

JURISDICTION : STATE ADMINISTRATIVE TRIBUNAL

STREAM : VOCATIONAL REGULATION

ACT : LEGAL PRACTICE ACT 2003 (WA)

CITATION : LEGAL PRACTITIONERS COMPLAINTS
COMMITTEE and BULL [2006] WASAT 217

MEMBER : JUSTICE M L BARKER (PRESIDENT)
MR D R PARRY (SENIOR MEMBER)
MS J STANTON (SENIOR SESSIONAL MEMBER)

HEARD : 20 JUNE 2006

DELIVERED : 2 AUGUST 2006

FILE NO/S : VR 53 of 2006

BETWEEN : LEGAL PRACTITIONERS COMPLAINTS
COMMITTEE
Applicant

AND

DANIEL CANUTE LYLE BULL
Respondent

Catchwords:

Vocational regulation – Legal practitioner – Unsatisfactory conduct - Illegal conduct – Prohibited drugs – Cocaine – Practitioner committed offence of possession of prohibited drugs – Usual disciplinary consequence – Suspension from practice – Particular circumstances of case warrant departure from usual consequence – Reprimand and substantial fine imposed

Legislation:

Crimes (Sentencing Procedure) Act 1999 (NSW), s 10

Drug Misuse and Trafficking Act 1985 (NSW), s 10

Legal Practice Act 2003 (WA), s 185(1), s 187

State Administrative Tribunal Act 2004 (WA), s 87(2)

Result:

Practitioner found guilty of unsatisfactory conduct

Practitioner reprimanded, fined \$8000 and ordered to pay applicant's costs of \$3500

Category: B

Representation:

Counsel:

Applicant : Ms PE Cahill with Ms PE Le Miere

Respondent : Mr MD Cuerden with Ms ST Burke

Solicitors:

Applicant : Legal Practitioners Complaints Committee

Respondent : Fiocco's Lawyers

Case(s) referred to in decision(s):

Chamberlain v The Law Society of the Australian Capital Territory (1993) 118 ALR 54

Legal Practitioners Complaints Committee v Palumbo [2005] WASCA 129

Prothonotary of the Supreme Court of New South Wales v P [2003] NSWCA 320

Re Quick (SA Legal Practitioners Tribunal, 17 March 2003, unreported)

Case(s) also cited:

Re A Practitioner [2002] WASCA 93

Re A Practitioner [2004] WASCA 283

Re Maraj (a Legal Practitioner) (1995) 15 WAR 12

Ziems v Prothonotary of the Supreme Court of New South Wales (1957) 97
CLR 279

REASONS FOR DECISION OF THE TRIBUNAL:

Summary of the Tribunal's decision

1 A legal practitioner was charged with possessing a prohibited drug, namely 1.05 grams of cocaine, while interstate in order to advance his career as a musician. Although he held a practice certificate at the time, he had earlier indicated that he did not intend to renew it and he was not practising law. The practitioner pleaded guilty to the charge in Court at the first available opportunity and, without a conviction being recorded, was discharged on condition that he enters into a good behaviour bond.

2 In disciplinary proceedings in the State Administrative Tribunal, the practitioner did not contest a finding that he was guilty of unsatisfactory conduct by reason of illegal conduct. The issue for the Tribunal was the appropriate professional disciplinary consequence of the practitioner's conduct.

3 The Tribunal considered that the protection of the public and the maintenance of proper standards in the legal profession require that the usual professional disciplinary consequence of possession of a prohibited drug should be, as a minimum, suspension from legal practice.

4 However, the Tribunal determined that the particular circumstances of this case warranted a departure from the usual disciplinary consequence. In light, in particular, of:

- the practitioner's exemplary personal and professional background;
- his honesty and co-operation with the authorities;
- the offence being unrelated to the practise of law;
- what was, in effect, a four to five month voluntary suspension from practice;
- the practitioner having voluntarily undertaken a six month drug testing regime with the result that he has not taken further prohibited drugs and is unlikely to do so; and
- the practitioner's proper and genuine contrition and remorse,

the proper disciplinary consequence was a reprimand and a substantial fine.

The offence of possession of a prohibited drug

5 Mr Daniel Canute Lyle Bull (practitioner) was admitted to legal practice in Western Australia on 4 February 2003, aged 25 years. The practitioner held a practice certificate for the year 2004 - 2005. In about May 2005, the practitioner advised the Legal Practice Board that he was not going to renew his practice certificate as he did not intend to work as a legal practitioner during the year 2005 – 2006.

