issues before this Committee. We further determined that there is sufficient reliability and trustworthiness in her process to at least meet the hurdle of admitting the Kent Report given the basis upon which it was tendered.[28]

33. On weight, the Hearing Committee considered the similarity of the issues, the identity of the parties, the applicable burden of proof, the nature of the earlier proceedings, and the opportunity to participate in them.[29] It found that the material differences between the two processes (including the absence of cross-examination, the absence of evidence that Mr. Madu had the benefit of counsel during Justice Kent's interviews, the absence of submissions on the legal framework she chose, and the lack of any formal discovery process) "militate against placing any appreciable weight on Justice Kent's conclusions."[30] It also noted that the transcripts of Justice Kent's interviews were not

[24] Merits Decision, paragraphs 16 and 99.
[25] Merits Decision, paragraph 79.
[26] Merits Decision, paragraph 88.
[27] Merits Decision, paragraph 89.
[28] Merits Decision, paragraphs 93-94.
[29] Merits Decision, paragraph 95.
[30] Merits Decision, paragraphs 107 and 110-112.

tendered, and that she appears to have had additional written material before her that was not before the Hearing Committee.[31]

34. The Hearing Committee concluded:

> Assessing all of the foregoing factors, the Committee has determined that the Kent Report, while relevant and admissible, was of little assistance to it. It essentially placed no weight on her conclusions, but to note them as part of the public record and as context for the Complaint and the Citation.[32]

35. In admitting and weighing the Kent Report, the Hearing Committee relied on section 68 of the *Act*. Section 68(1) of the *Act* provides that a hearing committee "may hear, receive and examine evidence in any manner it considers proper", and "is not bound by any rules of law concerning evidence in judicial proceedings." The purpose of this section, as with similar provisions in other professional regulation legislation, is to ensure that the LSA can regulate effectively and efficiently in the public interest.

36. The admissibility of evidence under section 68 of the *Act* is a question of law arising from the LSA's home statute. On such questions, the Appeal Panel is equally well positioned to make the necessary findings and is entitled to examine the issue independently, while having regard to the view of the Hearing Committee.

37. The LSA plays an essential role in upholding the rule of law in Alberta by independently regulating the legal profession in the public interest. To that end, evidence heard, received or examined outside the bounds of the rules of law concerning evidence should be admitted where the interests of effective and efficient regulation outweigh the interest in following those rules. In other words, the norm is a principled approach having regard to the rules of law concerning evidence in judicial proceedings, unless there is a reason for admitting other evidence for the sake of effective and efficient regulation.

38. Neither the LSA nor the Hearing Committee identified any reason grounded in effective and efficient regulation for receiving the Kent Report outside the ordinary rules.

39. The Hearing Committee recognized that its discretion must be exercised by taking a principled and rational approach to both admitting and weighing evidence.[33]

40. The Kent Report was not tendered for a merely contextual purpose. The LSA tendered it in order to rely upon the truth of Justice Kent's conclusions as some evidence in support of the Citation, and the Hearing Committee admitted it on that basis.[34] That is the very use against which the hearsay and opinion rules guard.

---

[31] Merits Decision, paragraphs 117-119.
[32] Merits Decision, paragraph 120.
[33] Merits Decision, paragraph 92, citing *Chartered Professional Accountants of Alberta v Mathison*, 2024 ABCA 33, Dissenting Memorandum of Judgment, Wakeling, J.A., paragraphs 361-369.
[34] Merits Decision, paragraphs 79 and 89.

41. As the Hearing Committee determined, Justice Kent's conclusions are clearly hearsay and opinion evidence, and are therefore presumptively inadmissible under the rules of evidence. Hearsay is presumptively inadmissible because of the difficulty for the trier of fact in assessing its truth in the absence of an oath, an opportunity to observe the declarant, and contemporaneous cross-examination.

42. Hearsay may be admitted under the principled exception where the criteria of necessity and threshold reliability are met. The Kent Report fails in the first instance on necessity. Justice Kent could have been called as an expert witness. The Hearing Committee went so far as to accept that she would have qualified as an expert had she been tendered as one. Had she been called, the question would then have been what weight could properly be given to opinion evidence that paralleled the ultimate issue to be decided by the Hearing Committee.

