LAW SOCIETY OF ALBERTA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND

IN THE MATTER OF AN APPEAL REGARDING

RICHARD MIRASTY

A MEMBER OF THE LAW SOCIETY OF ALBERTA

Appeal to the Benchers Panel:

Sandra L. Corbett, QC - Chair
Robert Armstrong, QC
Nancy Dilts, QC
Robert Dunster
Dennis Edney, QC
Fred Fenwick, QC
Adam Letourneau, QC
Margaret Unsworth, QC
Louise Wasylenko

Appearances:

Counsel for the Law Society of Alberta – Nicholas Maggisano
Counsel for Richard Mirasty – Akram Attia

Hearing Date:

December 16, 2016

Hearing Location:

Law Society of Alberta, 800, Bell Tower, 10104 – 103 Avenue, Edmonton, AB

APPEAL PANEL DECISION

Introduction

1. On December 16, 2016, a quorum of eight Benchers ("the Appeal Panel") of the Law Society of Alberta ("LSA") convened in Edmonton to consider an Appeal brought by Richard Mirasty from a Hearing Committee decision dated April 14, 2016.

2. Before the Hearing Committee, Mr. Mirasty faced the following citations:

    - Citation #1: It is hereby alleged that Richard Mirasty failed to comply with a Court Order and thereby brought the profession into disrepute and that such conduct is deserving of sanction;

    - Citation #2: It is alleged that Richard Mirasty failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction;

    - Citation #3: It is alleged that Richard Mirasty failed to respond to communications from the Trustee promptly and that such conduct is deserving of sanction; and

    - Citation #4: It is alleged that Richard Mirasty failed to be candid with the Law Society and that such conduct is deserving of sanction.

3. The hearing was held from July 7 to 8, 2015. In addition to the admission of a Statement of Admitted Facts (Exhibit 51), three witnesses gave evidence, including Mr. Mirasty. At the conclusion of the hearing, the Hearing Committee found Mr. Mirasty guilty of Citations #1, 2 and 4, but dismissed Citation #3.

4. The Hearing Committee reconvened on March 4, 2016, and heard submissions from LSA's counsel and Mr. Mirasty's then counsel, Mr. Simon Renouf, on appropriate sanctions. The LSA sought a 6 month suspension, payment of costs and a referral to Practice Review on

reinstatement. Counsel for Mr. Mirasty submitted that a suspension was not warranted, and advocated for a reprimand and payment of costs.

5. The Hearing Committee issued a Hearing Committee Report on sanctions dated April 14, 2016.

6. The Hearing Committee determined that the following sanctions would be appropriate:

    - That Richard Mirasty be suspended from practice for a period of 45 days, commencing July 1, 2016;
    - That Mr. Mirasty shall pay 75% of the hearing costs in accordance with the estimated statement of costs presented by the Law Society in Exhibit 61, reduced to reflect the dismissal of Citation #3; and
    - That the Hearing Committee recommended that Mr. Mirasty be referred to Practice Review upon application for reinstatement following the suspension.

7. Mr. Mirasty's counsel sought a stay of the sanction order on June 22, 2016. A stay was granted on the following conditions (pursuant to a Hearing Committee Report dated September 30, 2016):

    - That the Law Society would immediately direct the preparation of an appeal record;
    - That Mr. Mirasty would undertake to diligently proceed with the appeal and to cooperate with the Law Society to allow for the appeal to be heard in a timely manner;
    - That Mr. Mirasty provide an undertaking to pay costs of $5,645.57 on or before September 30, 2016;
    - That in the event that payment of the costs was not made, as undertaken, the stay would be lifted, effective October 1, 2016;
    - That provided the costs were paid within the time frame stated, the stay would remain in place, but would terminate on the earlier of the date of the hearing of the appeal or January 1, 2017.

8. While Mr. Mirasty originally appealed the whole of the Hearing Committee decision, he abandoned his Appeal on the findings of guilt on the citations, and instead narrowed his Appeal only to the sanctions imposed by the Hearing Committee. The Chair confirmed with Mr. Mirasty's counsel that the Appeal was restricted to the question of the appropriate sanction for

the conduct which the Hearing Committee had found to be deserving of sanction.

