

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO. GDAHCV2022/0263

BETWEEN:

**IN THE MATTER OF SECTION 17(2) OF THE LEGAL PROFESSIONAL CAP 167A OF
THE 2010 EDITION OF THE REVISED LAWS OF GRENADA (ACT NO. 25 OF 2011)**

AND

**IN THE MATTER OF AN APPLICATION BY DIANNE HADEED TO BE ADMITTED TO
PRACTICE AS AN ATTORNEY-AT-LAW OF THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES**

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Mr. Ruggles Ferguson for the Claimant

Ms. Laren Kay Simon for the Attorney General Chambers

2022: September 20th
December 28th

JUDGMENT

[1] **ACTIE, J.:** This claim concerns an application for admission to the Grenada Bar under **Section 17(2) of the Legal Profession Act¹.**

[2] On 8th July 2022, the claimant filed a Fixed Date Claim to be admitted to practice as an Attorney-at-law of the Supreme Court of Grenada and the West Indies Associated States. This claim is supported by the Affidavits of the claimant and Robin Montano. The claim is also supported by a certificate verifying completion of training for a

¹ CAP 167A

continuous period of over six (6) months from December 1, 2021 to June 30, 2022 signed by Ruggles Ferguson, Managing Partner of Ciboney Chambers.

- [3] The claimant is Grenadian by birth, and a holder of a Bachelor of Laws Degree (LLB) which she obtained from the University of London. The claimant is also the holder of a Master of Laws in Professional Legal Practice from the University of Law.
- [4] By Order of the court dated 26th July 2022, the Attorney General's Chambers and the President of the Bar Association were directed to file and serve submissions with authorities on whether the claimant has met the criteria for practicing in the state of Grenada.
- [5] The Attorney General in filed submissions contends that the claimant has not provided the court with sufficient evidence to prove that she holds the qualifications prescribed by law to meet the academic and professional educational development requirement for admission to practice in Grenada.
- [6] Mr Derrick Sylvester, President of the Bar did not file submissions, but at the hearing orally stated that the applicant satisfies the requirement of Section 17(2) of the **Legal Profession Act**.

Law and Analysis

- [7] The overarching issue to be determined is whether the claimant meets the criteria to be admitted to practice in Grenada. The claimant claims to be qualified to be admitted as an Attorney-at-law of the Supreme Court of Grenada and the West Indies Associated States pursuant to Section 17(2) of the Legal Profession Act CAP 167A.
- [8] **Section 17(1) of the Legal Profession Act** (hereafter "**LPA**")² provides:

² CAP 167A

“(1) Subject to the provisions of this Act, a person who makes an application to the Supreme Court, and satisfies the Supreme Court that he—

- (a) is of good character; and either
 - (i) holds the qualifications prescribed by law; or
 - (ii) is a person in respect of whom an Order has been made under section 18;
- (b) ...;
- (c) ...; and
- (d) has deposited with the Registrar for inspection by the Court, his certificate, with respect to his qualifications prescribed by law; shall be eligible to be admitted by the Court to practise as an attorney-at-law in Grenada.”

[9] **Section 17(2) of the Legal Profession Act** which the claimant relies provides:

“(2) Notwithstanding the provisions of this Act or any other written law to the contrary, a national of Grenada who makes an application to the Court and satisfies the Court that—

- (a) he has the qualifications which would allow him to practise law in any country having a sufficiently analogous system of laws as Grenada; and
- (b) he has obtained a certificate from the head of chambers of an attorney-at-law of not less than ten years standing, practising in Grenada to the effect that the national has undergone an attachment to those chambers for a continuous period of not less than six months relating to the practise of law;

is deemed to hold the qualifications prescribed by law and is entitled, subject to fulfilling the conditions under subsection (1), to be admitted by the Court to practise as an attorney-at-law in Grenada.”

