

SUPREME COURT OF QUEENSLAND

CITATION: *Singh v Legal Services Commissioner* [2013] QCA 384

PARTIES: **ABHAY KUMAR SINGH**
(appellant)
v
LEGAL SERVICES COMMISSIONER
(respondent)

FILE NO/S: Appeal No 4010 of 2013
QCAT No 204 of 2010

DIVISION: Court of Appeal

PROCEEDING: General Civil Appeal

ORIGINATING COURT: Queensland Civil and Administrative Tribunal at Brisbane

DELIVERED ON: 17 December 2013

DELIVERED AT: Brisbane

HEARING DATE: 10 September 2013

JUDGES: Margaret McMurdo P and Muir and Gotterson JJA
Separate reasons for judgment of each member of the Court,
each concurring as to the orders made

ORDERS: **1. The application for leave to adduce further evidence is refused.**
2. The appeal is dismissed with costs.

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – DISCIPLINARY PROCEEDINGS – QUEENSLAND – APPEALS – where the appellant has practised as a lawyer in New Zealand, Fiji and Australia – where the appellant, while representing a client in Fiji on a charge of corruptly seeking a payment from a witness, attempted to bribe the witness to change his evidence – where the appellant was subsequently convicted in Fiji of attempting to pervert the course of justice – where the appellant was, *inter alia*, removed from the Fijian roll of local practitioners for six years – where the appellant failed to give notice of his conviction to the Queensland Law Society – where the appellant failed to disclose his conviction to the Queensland Law Society when applying for a renewal of his 2007-08 practising certificate – where the appellant subsequently disclosed the conviction to the Queensland Law Society who declined to issue him with a 2008-09 practising certificate and referred the matter to the Legal Services Commissioner – where the Legal Services Commissioner commenced disciplinary proceedings in the Queensland Civil and Administrative Tribunal ("QCAT") – where QCAT ordered that the appellant's name be removed from the local

roll – where the appellant contends that the penalty imposed was excessive and unnecessary to achieve the objectives of the *Legal Profession Act 2007 (Qld)* – where the appellant points to the long period of time which has elapsed since the original offence, his remorse and insight into his offending, the period of five years that he has effectively been suspended from practising in Queensland and supportive references attesting to his good character – where the appellant sought to adduce further affidavit evidence providing further details of his professional experience, the commission of the offence and his remorse and insight into his offending – whether further evidence ought be admitted – whether penalty excessive

Legal Profession Act 2007 (Qld), s 3, s 9(1), s 13(2)(b)(ii), s 14(1), s 68, s 416, s 419, s 420(1)(c)(i), s 424(1)(a)(i), s 456(2), s 468, Sch 2

Adamson v Queensland Law Society Incorporated [1990] 1 Qd R 498, cited

Legal Services Commissioner v Singh [2011] QCAT 448, related

Legal Services Commissioner v Singh (No 2) [2011] QCAT 580, related

Legal Services Commissioner v Singh [2012] QCAT 181, related

Legal Services Commissioner v Singh [2013] QCAT 154, related

Singh v State [2008] FJSC 52, related

COUNSEL: S J Keim SC for the appellant
M D Nicolson for the respondent

SOLICITORS: Raniga Lawyers for the appellant
Legal Services Commissioner for the respondent

[1] **MARGARET McMURDO P:** On 9 April 2013, the Queensland Civil and Administrative Tribunal ("the Tribunal"), constituted by the President, Mr Matthew Woods (Practitioner Panel Member) and Dr Julian Lamont (Lay Panel Member), ordered that the name of the appellant, Abhay Kumar Singh, be removed from the local roll of legal practitioners.¹ He applied for leave both to appeal from that order and to give further evidence in affidavits sworn by him on 4 May and 19 and 30 August 2013.

