

Date: June 14, 2023

Docket: S-1-CV-2021 000251

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

In The Matter of the *Legal Professional Act*, Sections 22, 23 and 24,

And In The Matter of a Decision of the Law Society of the
Northwest Territories dated September 3, 2021

ADAM MCKINNON

Applicant

-and-

LAW SOCIETY OF THE NORTHWEST TERRITORIES

Respondent

DECISION ON COSTS

Introduction

[1] The Applicant, Adam McKinnon (“the Applicant”) sought judicial review of the September 3, 2021, decision (the “Decision”) of the Chair of the Discipline Committee of the Law Society of the Northwest Territories (the “Law Society”) dismissing his complaints against opposing counsel, Keelen Simpson (“Ms. Simpson”), and OCL counsel, Ken Kinnear (“Mr. Kinnear”).

[2] For those reasons set out in my decision dated, July 13, 2022, the Application was dismissed.

[3] If the parties were unable to agree on the issue of costs, the Court requested written submissions to be made. The parties were unable to agree on costs. These are my reasons on costs.

The Result

[4] The issues to be determined on the Application were:

- a. whether the Applicant was entitled to rely on an affidavit dated October 4, 2021, or any portion of it;
- b. whether the Applicant had standing to seek judicial review in the circumstances;
- c. the requisite standard of review for the issue(s) on which the Applicant had standing, if any;
- d. whether the Law Society's process was conducted in an unfair manner;
- e. whether the Applicant demonstrated entitlement to the relief sought.

[5] For those reasons set out in my decision, I found that:

- a. the October 4, 2021, affidavit was nothing more than the Applicant's re-interpretation of the evidence contained in the Certified Record, along with his lay opinion of the investigation into his complaints and the Investigator's assessment of the evidence gathered during the investigation. Thus, I found that the affidavit was inadmissible.
- b. there was no juridical basis for the Applicant to appeal by seeking judicial review of the merits of the investigation and the Law Society's decision to dismiss his complaints against Ms. Simpson and Mr. Kinnear. Rather, his limited standing pertained to challenging the fairness of the process afforded him in investigating and dismissing his complaints.
- c. the review to be undertaken by this Court was limited to whether the process afforded the Applicant was procedurally fair given the circumstances of a complaint against members of the Law Society of the Northwest Territories under the *Legal Profession Act*.

- d. the Certified Record disclosed that the Applicant was served with notice of the investigation. He was afforded an opportunity to participate in the investigation process, including the opportunity to respond to the information provided by the investigated members to the Investigator. The Investigator fully considered, with an open mind, the Applicant's complaints and allegations. In the circumstances, the Investigator took the complaints seriously and employed appropriate steps to investigate.
- e. in the result, the Applicant was not entitled to the relief sought. Rather, as the Certified Record disclosed, he was afforded procedural fairness in the investigation and dismissal of his complaints against Ms. Simpson and Mr. Kinnear.

[6] Notably, what became clear during oral argument was that the Applicant's chief complaints related to certain orders made against him in the family law proceeding, namely an order finding him to be a vexatious litigant. The Applicant conceded that he had not appealed the order because he "didn't have enough evidence" and he "did not want to waste [his] appeal opportunity". Remarkably, he asserted that he initiated the judicial review to gather evidence to launch his appeal to overturn the vexatious litigant finding, which I concluded was improper.

Cost Submissions

[7] The Law Society filed an affidavit setting out its position on the issue of costs, together with a Bill of Costs and receipts to substantiate the disbursements contained therein. The Law Society requests cost and disbursements, inclusive of GST, equalling \$8,761.01. More specifically, fees for Mr. Boyer, senior and experienced counsel, in my view, are requested at the rate of \$4,950.00, which I find to be entirely reasonable. Further, disbursements of \$3,393.48 were necessary and reasonable, in my view, to defend against a judicial review that ought never to have been initiated by the Applicant.

[8] The Applicant denies that the Law Society's is entitled to costs. His four pages of written submissions are not responsive to the issue of costs. Rather, he seeks to relitigate the issues already determined.

Conclusion

[9] For all of these reasons, the draft Order submitted by the Law Society shall issue without need of the Applicant approving it as to form and content.

Justice B.W. Abrams
J.S.C.

Dated in Yellowknife, NT this
14th day of June 2023, 2022

Counsel for the Applicant: Self-Represented

Counsel for the Respondent: Craig D. Boyer

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BETWEEN:

ADAM MCKINNON

Applicant

-and-

LAW SOCIETY OF THE NORTHWEST
TERRITORIES

Respondent

DECISION ON COSTS OF
THE HONOURABLE JUSTICE B.W. ABRAMS
