

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION



OVERSEAS TERRITORY OF MONTserrat

CLAIM NO. MNIHCV 2025/0009

IN THE MATTER OF Section 24 of the
Legal Profession Act Chapter 02:21

IN THE MATTER OF an Application by Warren Cassell
seeking the issuance of a Practising Certificate
Pursuant to section 24(1) and 24 2(a) of the Legal Profession Act Cap. 02.21

BETWEEN:

[1] WARREN CASSELL

Claimant/Applicant

and

[2] REGISTRAR OF THE HIGH COURT

Defendant/Respondent

Before the Honourable Madam Justice M E Birnie Stephenson (Ag)

Appearances:

Mr. Warren Cassell in person

Mrs. Sheree Jemmotte-Rodney, Hon. Attorney General for the Respondent

2025: July 14 & 16 – Submissions
October 3 – Decision



JUDGMENT

On Written submissions:

- [1] STEPHENSON J, [AG].: "All legal practitioners are required to discharge their professional duties with integrity, probity and complete trustworthiness". This principle as enunciated by Sir Thomas Bingham MR, in **Bolton v Law Society**¹ has been described as the over-arching objective, of whether a legal practitioner is a fit and proper person to practice his chosen profession. This remains the cornerstone when consideration is being given to the issue of restoration. See: **GMC v Chandra**². In this case it was held by the UK Court of Appeal that

"The *Bolton* principles applied equally to doctors as solicitors, and the same principles and approach applied equally to both sanctions and restoration. The question in each case was the same, namely, having regard to the over-arching objective in S 1(1B) of the Medical Act 1983 was the doctor/applicant fit to practise"³

- [2] Before the Court is an application by Warren Cassell an attorney at law for an order that the Registrar be directed to issue him a Practising Certificate which will allow him to practice law in the Overseas Territory of Montserrat ("Montserrat"). This application is made pursuant to section 24(1) of the Legal Profession Act.⁴ ("the LPA") A practising certificate is essential to legal practice. It defines the authority, scope and capacity in which an attorney at law can engage in legal practice.
- [3] The application was brought by Fixed Date Claim with affidavit in support and further affidavit in support sworn to by the applicant with all documents being duly served on the Attorney General in compliance with the LPA. The Attorney General opposes the granting of the application.
- [4] The respondent to the application has filed two affidavits sworn to by the Registrar Mr Colin Meade in opposition to the application and to provide the court with the relevant information regarding the application. The respondent essentially spoke to an outstanding judgment debt owed by the applicant and to outstanding pending

¹ [1994] 1 WLR 512

² [2018] EWCA Civ 1898

³ Ibid at paragraph [23] & [59] of the judgment

⁴ Chapter 2:21 of the Laws of Montserrat

disciplinary proceedings against the applicant. No substantive evidence has been placed before the court regarding the outstanding disciplinary proceedings.

- [5] The Registrar averred that the judgment debt against the applicant involves the payment of moneys other than costs and that, the issue of the outstanding judgment has been before the court and Morley J in November 2021 ordered the applicant to make certain payments. Subsequently, a Judgment Debtors Summons was filed and the applicant in the case at bar applied to make a certain monthly payment. No order was made regarding this application as that Judgment Debtors Summons was never heard due to the applicant's (judgment debtor) subsequent unavailability.
- [6] The Registrar further averred that as it regards this outstanding judgment debt the applicant in his application has failed to provide this court with any evidence regarding his judgment debt.
- [7] The Registrar disagrees with the applicant's contention that the outstanding judgment debt is irrelevant as he was granted his practising certificate previously⁵ whilst the said debt was in existence. It was contended by the Registrar that the Court in that instance, did not make any determination on the relevance of the judgment debt for the purpose of issuing the practising certificate and that the existence of the judgment debt is relevant for the purposes of the application before the Court.⁶
- [8] The Registrar stated that he has been informed and verily believes by Counsel representing the judgment creditor in the proceedings involving the applicant that the applicant has not approached Counsel for the judgment creditor or the judgment creditor personally to address the outstanding judgment debt since he has been at liberty.
- [9] The Registrar further referred to disciplinary proceedings which are currently pending against the applicant. That the matter of the applicant's continued practice is to be considered pursuant to section 40(5) of the LPA.