[2] In fact, leave to appeal is not required. He has a right of appeal under s 468(1) *Legal Profession Act 2007 (Qld)* ("LPA"). At the hearing, without objection from counsel for the respondent, this Court ordered that his application for leave to appeal be treated as a notice of appeal. His sole ground of appeal is that the penalty imposed was excessive and unnecessary to achieve the objectives of the LPA. The Court also gave the appellant leave to read his affidavits sworn on 4 May and 19 August and 30 August 2013 for the limited purpose of determining whether his application to adduce further evidence should be granted.

¹ *Legal Services Commissioner v Singh* [2013] QCAT 154.

- [3] The appellant was self-represented before the Tribunal but he was represented in this appeal by Senior Counsel.

The Tribunal's reasons

- [4] It is sensible to commence the resolution of the issues in this appeal with a review of the Tribunal's reasons which uncontroversially explain the background:

"[1] Mr Singh is 56 and has practised as a lawyer in New Zealand, Fiji and Australia. He was admitted in Queensland in 2002 but actually commenced practice here in, it appears, some time in 2006 and continued to do so until the Queensland Law Society ('Society') refused to renew his practising certificate from 1 July 2008.

[2] That refusal was occasioned when the Society discovered that Mr Singh had been convicted in Fiji, on 25 October 2006, of the offence of attempting to pervert the course of justice. The Society then declined to authorise the renewal of his practising certificate as from 1 July 2008 and referred the matter to the Legal Services Commissioner.

...

[4] The Legal Services Commissioner takes the view that his conviction in Fiji (and two associated technical offences – failing to give notice of it to the Queensland Law Society within seven days, and not disclosing it to the Society when he applied for renewal of his 2007-8 practising certificate) means that he is not a fit and proper person to remain on the local roll, and his name should be removed.

[5] Mr Singh points to a previous (albeit temporary) renewal of his right to practise in Fiji; the absence of any reoffending or other disciplinary proceedings there, or here, against him; the long period which has elapsed since the original offence; and, his continuing legal studies, as factors which tell against that severe penalty. He has also, since the hearing of this matter on 12 December 2012, sent the Tribunal documents indicating that his conviction is not recorded in Fiji and New Zealand for the purposes of international travel, and no longer impinges that travel. He contends that, in light of these matters, he should be allowed to practise law here."²

- [5] The Tribunal noted the appellant's qualifications, including a Master of Laws in Commercial Law from the University of Queensland in 2004.³ The Tribunal observed that he continued to dispute whether he was guilty of the original offence, alleging that he was entrapped by the Fiji Office of the Director of Public Prosecution which was jealous of his forensic success.⁴ The circumstances of the offence were that he was acting for a client who was charged with corruptly seeking a payment from a witness. After making contact with the witness, the appellant

² Above, [1]-[2], [4]-[5].

³ Above, [7].

⁴ Above, [8].

advised the witness to change his evidence. The appellant denied contacting the witness or giving such advice.⁵ Although he pleaded guilty, he appealed unsuccessfully against his conviction to both the Fiji Court of Appeal and the Fiji Supreme Court. In its 2008 judgment, the Fiji Supreme Court noted that, although the appellant initially denied the offence claiming that the tape-recording of a person committing the offence did not record his voice, he ultimately accepted in the Supreme Court proceeding that it was his voice. He admitted the offence and accepted that he approached the witness to change his evidence in a stupid, individual act of madness.⁶

