



DISCIPLINE CASE *DIGEST*

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Case 96-25

MEMBER A
Manitoba

Called to the Bar
June 25, 1987

Particulars of Charges
Conduct Unbecoming a Barrister and Solicitor

- failing to comply with Order of Non-molestation made pursuant to *The Family Maintenance Act* (3 counts)
- failing to comply with the conditions of a recognizance (1 count)
- common assault (1 count)
- exceed .08 breathalyzer (1 count)

Date of Hearing
November 25, 1996

Panel
Richard K. Deeley, Q.C. (Chair)
Douglas Ward
Paul Brett

Disposition

- \$2,500.00 fine
- \$1,951.97 costs

Counsel
R.B. McNicol, Q.C. and J. Gallagher for the Law Society
M. Cook for the member

Failure to Comply with Court Order

Facts

MEMBER A appeared before the Discipline Committee on November 25, 1996.

In the summer of 1995, MEMBER A separated from his wife and she obtained an Order of Non-molestation pursuant to the provisions of *The Family Maintenance Act*, as she alleged that MEMBER A was continuing to contact and annoy her.

Between October 9 and 11, 1995, MEMBER A failed to comply with the provisions of that Order by repeatedly attempting to contact his wife and attending at the residence where she was living separate and apart from him.

MEMBER A was arrested, charged and released on an undertaking which included the condition that he not contact or communicate with his wife.

On December 15, 1995, MEMBER A attended at his wife's residence in the early morning hours and assaulted her by pulling her hair.

MEMBER A was arrested, charged and released on his own recognizance which contained a condition that he not attend within two blocks of his wife's residence.

On April 13, 1996, while under the influence of liquor, MEMBER A attended once again at his wife's residence in the early morning hours. Attending police officers demanded a sample of MEMBER A's breath and he complied. His breathalyzer readings were .13 and .15. He was arrested, charged and detained in custody for a period of six days.

On April 19, 1996, MEMBER A pleaded guilty in Provincial Court to all of the above noted charges and received fines totalling \$3,250.00 and was placed on three years' probation, with conditions.

Decision and Comments

MEMBER A admitted the counts in the Citation.

The Committee determined that MEMBER A's conduct clearly constituted conduct unbecoming a Barrister and Solicitor and demonstrated a pattern of conduct that the Law Society must regard quite seriously. It was the Committee's view that MEMBER A's actions brought the legal profession into disrepute and reflected negatively on all members of the profession.

The Committee noted that there is a higher standard of conduct imposed upon lawyers than upon the public in general. Lawyers must set an example to the public, even in their own private conduct outside of their practice of law.

The Committee was satisfied that MEMBER A demonstrated to them that he had an excellent record of service as a lawyer and that he was held in high regard by his clients, law firm and friends. The Committee also recognized the personal and financial costs that MEMBER A had paid in relation to the criminal proceedings brought against him. The Committee was satisfied that MEMBER A has learned from his mistakes. However, the Committee also felt that there was a need to show a deterrent to other members of the profession and to enforce the message that such conduct is not acceptable and reflect negatively on the profession as a whole

Penalty

The Committee found that MEMBER A was guilty of conduct unbecoming a Barrister and Solicitor on the basis of his admission to the charges.

The Committee fined MEMBER A the sum of \$2,500.00 and ordered that costs be paid in the sum of \$1,951.97. The Committee also ordered that MEMBER A pay the fine and costs above noted on or before February 25, 1997.

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