Jurisdiction

9. The Chair invited LSA counsel to establish jurisdiction for the Appeal. The Committee's jurisdiction was established through the admission of the following Exhibits:

Exhibit J1 – Hearing Committee Report dated April 14, 2016
Exhibit J2 – Notice of Appeal dated April 4, 2016
Exhibit J3 – Hearing Committee Report re: Stay dated September 30, 2016
Exhibit J4 – Letter of Appointment dated October 14, 2016 and Updated Letter of Appointment dated November 2, 2016
Exhibit J5 - Notice to Attend dated October 18, 2016
Exhibit J6 - Letter of Exercise of Discretion dated October 24, 2016

10. The Chair noted that Mr. Mirasty's counsel conceded the jurisdiction of the Appeal Panel in the brief submitted on behalf of Mr. Mirasty, and the Chair confirmed that the Member had no objection to the jurisdiction of the Appeal Panel at the Appeal Hearing.

11. The Chair further noted that Mr. Mirasty's counsel had no objection to the composition of this Appeal Panel.

12. The Chair inquired as to whether there would be any application made to have whole or part of the Appeal Hearing heard in private. No such application was made, and accordingly, the Appeal Hearing proceeded in public.

Record

13. In addition to the jurisdictional documents identified in Paragraph 9 herein, the Appeal Book contained the following materials ("the Record"):

Section A – Hearing Committee Report dated April 14, 2016
Section B - Transcripts of Proceedings
Section C - Exhibits from Proceedings (#1 to #22)

The Appeal Panel and the parties were in receipt of the Record.

Standard of Review

14. Both parties agreed that the standard of review is one of reasonableness.

15. In *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, 2008 SCC 9, the requisite analysis was framed, as follows:

> "Reasonableness is a deferential standard animated by the principles that underlies the development of the two previous standards of reasonableness: certain questions that come before administrative tribunals do not lend themselves to one specific, particular result. Instead, they may give rise to a number of possible, reasonable conclusions. Tribunals have a margin of appreciation with the range of acceptable and rational solutions. A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." (at paragraph 47)

16. Deference in this context "imports respect for the decision-making process of adjudicative bodies with regard to both the facts and the law", meaning that reviewing bodies "should not substitute their own reasons", but "may look to the record for the purpose of assessing the reasonableness of the outcome". The reasons and outcome must be read together for the "purpose of showing whether the result falls within a range of possible outcomes" (*Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, [2011] 3 S.C.R. 708, at paragraphs 11, 14 and 15).

17. The standard of review of a sanction in professional disciplinary proceedings is similar to that of an appellate court's review of sentencing in criminal matters. The principles that apply to an appeal of a criminal sentence have been found to apply to an appeal of a sanction pursuant to

section 75 of the *Legal Profession Act*.

18. In *R. v. Shropshire*, [1995] 4 SCR 227, 1995 CanLII 47 (SCC), the Supreme Court of Canada adopted the following approach:

> "…in considering whether a sentence should be altered, the test is not whether we would have imposed a different sentence; we must determine if the sentencing judge applied wrong principles or [if] the sentence is clearly or manifestly excessive." (at paragraph XLVII)
>
> "In considering the fitness of a sentence imposed by a trial judge, this court has consistently held that it will not interfere unless the sentence imposed is clearly excessive or inadequate..." (at paragraph XLVIII)
>
> "The law on sentence appeals is not complex. If a sentence imposed is not clearly excessive or inadequate it is a fit sentence assuming the trial judge applied the correct principles and considered all relevant facts . . . My view is premised on the reality that sentencing is not an exact science; it is anything but. It is the exercise of judgment taking into consideration relevant legal principles, the circumstances of the offence and the offender. The most that can be expected of a sentencing judge is to arrive at a sentence that is within an acceptable range. In my opinion, that is the true basis upon which Courts of Appeal review sentences when the only issue is whether the sentence is inadequate or excessive. "(at paragraph XLVIII)

19. The Supreme Court noted that a "variation in the sentence should only be made if the court of appeal is convinced it is not fit. That is to say, that it has found the sentence to be clearly unreasonable." (*R. v. Shropshire*, [1995] 4 SCR 227, 1995 CanLII 47 (SCC) at paragraph XLVI).

