

**DECISION OF THE DISCIPLINARY COMMITTEE
OF THE GENERAL LEGAL COUNCIL**

COMPLAINT NO. 166 OF 1997

ARTHUR WILLIAMS V. WINSTON WALTERS

PANEL: Miss Dorothy C. Lightbourne – Chairman
Mr. Andrew Rattray
Mr. Derrick McKoy

HEARD: 5TH February 2000

PRESENT WERE: Mr. Arthur Williams

The Council received a letter dated 3rd February 2000, from Mr. Winston Walters. He advised that he was unable to attend the hearing, but the Council could proceed in his absence.

The panel decided to proceed to hear the evidence of the complainant.

These Proceedings were conducted in response to a complaint by Mr. Arthur Williams against his Attorney-at-law Mr. Winston Walters as set out in his Affidavit sworn to on the 7th May 1998, pursuant to the Legal Profession Act S. 12 (1) (a).

In his Affidavit the complainant deponed that Mr. Walters was employed by him in 1994, when his neighbour's animals entered his premises and damaged his plants.

The proceedings took many years, but most of the time the delay was caused by his opponent, as well as, the opponent's Attorney. That he paid Mr. Walters \$300.00 and sometime later he paid him \$200.00. That the case finally ended on the 24th of June 1997, when his opponent was told to pay \$10,000.00 plus costs. He did not know how much costs was to come.

That Mr. Walters did not contact him after the Court hearing. He wanted to find out if the money was paid. He wanted to know whether he owed the Attorney any fees, so he could clear it up and collect his file. That he knew nothing of the case since it ended and the Attorney has left no message for him.

The charges against the Attorney are that:-

- (a) He acted inexcusable and miserable, also with negligence.
- (b) He failed to act as if the complainant was his client from whom he had collected money.
- (c) He failed to furnish the complainant with information towards his business, expeditiously or otherwise.

MR. ARTHUR WILLIAMS EVIDENCE

The complainant gave sworn evidence.

In 1994 he consulted Mr. Winston Walters concerning his neighbour's cattle that had trespassed on his property and done considerable damage. That nothing was done and in or about 1996 Mr. Walters told the complainant that he should go to the Morant Bay Resident Magistrates Court and file an action for cattle trespass, and damage. That he did so, and sued for J\$50,000.00 in plaint No. 52/16 on the 6th of February 1996. The matter first came before the Court on the 5th March 1996. That when he consulted Mr. Walters he paid a retainer of \$300.00, but he has mislaid the receipt. That after that he paid a further \$200.00 for which he did not get a receipt. (Plaint No. seen by Committee and noted as Exb. 1).

The matter was transferred for hearing to the Yallahs Resident Magistrates Court and came up for hearing many times and Mr. Walters attended all times except once when there was a road block.

The case was finally tried in July 1997 and judgment was given in his favour for \$10,000.00, but he was not certain what the Judge said about costs, whether costs was part of or in addition to the \$10,000.00. That after the hearing, Mr. Walters said he would be hearing from the complainant or words to that effect. He did not hear from Mr. Walters until September 1997 when he went to see him at his office. On that occasion Mr. Walters asked the complainant if he got the money from the man. That he advised Mr. Walters that he had not gotten the money and that he had come to find out what was happening. That Mr. Walter told him that he would write to them. That this was the end of all communications.

That he attempted to contact Mr. Walters several times and also left his home telephone number with Mr. Walters's Secretary, but Mr. Walters did not contact him and finally in early 1998 he wrote to Mr. Walters to enquire whether he was owing any fees as he would like to pay up same and collect his file.

He never received a response to his letter and his file was never returned. That he went to the Defendant's Attorney and in September 1999, he received \$4,000.00, and 3 to 4 weeks ago he got a further \$1,000.00. He stated that Mr. Walters did not act professionally. That he expected Mr. Walters to advise him as to his intentions. That Mr. Walters did not tell him his role in the matter was at an end. He did not tell him that he would not be sending him a bill. That he did not tell him that if the defendant did not pay, he was to go to the Court's office and take out a Writ of Levy.

THE FINDINGS

The Panel found:-

- (1) That Mr. Arthur Williams retained Attorney-at-law, Mr. Winston Walters to prosecute a case of cattle trespass and damage on his behalf in the year 1994
- (2) That the fees in the sum of \$500.00 were paid by Mr. Arthur Williams to Mr. Winston Walters.
- (3) That in July 1997, judgment was given for Mr. Arthur Williams in the sum of \$10,000.00
- (4) That Mr. Winston Walters failed to advise and explain to Mr. Arthur Williams the terms of the judgment.
- (5) That he failed to communicate with Mr. Arthur Williams, and failed to advise him whether he was still acting as his Attorney-at-law.
- (6) That Mr. Arthur Williams considered Mr. Walters to still be his Attorney-at-law and expected him to take steps to collect the fruits of his Judgment and or return his file to him.

Accordingly, the Panel finds Attorney-at-law, Mr. Winston Walters guilty of misconduct in a professional respect, and in breach of Canon iv (r) of the Legal Profession (Canons of Professional Ethics) Rules 1978 in that the Attorney-at-law, Mr. Winston Walters.


- (a) Failed to communicate to his client, details of the sum awarded and did not explain to him that he was no longer acting for him.
- (b) Did not deal with his client's business with all due expedition and did not provide his client with all information as to the progress of the client's business.

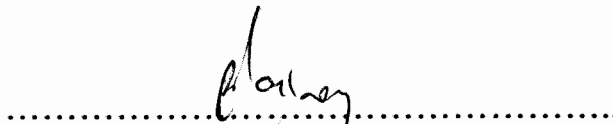
ORDER

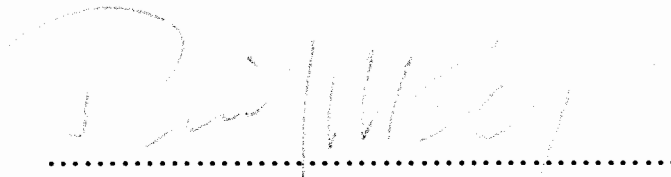
The Panel therefore makes the following order under S. 12 (4) of the Legal Profession Act:-

1. That the Attorney-at-law, Mr. Winston Walters be and is hereby reprimanded.
2. Attorney-at-law, Mr. Winston Walters to pay a fine of \$7,000.00 such

sum to be paid to the complainant, Mr. Arthur Williams.


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DOROTHY C. LIGHTBOURNE


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ANDREW RATTRAY


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DERRICK MCKOY

DATED THE ^{5th} DAY OF February 2000.