[2026] JMCA App 8

JAMAICA

IN THE COURT OF APPEAL

BEFORE: THE HON MR JUSTICE F WILLIAMS JA
THE HON MRS JUSTICE G FRASER JA
THE HON MRS JUSTICE TIE POWELL JA (AG)

APPLICATION NO COA2025APP00138

BETWEEN	**THEROL VOCHÉ**	**APPLICANT**
AND	**GENERAL LEGAL COUNCIL**	**RESPONDENT**

The applicant in person

Patrick Foster KC and Mark-Paul Cowan instructed by Nunes Scholefield Deleon and Co for the respondent

2 and 6 March 2026

Application for permission to appeal from ruling of Disciplinary Committee of the General Legal Council – Legal Profession Act, Rule 4 of the Legal Profession (Disciplinary Proceedings) Rules – Prima facie case – Arguable case with a realistic prospect of success – Delay

ORAL JUDGMENT

F WILLIAMS JA

Background

[1] In this matter, Mr Therol Voché ('the applicant') seeks the permission of this court to appeal against the decision of the Disciplinary Committee of the General Legal Council ('the committee'), made on 31 May 2025, as well as an extension of time within which to make that application. In that decision, the committee ruled as follows:

> "(c) The complaint of professional misconduct has not been made out against the Attorney.
>
> PURSUANT TO THE FOREGOING FINDINGS THE COMMITTEE HEREBY ORDERED THAT: -

> Pursuant to s 12 (4) of the Legal Profession Act the Application be dismissed."

[2] The committee's formal order to this effect was issued on 5 June 2025.

[3] That ruling arose from the applicant's complaint (Complaint No 6 of 2025), submitted to the respondent on 6 January 2025, with a supporting affidavit, requesting that disciplinary proceedings be initiated against attorney-at-law Charles E Piper KC ('the attorney').The complaint centres on what the applicant contends is the inappropriateness of the attorney having been a member of a panel of the disciplinary committee of the General Legal Council ('the GLC') which, in complaint no 92 of 2001, ordered on 6 March 2004, that the applicant's name be struck off the roll of attorneys-at-law permitted to practise in Jamaica.

[4] In his affidavit in support of that complaint, sworn to on or about 23 December 2024, the applicant sets out his allegations against the attorney. The gravamen of the complaint was that the attorney was retained and acted as counsel to the applicant and at least one of two companies of which he was president in proceedings previously brought against them. The documents making up the judge's bundle filed by the applicant were, in parts, somewhat jumbled. However, the following part of one of the paragraphs numbered 4 of what appears to be the same affidavit, provides a representative summary of the main contention:

> "**4. That the reason(s) for my complaint is/are as follows: -**
>
> I, Therol Voche contend that Mr. Piper having served as Counsel to me and Voche Capital Investments Ltd. (VCIL) in the Suit brought by Mr. Johnathon Brandon acting for VCI [G]eneral Insurance Company Ltd (VCI General) ought not to have been a Judge in the matter of Therol Voche: Complaint No. 92 of 2001 because he was in possession of proprietary information relating to the financial operations and position of VCIL and VCI General.
>
> That the very essence of the decision by the General Legal Council concerned what I allegedly represented to Mr. Dujon

concerning VCIL's ability or inability to meet the financial demands of the aforementioned Mr. Dujon.

That, Mr. Piper, an Attorney at Law who at the time of Mr. Dujon's Complaint had attained upwards of twenty (20) years in practice as an Attorney at Law, and ought to have known of the legal principle that "no one is allowed to be a judge in his own cause" and ought not to have been a Judge in this matter.

That Mr. Piper was obliged in law generally and under the Legal Profession Act in particular, to have advised the General Legal Council (GLC) that he had served as Council [sic] to me, Therol Voche, and VCIL on matters that went to the very "Root" of Mr. Dujon's claim.

That Mr. Piper should have recused himself from the proceedings." (Emphasis as in the original)

[5] The canons in respect of which the applicant contends that the attorney is in breach are as follows:

"CANON I

(b) An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may lend to discredit the profession of which he is a member.

