



DISCIPLINE CASE *DIGEST*

Case 12-06

Member:	Gisele Rita Champagne
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 25, 1992
Particulars of Charges:	Professional Misconduct (1 Count): <ul style="list-style-type: none">▪ Breach of Chapter 2 of the <i>Code of Professional Conduct</i> [quality of service]
Plea:	Guilty
Date of Hearing:	April 3, 2012
Panel:	<ul style="list-style-type: none">▪ Douglas Bedford (Chair)▪ Mark Toews▪ Miriam Browne (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ C. Kristin Dangerfield for The Law Society of Manitoba▪ Catherine Dunn for the Member
Disposition:	<ul style="list-style-type: none">▪ Reprimand▪ The member's practicing certificate be cancelled and a new certificate issued under the condition that the member practice under the supervision of a member approved by the Law Society of Manitoba for a period of 18 months.▪ Costs of \$2,500.00

Quality of Service

Facts

Ms Champagne represented a young person within the meaning of the *Youth Criminal Justice Act* who had significant intellectual limitations. While serving a youth sentence the client was charged with assaulting a police officer, mischief and uttering threats. The Crown proceeded by indictment and gave notice that it intended to seek an adult sentence. Pursuant to a plea bargain, the youth (who was then 15 years of age) entered a plea of guilty to assaulting a police officer and the balance of the charges were stayed. At the plea inquiry, Ms Champagne indicated to the Court that her client was agreeing to an adult sentence because he wished to serve the rest of his youth sentence at the Headingly Correctional Centre. The practical consequence was that the client's outstanding youth sentence of three years automatically converted to an adult sentence pursuant to the *Criminal Code*. As it exceeded two years he was not a candidate for incarceration in the

Headingley facility. Pursuant to the *Youth Criminal Justice Act* he was still subject to the presumption that his sentence be served in a youth facility.

The youth's instructions to consent to an adult sentence were on their face unreasonable and were not in his best interest. At the time that Ms Champagne registered the consent to an adult sentence, she failed to appreciate the difference between an adult sentence and the issue of placement, and failed to ensure that her client understood the options available to him and the potential consequences of his choice. Ms Champagne ought to have clearly and thoroughly explained to her client all of his options and the potential consequences of his choice and taken the necessary steps required to satisfy herself that her young client, with significant cognitive deficits known to her at the time, fully understood her advice. Ms Champagne failed to consider other options including bringing in third parties with the consent of the client such as family members, another lawyer or a worker at the youth facility to discuss the options with him. She also failed to contact corrections and probation staff to discuss the likely recommendation of any placement report.

Plea

Ms Champagne entered a guilty plea to one count of professional misconduct for failing to serve her client in a conscientious, diligent and efficient manner contrary to Chapter 2 of the *Code of Professional Conduct*.

Decision and Comments

The panel concluded that Ms Champagne had failed to serve her client in a conscientious, diligent and efficient manner, contrary to Chapter 2 of the *Code of Professional Conduct* and found her guilty of one count of professional misconduct.

Penalty

The panel considered a joint recommendation from counsel for Ms Champagne and for the Law Society and ordered that:

- (a) Ms Champagne be reprimanded for her conduct;
- (b) The practising certificate of Ms Champagne be cancelled and a new certificate issued under the condition that the member practice under the supervision of a member approved by the Law Society of Manitoba for a period of 18 months; and
- (c) Ms Champagne pay the sum of \$2,500.00 to the Society as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.

In accepting the joint recommendation the panel was persuaded that Ms Champagne regretted her conduct and had sought the advice and mentorship of senior counsel in an effort to make herself a better lawyer.