

## GENERAL LEGAL COUNCIL DECISION

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**IN THE MATTER OF** an Application by  
**ISAT A. BUCHANAN** for a Qualifying  
Certificate from the Legal Education  
Authority

AND

a Certificate from the General Legal  
Council pursuant to Section 6 of the Legal  
Profession Act

November 22, 2017

### INTRODUCTION

1. Mr Isat A. Buchanan (“the Applicant”) graduated from the Norman Manley Law School in September 2017 and shortly thereafter applied to the Council for a Qualifying Certificate and a Certificate pursuant to section 6 of the Legal Profession Act. His application was supported by voluntary declarations or character reference letters from eleven persons (“the Referees”).
2. The Applicant’s Voluntary Declaration disclosed that he had been twice convicted for a criminal offence:
  - a) In 1997 when he was 17 years old, the Applicant was convicted in the Half-Way-Tree Resident Magistrates Court of possession of cocaine, dealing in cocaine and taking steps to export cocaine. He was ordered to pay a fine and serve 21 days imprisonment. He paid the fine and served the 21 days (“the Jamaican conviction”).

- b) In 2000, the Applicant was convicted in the United States for conspiracy to import cocaine. He was sentenced to 10 years imprisonment and was released after serving 8½ years (“the US conviction”).
3. In 2014, the Jamaican Conviction was expunged from his police record pursuant to a decision by the Criminal Records (Rehabilitation of Offenders) Board.
4. In view of these previous convictions, Council did not treat with his application as a hearing on paper as it did with the other applications. It deferred his application and required the Applicant to attend a meeting of Council. It also invited him to bring counsel to represent him and any witnesses as he thought fit.
5. On November 22, 2017, the Applicant and his counsel, Mr Bert Samuels attended a meeting of Council. The Applicant and seven of the Referees made oral statements and responded to questions by members of Council. Mr Samuels made legal submissions.

## **THE LAW**

6. The General Legal Council is the Education Authority pursuant to section 2 of the Legal Profession Act (“the Act”). Section 6 (1) of the Act provides that:

**A person shall be qualified for enrolment if he holds a qualifying certificate and satisfies the Council that he has attained the age of twenty-one years, is not an alien, and is of good character.**

7. Section 9 (3) of the Act provides that:

**The [Legal Education] Authority shall issue to any person who has satisfied the [Legal Education] Authority that:**

**(a) he has obtained adequate practical experience in law; and**

**(b) he is otherwise qualified to practise law**

**a certificate to that effect (in this act referred to as a qualifying certificate).**

8. The Applicant had met the academic requirements to be entitled to a qualifying certificate, had attained the age of twenty-one years and is a citizen of Jamaica. The only issue therefore was whether he had satisfied the Council that he is of good character.

9. In Council's view, the applicable law was that set out by the Eastern Caribbean Court of Appeal in **Re Joseph Ewart Layne**<sup>1</sup>. In 1986, Mr Layne was convicted of ten counts of murder. He had been the Operational Commander of the People's Revolutionary Army ("PRA") and was the one who had issued the directive to recapture the PRA's military headquarters which culminated in the execution-style murder of a number of Grenadian citizens including the then Prime Minister, Maurice Bishop, and several of his cabinet colleagues.

10. Mr Layne was sentenced to death. However following a decision by the Privy Council that the mandatory death sentence which had been imposed on him was unconstitutional, Mr Layne's death sentence was commuted to 40 years in prison. Based on remission of sentence earned

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<sup>1</sup> GD 2015 CA 4

for exemplary conduct in prison, he was released after having spent approximately 23 years in prison.

11. While incarcerated Mr Layne earned three academic degrees, including a bachelor's and master's in law. After his release he was admitted to the Hugh Wooding Law School where he graduated with a certificate of merit. He applied to the Supreme Court of Grenada to be admitted to the bar in that country.

12. Section 17(1)(a) of the Legal Profession Act of Grenada was in similar terms to section 6 of the Jamaican Act. It provided in relevant part:

**Subject to the provisions of this Act, a person who makes an application to the Supreme Court, and satisfies the Supreme Court that he–**

**(a) is of good character; and either**

**(i) holds the qualifications prescribed by law, or...**

**shall be eligible to be admitted by the Court to practise as an attorney-at law in Grenada.**

13. As is the case with the present application, Mr Layne held the qualifications prescribed by law. The only issue was whether Mr Layne had satisfied the court that he was of good character. The court reviewed a number of Commonwealth decisions and concluded that an applicant in these circumstances had to satisfy two tests:

a) A subjective test, that considers “**whether the applicant is a person of integrity, honesty and reliability**”<sup>2</sup> (this would involve a consideration as to whether the applicant has been rehabilitated) and

b) An objective test that considers the effect admitting the applicant would have on the reputation of the profession.