43. The concerns as to threshold reliability are equally significant. Justice Kent's process did not include cross-examination, there is no evidence that Mr. Madu had the benefit of counsel during her interviews of the other witnesses, there was no formal discovery process, and there is no evidence that she had the benefit of submissions on the legal framework she applied.[35] The transcripts of her interviews were not before the Hearing Committee, and she appears to have had additional written material that was also not before the Hearing Committee.[36] The foundation for her opinion was therefore incapable of being tested by the Hearing Committee.

44. Even where the criteria of necessity and reliability are met, evidence may be excluded where its prejudicial effect outweighs its probative value. The Hearing Committee and the parties acknowledged, and the Appeal Panel agrees, that Justice Kent is a highly respected and experienced former Justice of the Court of King's Bench. It is for that very reason that the admissibility of the Kent Report requires careful scrutiny in accordance with the rules of law concerning evidence. Her conclusion that there was a reasonable perception that Mr. Madu had interfered with the administration of justice is, in substance, a parallel opinion approaching the ultimate issue before the Hearing Committee, offered by a jurist whose opinion would naturally carry considerable weight. Against that, the Hearing Committee itself found the Kent Report to be of little assistance to it. The prejudicial effect of the Kent Report clearly outweighs its probative value.

45. Further, the Kent Report was the product of a political process concerning Mr. Madu's political role as Minister of Justice and Solicitor General.[37] That process is separate and apart from the role of the LSA in upholding the rule of law in Alberta by independently regulating the legal profession in the public interest pursuant to the *Act*. The independent

[35] Merits Decision, paragraphs 110-112.
[36] Merits Decision, paragraphs 117-119.
[37] Merits Decision, paragraph 104.

regulation of lawyers is a foundational constitutional principle.[38] The separation of political processes from the LSA's regulatory processes for independently adjudicating the conduct of lawyers is essential.

46. The Appeal Panel agrees with the Hearing Committee that the public documents exception to hearsay, which was advanced by the LSA below, does not apply. The Kent Report does not meet the four criteria necessary for the admissibility of a public document. It fails in the first instance because Justice Kent was not a public official at the time.[39] The Kent Report presents Justice Kent's role as that of an investigator working under terms of reference, and the Hearing Committee found that she was not appointed with the force or benefit of a statutory framework that prescribed her role or her process.[40]

47. There is often good reason for LSA tribunals to receive incidental or contextual hearsay evidence in the interests of effective and efficient regulation. The Kent Report is not such evidence. It was untested opinion, from an extra-statutory political process, which was parallel to the question the Hearing Committee was required to decide. There was no reasonable rationale for its admission contrary to the usual rules of law concerning evidence in judicial proceedings. The Appeal Panel finds that the Hearing Committee erred in law in admitting the Kent Report.

The Impact of the Kent Report on the Hearing Decision

48. The Hearing Committee stated that it "noted the existence of the Kent Report as a matter of fact (essentially as context) but gives little weight to Justice Kent's conclusions", and later that it "essentially placed no weight on her conclusions".[41] "Essentially no weight" is not no weight. Having admitted the Kent Report as some evidence in support of the Citation, the Hearing Committee did place weight on its conclusions in the Merits Decision.

49. Once such evidence is admitted and weighed at all, its influence cannot readily be separated from the balance of the reasons.

50. Justice Kent's conclusions must be understood considering her political mandate. Her inquiry concerned Mr. Madu's conduct in his political role as Minister of Justice and Solicitor General and asked whether the Call "created a reasonable perception of an interference with the administration of justice".[42] In that context, a test of reasonable perception makes very good sense. For the Minister of Justice and Solicitor General, even the perception of interference with the administration of justice may bring that office, and the administration of justice itself, into disrepute.

---

[38] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779, paragraph 87.
[39] *R v Caesar*, 2016 ONCA 599, paragraph 38.
[40] Merits Decision, paragraph 109.
[41] Merits Decision, paragraphs 97 and 120.
[42] Merits Decision, paragraphs 98 and 104.