[10] In the case of **In the Matter of an Application by Joseph Ewart Layne to be admitted to practice as an Attorney-at-Law of the Supreme Court of Grenada and the West Indies Associated States**³ the Court of Appeal made reference to paragraph 5 of the decision of the High Court in that matter wherein the Court stated thus in reference to **Section 17 of the Legal Profession Act**:

³ GDAHCVAP2013/0036

“The section clearly envisages that there are two limbs to the admission process:-

1. The academic and professional education requirement, and
2. The requirement that the Applicant be of good character.”

[11] The onus is on the applicant to satisfy the court of both limbs⁴. Before the court are the following documents: a copy of the claimant’s Bachelor of Laws Degree (LLB), a copy of the claimant’s Master of Laws in Professional Legal Practice certificate, a Certificate by the Registrar of the Supreme Court of Grenada of satisfaction that the claimant has fulfilled all the conditions for admission laid down by law, and an affidavit of counsel Mr. Robin Montano, Head of Chambers of Montano & Co. of Trinidad and Tobago of the good character of the claimant. The application is also supported by a certificate from Mr Ruggles Ferguson, Managing Partner of Ciboney Chambers verifying completion of training for a continuous period of over six months in keeping with the requirements of section 17(2)(b).

[12] However, given the submissions of the Attorney General’s Chambers, the question arises as to whether the claimant satisfies the academic and professional educational requirement for admission.

[13] **Section 17(2)** of the **Legal Profession Act**, provides an additional gateway, other than a Certificate in Legal Education, to Grenadian nationals to be admitted to practice as an Attorney-at-law. An applicant seeking admittance under Section 17(2)(a) has to demonstrate that the qualifications which would allow him to practise law in any country which has a suitably parallel system of laws as Grenada subject to fulfilling the conditions under subsection (1).

[14] The applicant’s main contention is that she possessed qualifications that would have allowed her to practice in the Republic of Trinidad and Tobago. The applicant before the court was the subject of a claim of the High Court and Court of Appeal of Trinidad and Tobago in **Dianne Jhamilly Hadeed v The Attorney General of Trinidad and**

⁴ GDAHCV2013/0243 RE: Kenroy Samuel

Tobago⁵ concerning an alleged breach of the equality provisions of the Constitution of the Republic of Trinidad and Tobago as a result of her non admission to practice in that jurisdiction.

- [15] The applicant sought to be admitted to the Trinidad and Tobago bar pursuant to the provisions of Section 15(A) of the Legal Profession Act of Trinidad and Tobago. This section permits nationals of Trinidad and Tobago to practice law in Trinidad and Tobago without the necessity of obtaining a Legal Education Certificate. Non-nationals who wish to practice law in Trinidad and Tobago however were obliged to obtain the LEC through a variety of options permitted by Section 15(1A) of the Legal Profession Act and the Council of Legal Education Act of Trinidad and Tobago.

- [16] **Section 15(1A) of the Trinidad and Tobago LPA** provides:

“Notwithstanding this Act or any other written law to the contrary, a national of Trinidad and Tobago who—

- (a) has passed the Bar Finals or the Bar Vocational Course at an institution validated by the general Council of the Bar of England and Wales, has been called to the Bar of England and Wales and has completed pupillage of at least six months and is certified as such;
- (b) has passed the Law Society Finals or the Legal Practice Course at an institution validated by the Law Society of England and Wales and having undertaken articles or a training contract in accordance with the Training Regulations of the Law Society of England and Wales, has been admitted to the roll of Solicitors of the Supreme Court of England and Wales;
- (c) has passed the Bar Vocational Course at an institution validated by the general Council of the Bar of England and Wales; or
- (d) has passed the Legal Practice Course at an institution validated by the Law Society of England and Wales; and
- (e) in the case of persons referred to in paragraphs (c) and (d) has obtained a certificate from the head of chambers of an Attorney-at-law of not less than ten years standing, practising in Trinidad and Tobago to the effect that the national has undergone an attachment at those chambers for a continuous period of not less than six months doing work relating to the practice of

⁵ Claim No. CV2018-02726 dated 25 July 2019 and Civil Appeal P310/2019

Law, is deemed to hold the qualification prescribed by Law and is entitled, subject to the payment of the prescribed fees, to practise as an Attorney-at-law in Trinidad and Tobago.

