



this offence. She was sentenced to serve a term of imprisonment of 3 months.

The second conviction took place on the 24<sup>th</sup> February 2000 at the Crown Court at the Central Criminal Court. Carol Lena Winston Churchill admitted to having committed this offence. She was sentenced to a term of imprisonment of 12 months consecutive to the term of imprisonment of 3 months.

She was therefore sentenced to serve a total of 15 months imprisonment. Both offences were indictable offences.

The complainant Dr. Lloyd Barnett, who is chairman of the General Legal Council was provided with the information relative to Carol Winston Churchill by the Disciplinary Authorities for England and Wales. Dr. Barnett filed the within complaint against Carol Winston Churchill.

**THE COMPLAINT:** By application dated the 27<sup>th</sup> June 2001 and affidavit in support, having adverted to the facts stated, the complainant deponed in paragraph 5 of the said affidavit, that he had reasonable grounds to believe that the conduct of Carol Lena Winston Churchill was “disgraceful, dishonourable and unbecoming of an Attorney-at-Law and tends to discredit the Legal Profession of which she is a member”.

The complainant further deponed in paragraph 7 that he placed reliance on Section 12(1) a and (b) of the Legal Profession Act, Rules 2 (8), (9), and (14) of the Legal Profession (Prescribed Offences) Rules 1998, Canon 1(b) and (c), Canons 111(f) and k(1) and Canon V(o) of the Legal Profession (Canons of Professional Ethics) Rules.

This complaint came up for hearing before this panel on the 23<sup>rd</sup> March 2002. Before commencing the hearing, the panel satisfied itself that the attorney Carol Lena Winston Churchill had been properly served with the Notice of the hearing of the complaint in keeping with the requirements of the Fourth Schedule to the Legal Profession Act.

Her name was called and she did not appear when so called. The panel decided to hear the complaint in her absence. This is permissible pursuant to Rule 8 of the Fourth Schedule of the Legal Profession Act.

**THE EVIDENCE:** The complainant Dr. Lloyd Barnett gave evidence on oath. The panel permitted him to produce the application and the affidavit in support to which he had deponed, dated the 27<sup>th</sup> June 2001. This was done pursuant to Rule 10 of the Fourth Schedule to Legal Profession Act. The application and the affidavit were produced as exhibit 1.

The complainant also gave evidence as to his receipt of the documents pertaining to the disciplinary proceedings against the attorney initiated by the Disciplinary Tribunal of the Council Of the Inns of Court. These were admitted in evidence as exhibit 2.

Attached to the affidavit of the complainant and identified as exhibits 3 and 4 were certified copies of the convictions of Carol Lena Winston Churchill for "Using False Instrument" and for "Theft".

**THE BURDEN OF PROOF:** The burden of proof is on the complainant to prove the charges alleged.

**THE STANDARD OF PROOF:** These are very grave allegations of impropriety and dishonesty against the attorney. They involve charges of serious moral turpitude. In circumstances such as these, the standard of proof is that of "beyond reasonable doubt", that is to say the standard of proof in criminal cases. See the Privy Council decision of Bhandari v Advocates Committee reported at 1956 3All ER p 342 and at p 344 paragraph I.

**EVALUATION OF THE EVIDENCE:** The gravamen of this complaint rests on the provisions in the Regulations entitled "The Legal Profession(Prescribed Offences )Rules of August 1998. These Rules were made pursuant to the powers given to the General Legal Council under section 12(1)(b) of the Legal Profession Act. These Rules list a number of offences. If an attorney is convicted of one or more of any of these offences he/she may be found guilty of professional misconduct based on the convictions only.

In the present case the attorney Carol Lena Winston Churchill was convicted on indictments preferred in the Crown Courts in England of the offences of "Using a False Instrument" and "Theft". Both these offences are prescribed offences under the Rules referred to above. The offence of forgery is at 12(8) of the said Rules and the offence of "Theft" at 12(9).

Certificates of conviction were produced and exhibited to the affidavit of the complainant. This is evidentially, sufficient proof of the conviction. See section 27 of the Evidence Act.

The panel is entitled to rely on the existence of the convictions only to decide if the attorney is guilty of misconduct in a professional respect.

In light of the above, the panel makes the following findings as it is obliged to do in keeping with the requirements of section 15 of the Legal Profession Act.

- 1 The respondent attorney Carol Lena Winston Churchill was a barrister-at-law admitted to practise in England and Wales.
- 2 The said attorney was enrolled on the Roll of attorneys-at-law entitled to practise in the several courts of the Island of Jamaica.
- 3 The Disciplinary Tribunal of the Council of the Inns of Court disbarred Carol Lena Winston Churchill after a hearing.
- 4 Carol Lena Winston Churchill was convicted of the indictable offence of "Using a False Instrument" on the 1<sup>st</sup> October 1999.
- 5 Carol Lena Winston Churchill was convicted of the indictable offence of "Theft" on the 24<sup>th</sup> February 2000.
- 6 The said Carol Winston Churchill admitted to having committed both offences.
- 7 She was sentenced to a term of 15 months imprisonment on both offences.

**CONCLUSIONS:** Having looked at the evidence, and being mindful of the required standard of proof, we are of the opinion that the attorney has been convicted of very serious offences both of which involve an element of dishonesty. The gravity of these convictions persuades us that Carol Lena Winston Churchill is guilty of misconduct in a professional respect.

She has breached Canons 1(b), 111(f) and k (i), and V (o) of the Legal Profession (Canons of Professional Ethics) Rules in that she has failed to

maintain the honour and dignity of the profession and has indulged in conduct which tends to discredit the profession.

She has acted contrary to the laws of England and has committed criminal offences, which are of a nature likely to bring the profession into disrepute.

The offences for which she has been convicted of necessity imply that she knowingly made false statements of fact.

**SANCTION:** The panel realizes that determining the appropriate sanction in cases such as these is not an easy task, but one which must be approached with a sense of fairness and balance, as well as an awareness of the principles of law which are applicable.

We therefore look for assistance to the case of Bolton v the Law Society reported at 1994 2 All ER p486 and at p 491 paragraph f. This is a the dicta of Lord Bingham, Master of the Rolls, which outlines not only the very high standard of probity required of attorneys-at-law, but the punishment to be imposed when we are convicted of "serious lapses" such as these of which we have found the attorney guilty.

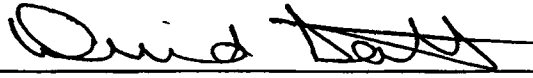
It is our considered view that the appropriate sanction in this case is to order that the name of Carol Lena Winston Churchill be struck from the Roll of attorneys-at-law entitled to practice in the several courts of the Island of Jamaica.

This order is made under the provisions of section 12(4)(a) of the Legal Profession Act.

Dated the 27<sup>th</sup> day of April 2002

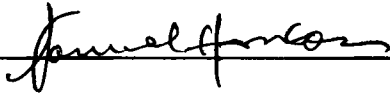


PAMELA E BENKA-COKER Q.C.



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DAVID BATTS



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SAMUEL HARRISON