⁵ In MNIHCV2015/0014

⁶ Re: Paragraph 16 of the Registrar's first affidavit filed on the 23rd June 2025

[10] In compliance with the directions given, the parties filed written submissions, and it was ordered that after those submissions were filed the Court would reserve its decision. The Court also invited the Montserrat Bar Association to make submissions. No submissions were filed by the Bar Association.

[11] This is the Court's decision.

[12] The applicant was appointed to practice law in the Montserrat in 2000. Thereafter he practiced in Montserrat up until 2022 when he was convicted for the offence of concealing proceeds of crime and sentenced to 2 years and 4 months in prison.

[13] On the 27th February 2025 the applicant's conviction was quashed and conviction set aside by the Court of Appeal.

[14] The applicant was released from His Majesty's Prison in October 2024. By this time the applicant had already served his sentence. The applicant was unable to apply for his annual practising certificate in January 2023 and January 2024 as he was not at liberty.

[15] After his appeal was allowed and his conviction quashed the applicant made an application to the registrar of High Court for the issuance of his Practice Certificate and the registrar has not issued same. The applicant therefore made his application to this Court.

[16] The practical effect of the application before the court in the case at bar would be to restore the applicant's ability to practice law in Montserrat.

The Legal Professions Act (The LPA)

[17] The LPA makes provision for the regulation of the legal profession for the qualification, enrolment and discipline of its members and for related matters⁷.

[18] Pursuant to section 21(1)(b) of the LPA all attorneys at law/lawyers called to and practicing at the bar in Montserrat are required to hold a valid practicing certificate.

⁷ Commencement of the LPA *ibid*

[19] Section 24 of the LPA makes provision for the "Issue or refusal of practising certificate" Section 24 (1) states

"An attorney-at-law who applies for a practising certificate and falls within subsection (2) must give to the Registrar at least four weeks' notice, any shorter period that the Court may permit, of his intention to make the application to the Court and the Court may in its discretion order the Registrar to—

(a) issue or refuse the application; or

(b) issue a practising certificate to the applicant subject to terms and conditions as it may think fit."

[20] The application at bar based on the evidence adduced, falls to be considered under section 24(2) (a) and (i). These subsections read as follows:

"Subsection (1) applies to an attorney-at-law who makes an application for a practising certificate if—

(a) he has ceased to hold a valid practising certificate for twelve months or more;

...

(i) there is a judgment against him that involves the payment of moneys other than costs (excluding a judgment whose whole effect is that he is entitled to indemnity or relief from any other person), and he has not produced evidence that the judgment has been satisfied; ..."

[21] The LPA gives the court a discretion to order the Registrar to issue the Practising Certificate as sought by the applicant herein. It is also within the Court's discretion to impose such terms and conditions as it thinks fit⁸. This discretion "... is not unfettered, it must be exercised judicially, with reference to the public interest, the integrity of the profession and the particular facts of the case."⁹

[22] It is to be noted also that lawyers are required to apply annually for the Practising Certificate which clearly means that yearly, consideration is to be given to the lawyer's fitness to practice. It is not meant to be an automatic renewal.

Section 24(2)(a)

[23] The last time the applicant would have held a Practising Certificate was in 2022. This would mean that the applicant ceased to hold a valid a Practising Certificate for twelve

⁸ Section 24(1) of the LPA

⁹ Per Pariagsingh J in Application by Alfred Alcide SLUHCV2025/0206

months or more. Pursuant to section 24(2)(a) of the LPA, an attorney at law who has ceased to hold a valid practising certificate for twelve months or more is required to apply to the Court on notice to the Registrar for a Practising Certificate. Mr Cassell quite correctly premised his application on section 24 (2)(a) as having not held a certificate for twelve months or more and he did provide an explanation for that situation.

