

COURT OF APPEAL

de JERSEY CJ
WILLIAMS JA
DOUGLAS J

CA No 310 of 1995

JOHN BERTRAM TAYLOR

Applicant

v.

THE QUEENSLAND LAW SOCIETY

Respondent

BRISBANE

..DATE 15/02/2002

JUDGMENT

THE CHIEF JUSTICE: The applicant, a solicitor of this Court, was on the 6th of August 1996 admitted to practice on the condition that he not practise on his own account or in partnership. The Court then expressly reserved his right to apply in due course to have that condition expunged. He now makes that application.

It is significant that the Council of the Queensland Law Society does not oppose the deletion of the condition. That is especially significant, bearing in mind that the Council actively opposed the applicant's admission on the 6th of August.

The Court's order on the 6th of August was made on an application for readmission. The applicant had originally been admitted to practice on the 7th of September 1965. He was, however, struck off the roll on the 14th of February 1989, by the Statutory Committee of the Queensland Law Society, in the context of his acknowledgment that he had misappropriated trust moneys to the extent of \$15,582.19.

That misappropriation had, on the 5th of October 1992, led to his imprisonment. The factual circumstances are set out in detail in the Court of Appeal's judgment of the 6th of August 1996, and there is no need to repeat them now.

The misappropriation had resulted in the applicant's being suspended from practice on the 29th of April 1988 prior to his

being struck off on the 14th of February 1989. Following that suspension he carried out a substantial amount of legal work with the consent of the Queensland Law Society.

It was submitted that he should be readmitted unconditionally and the Court, on 6th of August 1996, did observe that:

"He is a fundamentally decent man who found himself in a situation from which he could see no escape and this led him to take the unwise and dishonest course of 'borrowing' against his trust account in the hope that his position would improve".

But, as it was put, "proceeding with caution", the Court on the 6th of August 1996 refused to readmit him unconditionally, imposing the condition which he now seeks to have removed.

The applicant has filed an affidavit in which he swears to having been employed continuously by Mr Peter Chappel as a solicitor since his readmission in 1996. The applicant details the nature of the work he has done in that capacity.

Mr Chappel has sworn an affidavit also covering the nature of the work done by the applicant and expressing his "full support" for the application that the condition be removed. There is other sworn material supporting the application.

It is, as I have said, significant that the Council of the Queensland Law Society has not sought to oppose the application. Neither has it sought to challenge, in any way, the material which has been filed for the applicant, and that

is material which, if accepted, would be sufficient to justify the removal now of the condition.

More than five years have elapsed since the Court of Appeal made the order on the 6th of August 1996. That period has been sufficient to allow the applicant to demonstrate, if it be the case, that he is a fit and proper person to justify unconditional admission.

The material in support of the application standing unchallenged by the entity which might reasonably have been expected to mount a challenge were there any ground for doubt, the applicant should, in my view, be seen as having discharged his onus of establishing that the condition should be removed.

I would order that the condition imposed by the Court on the 6th of August 1996, when admitting the applicant as a solicitor namely, "that he not practise on his own account or in partnership", be expunged.

WILLIAMS JA: I agree.

DOUGLAS J: I agree.

THE CHIEF JUSTICE: That is the order of the Court.