20. In R. v. M. (C.A.), [1996] 1 SCR 500, 1996 CanLII 230 (SCC), the Supreme Court of Canada further noted (at paragraphs 91 and 92):

> "This deferential standard of review has profound functional justifications. As Iacobucci J. explained in *Shropshire*, at para. 46,

where the sentencing judge has had the benefit of presiding over the trial of the offender, he or she will have had the comparative advantage of having seen and heard the witnesses to the crime. But in the absence of a full trial, where the offender has pleaded guilty to an offence and the sentencing judge has only enjoyed the benefit of oral and written sentencing submissions (as was the case in both *Shropshire* and this instance), the argument in favour of deference remains compelling. A sentencing judge still enjoys a position of advantage over an appellate judge in being able to directly assess the sentencing submissions of both the Crown and the offender. A sentencing judge also possesses the unique qualifications of experience and judgment from having served on the front lines of our criminal justice system. Perhaps most importantly, the sentencing judge will normally preside near or within the community which has suffered the consequences of the offender's crime. As such, the sentencing judge will have a strong sense of the particular blend of sentencing goals that will be "just and appropriate" for the protection of that community. The determination of a just and appropriate sentence is a delicate art which attempts to balance carefully the societal goals of sentencing against the moral blameworthiness of the offender and the circumstances of the offence, while at all times taking into account the needs and current conditions of and in the community. The discretion of a sentencing judge should thus not be interfered with lightly.

Appellate courts, of course, serve an important function in reviewing and minimizing the disparity of sentences imposed by sentencing judges for similar offenders and similar offences committed throughout Canada. [citations omitted] But in exercising this role, courts of appeal must still exercise a margin of deference before intervening in the specialized discretion that Parliament has explicitly vested in sentencing judges. It has been repeatedly stressed that there is no such thing as a uniform sentence for a particular crime. [citations omitted] Sentencing is an inherently individualized process, and the search for a single appropriate sentence for a similar offender and a similar crime will frequently be a fruitless exercise of academic abstraction. As well, sentences for a particular offence should be expected to vary to

> some degree across various communities and regions in this country, as the "just and appropriate" mix of accepted sentencing goals will depend on the needs and current conditions of and in the particular community where the crime occurred. For these reasons, consistent with the general standard of review we articulated in *Shropshire*, I believe that a court of appeal should only intervene to minimize the disparity of sentences where the sentence imposed by the trial judge is in substantial and marked departure from the sentences customarily imposed for similar offenders committing similar crimes." (at paragraphs 91 and 92).

21. In assessing the question of whether a sanction imposed by a Hearing Committee was reasonable, an Appeal Panel should only intervene where the sanction imposed: (a) was based on application of the wrong principles; or (b) if the sanction was demonstrably unfit (ie. "clearly unreasonable" as referred to in paragraph 19 herein). The test is not whether the Appeal Panel itself would have imposed a different sanction.

Submissions on behalf of Mr. Mirasty

22. While Mr. Mirasty's counsel acknowledged that Mr. Mirasty's conduct was deserving of sanction and was serious, Mr. Attia submitted that the sanction imposed by the Hearing Committee was not reasonable in the circumstances.

23. Mr. Attia argued that the conduct in question was not the "most serious" conduct, and that sanctions other than a suspension would have been reasonable. Mr. Attia reviewed the circumstances giving rise to the conduct found to be deserving of sanction and highlighted mitigating factors, as follows:

- The conduct arose from Mr. Mirasty's unique relationship with Mr. S;
- Mr. Mirasty was reluctant to take on the role he assumed with respect to Mr. S's affairs and did so to his own detriment;
- The conduct did not arise from Mr. Mirasty's legal practice;
- The nature of Mr. Mirasty's rural criminal practice in northern Alberta, and the travel accompanying the same;
- Mr. Mirasty's service to aboriginal clients with limited education and resources in those rural communities;