(c) An Attorney shall observe these Canons and shall maintain his integrity and encourage other attorneys to act similarly. He shall not counsel or assist anyone to act in any way which is detrimental to the Legal Profession.

CANON IV

(j) Except with the specific approval of his client given after full disclosure, an Attorney shall not act in any manner in which his professional duties and his personal interests conflict or are likely to conflict.

(s) In the performance of his duties an Attorney shall not act with inexcusable or deplorable negligence or neglect.

(t) An Attorney shall not knowingly-

(i) reveal a confidence or secret of his client, or

(ii) use a confidence or secret of his client-

(1) to the client's disadvantage; or

(2) to his own advantage; or

(3) to the advantage of any other person unless in any case it is done with the consent of the client after full disclosure.

Provided however, that an Attorney may reveal confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct."

[6] At the committee's request, the attorney provided an affidavit in response on 29 May 2025, and the committee gave its decision on 31 May 2025. In that affidavit, the attorney denies the allegations levelled against him by the applicant and prays that the complaint be dismissed as not disclosing a *prima facie* case. He outlines several bases for this prayer, including the fact that the order of the disciplinary committee disbarring the applicant was made over 20 years ago, with the applicant not taking any of various steps available to him to challenge that decision, or to apply to be restored to the roll. He denies that there was any conflict of interest in all the circumstances and stresses that the complaint those many years ago was brought, not against the companies, but against the applicant himself in his capacity as an attorney-at-law. Importantly, he exhibited to his affidavit the written reasons for decision given by the panel in 2004, that ordered that the applicant be disbarred.

[7] The application for extension of time is necessitated by the fact that, on being notified of the respondent's decision, the applicant did not file his application within the 28 days permitted for doing so by the relevant rule (rule 5(1) of the Disciplinary Committee (Appeal Rules) 1972), but sought to do so some six weeks after the handing

down of the decision. He attributes the delay to incorrect advice given to him by an unnamed attorney-at-law.

The law

[8] The law governing these applications is well known and there was no dispute between the parties as to the applicable legal principles. In relation to the application for permission to appeal, numerous authorities from this court have established and repeated that, in order for such an application to succeed, in keeping with rule 1.8(7) of the Court of Appeal Rules, the applicant must demonstrate that the proposed appeal has "a real chance of success" (see, for example, **Duke St John-Paul Foote v University of Technology Jamaica (UTECH) and Wallace** [2015] JMCA App 27A). Similarly, other cases support the position that where an application for permission to appeal and an application for an extension of time within which to appeal are listed for hearing together, the correct procedure is to hear the application for permission to appeal first. This approach is to be taken on the basis that, if permission to appeal ought not to be granted, it would be futile to extend the time for applying for permission to appeal (see, for example, **Evanscourt Estate Company Limited v National Commercial Bank Jamaica Limited** (unreported), Court of Appeal, Jamaica, Application No 166/2007, judgment delivered 26 September 2008).

Submissions

[9] The applicant's submissions were in keeping with his written application and affidavit outlined earlier. He cited several cases, among them **Leymon Strachan v the Gleaner Company and Dudley Stokes** (unreported), Court of Appeal, Jamaica, Motion No 12/1999, judgment delivered 6 December 1999; and **City Printery Ltd v Gleaner Company Limited** (1968) 13 W I R 126.

[10] On behalf of the respondent, Mr Patrick Foster KC, submitted that the applicant's proposed appeal does not have a real prospect of success. He submitted that the proposed appeal turns on allegations of bias and conflicts of interest, which are not

grounded in evidence, whether documentary or otherwise. In his written submissions, he referred to the cases of **Keisha Clarke v University of Technology, Jamaica** [2022] JMCA App 30; **Bartholomew Brown and Bridgette Brown v Jamaica National Building Society** [2013] JMCA Civ 15; and **Oswald James v R** [2021] JMCA App 7.