51. That is not the test before this Appeal Panel pursuant to section 49 of the *Act*. Section 49(1) of the *Act* states:

> For the purposes of this Act, any conduct of a member, arising from incompetence or otherwise, that
>
> (a) is incompatible with the best interests of the public or of the members of the Society, or
>
> (b) tends to harm the standing of the legal profession generally,
>
> is conduct deserving of sanction, whether or not that conduct relates to the member's practice as a barrister and solicitor and whether or not that conduct occurs in Alberta.

52. The Citation, in turn, alleges a specific act: that Mr. Madu "engaged in conduct that undermined respect for the administration of justice when he contacted the Edmonton Police Services Chief of Police regarding a traffic ticket he received on March 10, 2021". The LSA bears the burden of proving that conduct on a balance of probabilities. The conduct must first be proven before it can be measured against section 49 of the *Act*, through the eyes of a reasonably informed member of the public.

53. The Hearing Committee's reasoning closely tracks the perception test applied by Justice Kent. It held that "the fact of the Call, in the circumstances of this case, undermines the administration of justice", and that it was "strictly speaking, unnecessary" for it to address the reason for the Call.[43] It went on to find:

> In short, Mr. Madu's conduct, regardless of his intent, created the appearance of impropriety: that the Minister of Justice and Solicitor General could sidestep the processes available to members of the public faced with the same situation and potentially avail himself of a result through that process. … Far from encouraging public respect for the administration of justice, Mr. Madu's conduct is reasonably perceived as sidestepping the process entirely and thus eroding public confidence in the administration of justice and in the legal profession.[44]

54. The prejudicial effect of admitting the Kent Report becomes acute where, as here, weight was placed on its conclusions and the Hearing Committee's own analysis proceeded on the footing of perception. Given the different test Justice Kent applied in a political process, it is a reasonable inference that her conclusion as to the reasonable perception of interference influenced the Hearing Committee to reason backwards from the perceived harm to the administration of justice, rather than forwards from the conduct proven on the evidence.

[43] Merits Decision, paragraphs 142 and 170.
[44] Merits Decision, paragraph 165.

55. The Hearing Committee also found that Mr. Madu "was in a unique position given that his political position was so closely entwined with his duties as a lawyer", that "the public expects the conduct of someone in that role to set an example for the profession", and that the case was "a prime example of the heightened risk" contemplated in the Commentary to Rule 7.4-1 of the Code.[45] Although the Hearing Committee stated that it was not holding Mr. Madu to a different standard, the effect of its reasoning was that the fact of the Call by a lawyer-politician in Mr. Madu's position was itself conduct deserving of sanction because of the likelihood that the administration of justice would be perceived to have been brought into disrepute.

56. Rule 7.4-1 of the Code requires a lawyer who holds public office, in the discharge of official duties, to "adhere to standards of conduct as high as those required of a lawyer engaged in the practice of law."[46] It does not impose a higher standard. The Commentary recognizes that because such a lawyer is in the public eye, "the legal profession can more readily be brought into disrepute by a failure to observe its ethical standards."

57. The Appeal Panel does not accept that the fact of the Call alone, without regard to what was said, is conduct deserving of sanction. Consider a lawyer who holds a position of authority over an official who is accused of failing to comply with the law in an area within that official's responsibility, although not within the official's direct power, and who then immediately contacts that official by reason of a working relationship. In the political realm, that fact alone may well give rise to a perception that the administration of justice has been interfered with. The role of the LSA's hearing processes, however, is to adjudicate the conduct borne out by the evidence, not to enforce the perception of that conduct. The perception must be assessed on the proven content of the contact with the official, not on its bare fact. To prove the conduct, the LSA must establish what the lawyer said during the contact with the official. Were the lawyer to, for example, merely mention the matter to the official in passing and do nothing more than discuss the weather, it would be difficult to find that the conduct was incompatible with the best interests of the public or tended to harm the standing of the legal profession.