6 In May and June 2005, the practitioner was in Sydney seeking to advance his career as a musician. Although the practitioner held a practice certificate in Western Australia during this period, he was not, in fact, practising law at the time, and his trip to Sydney was unrelated to his work as a legal practitioner.

7 Shortly after 4 am on 5 June 2005, the practitioner was stopped by police near Taylor Square in Surry Hills, Sydney. Around 3.0 metres from where the practitioner was stopped, police located a small resealable bag containing white powder. The practitioner was asked whose bag it was, to which he replied, "Yes, it's mine. I dropped it". When asked what he thought was in the bag, the practitioner replied, "I know it's a drug, I was told it was a drug". The practitioner was then arrested for possessing a prohibited drug contrary to s10 of the *Drug Misuse and Trafficking Act 1985* (NSW).

8 After being conveyed to the Surry Hills charge room, the practitioner participated in an electronically recorded interview during which he admitted to having bought the bag, which he believed to contain cocaine or speed, for \$300 from a male he only knew as Nick. The practitioner further admitted to intending to snort or swallow the drug in the men's room at the Court House Hotel at Taylor Square. The bag was weighed in front of the practitioner with a gross weight of 1.05 grams.

9 The practitioner entered a plea of guilty to the charge of possessing a prohibited drug at the first available opportunity before Deputy Chief Magistrate Henson at the Downing Centre Local Court on 27 June 2005. After hearing submissions on behalf of the practitioner in relation to penalty, and sternly rebuking the practitioner for his conduct by way of pointed questions, the Deputy Chief Magistrate observed as follows:

"I have to determine [an appropriate penalty] for a 27-year-old person with no previous convictions, a person of good character who enters a plea of guilty at the first available opportunity and whose plea is manifestly replete with contrition and remorse, for I accept guardedly, that on the facts tendered to this Court the Prosecution would have been in some difficulty proving a circumstantial case of drug possession against yourself and that your acknowledgement of possession is indicative of the very moral underpinnings which places your reputation at such a high point in the references tendered to this Court. And I accept in such circumstances there is room for hope that this has been a very salutary lesson for you and that it is unlikely to be repeated."

10 The Deputy Chief Magistrate concluded that, having regard to the practitioner's relative youth, the assistance he gave to the authorities, the admission of possession, and the plea, the appropriate penalty was to find the practitioner guilty of the offence, but to exercise the discretion available under s 10 of the *Crimes (Sentencing Procedure) Act 1999* (NSW) to, without proceeding to conviction, make an order discharging the practitioner on condition that he enters into a good behaviour bond for a term of 12 months.

11 The following day, on 28 June 2005, the practitioner wrote to the Legal Practice Board advising the Board of the charge, plea and penalty. The letter included the following:

"I am extremely sorry, embarrassed and ashamed for my actions which I deeply regret. Not only has it put my career in jeopardy, it has put many other people under great stress, as well as potentially bringing the legal profession into disrepute.

While I do not intend practising law in Western Australia at this time (having provided the Legal Practice Board with the necessary notice prior to being arrested) I would be devastated if I was banned from being able to renew my practising certificate in the future.

I will never engage in this or any other illegal activity again."

12 Although the practitioner did not hold a practice certificate during the year 2005 – 2006, the Legal Practice Board requested that he undertake a regime of independent drug testing. The practitioner voluntarily attended an addiction treatment and psychology service in

Sydney for urine drug screening each fortnight for six months up to April 2006 and additionally on three occasions during that period for random testing. Each of the tests indicated that the practitioner had not recently used any of the five drugs tested for, namely opiates, methamphetamine, THC (cannabis), benzodiazepines and cocaine. The practitioner also completed psychological testing which found that he is unlikely to have drug abuse problems or any significant psychological problems. The treating psychologist concluded as follows:

"I am satisfied that Mr Bull has complied with the conditions imposed by the Legal Practice Board and that it is highly unlikely that he has used any illicit substances during this period. Moreover, testing indicates that he does not have psychological problems that may give rise to a tendency to use drugs or that have been associated with drug use.

From the results of the testing and the time I have spent with Mr Bull, I am reasonably confident that Mr Bull is unlikely to reoffend in the future."