[11] At para. 24 of his written submissions, Mr Foster also advanced the following argument:

> "24. In substance, the complaint is **a transparent attempt to impeach the integrity of a concluded adjudication through a different procedural mechanism, long after the proper review mechanisms (appeal/judicial review/restoration pathways) would ordinarily have been pursued.** This matters at the leave stage because a complaint that operates as a backdoor review mechanism faces a serious legal and discretionary barrier: it runs directly against the public interest in finality, efficient administration, and the avoidance of oppressive re-litigation of historic controversies. It is ultimately an abuse of the processes of the court." (Emphasis as in the original)

Discussion

[12] We have had careful regard to all the documents presented, and submissions that were made to us in this case. We also reviewed the committee's reasons for decision in complaint no 92 of 2001, which resulted in the applicant being disbarred. The review of the reasons for decision has been instructive and helpful, as it provides us with a basis for seeing whether there is or was before the committee, in May of 2025, a platform for the applicant's assertion of conflict of interest on the basis of which the attorney should have recused himself from participating in the hearing of the complaint against the applicant.

[13] In reviewing the matter as well, we have also considered the remit of the committee pursuant to rule 4 of the Legal Profession (Disciplinary Proceedings) Rules, at the stage at which a complaint is initially made, and the committee's duty to decide whether a complaint discloses a *prima facie* case. That rule reads as follows:

"4. -(1) Before fixing a day for the hearing of any application under rule 3, the Committee—

(a) may require the applicant to supply such further documents or information relating to the allegations as the Committee thinks fit; and

(b) shall serve on the attorney against whom the application is made a copy of the application and the affidavit in support thereof, together with all other relevant documents and information.

(2) An attorney who is served under paragraph (1)(b) shall, within forty-two days of such service, respond, in the form of an affidavit, to the application.

(3) Upon the expiration of the period mentioned in paragraph (2), the Committee shall consider the application and the response thereto (if any), and if the Committee is of the opinion that-

(a) a *prima facie* case is shown, the Committee shall proceed in accordance with rule 5;

(b) no *prima facie* case is shown, the Committee may dismiss the application without requiring the attorney to answer the allegation."

[14] At the stage at which the complaint and affidavit in response have been received, the committee stands in the role of gatekeeper, deciding which complaints have some prospect of success and which do not, some of which, not unnaturally, are likely to be frivolous and vexatious. In the case of **McCalla v Disciplinary Committee of the General Legal Council** (1994) 49 WIR 213, at page 230, Rattray P made the following observation in relation to rule 4:

"In my view, all this rule provides is that before a date for hearing is fixed a decision must be taken by the Disciplinary Committee based, not on evidence (since none is before it at this stage), but upon the nature of the allegations as to whether this is a matter on which the committee should proceed. If the matter is trivial or frivolous there does not exist 'a prima facie case' for the committee to proceed to trial. Frivolous allegations may be made against attorneys at law,

> the frivolity of which is evident and this provides for the committee a process by which it can weed out insubstantial complaints and clear the list of matters unmeritorious.
>
> The provision is there for the protection of the attorney at law as well as the convenience of the committee…"

(In a judgment reported at (1998) 53 WIR 272, Mr McCalla's appeal to the Board was allowed in part. However, that decision does not affect the applicability of these dicta).

[15] As previously indicated, a review of the reasons for decision in the complaint brought against the applicant was very instructive. In brief summary, the evidence led against him and accepted by that panel, was to the effect that he induced Mr Jeffrey Dujon to invest US$60,000.00 in his investment company, which Mr Dujon was thereafter unable to recover, despite making numerous requests for its return. Several assurances of repayment were given by the applicant, even when the investment company's licence was suspended, with the applicant indicating that the invested sum was being rolled over for various periods, despite Mr Dujon's requests for the return of his money. Mr Dujon's efforts to recover his money through litigation failed, as the bailiff was unable to find any goods on which to levy.