58. The content of the Call matters and must be proven by the evidence on a balance of probabilities pursuant to the Citation. Only once the conduct is proven can it be determined whether a reasonably informed member of the public would find that conduct to be deserving of sanction pursuant to section 49 of the *Act*.

The Content of the Call

59. The Hearing Committee made the following findings regarding the Call. After receiving the Ticket, Mr. Madu drove to a nearby supermarket parking lot and, at 9:45 am, called Chief D.M.'s private cell phone using his own personal phone. Chief D.M. was on holiday

[45] Merits Decision, paragraphs 166-167.
[46] Code, Rule 7.4-1 and Commentary [1].

in Canmore. The Call lasted approximately eight minutes.[47] It was undisputed that the Ticket prompted the Call.[48]

60. It was not disputed that during the Call, Mr. Madu told Chief D.M. that he had been pulled over and accused of being on his phone when he had not been, that he had been on his way to the Legislature to speak to the media regarding the conduct of members of the Lethbridge Police Service, and that he was concerned about the possibility that he was being subjected to illegal surveillance or that he was being racially profiled as a Black man. Chief D.M. informed Mr. Madu that he doubted that he was being racially profiled.[49] Chief D.M. made notes during the Call, which were entered as an exhibit. Mr. Madu had no such notes.[50]

61. The Hearing Committee acknowledged, as undisputed, that Mr. Madu never expressly asked Chief D.M. to do anything with respect to the Ticket and that Chief D.M. did nothing about it.[51]

62. Nonetheless the Hearing Committee did not accept that seeking assurances regarding the Traffic Stop was the sole, or even the primary, reason for the Call. The Hearing Committee concluded based on the inferences drawn from all of the evidence that Mr. Madu sought a “private remedy”.[52] Its reasons included: Mr. Madu’s demeanour at the Traffic Stop and afterwards; the absence of any objective basis for linking the Traffic Stop with racial profiling or illegal surveillance; the immediacy and private nature of the Call, made on his personal phone; Chief D.M.’s understanding that the Ticket was a reason for the Call; Mr. Madu’s admission that Chief D.M. could not give the assurances sought, together with his inability to explain why he sought them even after a long pause; and the fact that Mr. Madu took no further steps after the Call.[53]

63. Mr. Madu argues that, in drawing these inferences, the Hearing Committee turned its disbelief of his explanation into positive proof that he was seeking a “private remedy”.

64. One of the reasons the Hearing Committee concluded that Mr. Madu sought a private remedy for the Ticket was the fact that "[d]uring the Traffic Stop, he did not raise any issue with Constable R.B. about whether he was being racially profiled or illegally surveilled.”[54] The implicit premise is that, had Mr. Madu believed that he was being racially profiled or illegally surveilled at the Traffic Stop, he would have raised this with the uniformed constable at the roadside.

[47] Merits Decision, paragraphs 27 and 51.
[48] Merits Decision, paragraph 2.
[49] Merits Decision, paragraph 28.
[50] Merits Decision, paragraph 45.
[51] Merits Decision, paragraph 156.
[52] Merits Decision, paragraph 169.
[53] Merits Decision, paragraphs 74 and 176-195.
[54] Merits Decision, paragraph 31.

65. Mr. Madu relies on the Supreme Court of Canada's decision in *R v S (RD)*, [1997] 3 SCR 484. The reasonable person "must be taken to be aware of the history of discrimination faced by disadvantaged groups." That includes "high profile clashes between the police and the visible minority population over policing issues". The reasonable person approaches the matter "with a complex and contextualized understanding of the issues" and "is cognizant of the racial dynamics in the local community".[55] He also relies on *Luamba v Attorney General of Quebec*, 2022 QCCS 3866 for the observation that racial profiling "is a reality that weighs heavily on black communities. It is particularly evident among black drivers of motor vehicles".[56]