- [6] Ultimately, the appellant was sentenced for the offence to six months imprisonment which he served "extramurally".⁷ Following his conviction, the Fiji Law Society in November 2006 cancelled his practising certificate. An application to renew his practising certificate was refused in June 2007. He appealed to the Fiji High Court which, in July 2007, ordered the Fiji Law Society to immediately issue him with a practising certificate. Following a hearing in November 2009, however, the Fiji Independent Legal Service Commissioner ordered that his name be struck from the Fiji roll of legal practitioners. The appellant again appealed to the Fiji Court of Appeal which effectively ordered that his period of disbarment be reduced from life to 10 years, effective from 1 February 2010. He appealed to the Fiji Supreme Court which reduced the period of disbarment to six years, effective from 1 February 2010.⁸ It follows that the appellant cannot practise as a lawyer in Fiji before February 2016.
- [7] The Tribunal noted the appellant's unsuccessful contention that it lacked jurisdiction: see *Legal Services Commissioner v Singh*.⁹ He then sought an order that the Tribunal proceedings be permanently stayed as the Fiji offence was but a misdemeanour and he had completed his sentence and been disciplined in that country. That contention was also unsuccessful: see *Legal Services Commissioner v Singh (No 2)*.¹⁰ He next argued, again unsuccessfully, that the Tribunal proceedings should be permanently stayed as they were an abuse of process or offended the principle of double jeopardy: see *Legal Services Commissioner v Singh*.¹¹
- [8] The Tribunal proceeded on the following basis. The offence of attempting to pervert the course of justice was established in Fiji.¹² In the course of representing a client on a criminal charge, he offered a prosecution witness money to change his evidence in a way which would advantage his own client.¹³ The well established test in determining whether a legal practitioner was guilty of professional misconduct, articulated by Thomas J (as his Honour then was) in *Adamson v Queensland Law Society Incorporated*,¹⁴ was whether the conduct violated or fell short of, to a substantial degree, the standard of professional conduct observed or approved by members of the profession of good repute and

⁵ Above, [9].

⁶ *Singh v State* [2008] FJSC 52, [4] (Mason, Handley and Weinberg JJ); *Legal Services Commissioner v Singh* [2013] QCAT 154, [12].

⁷ *Legal Services Commissioner v Singh* [2013] QCAT 154, [14].

⁸ Above, [17]-[21].

⁹ [2011] QCAT 448.

¹⁰ [2011] QCAT 580.

¹¹ [2012] QCAT 181.

¹² *Legal Services Commissioner v Singh* [2013] QCAT 154, [27].

¹³ Above, [28].

¹⁴ [1990] 1 Qd R 498.

competency.¹⁵ Under s 420(1)(c)(i) LPA, conduct involving a conviction for a serious offence is capable of constituting unsatisfactory professional conduct or professional misconduct.¹⁶ The Tribunal noted:

"[33] On any view, the offending which led to Mr Singh's conviction involved misconduct which can only be described as serious. He attempted, as an officer of the Court in Fiji constrained to uphold the principles of justice and the rules of court at all times, to bribe a witness in circumstances where, if successful, the proper administration of criminal justice would have been seriously undermined – and, also, led to a spurious civil action against police authorities.

[34] The word '*pervert*' in the charge brought in Fiji reflects the way the offence itself goes to the heart of the justice system; for a legal practitioner, embedded within and undertaking a role critical to the just, fair and successful operation of that system to attempt to undermine it in this way can only be described as serious professional misconduct."¹⁷

[9] The Tribunal dealt with the remaining charges in this way:

"[35] The second charge arises from Mr Singh's failure to promptly give notice to the Queensland Law Society of a '*show cause*' event – his conviction – as required by s 68 of the LPA. He also failed to provide the Society with a written statement within 28 days explaining why, despite that event, he continued to be a fit and proper person to hold a local practising certificate.

[36] Mr Singh has conceded, in his submissions, that he was not aware of the requirements of s 68 of the LPA. Given the seriousness of the offence, and the associated circumstance that Mr Singh only disclosed his conviction subsequently in the course of requesting the renewal of his practising certificate, this contravention should also be categorised as professional misconduct.

[37] The third charge, involving a failure to make disclosure in applying for a practising certificate, relates to that circumstance: when applying, on 25 May 2007, for a Restricted Employee Practising Certificate from the Society for the year 2007-8, he failed to disclose the conviction. In effect, he ignored a prompt in the application document itself." (footnote omitted)

[10] Accepting the respondent's submission that, although the appellant's conduct in respect of the third charge alone would amount only to unsatisfactory professional conduct, the Tribunal determined that, in light of the seriousness of the first two

¹⁵ Above, 507; *Legal Services Commissioner v Singh* [2013] QCAT 154, [31].

