

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

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Our Reference: PC 2007/0430/G

PRIVATE & CONFIDENTIAL

Mr Martin Glasgow
3 Tansley Court
Highfield Lane
Newbold
Chesterfield
S41 7AW

17 March 2008

Dear Mr Glasgow

Re: Complaint by you against Mr Alastair Henry McLaren Munt

I have considered your complaint against Mr Munt in the light of Counsel's comments and other evidence available to me.

Having considered your complaint carefully, I could not find any evidence of professional misconduct or of inadequate professional service and, therefore, decided it would not be appropriate to refer the complaint to the Complaints Committee.

Nature of complaint

Background

Counsel represented you in a criminal trial for assault. The background is that you and your brothers Adrian and Graham were in hospital visiting your seriously ill mother when a few Pakistani men and a woman (a family) walked past you speaking in a Pakistani language. You and your brothers commented among yourselves on the fact the family were speaking not in English and it seems it was loud enough for the Pakistani men to hear. One, the victim, Mr Johal, came over to Adrian and said he should apologise for what he said. You got involved and then it seems that you pinned Mr Johal against the wall and punched him twice. You say that Mr Johal punched you first (you had significant facial injuries). Adrian then intervened and was punched by Mr Johal, and apparently had an epileptic fit and doesn't remember, but punched Mr Johal several times. You seem to have been viewed by witnesses as the main aggressor. Mr Johal was charged as a co-defendant.

The complaints

The complaints were that Counsel:

Bar Standards Board
289-293 High Holborn, London WC1V 7HZ
DX 240 LDE T 020 7611 1444 F 020 7831 9217
www.barstandardsboard.org.uk

1. Talked with the solicitor about social issues irrelevant to you in conference, such as a picture on the wall, losing weight, playing badminton, etc;
2. Did not answer questions addressed to the solicitor;
3. Was unable to produce photographs of the co-defendant's injuries;
4. Did not read all the documentation because if he had read it all he would have noticed that the 'nurses' giving evidence may not have been the 'nurses' from the hospital and that two statements of witness John Greaves contradict each other.
5. Did not cross-examine witnesses properly, such as John Greaves, on contradictions.
6. Advised you not to call Graham and Adrian as witnesses because Adrian would perjure himself and Graham 'would do you no good';
7. Decided not to present some photos of your injuries to the Court;
8. Was aggressive towards you in the courtroom after you questioned the 'validity that the solicitor who had advised that the charges against Adrian be discontinued does not work for the CPS anymore and has apparently left to have a baby';
9. Did not object to a prosecution statement in Court, to a witness (your sister), that she was 'sacrificing one brother for the other';
10. Failed to inform you that you required character witnesses and that they should be present on the day;
11. Did not attend the sentencing hearing because he was in Germany on a Court Martial Trial and you imply this reason was not genuine because it was given before regarding Counsel's absence from an earlier meeting;
12. Told you that you were found guilty because you 'deviated from the proof of evidence that the solicitor had asked you to produce whilst he went on a cruise over Christmas.'
13. There is some suggestion that Counsel was 'sacked' by you but then continued to act. The complaint is unclear in this regard.

After we had received your initial submissions Libby Gunn wrote to you on 17 October 2007 stating that I was "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". Ms Gunn noted that I could not second-guess or revisit decisions of the court or question the professional judgment of Counsel. This left two core issues, the allegation of rudeness by Counsel to you, and the legitimacy of Counsel's representation of you, given that he may have already been sacked.

There are two main elements to the allegation of rudeness:

- 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 allegation that Counsel was de-instructed but continued to act on your behalf remains vague despite our attempts at clarification.

Investigation

Counsel's response to the allegations made by you can be summarised as follows:

- As an experienced criminal barrister he has found it professionally advantageous to include social matters in conference in a relaxed and informal manner and to include lay clients as fully as possible.
- The conference in question lasted about two hours. The inference is that your case was discussed at length and that you were included in any conversation unrelated to the trial.
- At no time during the trial did Counsel act in an unprofessional manner towards you.
- Upon the adjournment of your sentencing to an unspecified date, it was Counsel's intention to attend. However, when the sentence date was given, he was committed to dealing with a Court Martial case in Germany. Counsel was replaced with another experienced criminal practitioner but by that point you had insisted on removing your legal team from the record.

In response to Counsel's comments (28 January 2008) you again narrate your grievances about the way in which evidence was submitted or undisclosed in court. You go on to conclude that your conviction was the result of collusion between the Crown Prosecution Service, Counsel, and the instructing solicitors. You further believe that Counsel and Mr Johal were personally acquainted before the affray in June 2006. You seem to indicate that Counsel is implicated in a conspiracy to convict you unjustly.

Conclusion

Whilst I recognise your strong views, there is no basis for sending this complaint to the Complaints Committee because it is not supported by prima facie evidence. I make this statement having reviewed your letter of 7 November 2007 with care. The problem here is that whilst you document evidence not presented at Court and whilst you criticise Counsel for not allowing witnesses to take the stand, these are issues that are to be decided on by the professional judgment of Counsel acting on your behalf. Frankly, and this is significant, even though you might judge Counsel's actions not to be in your interest, he is required by the Code of Conduct to exercise his own judgment about what is in your best interest. Where this happens and you strongly disagree your option is to dismiss Counsel.

Under the rules there is no mechanism for you to appeal this decision. However, I may be prepared to look at the matter again if you have some additional evidence or material in support of your complaint which was not included with the letters you have already sent. If you wish me to look at this matter again, you should send me the fresh evidence, together with the reasons why it was not included with your original complaint.

If you are dissatisfied with the way in which your complaint has been considered by the Bar Standards Board, you may approach the Legal Services Ombudsman (LSO) to investigate the way in which we have dealt with it. I enclose a leaflet which gives a guide to the LSO's powers in dealing with complaints about barristers. If you decide

to approach the Ombudsman, however, you must do so within three months of the date of this letter (i.e. by 17 June 2008). The Ombudsman applies this deadline strictly. While the Ombudsman is able to relax this time limit, we understand that she will only do so when there are very good reasons (for example serious illness of yourself or a close family member) why you were not able to contact her within three months. Even if you are sending us additional material, it would be sensible to write to the Ombudsman straightaway if you feel that you may wish her to consider the matter later on. The Ombudsman will send you a form for completion and return to her. Her address is:

The Legal Services Ombudsman
3rd Floor, Sunlight House
Quay Street
Manchester M3 3JZ
Telephone No. 0161 839 7262
Lo-Call No. 0845 6010794

Yours sincerely

Robert Behrens

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Complaints Commissioner

cc Mr Alastair Henry McLaren Munt

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