- Mr. Mirasty was in an “overwhelming” situation, trying to balance his busy rural practice and respond to the LSA in a timely fashion;
- Mr. Mirasty admits he did not keep accurate notes or accounting records, but was not trying to hide anything;
- Mr. Mirasty failed to respond to the LSA as “he felt overwhelmed”;
- Mr. Mirasty admits that he wrongly and irrationally responded to the LSA’s investigation as an attack on, or affront to, his own character as a result of the complaint arising from his unique relationship with Mr. S;
- The circumstances were unique and unusual, Mr. Mirasty did not respond in fashion truly reflective of his character, and repetition of the conduct deserving of sanction is highly unlikely;
- Mr. Mirasty himself is an aboriginal person and a residential schools survivor;
- Mr. Mirasty’s 3 letters of reference attesting to his general character; and
- Mr. Mirasty has learned from this experience.

24. Mr. Attia acknowledged that the essence of his argument is that the Hearing Committee failed to give sufficient weight to the mitigating factors which he identified in his oral submissions.

25. Mr. Attia further submitted that the more appropriate sanction would have been one akin to those imposed in “failure to serve” cases. Mr. Attia referred to Paragraph 51 of the brief submitted on behalf of Mr. Mirasty, and argued that a reasonable sanction would have been a reprimand, fine and payment of costs. Mr. Mirasty was also willing to participate in Practice Review.

26. Mr. Mirasty also addressed the Appeal Panel, and spoke to his background as an aboriginal person and a residential school survivor, noting that he was very proud to be a member of the LSA, and that he respected the legal traditions of our country. He acknowledged his reaction to the LSA investigation was “foolish”, and he understands that he is in a profession where members need to be regulated and where members need to follow the rules. He also shared that this experience has been stressful personally and for members of his community, and that he wants to continue to serve the public and his community.

Submissions on behalf of the LSA

27. LSA Counsel maintained that the sanction imposed by the Hearing Committee was reasonable on the following grounds:

- the conduct in question was of a serious nature; and
- the conduct went to Mr. Mirasty's integrity and governability.

28. LSA counsel submitted that the authorities appended to the LSA brief supported the sanction imposed by the Hearing Committee and, more particularly, that the suspension of 45 days was reasonable and warranted.

29. An issue was raised by the Appeal Panel as to whether it was unreasonable for the Hearing Committee to issue a sanction without engaging in an explicit weighing of public interests, specifically:

- Public interest in denouncing the conduct in question which, in turn, serves to provide specific and general deterrence of such conduct; and
- Public interest in having a member like Mr. Mirasty continue to serve communities which are under-represented, without a voice, and disadvantaged, with his unique set of skills, including his language skills.

30. LSA counsel submitted that the Hearing Committee was not required to explicitly weigh competing public interests before issuing a sanction, and further submitted that (a) it was not necessary for the Hearing Committee to engage in that explicit analysis, and (b) it was sufficient for the Hearing Committee to note that they have taken into account the considerations outlined in the Hearing Guide, including deterrence. That said, LSA counsel pointed to sections of the Hearing Committee decision where he argued that the weighing of competing public interests had been undertaken.

31. LSA counsel further submitted that it was not appropriate for the Appeal Panel to replace the Hearing Committee's sanction with its own sanction.

This submission accords with the standard of review outlined earlier in this decision.

32. LSA Counsel submitted that the Hearing Committee was presented with a range of reasonable outcomes, including:

- Mr. Mirasty's submission that a reprimand, referral to Practice Review and costs was appropriate; and
- LSA's submission that a 6 month suspension, referral to Practice Review and costs was appropriate.

33. While a reprimand as opposed to a suspension would have been "unprecedented", LSA counsel acknowledged that it would not have been unreasonable.

Analysis

34. Section 49(1) of the *Legal Profession Act* defines "conduct deserving of sanction" as conduct that is incompatible with the best interests of the public or members of the LSA, or conduct that tends to harm the standing of the legal profession generally.

35. The Hearing Committee was cognizant of the LSA members' role "to serve the public interest", and "to assure that the public maintains confidence" that LSA members "will conduct themselves with the highest level of professionalism and integrity". The Hearing Committee noted that "the public is entitled to expect that, when called upon to account to their regulator, lawyers are compliant and cooperative in taking all steps necessary to ensure that expected standards of conduct are maintained".