¹⁶ *Legal Services Commissioner v Singh* [2013] QCAT 154, [32].

¹⁷ Above, [33]-[34].

charges, it was part of an on-going course of misconduct amounting to professional misconduct.¹⁸

[11] As to penalty, the Tribunal noted:

"[41] The primary purpose of any penalty is to protect the public and, in that light, to also consider principles of general and personal deterrence. The ultimate issue, as Mr Singh says in his own submissions, is whether he has been shown not to be a fit and proper person to be a legal practitioner of the Supreme Court of Queensland. As he also argues, a finding of professional misconduct does not necessarily require a conclusion of unfitness to practise, and that question must be determined at the time of hearing.

[42] Section 9 of the LPA touches upon this question of fitness and propriety when it defines '*suitability matters*'. Under s 9(1)(c), '*suitability matters*' include whether a person has been convicted of an offence in a foreign country and, if so, the nature of the offence; how long ago it was committed; and, the person's age at the time. Those suitability matters are to be considered under the umbrella of the general test to be applied when the fitness and propriety of a person to continue as a legal practitioner is in issue: whether that person should any longer be held out as fit to practise, or whether he is '*... a fit and proper person to be entrusted with the important duties and grave responsibilities of a solicitor*'.

[43] Mr Singh's conviction involved an offence with elements of deliberate dishonesty and an attempt to deceive the criminal justice system in Fiji, compounded by a subsequent failure to disclose that conduct to the Queensland Law Society." (footnotes omitted)¹⁹

[12] After referring to relevant authorities, the Tribunal continued:

"[46] The actual offending here occurred, of course, ten years ago. Mr Singh points to that lengthy period of time, and the fact that he has practised law in Fiji from time to time since then, and completed various development courses without any further complaint or disciplinary proceeding, as factors which tell in his favour.

[47] This Tribunal must consider the question of fitness to practise now, and in the future. There are some aspects of Mr Singh's conduct in the decade since 2003 which are material to those deliberations.

[48] In Mr Singh's many submissions to this Tribunal he has not, until his final submission after the hearing on 12 December 2012, said anything suggesting remorse for or genuine insight into the conduct which led to his conviction. He does

¹⁸ Above, [39].

¹⁹ Above, [41]-[43].

say, in his most recent submission filed 29 January 2013, that he is remorseful for the offending act and acknowledges his mistake, but does so in the context that there are '*special factors*' in this case which mean he has '*proved his worthiness*' and has '*learnt his lesson*', and '*proved that he has a clean record for ten years*'.

- [49] As the recitation of the various proceedings in Fiji shows, however, he has taken every conceivable avenue of appeal in relation to his criminal conviction, and the disciplinary proceedings there. He also raised every conceivable argument to contest the proceedings before this Tribunal, all of which were without merit. He has, in earlier submissions to this Tribunal, maintained that he was entrapped by the Office of the Director of Public Prosecution, Fiji because of its jealousy at his success in courts there.
- [50] Those submissions compel the conclusion that he does not, even now, fully perceive and have real insight into the seriousness of his offending, or the fact that its elements involved an attempt to gravely subvert the proper administration of justice. Remorse is an emotion which can readily be propounded, but its actual presence is not always easy to discern. Its presence, in Mr Singh's case, would be more readily found if his conduct in the face of a serious charge in the past decade – beginning, as the passage from the sentencing remarks set out above shows, with an absolute denial, and continuing for some years through a welter of proceedings in which legal stratagems were relentlessly used to avoid sanction – did not belie it.
- [51] The Tribunal is, for these reasons, left unpersuaded that Mr Singh has (despite the long period of time which has elapsed) appreciated the seriousness of his misconduct or that, by dint of time and a better appreciation of the nature of his offending, the continuing cloud it leaves over the question of his fitness to practise has been diminished, or expunged.
- [52] The offending was, on any view, of a very serious kind: it involved dishonesty which goes to the heart of the justice system. Despite the fact that it occurred almost a decade ago, nothing that has happened since can be seen to reduce or allay its seriousness and it continues to raise a grave doubt about Mr Singh's fitness to practise. While the passage of time is material, its effects must be weighed against the events discussed earlier and, in particular, Mr Singh's own conduct.
- [53] In light of the seriousness of the original offending, and in the circumstances attaching to this matter, the Tribunal is driven to conclude that Mr Singh's name must be removed from the local roll."²⁰