The proceedings in the Tribunal

13 On 30 March 2006, the Legal Practitioners Complaints Committee (Committee) commenced these proceedings for an order that the practitioner be found guilty of unsatisfactory conduct by illegal conduct, in consequence of the New South Wales charge and plea, pursuant to s 185(1) of the *Legal Practice Act 2003* (WA) (LP Act), consequential orders pursuant to s 187 of the LP Act, and an order that the practitioner pay the Committee's costs pursuant to s 87(2) of the *State Administrative Tribunal Act 2004* (WA).

14 The practitioner did not ultimately contest a finding that he was guilty of unsatisfactory conduct by reason of illegal conduct. The practitioner accepted, in the words of his solicitor's letter to the Committee dated 10 November 2005, that his actions with respect to possession of the drug were "stupid, selfish and personally disgraceful". The hearing, which took place on 20 June 2006, concerned the proper disciplinary consequence of the practitioner's conduct in the particular circumstances of this case.

15 On making a finding that a practitioner is guilty of unsatisfactory conduct, the Tribunal has power under s 187(1) of the LP Act to, among other things, order any one or more of the following:

- the suspension of the practitioner from practice for a period not exceeding two years;
- the imposition of conditions or restrictions on the right of the practitioner to practice for a period not exceeding two years;
- the payment by the practitioner of a fine not exceeding \$25 000; and
- the reprimand of the practitioner.

16 Ms PE Cahill, who appears with Ms PE Le Miere on behalf of the Committee, submits that, in order to maintain proper professional standards and the confidence of the public in the profession, the appropriate disciplinary consequence of the practitioner's conduct is suspension from practice for a minimum period of six months. Ms Cahill submits that this is not an appropriate case for the Tribunal to make and transmit a report on the finding of unsatisfactory conduct to the Supreme Court (full bench), because the offence was an isolated instance and did not involve any apparent dishonesty, and the practitioner has shown remorse and a commitment not to engage in such conduct in the future.

17 Mr MD Cuerden, who appears with Ms ST Burke on behalf of the practitioner, submits that the appropriate disciplinary consequence in the circumstances of this case is a reprimand.

18 Following the hearing, the Tribunal announced that, in the particular circumstances of the case, the appropriate disciplinary penalty is a reprimand and a substantial fine. The Tribunal made the following orders:

1. The Tribunal finds the practitioner guilty of unsatisfactory conduct.
2. The practitioner is reprimanded.
3. The practitioner pay a fine of \$8000 to the Legal Practice Board.
4. The practitioner pay the costs of the Legal Practitioners Complaints Committee fixed in the sum of \$3500.

19 The Tribunal indicated that written reasons for its decision would be published subsequently. These are the Tribunal's reasons for its decision.

Usual professional disciplinary consequence of possession of a prohibited drug

20 In *Legal Practitioners Complaints Committee v Palumbo* [2005] WASCA 129, Steytler P, with whom Wheeler and McLure JJA agreed, held at [15] as follows:

"Disciplinary proceedings of this kind against a legal practitioner are not instituted in order to punish the practitioner. Where offences have been committed, punishment is the province of the criminal law. The sole object of disciplinary proceedings is the protection of the public and maintenance of proper standards in the legal profession: *Re A Barrister and Solicitor* (1979) 40 FLR 1 at [24] – [25] per Blackburn CJ, Connor and Davies JJ; *Re Maraj (A Legal Practitioner)* (1995) 15 WAR 15 at [25], per Malcolm CJ, with whom Kennedy and Franklyn JJ were in agreement."

21 In *Prothonotary of the Supreme Court of New South Wales v P* [2003] NSWCA 320, which concerned an application to have a practitioner's name removed from the Roll of Legal Practitioners on the ground that her conviction for importing a trafficable quantity of cocaine constituted professional misconduct, Young CJ in Eq, with whom Meagher and Tobias JJA agreed, observed and held at [15] - [16] as follows:

"There is no escaping from the general feeling in the community that there is no place in the legal profession for people with a serious criminal record. There is no place in the profession for drug addicts ...

However, the Court does not decide this type of case by some draconian rule of thumb, but looks closely at the facts of each individual case. The decision in this case might be devastating for the opponent; however, whether this be so or not the Court must keep its eye firmly on the basic feature of the case, which is the protection of the community and the profession should this person continue to be on the Roll of Legal Practitioners."

22 In referring to *Prothonotary of the Supreme Court of New South Wales v P*, the Western Australia Court of Appeal stated in *Legal Practitioners Complaints Committee v Palumbo* at [20] that "drug use (even when it involves an addiction) will not, of itself, necessarily result in the striking off of a practitioner".