[16] In considering the complaint against the applicant, the committee made a total of 22 findings. In the interest of brevity, only three of them will be reproduced here to give an idea of the nature of the applicant's conduct leading to his disbarment as found by the committee. They are findings (xvii), (xviii) and (xxi), and read as follows:

> "(xvii) By letters dated July 15, 1998 and September 15, 1998 (Exhibits 7 and 8 respectively) which were signed by the Respondent Attorney as President of VCIL, Mr. Dujon was advised that the Company had rolled over his investment for further periods of 61 days and 122 days, respectively. At the time when these letters were written, VCIL's authority to do anything more than to pay to Mr. Dujon the proceeds of his investment had ceased.
>
> (xviii) When signing the letters dated July 15, 1998 and September 15, 1998, the Respondent Attorney knew or ought

> reasonably to have known that there was no real prospect of Mr. Dujon recovering his investment. The Respondent Attorney knew that VCIL's authority to reinvest Mr. Dujon's funds had been terminated. The Respondent Attorney knew that VCIL had no authority, as of April 6, 1998 or at any time thereafter to roll over Mr. Dujon's investment for any period. As is evidenced by the Bailiff's reports dated July 18, 1998, the Respondent Attorney knew that VCIL was in receivership and did not have the resources to pay to Mr. Dujon the proceeds of his investment and neither were there assets from which same could be realised.
>
> …
>
> (xxi) The purpose of this dishonest conduct was to stem the flow of cash leaving VCIL and to delay the date for repayment of the investment for as long as possible, with the hope of facilitating resumption of the operations of VCIL. This, if achieved, would have enured to the benefit of VCIL and would, ultimately, enure to the personal benefit [of] the Respondent Attorney. In other words, it was in the interest of the Respondent Attorney to seek to preserve VCIL as a going concern and, in relation to Mr. Dujon, the method which was chosen by the Respondent Attorney in his efforts to achieve this objective, was deceit."

[17] A perusal of all the material presented to us gives considerable credence and weight to the submissions made by learned King's Counsel, Mr Foster. In our view, the allegations made in the applicant's affidavit are cast in very wide, vague and general terms and fall woefully short of clearly establishing, *prima facie*, a case of bias or conflict of interest or any other breach of any relevant canon by the attorney. A review of the specific canons on which the applicant has based his case (set out at para. [5] hereof) reinforces this finding.

[18] On the material available to us, and which was before the committee, it has not been demonstrated how the attorney's knowledge (if he had any) of "proprietary information relating to the financial operations and position of VCIL and VCI General" could possibly have been used or would have been taken into account or influenced the attorney's decision in respect of the applicant in any way. In a nutshell, the case against

the applicant was about an inducement to invest, followed by what were ultimately found to be false and deceitful promises and assurances, in a case in which the complainant, Mr Dujon, certainly up to 2004, had not received his investment (or any part of it) that he made in 1998.

[19] When Mr Foster referred to the details of the reasons for decision in the complaint brought by Mr Dujon, the applicant indicated that he was never served with that complaint. The panel that dealt with that complaint found that he had, in fact, been properly served. That, however, is not a matter before us. The applicant, however, indicated to the court orally (and not by way of affidavit) that he became aware of that panel's decision in 2008. From all indications, this is the first time that the applicant is challenging the attorney's participation in the hearing against him - either since 2004, when the orders were made, or 2008, when he claims to have been become aware of them. These background facts do support Mr Foster's contention that this application and the complaint from which it arises amount to no more than something in the nature of a challenge by a sidewind, ignoring the processes for properly revisiting the matter provided by the rules. Additionally, to permit such a challenge, coming so late in the day, its lack of merit apart, would undoubtedly not be in keeping with good administration.

[20] It has not been demonstrated to us that any appeal in this matter, were we to permit one to be filed, would have any real chance of success. Having given careful consideration to all the material before us, we are driven to the conclusion that the application for permission to appeal that is before us is wholly unmeritorious, and, in the result, must be, and is, refused, with costs to the respondent to be taxed, if not sooner agreed. Naturally, the application for an extension of time is also refused.

[21] Our orders are as follows:

(i) The application for permission to appeal is refused.

(ii) The application for an extension of time within which to appeal is refused.

(iii) Costs to the respondent to be taxed, if not agreed.