²⁰ Above, [46]-[53].

The further evidence

- [13] I will next review the further evidence the appellant wishes this Court to receive. In his affidavit sworn 4 May 2013, he set out background material largely consistent with that before the Tribunal. He contended that the Tribunal failed to consider the merits of his case and that he continued to practise law in Fiji and Australia for periods since 2006 without complaint. He was accepted by the Fiji judges and legal profession. He argued that the Tribunal failed to consider a certificate of standing from the Fiji Law Society dated 29 February 2008 which stated that he was admitted to the Fiji Bar on 11 June 1996 and had held a practising certificate from the Fiji Law Society since 30 March 1998. He was a practitioner of good standing with no disciplinary orders made against him and no disciplinary investigations pending.
- [14] In his affidavit sworn 19 August 2013, he provided further details of his commission of the offence of attempting to pervert the course of justice. He accepted that his actions were extremely dishonest. This and his subsequent denial that it was his voice on the tape recording implicating him in the offence were the antithesis of what was expected of an officer of the court. He understood that such lack of frankness aggravated his original offence. His lack of candour arose from his shame for his original misconduct. He explained that he served his term of imprisonment "extramurally", that is, he resided at home, not in prison, and performed five hours voluntary church work each day for five days each week for some months. He received a one-third remission, completing his sentence on 1 July 2007. He did not commit any offences before or since, not even a traffic offence. He practised law in Fiji from November 2006 to 9 March 2007 for the limited purpose of completing existing files, and again from the end of July 2007 until 25 January 2010 when the Fiji Independent Legal Commission again suspended him from practise. Whilst acknowledging that his previous conduct constituted strong evidence to doubt his fitness to practise as a lawyer, he asked this Court to consider his otherwise good record and to allow him to practise as a lawyer in Queensland, subject to a condition that for the next three years he work under the supervision of another practitioner. Alternatively, he asked the Court, instead of removing him from the roll of practitioners, to suspend him for a period no longer than the period of his Fiji suspension which expires on 25 January 2016.
- [15] In his affidavit sworn 30 August 2013, he stated that he worked in February and March 2008 for Conveyancing Works Solicitors in south-east Queensland. He returned to Fiji where he practised law, completing outstanding files from June 2008 to December 2009. In October 2009, he purchased a food franchise business in Brisbane which his son managed and operated. In December 2009, the Fiji High Court commenced disciplinary proceedings against him and in January 2010 his name was removed from the roll of practitioners. Since January 2011 he has been managing and operating his food franchise. He supports a son and grandson in New Zealand. He annexed references from lay people in the business and Hindu community which attested to his good character, friendliness and efficiency in running his business.

The appellant's contentions

- [16] The appellant's counsel emphasised that once the appellant was free from the pressure of self-representation and received sound legal advice, he fully and frankly admitted, apologised for and had insight into his wrong-doing. The improper

conduct at the root of the complaint against him occurred 10 years ago. There has been no repetition. He has been effectively suspended from practice in Queensland for over five years. He loves the law, having practised it for many years and completed a Master of Laws. He would be very unlikely to re-offend. The appellant's offence and his subsequent attitude to it must be judged against the necessity to protect the public. He is well thought of in the business and Hindu communities. Legal practitioners provided supportive references which were tendered before the Tribunal.²¹ Counsel especially emphasised a reference from Ronald Gordon, a Victorian lawyer, who attested to the appellant's good character and positive qualities. Aware of the appellant's offence, Mr Gordon considered him to be "a law-abiding citizen with respect for law and order, rules and regulations and authority and he acts with integrity in all his activities".²² Counsel also referred to the appellant's good conduct as a police officer before his admission as a lawyer and the references before the Tribunal to that effect.²³ What must be considered, his counsel submitted, is his fitness to practise now, not when he committed the offence in 2003.