- [17] The Court of Appeal in its judgment posited that the options for the applicant to qualify to practice in Trinidad and Tobago otherwise than provided for in Section 15(1A) of the Legal Profession Act of Trinidad and Tobago which solely applied to nationals of Trinidad and Tobago, are:

- “(i) Obtain a UWI LLB degree and pursue a course of study and professional training at a law school (usually a 2 year course)...
- (ii) Obtain a non-UWI degree which is recognised by the Council as equivalent to a UWI LLB degree and apply for entry into the law school....
- (iii) Obtain a non-UWI degree which is recognised by the Council as equivalent to a UWI LLB degree and either of the two following qualifications:
 - (a) A qualification, approved by the Council, from a common law jurisdiction for admission to practice law in that jurisdiction, or
 - (b) A qualification which would have been recognised, prior to 1st October 1972 by all the participating territories as a qualification to be admitted to practice as a barrister or solicitor in those territories,
 - (c) AND, thereafter, complete a six-month course of training organised by the Council.”

- [18] Mr. Ruggles Ferguson, counsel for the applicant, contends that section 17(2) of the Grenada LPA is somewhat analogous to section 15(1A) of the Trinidad And Tobago LPA as it provides another gateway by which Grenada nationals can be admitted to practice.

- [19] It is admitted that **Section 17(2)** provides an alternative route for admission for Grenada nationals other than by the Legal Education Certificate. However, an applicant has to first satisfy the court that he or she has met the requirements and is admitted to practice in a jurisdiction having a sufficiently analogous system of laws as Grenada coupled an attachment to legal chambers for a continuous period of not less than six months. The applicant will be deemed to hold the qualifications prescribed by law and is entitled to be admitted by the court to practise as an attorney-at-law in Grenada.

[20] Thus, it is for the applicant to prove to this court that she has the qualifications which would allow her to practice law in Republic of Trinidad and Tobago, the United Kingdom or another country having a sufficiently equivalent system of laws as Grenada.

Whether the claimant has qualifications which would allow her to practice law in a country having a sufficiently analogous system of laws as Grenada

[21] The only country which the claimant has sought to demonstrate that her qualifications would allow her to practice in is that of Trinidad and Tobago. Mr. Ruggles Ferguson in skeleton arguments filed 26th July 2022 and at the hearing, posits that the applicant's denial for admittance to practice in Trinidad and Tobago by the Court of Appeal was on the *sole ground* that she was not a citizen of Trinidad and Tobago but otherwise had the required qualification to practice.

[22] The judgment of the Court of Appeal of Trinidad and Tobago denying her application for judicial review confirms firstly, the claimant applied to be admitted to the Trinidad and Tobago Bar under a Section of the Legal Profession Act of Trinidad and Tobago that solely applies to nationals of Trinidad and Tobago. Secondly, and therefore, in order to satisfy this court that she has qualifications which would allow her to practice in Trinidad and Tobago, the claimant would have to demonstrate, as expressed in paragraph 7 of the judgment of the Court of Appeal of Trinidad and Tobago, that she has:

“...(iii) Obtain[ed] a non-UWI degree which is recognised by the Council as equivalent to an [sic] UWI LLB degree and either of the two following qualifications:

(a) A qualification, approved by the Council, from a common law jurisdiction for admission to practise law in that jurisdiction, or,

(b) A qualification which would have been recognised, prior to 1st October 1972, by all the participating territories, as a qualification to be admitted to practise as a barrister or solicitor in those territories,

(c) AND, thereafter, complete a six-month course of training organised by the Council.”