66. Mr. Madu testified that he is a Black man who has experienced racism in Alberta. Racial profiling, or carding, was the number one complaint he received from the public after becoming Minister and it was a major issue for him. He and his department communicated regularly with Chiefs of Police on carding, most often with Chief D.M. On November 19, 2020, it was announced that Mr. Madu had used his powers under the *Police Act* to prohibit carding pending further legislation, with Chief D.M. taking part in the announcement.[57] Further, serious issues had come to his attention about members of the Lethbridge Police Service profiling, illegally surveilling and following an MLA for Lethbridge West. The issues became public on March 8, 2021, and a press conference was planned for March 10, 2021, the day of the Traffic Stop.[58]

67. Mr. Madu testified that he was concerned he might have been subject to racial profiling or illegal surveillance, which is what he had been dealing with in his role as Alberta's Minister of Justice and Solicitor General.[59]

68. Mr. Madu argues that a reasonable person with this awareness would not readily assume that a Black man who did not challenge a police officer at the roadside had no genuine concern about racial profiling.

69. The Appeal Panel has reservations about some of the surrounding inferences drawn by the Hearing Committee. Inferences drawn by a hearing committee are to be respected unless there is an articulable reason for disagreeing. It is not necessary to decide whether such a reason exists here. The Hearing Committee heard from the only two witnesses to the content of the Call: Mr. Madu and Chief D.M. It is their evidence that establishes what was said during the Call.

70. In accordance with the applicable standard of review, findings of fact made by the Hearing Committee, particularly findings based on the credibility of witnesses, are afforded significant deference. This Appeal Panel did not have the opportunity to observe the witnesses, as counsel for the LSA properly emphasized.

---

[55] *R v S (RD)*, [1997] 3 SCR 484, paragraphs 46-48.
[56] *Luamba v Attorney General of Quebec*, 2022 QCCS 3866, paragraph 861.
[57] Merits Decision, paragraphs 60 and 62.
[58] Merits Decision, paragraph 65.
[59] Merits Decision, paragraph 28.

71. Where their evidence conflicted, the Hearing Committee preferred that of Chief D.M.:

> Where it conflicts with that of Mr. Madu's, we prefer the evidence of Chief D.M.. Chief D.M. is an experienced police officer and Chief of Police, with his own political experience. None of the parties challenged his credibility as a witness, and there is no reason to do so. His testimony was also consistent with his notes, made contemporaneously.[60]

72. Therefore, the Appeal Panel relies solely on Chief D.M.'s evidence as to the content of the Call.

73. In examination-in-chief, Chief D.M. described the Call as follows:

> Q: And can you give your recollection of how that call initiated? What was initially discussed?
>
> A: Well, I think at the start we just had some small talk, it was just a general conversation. And then it turned into a concern.
>
> And it seemed like there were two issues. It seemed like there was a traffic ticket that he had received, as well as, you know, racial profiling, perhaps that he was targeted in relation to that, and some references to what was going on in Lethbridge on that profiling and particular stuff that was happening that the minister was dealing with at that particular time.
>
> Q: All right. And let me just pull those apart a bit. You said there were two issues going on. One was a traffic ticket that was received. Did he -- did Minister Madu make any specific complaint about the conduct of the officer?
>
> A: No, it was more about is it profiling and concern that he got this ticket. There was really not a lot of discussion in relation to the officer. But it was kind of tied to two things, and thus my notes, that I'm assuming you probably have, were kind of almost two different -- two different themes.[61]
>
> Q: And can you give your recollection of your side of the discussion with Minister Madu?
>
> A: Yeah, it was just the -- I mean, he was concerned, and I would say, you know, obviously probably the -- it sounded like maybe this just happened and he was concerned, yeah, about the ticket, and then just basically profiling in relation to was this targeted because, you know, of his position. And, you know, I -- over time, and it actually didn't take that long, I kind of split the two things out. I said, no, I highly doubt that this is going to be profiling over a traffic ticket.

[60] Merits Decision, paragraph 184.
[61] Transcript of the Hearing Committee proceedings, pages 80-81.