- [17] The Tribunal and this Court may make various orders under s 456(2) LPA. In this case, the protection of the public is best achieved by retrospectively ordering that he be suspended from practice from 1 July 2008 until the present. This order should be subject to a condition that he practise law only as an employed practitioner under the supervision of another practitioner for a period of three years. The Tribunal and this Court could also order that he cannot apply to have the condition removed for three years.
- [18] The appellant's counsel commended the Fiji Supreme Court's merciful approach which balanced the need to protect the public by reducing his suspension from 10 to six years. If this Court took a similar view, a six year suspension would expire on 1 July 2014. An order requiring careful supervision was more effective in protecting the public than suspension. The Court should allow the appeal, set aside the Tribunal's order and substitute orders to this effect.

Conclusion

- [19] The main purposes of the LPA are to provide for regulation of legal practice in Queensland in the interests of the administration of justice and for the protection of consumers of legal professional services and the public generally,²⁴ and to facilitate the regulation of legal practice on a national basis across State borders.²⁵ Complaints and discipline are dealt with in Ch 4 LPA. The main purposes of Ch 4 are to provide for the discipline of the legal profession;²⁶ to promote and enforce the professional standards, competency and honesty of the legal profession;²⁷ to provide a means of redress for complaints about lawyers;²⁸ and to otherwise protect members of the public from unlawful operators.²⁹

²¹ AB 306-308, 310-315, 318-320.

²² AB 311.

²³ AB 281-283.

²⁴ LPA, s 3(a).

²⁵ LPA, s 3(b).

²⁶ LPA, s 416(a).

²⁷ LPA, s 416(b).

²⁸ LPA, s 416(c).

²⁹ LPA, s 416(d).

- [20] There is now no dispute that the appellant's conduct amounted to professional misconduct.³⁰ The offence of attempting to pervert the course of justice is a serious offence in any sense of that concept.³¹ The Tribunal was entitled to make one or more of a variety of orders. These included recommending that the appellant's name be removed from the local roll;³² that his local practising certificate be suspended or cancelled³³ for a stated period;³⁴ and that stated conditions be imposed on his practising certificate³⁵ for a stated period,³⁶ specifying the time, if any, after which he may apply to the Tribunal for the conditions to be amended or removed.³⁷ The Tribunal may also publicly reprimand him³⁸ or order that no Queensland law practice may employ him for a period of not more than five years³⁹ or that he be employed only on stated conditions.⁴⁰
- [21] The appeal to this Court is by way of rehearing on the evidence before the Tribunal: LPA, s 468(2). The Court, however, has a broad discretion under s 468(3) to receive fresh, additional, or substituted evidence which it considers may be material to the appeal. In determining the appeal, this Court can make any order it considers appropriate,⁴¹ including an order which may be made by the Tribunal.⁴²
- [22] The most significant aspect of the further evidence upon which the appellant seeks to rely is his recently discovered remorse and insight into the seriousness of his commission in 2003 of the offence of attempting to pervert the course of justice. The most rational inference from this evidence is that this recent discovery follows upon his receipt of strong and prudent legal advice that such remorse and insight provide an essential base for a submission that, if his name is restored to the roll of legal practitioners in Queensland, the public will not need protection from him. Such 11th hour remorse and insight can be given only limited weight in determining whether he is now a fit and proper person to be a legal practitioner and whether the public need protection from him. The further evidence also contains some recent lay references as to his character and his business capabilities. These are also of limited use in deciding the critical issues of fitness to practise and public protection.
- [23] It is true that the offending at the root of this appeal occurred 10 years ago, but on any view it was gravely reprehensible conduct, the more so when committed by a legal practitioner. Whilst an officer of the court, he sought to interfere with the proper administration of justice by attempting to bribe a witness in a criminal trial and then encouraged the witness to bring a spurious action against the police. Such conduct directly undermined the very essence of the criminal justice system. As he now accepts, it was the antithesis of conduct to be expected of a legal practitioner. It undermined public confidence both in the criminal justice system and in the legal profession. It plainly demonstrated he is not a fit and proper person to be a legal

