

PROTECTED - PERSONAL

Mr M Glasgow
3 Highfield Lane
Tansley Court
CHESTERFIELD
Derbyshire
S41 7AW

Our ref: 41414

20 August 2008

Dear Mr Glasgow

Re: Mr A H McLaren Munt KCH Barristers 1 Oxford Street Nottingham NG1 5BH

The Bar Standards Board, which oversees regulation of barristers, was established in January 2006 to run the regulatory work of the Bar Council. For ease of reference the term the "Bar Standards Board" will be used throughout the report.

Further to our previous correspondence, I am writing to let you know that we have now received the file on your case from the Bar Standards Board and I have considered what you say about the way that they dealt with your complaint about the above. All the correspondence and related documents on the Bar Standards Board file have been reviewed, and I am writing now to let you know my conclusions.

Background

The background to this matter is that counsel had represented you in a criminal trial for assault. You had a number of complaints about counsel, Mr Munt, and the manner in which he had conducted your trial.

The Bar Standards Board responded to you on 25 July. You were sent a complaint form to complete and return.

You completed and returned the complaint form, which was received by the Bar Standards Board on 25 July. The Bar Standards Board acknowledged receipt on 1 August and advised you that the Complaints Commissioner would now consider your complaint.

You were advised that you would be contacted again during the course of the next two weeks to inform you of developments on this matter.

You next heard from the Bar Standards Board on 12 September. You were advised by the complaints officer that *"the Commissioner currently has a backlog of complaints to consider..."*

On 17 October the Bar Standards Board wrote to you and advised you that the Commissioner had now considered your complaint. The complaints officer advised you that *"he (the Commissioner) is not inclined to investigate this complaint because although you have provided a lot of information, you have not provided any evidence which supports your complaints against Counsel"*. You were allowed a further three weeks in which to provide evidence to support your complaint.

On 7 November you responded to the Bar Standards Board and provided some further information.

On 10 December the Bar Standards Board sent Mr Munt a copy of your complaint and asked for his response.

On 12 January Mr Munt responded to the Bar Standards Board.

The Bar Standards Board sent you a copy of Mr Munt's reply on 17 January 2008. You responded to this on 26 January. This letter was acknowledged on 28 January.

On 15 February the Bar Standards Board wrote to you and advised you that your complaint had been passed to the Complaints Commissioner for his consideration. However, it would be another five weeks before you would hear from him again due to his high volume of work.

On 17 March the Bar Standards Board wrote to you with their final conclusions. The Complaints Commissioner listed all of your 13 complaints. He advised you that all of these complaints related to Mr Munt's professional judgment. Furthermore, he advised you that you had not provided any evidence to support your complaints. This left two complaints, which related to the allegation of rudeness as follows:

- during conference, counsel treated you contemptuously and discussed irrelevant matters such as social activities with the solicitor, going out of his way to exclude you from the conversation;
- during trial, counsel became increasingly angry, unhelpful and dismissive towards you.

The Complaints Commissioner referred you to Mr Munt's response. This can be summarised as follows:

- as an experienced criminal barrister he found it professionally advantageous to include social matters in conference in a relaxed manner and to include lay clients as fully as possible.

The Complaints Commissioner advised you that at no time during the trial did counsel act in an unprofessional manner towards you. Furthermore counsel wanted to attend the hearing when you were sentenced however he was committed to deal

with a Court Martial case in Germany. Counsel was then replaced with another experienced criminal practitioner but by that point you had insisted on removing your legal team from the record.

The Complaints Commissioner informed you that *"there is no basis for sending this complaint to the Complaints Committee because it is not supported by prima facie evidence"*. The Complaints Commissioner also noted that you were concerned that counsel did not allow witnesses to take the stand. However, this issue was to be decided by counsel and was a matter of his professional judgment about what was in your best interest, as he was required to do so by the Bar Standards Boards Professional Code of Conduct.

You were provided with the details of my Office if you were dissatisfied with this decision.

You telephoned the Bar Standards Board after receiving the above letter to express your disappointment that your file had been closed. You stated that you would take the case to the Court of Appeal, the House of Lords and the European Court of Human Rights. The complaints officer advised you to contact my Office.

Referral to my Office and my assessment

You referred the matter to my Office on 9 May 2008.

It might assist if I explain at the outset that my primary role is to oversee the manner in which the various professional bodies deal with complaints about lawyers, with a view to ensuring that they follow proper procedures and that they reach decisions that fall within the bounds of reasonableness. It is only in exceptional circumstances that I consider it appropriate to investigate the original complaint about the lawyer. Such circumstances are not present in your case and I have therefore confined my review of the matter to a consideration of the Bar Standards Boards handling of the complaint.

You are clearly not happy with the Bar Standards Boards decision. Although I do not wish to underestimate your feeling on this matter I am satisfied with their investigation.

You have stated a number of reasons as to why you are not happy with the final decision. Most of your reasons relate to your criminal trial and the manner in which Mr Munt conducted your trial, which relates to his professional judgment. The Bar Standards Board are unable to comment on matters of professional judgment. This is a matter of jurisdiction. It should not be regarded as a reflection on the merits of your complaint. Matters relating to the exercise of professional judgment fall within the jurisdiction of the courts. It is open to you to seek independent legal advice as to whether you have any recourse in the courts.

You have made a number of allegations against your legal team, such as you were *"blackmailed"* and that you knew that your legal team *"had no intention of defending me at trial..."*. You have however, produced no evidence to prove your allegations. Unless you can provide further evidence to support the allegations that you have made against

Mr Munt, the Bar Standards Board cannot investigate any further. I am satisfied that this is a reasonable approach to take.

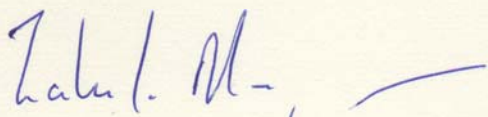
You feel that the Complaints Commissioner has *"used selective inclusion and omission in his reasoning for not putting forward my complaints to the Complaints Committee"*. It might help if I explain that the Commissioner will only refer a complaint to the Complaints Committee where the evidence indicates possible misconduct or inadequate professional service. If there is insufficient evidence of misconduct or inadequate professional service then the Commissioner will dismiss the complaint. As the Commissioner explained to you, you did not provide sufficient evidence for him to justify referring the matter to the Complaints Committee.

I note that there was a delay in the Bar Standards Board sending a copy of your complaint to Mr Munt for which there appears to be no explanation. Furthermore, you sent a letter with further details to the Bar Standards Board on 7 November. This letter was not acknowledged. I find both the delay and the failure to acknowledge your letter regrettable.

In the circumstances, while I realise that this might disappoint you, I take the view that the Bar Standards Board's response to your complaint about was satisfactory and that their decision to close their file was justified for the reasons given in their letter dated 17 March 2008..

I am required by Section 23(1) of the Courts and Legal Services Act 1990 to report my conclusions to the parties involved. I am therefore sending a copy of this letter to Mr Alastair Munt and to the Bar Standards Board.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Zahida M.', followed by a horizontal flourish.

Zahida Manzoor CBE
Legal Services Ombudsman for England and Wales