> And in my notes there, as you follow the theme, I kind of split those out. I mean, obviously if you want to make a complaint about the officer's, you know, performance in relation to how he handled this particular thing, that's a public complaints investigation. And the ticket really has two options: Tell a story in court or actually pay the ticket.
>
> And, you know, it didn't take us too long, I think, to get there. And I think probably -- you know, as I stated in some of the previous discussions with Ms. Kent there is -- you know, I have been a police chief and held some positions for quite some time, so I didn't find a lot of difficulty in getting this conversation to where it needed to be.[62]

74. Chief D.M.'s notes recorded what he described as "two themes": concerns about a distracted driving ticket around a school zone, and whether, in light of the situation in Lethbridge, Mr. Madu had been targeted because of his position as Minister for Justice and Solicitor General or subjected to Black profiling.[63] Chief D.M. said that he, not Mr. Madu, "kind of split the two things out."[64]

75. In examination-in-chief, Chief D.M. also stated that the exchange "wasn't anything -- elevated conversation. It was kind of, like, telling him, these are your options. And, you know, I didn't get any push-back on that."[65]

76. On cross-examination, Chief D.M. gave the following evidence:

> Q: So with respect to the phone call, sir, on March the 10th, and I have listened to your testimony and I have read your note, would I be correct in understanding that Mr. Madu, after a traffic stop, wanted some assurance from you that he had just -- not just experienced an example of profiling or carding; is that fair?
>
> A: You know, as I said, the two things were mixed together, so I think you could easily make that assumption. I'm not exactly sure. I don't think we ever got to exactly that language. I think we had a pretty descent [sic] conversation and split the two things out. But yeah, I think we got to a good place through our discussion, if that makes sense.
>
> Q: I understand. And you understand, sir, that ultimately there was no complaint lodged against the officer?
>
> A: I don't believe there was. And, you know, I don't think there was any testimony in court from what I have heard, too. I think the matter was dealt with. And, yeah -- and as I said from the start, even to both Justice Kent and today, I was confident, or I felt reasonably confident, that the matter was done with, but again, it was more of a cautionary thing, having worked

[62] Transcript of the Hearing Committee proceedings, pages 81-82.
[63] Transcript of the Hearing Committee proceedings, page 84.
[64] Transcript of the Hearing Committee proceedings, pages 81-82.
[65] Transcript of the Hearing Committee proceedings, page 85.

in this field and in government for a while, that making sure that other folks know, especially when I'm on holidays.

Q: With regard to the traffic ticket itself, which you never saw until recently, you simply told the Minister that he could either pay it or go to court, that's it?

A: Yeah. And as I said, I think in my notes to Justice Kent, I would tell anybody that if they called me on a traffic ticket.

Q: Right. You don't have any power over traffic tickets as the Chief of Police?

A: No, nor should I.

Q: You wouldn't want the power, sir?

A: No, that's right.

Q: And to get to the heart of it, Mr. Madu did not ask you to have the ticket cancelled?

A: No.[66]

77. Notably, Mr. Madu agreed in cross-examination that Chief D.M.'s notes outlined the substance of their conversation, other than the small talk at the outset.[67] The material difference between the two accounts is Mr. Madu's evidence that he did not seek Chief D.M.'s advice on the Ticket. On Chief D.M.'s evidence, which the Appeal Panel accepts, Mr. Madu raised his concern about having received the Ticket.

78. The question for this Appeal Panel thus becomes whether Chief D.M.'s evidence proves the Citation. On that evidence, Mr. Madu told Chief D.M. that he had received the Ticket and raised his concern whether he had been racially profiled or targeted and illegally surveilled as a result of his position as Minister for Justice and Solicitor General in light of events in Lethbridge. He made no specific complaint about the conduct of the officer. He did not ask Chief D.M. to have the Ticket cancelled or to do anything about it. Chief D.M. "split the two things out", told Mr. Madu that he highly doubted the matter was profiling, and advised him that his options were to pay the Ticket or go to court, as he would advise anyone. Mr. Madu did not push back.

79. The closest Chief D.M.'s evidence comes to the critical issue is his statement, in examination-in-chief, that "I didn't find a lot of difficulty in getting this conversation to where it needed to be."[68] He was not asked to explain what he meant, and counsel moved directly to Mr. Madu's demeanour.