36. The Hearing Committee expressly took the following factors into account:

- Mr. Mirasty had no past disciplinary record with the LSA;
- Mr. Mirasty had submitted 3 letters of support (Exhibits 62, 63, 64);
- Mr. Mirasty is an aboriginal person, practices in Northern Alberta in the area of criminal law, and has a unique ability (because of his cultural heritage and ability to speak Cree), to provide legal services to a community which is in significant need of legal assistance and support;

- Mr. Mirasty has conducted himself in a fashion benefitting that community and the province as a whole, with the exception of the conduct found to be deserving of sanction by the Hearing Committee;
- Mr. Mirasty's background and unique sensitivity to persons in authority may have resulted in combative or uncooperative communication between Mr. Mirasty and the LSA;
- The letters of support spoke to Mr. Mirasty's character and the quality of his service to the community, both at large and the aboriginal community in particular, as well as to some personal difficulties surrounding the loss of a close friend and colleague;
- The citation regarding a "lack of candour" was more a matter of "indifference" to accuracy as opposed to an effort to deceive the LSA; and
- Mr. Mirasty regularly assisted persons of limited funds, and engaged in an area of work sorely in need of support.

37. The Hearing Committee noted that counsel for Mr. Mirasty and the LSA defined "the parameters of [their] discretion" as either a period of suspension or a reprimand, payment of costs and a referral to Practice Review.

38. The Hearing Committee expressly noted that they were "very sensitive to the special nature of Mr. Mirasty's contribution to his community and to the practice of law". Nonetheless, the Committee recognized its duty to consider the "broader public interest and the interest of the profession".

39. The Hearing Committee cited specific factors applicable to determination of an appropriate sanction on Paragraph 139 of the Hearing Report dated April 14, 2016. The Committee determined that Mr. Mirasty's conduct could only be "sufficiently addressed" with "a suspension for at least a modest period of time, notwithstanding the absence of any prior record of misconduct".

Did the Hearing Committee make an error in principle by failing to consider any relevant factor or factors?

40. The Appeal Panel is unable to conclude that any error in principle was made.

41. In *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, [2011] 3 SCR 708, the Supreme Court of Canada noted the following (at paragraph 16):

> "Reasons may not include all the arguments,… or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion."

42. The Supreme Court, in *Newfoundland and Labrador Nurses' Union, supra*, (at paragraph 16) , was of the view that the *Dunsmuir* criteria are met if:

a. The reasons allowed the reviewing body to understand why the tribunal made its decision; and
b. The reasons permitted the reviewing body to determine whether the conclusion is within the range of acceptable outcomes.

43. "Respectful attention" is to be paid to the reasons of the tribunal (at paragraph17), and the Court quoted favourably from the Respondents' Factum in *Newfoundland and Labrador Nurses' Union, supra*, (at paragraph 18), as follows:

> "When reviewing a decision of an administrative body on the reasonableness standard, the guiding principle is deference. Reasons are not to be reviewed in a vacuum – the result is to be looked at in the context of the evidence, the parties' submissions and the process. Reasons do not have to be perfect. They do not have to be comprehensive."

44. The Hearing Committee carefully considered both the relevant aggravating factors and the relevant mitigating factors in coming to its decision on the appropriate sanction. The Hearing Committee made reference to applicable factors including:

a. The need to maintain the public's confidence in the integrity of the profession and the ability of the profession to effectively govern its own members;
b. Specific deterrence of this member from further misconduct;
c. General deterrence of other members who may choose to ignore or withhold full cooperation from their regulator;
d. Denunciation of this conduct;
e. Rehabilitation of the member; and
f. Avoiding undue disparity with the sanctions imposed in other cases.

45. Significant deference is owed to the Hearing Committee who had the benefit of hearing the evidence of the parties, and having an opportunity to assess credibility of the witnesses.

46. While the Hearing Committee did not explicitly state that it was weighing the competing public interest referred to in paragraph 29 herein, the Hearing Committee did set out the following at paragraph 138:

> "We are very sensitive to the special nature of Mr. Mirasty's contribution to his community and to the practice of law. He regularly assists person of limited funds, engaging in an area of work that is sorely in need of support. The broader public interest and the interest of the profession must, however, be considered."

