Neutral Citation No. [2011] NIQB 18 | *Ref:* **McCL8114**

Judgment: approved by the Court for handing down | *Delivered:* **03/03/11**
*(subject to editorial corrections)**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

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Monteith's (John) Application (Leave Stage) [2011] NIQB 18

IN THE MATTER of an Application by John Monteith for Leave to Apply for Judicial Review

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McCLOSKEY J

[1] By this application for leave to apply for judicial review, the Applicant, who represents himself, challenges the following:

(a) Various "decisions" of the President of the Law Society.

(b) Two decisions "*of unknown judge made on date unknown*".

(c) A decision of Master Napier "*made on date unknown*".

(d) "*A decision of Judge Campbell made on 15th November 1999*".

(e) "*A decision of Judge Carswell made on 31st March 2000*".

(f) "*A decision of Judge Deeny made on 29th September 2010*".

(g) "*A decision made by the Legal Services Commission refusing appeal on 30th November 2010*".

[2] The remedies sought are quashing orders, declarations, mandamus, prohibition, an injunction and damages. There is no clear particularisation of the grounds of challenge. However, they appear to me to be a mixture of illegality, irrationality, procedural impropriety and breach of Article 6 ECHR. Complaints of *unfairness* feature with some prominence.

[3] It would appear from the papers lodged that the Applicant formerly practised as a solicitor. All of his challenges seem to be linked in some way with proceedings brought against him by the Law Society. I *infer* that the Law Society

was appointed the Applicant's attorney, under the provisions of the Solicitors (NI) Order 1976 and proceeded to act accordingly. As appears from the list of challenges recited in paragraph [1] above, the history is one of considerable vintage.

[4] After the Applicant had lodged papers initially, he was informed by the Judicial Review Office, on the direction of the court, that it would not be possible to consider his application further until he had supplied copies of the documentary incarnations (whether an order or Notice or letter or resolution or whatever) of each of the "**decisions**" which he proposes to challenge. The court's assessment at that stage was that, without these, it would be difficult to make sense of the case as currently formulated. The sole response which this elicited was a letter from the Applicant which focussed on two of his challenges only viz. his challenge to an order of Deeny J dated 29th September 2010 and his challenge to a legal aid refusal decision by the Legal Services Commission ("*the Commission*"), which seems to be dated 30th November 2010.

[5] Having given the Applicant a period of some two months within which to rectify the manifest shortcomings in his application, the court convened a hearing on 28th February 2011. The only other party represented was the Commission, which instructed counsel (Mr. McGleenan) who was permitted to address the court. None of the other parties identified in the application was given notice of the hearing, since the court did not require to hear from them at this stage. The Applicant attended and addressed the court. The main thrust of his representations was, in summary, twofold:

(a) He ventilated a series of complaints about the conduct of the currently uncompleted proceedings brought against him by the Law Society in the Chancery Division, with his gaze firmly fixed on an order of Deeny J dated 29th September 2010 (which was available to this court) and the outworkings thereof.

(b) He complained about the conduct of his legal aid appeal hearing on 26th November 2010, asserting that panel members had conducted proceedings brusquely and unfairly.

The Applicant's exchanges with the court suggested clearly a belief on his part that this is a court of unlimited jurisdiction, equipped with a panoply of powers to make all manner of orders and to grant the broadest range of remedies imaginable. In my view, he expected to find in this court a veritable panacea for the ills and evils of society, to include his multiciplicity of grievances. This is, sadly, a fundamental misconception. As stated memorably by Lord Bingham:

> "'*Judicial Review' is an excellent description of this exercise because it emphasizes that the judges are reviewing the lawfulness of administrative action taken by others …*

> *But they are not independent decision makers and have no business to act as such. They have, in all probability, no expertise in the subject matter of the decision they are reviewing. They are auditors of legality: no more, but no less*".

[The Rule of Law, p. 61].

[6] Having entertained representations from the Applicant and Mr McGleenan, the court ruled as follows:

(a) The application for leave to apply for judicial review against various judges of the Court of Judicature would be dismissed, on the ground that this is a court of co-ordinate jurisdiction which has no power to supervise decisions made in other Divisions of the High Court. While there are other manifest flaws in these challenges, this discrete infirmity is incurable.

(b) The challenge to various decisions of the President of the Law Society did not disclose a semblance of an arguable case, was wholly lacking in particularity and, further, appeared to be substantially out of time (cf., Order 53, Rule 4 of the Rules of the Court of Judicature). Accordingly, leave to apply for judicial review of these "decisions" would be refused.

(c) As regards the Applicant's challenge to a decision of Master Napier ("*made on date unknown*"), this is fully embraced by (b) above.

While the Applicant's grievances against the agencies identified above appear to be legion, there is no legal cure to be found in this court.

[7] To reflect the above, an order will issue at this stage dismissing the Applicant's application for leave to apply for judicial review against all of the proposed Respondents, subject to the following paragraph. In accordance with the usual practice, there will be no order as to costs as regards these parties.

[8] This leaves outstanding the Applicant's challenge to the Commission's decision of 30th November 2010. Mr. McGleenan acknowledged the correctness of the Applicant's assertion to the court that he was awaiting a response to certain letters which, it would appear, seek fuller reasons for the impugned decision. The court determined to adjourn this aspect of the application for a period of two weeks to enable a reply to be made, to be followed by a reconvened leave hearing. An addendum to this judgment will follow accordingly.

Addendum

[9] The remainder of this application for leave to apply for judicial review was determined by the court on 14th March 2011. In the interim, the further evidential materials generated included letters dated 30th November 2010 and 9th March 2011 from the Commission, together with a letter dated 23rd October 2008 from the Law Society. The latter contained a reasoned proposal by the Society to Mr. Monteith, which stated, in substance:

> "*On the basis of the above the Society would propose making the sum of £50,000 available to you. As requested I enclose our cheque for £10,000 for your immediate purposes …*".

The flavour of this letter suggests that the Society's statutory intervention was coming to a conclusion. At the hearing on 14th March, Mr. Monteith confirmed to the court that the **current** repayment proposal to him involved a very substantially greater sum, in excess of £300,000.

[10] The aforementioned letters from the Commission conveyed to the Applicant that his appeal was refused on the following grounds:

> "*…(i) You had not shown reasonable grounds for taking steps to assert or dispute the claim and (ii) that it appeared unreasonable, in the particular circumstances of the case, that you should receive legal aid*".

The legal aid which the Applicant was seeking related to the proceedings in the Chancery Division (see above). He confirmed to this court that at all material times he was represented by solicitor and counsel in those proceedings. It appears that an order pursuant to Order 67, Rule 5 of the Rules of the Court of Judicature may have been made very recently. Mr. Monteith informed this court that he has rejected his lawyers' advice that he should accept the proposed payment to him by the Society. He believes that if he had the services of senior counsel this advice might be different. He articulated three grounds of challenge to the decision of the Commission's Appeal Committee. These were:

(a) A failure to take into consideration the background facts.

(b) A failure to take into consideration his representations to the Committee.

(c) Unreasonableness.

[11] Applying the principle in ***Re SOS Application*** [2003] NIJB 252, I conclude that the first two grounds fail to disclose any arguable case. There is no direct evidence that the Appeal Committee failed to take into account any of the specified

facts, factors or representations, nor is there any evidence from which this court could reasonably infer such failure to the requisite degree viz. the threshold of arguability. I also find the third ground of challenge to be unarguable, on the basis that there is no semblance of irrationality in the conclusion reached by the Appeal Committee.

Disposal

[12] This application for leave to apply for judicial review is, therefore, dismissed in its entirety.