[66] Transcript of the Hearing Committee proceedings, pages 97-99.
[67] Merits Decision, paragraph 70; Transcript of the Hearing Committee proceedings, page 275.
[68] Transcript of the Hearing Committee proceedings, pages 81-82.

80. The Ticket was undoubtedly mentioned during the Call. However, nothing in Chief D.M.'s account establishes on a balance of probabilities that Mr. Madu used his position during the Call to seek any benefit, dispensation or intervention in respect of the Ticket. As Chief D.M. acknowledged, the Ticket was "mixed together" with Mr. Madu's concerns about racial profiling and illegal surveillance. It was Chief D.M. who split the two things out, separating the Ticket from the concerns about racial profiling and illegal surveillance.

81. The Hearing Committee's conclusion that a reasonable member of the public would perceive that Mr. Madu was trying to use his position "to, at a minimum, bring forward a personal issue to the Chief of Police to have it addressed" is not supported by the content of the Call as stated by Chief D.M..[69] Whether proven conduct is incompatible with the best interests of the public or tends to harm the standing of the legal profession engages the expertise of the profession in setting standards of conduct, a matter on which the Appeal Panel is entitled to apply its own expertise. The reasonable member of the public posited by the Hearing Committee was one informed by the perception of interference and the contextual inferences. The reasonable member of the public must first be informed by the evidence of the conduct. That evidence is the content of the Call as stated by the Chief.

82. To assess conduct under section 49 of the *Act*, the reasonable member of the public must be armed with the findings of fact of the tribunal – what the content of the Call was, not the public's perception of the Call without the benefit of the evidence tested on cross-examination. The role of the Hearing Committee, and now of this Appeal Panel, is first to make the necessary findings of fact based on the evidence, and then to determine whether a reasonably informed member of the public would find that conduct deserving of sanction. The findings on the conduct must necessarily come first. A finding that the administration of justice was undermined, without first establishing the factual basis for it, is a reversal of the analysis.

83. On the evidence of Chief D.M., which the Hearing Committee preferred and which this Appeal Panel accepts, the LSA has not proven on a balance of probabilities that Mr. Madu engaged in conduct that undermined respect for the administration of justice when he contacted Chief D.M. regarding the Ticket. Chief D.M.'s evidence does not establish that Mr. Madu used his position during the Call to seek any benefit, dispensation or intervention in respect of the Ticket. Raising the Ticket was mixed with Mr. Madu's concerns about racial profiling and illegal surveillance in his role as Minister for Justice and Solicitor General.

84. In reaching this finding, the Appeal Panel has applied the civil standard of proof with care. The evidence must be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.[70] The evidence of Chief D.M. does not meet that standard.

[69] Merits Decision, paragraph 164.
[70] *F.H. v McDougall*, 2008 SCC 53, paragraph 46.

85. The Appeal Panel recognizes that the evaluation of Mr. Madu's conduct in the political sphere as Minister of Justice and Solicitor General was, and necessarily should be, a different process involving a different analysis. That was the process and analysis undertaken by Justice Kent and it had consequences for Mr. Madu's political career.

86. The Appeal Panel also recognizes, as the Hearing Committee noted, that there were other, preferable ways in which Mr. Madu could have raised his concerns. However, the question before the Hearing Committee was not whether Mr. Madu had better means of doing so. It was whether the LSA had proven the conduct alleged in the Citation.

87. The Appeal Panel finds that the Hearing Committee erred in law in admitting the Kent Report, erred in principle in reasoning from perception rather than from the proven conduct to apply the test set out in section 49 of the *Act*, and that its finding of guilt on the Citation is not reasonably sustainable.

Decision

88. The LSA has not met its burden of proof on the Citation. The Appeal Panel quashes the Hearing Committee's finding of guilt on the Citation. The sanction and the order for costs imposed by the Hearing Committee are accordingly set aside.

89. 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. Madu will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 101(3)).

Dated November 24, 2026.

_____

Erin Runnalls, KC - Chair

_____

John Evans, KC

_____

Levonne Louie

Jim Lutz, KC

Afshan Naveed, KC

Sandra Petersson, KC

Ali Rakka