47. The Hearing Committee then set forth the following at paragraph 140:

> "The nature of Mr. Mirasty's conduct cannot be sufficiently addressed by anything less than a suspension for at least a modest period of time, notwithstanding the absence of any prior record of misconduct."

48. As noted in paragraph 43 herein, reasons do not have to be perfect. The reasons of the Hearing Committee were sufficient, and demonstrated no error in principle.

Was the sanction demonstrably unfit?

49. The Appeal Panel did not find the sanction to be unfit.

50. The issue is whether the sanction imposed by the Hearing Committee fell within a range of acceptable outcomes. The focus of this Appeal was on the imposition of a suspension as opposed to a reprimand. The essence of Mr. Mirasty's argument was that a reprimand would have been a more reasonable outcome than the suspension of 45 days which was imposed by the Hearing Committee. Mr. Mirasty submitted that the Hearing Committee failed to give sufficient weight to the mitigating factors he outlined in his submissions before the Appeal Panel.

51. The range of acceptable outcomes included a reprimand or a suspension (of up to 6 months, according to the submission of LSA Counsel). This was stated by the Hearing Committee to be the "parameters of their [our] discretion" (at paragraph 124).

52. The mitigating factors identified by Mr. Mirasty's counsel in his submissions to the Appeal Panel were considered by the Hearing Committee, and are expressly referred to in the Hearing Committee's decision.

53. The 45 day suspension ordered by the Hearing Committee was, therefore, within the aforesaid range. Accordingly, the sanction imposed by the Hearing Committee was not "clearly unreasonable", or demonstrably unfit.

Decision

54. Mr. Mirasty's appeal is dismissed. That decision was conveyed at the hearing of the appeal, and was unanimous.

55. At the appeal hearing, the Appeal Panel conveyed to Mr. Mirasty that they value the service that Mr. Mirasty provides to the community that he serves in the rural regions of Alberta, and that they hoped he would continue to persevere in his service to that community. The Appeal Panel further thanked Mr. Mirasty for his service to that community, noting its value.

56. The Appeal Panel then heard submissions from Mr. Attia and Mr. Maggisano on the following issues:

- A reasonable time for the suspension of 45 days to occur;

- Submissions on the costs of the appeal; and

- Time to pay the costs of the appeal.

57. The Appeal Panel granted Mr. Mirasty's application that the 45 day suspension commence on July 1, 2017, as the Appeal Panel was of the view that there was no risk to the public as a consequence of delaying Mr. Mirasty's suspension as requested. The effect of the Appeal Panel's decision that the suspension not commence until July 1, 2017, was to extend the stay that was in place until July 1, 2017.

58. The Appeal Panel further decided that costs of the appeal would be waived as requested by Mr. Mirasty. That decision made the issue of time to pay the costs of the appeal moot as no costs would be payable.

59. The Appeal Panel reminded Mr. Mirasty that there is a process to undertake on an application for reinstatement after a suspension, and recommended that he seek counsel's advice in terms of the process to ensure that Mr. Mirasty is not delayed in returning to practice and continuing to serve his community in rural Alberta.

60. LSA Counsel then raised the issue of redaction to accord with the publication ban in the relating civil proceedings, noting that the Hearing Committee provided that there would be the usual redaction for privacy and solicitor-client privilege, but also further redaction to protect the publication ban and ensuring that certain Exhibits would remain private. LSA Counsel requested that the same ban be continued. Mr. Attia did not object. The Appeal Panel agreed with LSA Counsel's request in that regard.

Dated at the City of Edmonton, in the Province of Alberta, this 16th day of May, 2017.

_____	_____
Sandra L. Corbett, QC	Robert Armstrong, QC
_____	_____
Nancy Dilts, QC	Robert Dunster
_____	_____
Dennis Edney, QC	Fred Fenwick, QC
_____	_____
Margaret Unsworth, QC	Louise Wasylenko

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Adam Letourneau, QC

[An erratum was issued May 23, 2017, deleting Amal Umar from the list of appeal panel members and adding Fred Fenwick, QC, and Adam Letourneau, QC.]