Section 24 (2)(i)

- [24] The Attorney General representing the Registrar of the Supreme Court referred this court to section 24 (2)(i) as quoted above. The submission was made regarding the outstanding judgment debt owed by the applicant. The outstanding judgment debt against Mr Cassell is of concern to this court.
- [25] The Attorney General in her submissions urged this court to assess the nature of the outstanding judgment against the applicant and the impact on the legal profession. The Attorney General cited and relied on the case of **Ahmad v Bar Standards Board**¹⁰ and she submitted that due to the applicant's outstanding judgment debt, the applicant was required by section 24(2)(i) of the LPA to make application to the court for the granting of his practice certificate.
- [26] In **Ahmad**, the court was called on to consider the situation where Ahmad failed to comply with the terms of a court order to pay a judgment debt. The court upheld the sanction imposed by the Disciplinary Tribunal. The Tribunal was of the view that Ahmad's failure to pay the outstanding judgment debt amounted to professional misconduct. This case has been considered to reinforce the principle that continued failure by a member of the legal profession to comply with court orders operates to undermine the public trust in the profession and that action needs to be taken to protect the profession's integrity. This court agrees with this decision.
- [27] This requirement is for the purposes of protecting the public and maintaining and promoting high standards of behavior from legal practitioners and for the maintenance of public confidence and trust in the legal profession.

¹⁰ [2024] EWHC 3248 (Admin)

- [28] An attorney at law as an officer of the court is required to do what it is necessary to uphold the integrity of the legal profession and must act with expediency to obey and satisfy an order of court made against him or her.
- [29] Mr Cassell in his written submission made two points regarding the outstanding judgment debt, firstly, that the issue of the outstanding judgment debt is res judicata in that it had already been dealt with by Bristol J some time ago. Mr Cassell went on to say that Bristol J ordered that he make payments towards the judgment debt, by stipulating the amount to be paid. It is to be noted that even if this court were to accept this position, which it does not, it is to be noticed that the judgment debt remains outstanding. This is further exacerbated by the fact that the applicant chose not to make mention of it in his application for the issue of the practicing certificate and only mentioned it in response to the fact that it was brought to the court's attention by the Respondent.
- [30] Secondly, the Mr Cassell is of the view that the existence of the outstanding judgment debt is not necessarily a bar to the issuance of the Practising Certificate. This court is of the view that the existence of the debt, his failure and or refusal to pay same and his failure to mention the existence of this debt in his application to the court is to be viewed somewhat negatively by the court.
- [31] The court's ruling in **Bolton -v- Law Society**¹¹ is instructive as it regards the exercise of the Court's discretion, to assess and examine whether the Registrar should issue the applicant 's practising certificate.
- [32] Based on the ruling in **Bolton -v- Law Society**¹² the applicant must demonstrate that he is a fit and proper person to resume the practice of law having regard to the serious nature of the facts that gave rise to the judgment debt.
- [33] It is to be considered that the circumstances giving rise to the judgment debt in the matter at caption would have affected the standing of the legal profession in Montserrat and the extended region.

¹¹ [1994] 1 WLR 512

¹² *ibid*

- [34] In **Bolton -v- Law Society** Bingham LJ said "*The overriding importance of public confidence in the profession remains the cornerstone of the issue. ... restoration.*"¹³
- [35] Tardiness to pay off a judgment debt by an attorney at law can be considered as professional misconduct. A judgment is an order of the court, and the reality is that failure and or refusal to pay the judgment as ordered is tantamount to disobedience to a lawful order of the court. It is trite law that this amounts to contempt of court.
- [36] An attorney at law as an officer of the court is required to do what it is necessary to uphold the integrity of the legal profession and must act with expediency to obey and satisfy an order of court made against him or her. This requirement is for the purposes of protecting the public and maintaining and promoting high standards of behaviour from legal practitioners and for the maintenance of public confidence and trust in the legal profession.
- [37] In failing to pay the judgment debt or to make any adequate arrangements to discharge same, has the applicant not fundamentally fallen short of the necessary standards of probity and good conduct required of an attorney at Law?
- [38] In the case at bar the applicant has submitted that he would like to be able to provide the necessary financial support for his children particularly in their access to education.
- [39] Mr Cassell also says if he is granted his Practising Certificate he would be able to work in Montserrat and that he would be able to generate income which would permit him to resume payments to the judgment debt. The court hears Mr Cassell in this regard, but again notes that Mr Cassell says he is working in Antigua at this time and yet he did not take the initiative to pay the said outstanding debt or even contact Counsel for the Judgment Creditor to enter some kind of arrangement.
- [40] The court notes that Mr Cassell sought in his submissions to minimise his judgment debt by suggesting that it is a debt and what is important is whether the debt is being serviced. This court understood Mr Cassell to be equating his outstanding judgment

debt to a contractual debt owed by other lawyers. This Court disagrees with the applicant's submissions in this regard. It is to be noted that the question of his payment of the judgment debt is in response to an order of court and is particularly relevant to section 24(1) of the LPA. The judgment debt is not a normal debt incurred due to contractual obligations.