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<sup>2</sup> Paragraph 11

14. The learned judge at first instance concluded that Mr Layne had satisfied the first test but not the second, and she therefore dismissed his application. The Court of Appeal refused to interfere with the first instance judge's exercise of her discretion<sup>3</sup>.

## **THE EVIDENCE**

15. The Council considered voluntary declarations or character reference letters and oral statements by the Applicant, Hon Mr Justice C Dennis Morrison, Dr Janeille Matthews, Miss Dorcas White, Miss Tracy Robinson, Dr Leighton Jackson, Mr Vuraldo Barnett and Mr Andre Smith. Council also considered character reference letters from Dr Brian Heap, Dr Imani Tafari-Ama, Miss Myrna McKenzie and Dr Nuklan Hugh.
16. In summary, the Applicant stated that:
  - a) In relation to the Jamaican Conviction, a neighbour had asked him to take a package to the United States telling him that the package contained money in excess of US\$10,000.00. When he was searched at the airport in Jamaica it was discovered that the package in fact contained cocaine. He was not aware of its contents.
  - b) In relation to the US Conviction, he was travelling with a friend and the friend was carrying cocaine. This was discovered when they arrived in the United States. He was not aware that the friend was carrying cocaine. The friend, however, said that the cocaine must have been the Applicant's.

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<sup>3</sup> See, e.g., paragraph 71

17. The Applicant said that he has taken full responsibility for the outcome of both matters and that he has learned valuable life lessons. He said that in the years since the convictions he had made volunteerism an integral part of his life especially activities geared towards mentoring and guiding youth at risk.
18. Most of the Referees had taught the Applicant at the University of the West Indies or the Norman Manley Law School. Others had interacted with him in various capacities. For example, Mr Barnett is the manager of the Trench Town Restorative Justice Centre where the Applicant served as a voluntary trainer.
19. Mr Smith and his twin brother (who was also present) were high school dropouts who had no interest in pursuing further studies but as a result of being mentored by the Applicant they resumed studies and are now studying engineering at the University of the West Indies.
20. Dr Jackson (who is the Dean of the Faculty of Law at Mona and practises law in Jamaica and in the state of New York) also stated that the transcript of the evidence and judgments in relation to the US Conviction indicated that:
  - a) The Jamaican Conviction was the main evidence that the prosecution had relied on, in particular because the prohibited substances were not found on the Applicant;
  - b) The prohibited substances were found in the luggage of the Applicant's co-defendant but his defence was that they belonged to the Applicant. He gave evidence for the prosecution of the Applicant's previous conviction.

- c) The co-defendant was acquitted even though he was the one who had physical possession of the prohibited substances.
21. The referees spoke to the Applicant's brilliance, social conscience, love of and commitment to the law and his willingness to assist others. Some referred to his humility, his polite manner and his gentlemanly deportment. The Applicant had voluntarily disclosed his past convictions to all of them.
22. Some Referees observed that the Applicant was a very young man at the time of the convictions and that in the almost two decades since then he had led an unblemished and in many ways, exemplary life.
23. Many expressed the view that in all the circumstances he was fully rehabilitated and that his admission to the bar would not adversely affect the reputation of the legal profession. Some felt that in fact, many persons would consider the Applicant's history an inspirational example of rehabilitation and redemption.

## **CONCLUSION**

24. After considering all the evidence, Council concluded (by a majority) that both the subjective test and the objective test had been satisfied. As regards the subjective test, members were in no doubt that the Applicant had been fully rehabilitated and did not pose any undue risk to the public.
25. The objective test was more challenging. Council recognized that some members of the legal profession and of the public generally may consider that admitting the Applicant would adversely affect the reputation of the

profession, but concluded that most would share its view that in all the circumstances the Applicant would be an asset to the profession.

26. For these reasons, the Council decided by a majority to approve the application and to issue the Applicant a qualifying certificate and a certificate pursuant to section 6 of the Legal Profession Act.

*B. St. Michael Hylton, Q.C.*