

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

GISELE RITA CHAMPAGNE

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

DECISION

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Hearing Date: October 26, 2018

Panel: Heather Leonoff, Q.C. – Chair
Richard Buchwald
Carmen Nedohin (Public Representative)

Counsel: R. Kravetsky for the Law Society of Manitoba
A. Fineblit for the Member

DECISION

Introduction and Facts

1. Gisele Rita Champagne is a member of The Law Society of Manitoba (the “Society”), having been called to the bar in 1992. She was charged in a citation dated October 22, 2018 with one count of professional misconduct for failure to provide service to her client which was competent, timely, conscientious, diligent, efficient and civil, contrary to Rule 3.2-1 of the *Code of Professional Conduct*.

2. Ms. Champagne entered a plea of guilty before the panel. The relevant facts were set out in an agreed statement. The facts established that Ms. Champagne had acted for her client D.S.

several times between 2014 and 2017. Thus, Ms. Champagne was familiar with D.S.'s background and more particularly that he was, at the relevant time, a ward of the Director of Child and Family Services and that he had been diagnosed with FASD. An assessment done in 2015 found that D.S. was grossly academically delayed and had severely impaired verbal comprehension.

3. D.S. was arrested on May 26, 2017 and charged with robbery and wearing a disguise. Ms. Champagne met with D.S. on May 29, 2017 shortly before his matter appeared for the first time on the Youth Court docket. She obtained preliminary disclosure from the Crown that she reviewed with the client. Ms. Champagne then took instructions from D.S. to enter a guilty plea to the charge of robbery and to request a pre-sentence report that would be prepared for sentencing.

4. Following the guilty plea being entered, the presiding judge requested that the facts that formed the basis for the plea be read into the record. During the course of this, it became clear that the Crown and defence had not agreed on the facts. Specifically there was a dispute about whether the youth had been wearing a disguise. The matter was stood down for counsel to confer. The youth's social worker arrived at court during these discussions and she expressed concern that a guilty plea had been entered without any involvement of the guardian. In the circumstances, the judge allowed the guilty plea to be withdrawn.

5. Subsequently, D.S. changed lawyers and entered a guilty plea to the robbery charge and the Crown agreed to stay the charge of wearing a disguise.

Discipline History

6. Ms. Champagne has had four previous disciplinary proceedings before the Society.

- On June 1, 1999 Ms. Champagne received a Formal Caution for circumstances arising from two complaints. In one matter she failed on two occasions to treat the

court with courtesy by failing to attend court. In a second matter she filed a frivolous claim and was discourteous to another lawyer.

- In December, 2000 Ms. Champagne accepted a Formal Caution for failing to treat the court with courtesy in that she had scheduled matters before two different judges at the same time, requiring one of the matters to be adjourned.
- On September 13, 2001 Ms. Champagne entered pleas of guilty to one charge of failing to act with integrity and one charge of failing to serve her client in a diligent and efficient manner. The facts of the first matter involved providing false information on her application for admission as a student in the bar admission program. The second matter involved tendering a witness at a trial knowing that the witness would provide evidence damaging to the client's case. She was fined \$1,000 in respect of the first charge and ordered to pay costs of \$1,000. She was reprimanded on the second charge and ordered to practice under supervision for one year.
- On April 3, 2012 Ms. Champagne entered a guilty plea to a charge of failing to serve her client in a diligent and efficient manner. The circumstances were that Ms. Champagne, while acting for a youth with cognitive deficits, took her client's instructions to agree to an adult sentence without taking steps to ensure that the client understood the consequences of this decision and that he understood his options. She was reprimanded and order to practice under supervision for a period of eighteen months.

Analysis and Disposition

7. This matter proceeded on the basis of a joint submission as to disposition. Both parties were represented by experienced counsel who were well placed to evaluate the facts and circumstances, as well as to appreciate the principles that govern law society disciplinary

proceedings. The parties agreed that an appropriate penalty was a fine of \$1,500 and a contribution to costs of \$2,500. Ms. Champagne has also voluntarily given an Undertaking to the Society that she will not represent any young person on criminal matters, including the defence of charges under any federal or provincial statutes, so long as the Undertaking remains in force.

8. Joint submissions as to penalty serve a very important role to the justice system at large, including in law society proceedings. Certainty as to result provides an efficient and cost effective process to resolve disciplinary complaints against lawyers and protect the public. Skilled lawyers, bringing their common wisdom to the task, are well suited to find a just and appropriate resolution. As such, discipline panels should only depart from a joint submission in the rare circumstances where the proposal would bring the administration of justice into disrepute or would otherwise be contrary to the public interest; *R. v. Anthony-Cook*, 2016 SCC 43.

9. The panel is satisfied that the penalty agreed upon in this case is appropriate. This was a single incident that was able to be remedied quickly by the withdrawal of the plea. While Ms. Champagne does have a discipline record, the last matter was several years ago, and the Society counsel acknowledged that Ms. Champagne had benefited from the direction she received while practicing under supervision. However, given the client's deficits, Ms. Champagne needed to take the time to ensure that the client understood the ramifications of his plea. She needed to be clear on the facts to which her client was pleading. Moreover, she should have ensured that the client's guardian was informed and had input into the decision. She proceeded too hastily and did not provide proper service to her client, contrary to Rule 3.2-1 of the *Code of Professional Conduct*.


10. The facts of the current case are similar to the facts of the case to which Ms. Champagne pled guilty on April 3, 2012 and for which she was placed on supervision for eighteen months. In the circumstances, the panel believes that Ms. Champagne's voluntary decision to provide an Undertaking that she will not practice youth criminal justice work will ensure protection of the public. This client population is often very vulnerable and lawyers must ensure that they take

the time to make sure the clients are fully informed. By providing the Undertaking, Ms. Champagne recognizes that her service to this population has, on occasion, fallen below the standards demanded by the *Code of Professional Conduct*.

Conclusion

11. This panel finds Ms. Champagne guilty of one count of professional misconduct. Pursuant to s. 72(1)(d) and (e) of *The Legal Profession Act* CCSM c. L107 we direct that she pay a fine of \$1,500 and costs of \$2,500. The publication of this finding shall be done in accordance with Rule 5-100(2).

Dated this 5 ^{November} day of October, 2018



Heather Leonoff, Q.C., Chair



Richard Buchwald



Carmen Nedohin