[41] It is this court's view that the public confidence in the legal profession would be undermined in a small community such as exists in Montserrat if the applicant as an attorney at Law is allowed to refuse to comply with an order of court over several years to the detriment of the judgment creditor. It is noted that the applicant has not expressed a desire to pay off the outstanding judgment debt neither has he expressed any remorse for failing to make the payments as ordered previously by the court.

[42] The Court in the exercise of its discretion is required to balance the need to protect the reputation of the profession with the individual circumstances of the lawyer. However, it is noted in **Bolton** as Sir Thomas Bingham MR said

"It often happens that a solicitor appearing before the Tribunal can ... often show that for him and his family the consequences of striking off or suspension would be little short of tragic. All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they will instruct will be a person of unquestionable integrity, probity and trustworthiness... the reputation of the profession is more important than the fortunes of any individual member."

[43] It is a fundamental principle that every effort must be made by the Court to maintain the reputation of the legal profession as one in which every member of the community can trust and rely on. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of lapses are held accountable.

[44] If a member of the public has obtained a judgment against a member of the legal profession, he is ordinarily entitled to expect that the lawyer will comply with the order of court. Otherwise, the whole legal profession, and the public, is injured. The pristine and good reputation and confidence in the legal profession is the professions most valuable asset and every effort must be made to maintain same.

[45] Mr Cassel in his submissions stated that his application for a Practising Certificate in Antigua was granted this in no way to this court's mind means that this court is compelled to make the same order.

[46] It is the duty of the applicant in the case at bar to satisfy this court on the balance of probabilities that his application ought to be granted. This court is of the view that it was incumbent on the applicant to include this in his application as it is without a doubt that this section refers to his situation. Mr Cassell has in this court's view sought to sweep the issue of his outstanding judgment debt under the rug by suggesting that it has already been dealt with by Bristol J. This is clearly not the case, and the said judgment still remains outstanding and is to be taken into consideration by this court.

[47] Reference is made to the cases of **Verneuil -v- The Registrar of the High Court (LC 2013 HC 16)**¹⁴ and **Rowan & Wheeler -v- Bryan Stephen (LC 2010 HC 26)**¹⁵ as cited and applied by Paragsingh J in the **Alcide**¹⁶ case. The takeaway from these cases are applicable to the case at bar. In the Rowan Case the court declined to grant the practice certificate to the applicant and emphasised the fundamental role that public confidence plays in the administration of justice and the need to protect the integrity of the profession. And in **Verneuil** it was held that the discretion under section 24 may be properly exercised to refuse a practising certificate where there is evidence of professional misconduct, noncompliance with disciplinary sanctions or unpaid court judgments. (emphasis mine)

[48] This Court notes that section 24(1)(b) of the LPA provides that "the court may in its discretion order the Registrar to issue a Practising Certificate to the Applicant subject to terms and conditions as it may think fit."

[49] This Court is unable to detect any admission of responsibility by the applicant. In fact, the applicant in this Court's view has sought to downplay the existence of his responsibility to pay the outstanding judgment against him. Having read the affidavits and the submissions filed in the matter and taking into consideration the various legal

¹⁴ SLUHCV2011/0847- Belle J

¹⁵ SLU Complaint no 5/2006 – Wilkinson J

¹⁶ Op cit at paragraphs 34 and 35

authorities and judicial dicta whilst focusing on the Court's overriding duty to safe guard the trust and confidence in the judicial process and system and the Court's duty to uphold and protect the integrity of the Legal Profession which is and always will be of paramount importance. This court declines to exercise its discretion to order the Registrar to issue the Practising certificate as sought by the applicant.

[50] The application is therefore dismissed with no order as to costs.

M E Birnie Stephenson
High Court Judge (Ag)

By the Court

CMcAde
Registrar