- [23] In paragraph 8 of their judgment, the Court of Appeal of Trinidad and Tobago referring to paragraph above stated: “These are options from which Ms. Hadeed must also choose if she wishes to practice in her home country be it St. Lucia or Grenada.”
- [24] The Court of Appeal decision is pellucid that the qualifications coupled with the nationality formed the basis of the admission to practice under the gateway specified in section 15(1A). The decision referred to the Hansard report and the purposes for enactment to provide a second tier for the admissions to practice to facilitate nationals of Trinidad and Tobago. The applicant is seeking to disaggregate the combined requirements and to rely only the paper qualifications listed in Section 15(1A). This court is of the view that the conjoined requirements are to be satisfied and cannot be separated to satisfy the requirements of section 17 (2)(a) of the LPA.
- [25] The claimant argues in submissions that the Legal Practice Certificate which she attained would allow her to practice law in England. If that were the case, the claimant would have the option of being called to the English Bar and then apply under the **West Indies Associated States Supreme Court Act** for admission to the Grenada Bar. However, the claimant by her own admission has not pursued further qualifications to enable her to practice and has further not presented this court with proof that she is qualified to be admitted to the English Bar. The claimant does not hold a Legal Education Certificate.
- [26] The claimant is a holder of a Legal Practice Course with Master of Laws in Professional Legal Practice. This certificate indicates that: “This award satisfies the Solicitors Regulation Authority’s requirements for the Legal Practice Course” which she has not pursued.
- [27] In the joint case of **In the Matter of the Admission of Andrew Ian James King to Practice as a Solicitor et al**⁶, Ellis J noted the following:

⁶ Claim No. BVIHCV2021/0165, Claim No. BVIHCV2021/0166, Claim No. BVIHCV2021.0178

“Although solicitors and barristers are routinely admitted to practice in this region, there is a general dearth of jurisprudence in this area. What is clear is that in the Virgin Islands, the discretion to assess and examine applicants as to their learning and qualification and to admit to practice has always been exercised by the judiciary... it rests exclusively with the court to determine who is qualified to become one of its officers as a solicitor or barrister. The relevant legislation continues to recognize that their admission is a matter essentially belonging to the courts and a matter of judicial judgment sought to protect the public against improper persons.”

[28] Thus, it is the responsibility of this judiciary, in spite of the certification issued by the Registrar, to determine the qualification of an applicant based on an assessment of the facts surrounding an application for admission to the Grenada Bar.

[29] Mr. Ruggles Ferguson states that the applicant was aware of at least one individual with similar qualification like herself who was admitted to practice pursuant to Section 17(2) of the LPA. This in my view is clearly an anomaly that ought to be corrected. The applicant in her claim for admittance to practice in Trinidad and Tobago sought to benefit on the fact that there were non-nationals who had been admitted under Section 15(1A). The Court of Appeal held that the admissions were done in error and were ultra vires Section 15(1A) of the LPA. The court held that it was not proper practice far less one from which there can be an expectation which is legitimate.

[30] In summary, the applicant must satisfy the court that she as a Grenadian has the qualifications necessary to practice in Trinidad and Tobago. When one looks at Section 15(1A) of Trinidad and Tobago LPA, the only method by which the applicant, a national of Grenada, can practice law in Trinidad and Tobago is by inter-alia holding a Legal education certificate issued by the counsel of Legal education. The gateway under Section 15(1A) only applies to nationals of Trinidad and Tobago. Since the claimant does not hold a Legal Education Certificate and is not also a national of Trinidad and Tobago. She does not meet any of the qualification for admission in that country. Consequently, she cannot rely on the section 17(2)(a) of LPA for an admission to practice as an Attorney-at-Law in Grenada.

[31] In conclusion, the court upon an examination of the qualifications of the applicant in furtherance of **Section 17(2)** of the **Legal Profession Act** is of the view that the applicant has failed to satisfy the court that she meets the requirements of the Section 17(2)(a) to be admitted to practice.

[32] Further, the admission of any attorney who is also not a national of Trinidad and Tobago to practice in the State of Grenada made pursuant to Section 17(2)(a) of the LPA by reference to the qualifications under section 15(1A) of the LPA of Trinidad and Tobago as alleged by the applicant is ultra-vires. The Registrar is hereby directed that the names of such persons be removed from rolls of attorney.

Conclusion

[33] The claimant's application to be admitted to practice as an Attorney-at- Law in Grenada stands dismissed.

Agnes Actie
High Court Judge

By the Court

Registrar