³⁰ LPA, s 419.

³¹ See LPA, sch 2 dictionary definition "serious offence" and s 424(1)(a)(i).

³² LPA, s 456(2)(a).

³³ LPA, s 456(2)(b).

³⁴ LPA, s 456(2)(c).

³⁵ LPA, s 456(2)(d)(i).

³⁶ LPA, s 456(2)(d)(ii).

³⁷ LPA, s 456(2)(d)(iii).

³⁸ LPA, s 456(2)(e).

³⁹ LPA, s 456(2)(f)(i).

⁴⁰ LPA, s 456(2)(f)(ii).

⁴¹ LPA, s 14(1).

⁴² LPA, s 13(2)(b)(ii).

practitioner. Offences of this kind are hard to detect. Once it is established that a legal practitioner has committed such an offence, the admitting authorities must be astute to ensure that the practitioner cannot deliver legal services to the public until satisfied that the public is no longer in need of protection from the practitioner. The appellant's commission of the offence of attempting to pervert the course of justice, standing alone, required nothing less than his removal from the roll of legal practitioners for a substantial period. He then compounded his 2003 offending by failing to disclose it to the Queensland admitting authorities and by conducting himself in a way which demonstrated neither the insight nor remorse expected of a competent and ethical legal practitioner. As I have explained, his new-found insight and remorse can be given only limited weight. Only by a prolonged period of exemplary conduct following his recent discovery of remorse and insight will he be able to demonstrate that he is a fit and proper person to be a legal practitioner and that the public is no longer in need of protection from him.

[24] If his new-found insight and remorse is genuine, he will understand that, despite the factors in his favour, the only course open to the Tribunal was to conclude that the public is most effectively protected by removing his name from the roll of Queensland legal practitioners. The appellant has not demonstrated any error on the part of the Tribunal in reaching that determination. There is nothing in the further evidence he seeks to adduce which would dissuade me from this conclusion. It follows that the application to adduce further evidence should be refused and the appeal dismissed with costs.

[25] The references tendered on the appellant's behalf before the Tribunal demonstrate, however, that he has many characteristics which are desirable in a legal practitioner. He appears to have a genuine love of the law, demonstrated by his progression from police officer to lawyer, his many years of legal practice in Fiji, New Zealand and Australia, and his successful completion of a Masters of Laws degree at the University of Queensland. Lawyers who have worked with him over the years speak well of his legal ability. It may be that once he is no longer prohibited from admission as a lawyer in Fiji, and with supporting current evidence from practising lawyers, he will be able to persuade this Court that his return to the practice of the law would no longer present a risk to the protection of the Queensland public and that he is a fit and proper person for re-admission to the Queensland legal profession. The material he has placed before this Court stating his new-found remorse and insight into his past conduct is a positive first step in realising that goal.

ORDERS:

1. The application for leave to adduce further evidence is refused.
 2. The appeal is dismissed with costs.
- [26] **MUIR JA:** I agree that, for the reasons given by the President, the application to adduce further evidence should be refused and that the appeal should be dismissed with costs.
- [27] **GOTTERSON JA:** I agree with the orders proposed by Margaret McMurdo P and with the reasons given by her Honour.