23 In *Re Quick* (SA Legal Practitioners Tribunal, 17 March 2003, unreported), a case involving a Queens Counsel who had used cocaine over a considerable period, the South Australian Legal Practitioners Tribunal suspended the practitioner's practising certificate for a period of only three months and required regular certificates sufficient to indicate any illicit drug use: see Y Ross *Ethics in Law* (LexisNexis Butterworths, 4th Edition, 2005) at [7.60] – [7.63].

24 The evidence of the treating psychiatrist was that while Mr Quick had cocaine dependence, he was not addicted to the drug. The psychiatrist also indicated that if all control measures are in place, there was a 10% chance of Mr Quick taking cocaine. The Tribunal found that a three month suspension was appropriate, as Mr Quick had, in effect, not practised for 12 months, had not used illicit drugs for ten months and was rehabilitating.

25 The Tribunal considers that the protection of the public and the maintenance of proper standards in the legal profession require that the usual professional disciplinary consequence of possession of a prohibited drug should be, as a minimum, suspension from legal practice. The public have a right to expect that, when they consult a lawyer, the lawyer is unaffected by prohibited drugs. The public also has a right to expect that, when they consult a lawyer, the lawyer has not engaged in drug-related crime, including possession of a prohibited drug. Members of the legal profession have the same right when dealing with their colleagues. The New South Wales Deputy Chief Magistrate correctly described the effect of the practitioner's conduct as follows:

"Breaking the oath that you took to the people of Western Australia and the Court of Western Australia in return for you being admitted into a very elite and privileged section of society, breaking the moral obligation that we all have to respect the law or be prepared to suffer the consequences and furthering the presence of drug dealing in the Commonwealth of Australia. And don't think that because it happens in New South Wales it doesn't have an impact on Western Australia, you're not that silly. You know full well that it does. Every time somebody such as you Mr Bull engages in a transaction with a drug dealer it perpetuates the existence of that sinister and community threatening undertaking."

26 However, there are considerations which may warrant a departure from the usual professional disciplinary consequence of possession of a

prohibited drug in the particular circumstances of a case. In *Prothonotary of the Supreme Court of New South Wales v P*, Young CJ in Eq referred, at [24], to ten propositions put forward by counsel for the practitioner based on United States authorities concerning lawyers who have been convicted of possessing controlled substances. His Honour's judgment includes the following:

"The ten points are that there are compelling mitigating circumstances within the meaning of the American authorities if the Court can see that, when considering these ten factors, the solicitor can show that she has fulfilled most of them. The ten points are: (1) absence of prior disciplinary record or criminal record; (2) absence of motive for personal enrichment; (3) honesty and co-operation with the authorities after detection; (4) the offences being unrelated to the practice of the law in that the addiction has not [impacted] on her professional duties and have [*sic*] not resulted in harm to her clients or other people; (5) the ignominy of having suffered a criminal conviction and the deterrent element; (6) the absence of premeditation with respect to the commission of the crime; (7) evidence of good character; (8) any voluntary self-imposed suspension or court imposed temporary suspension from practice; (9) delay in commencing disciplinary proceedings; and (10) most importantly, clear and convincing evidence of rehabilitation."

27 To this list we would add an eleventh consideration, which may be implicit in some of the other considerations, namely, genuine contrition and remorse by the practitioner for his or her conduct.

28 For reasons discussed below, the Tribunal considers that the particular circumstances of this case warrant a departure from the usual disciplinary consequence of possession of a prohibited drug.

Particular circumstances of this case which warrant a departure from the usual disciplinary consequence

29 There was no unreasonable delay in the commencement of these proceedings (the ninth consideration in Young CJ in Eq's list). There was an element of premeditation with respect to the commission of the crime, in that the practitioner purchased the cocaine (the sixth consideration). However, the other nine considerations militate against a suspension from practice in the circumstances of this case.

30 The most significant factors which warrant a departure from the usual consequence in the particular circumstances of this case are as follows:

Absence of prior disciplinary or criminal record/exemplary personal and professional background –

31 The evidence shows that the practitioner has an exemplary personal and professional background. The chaplain of the school at which he completed years 11 and 12 describes him as "an outstanding young man" who "was elected a school and house prefect (unusual for a boy who had only been at the school for one year), and contributed to school life in sport, music, drama, academic studies, chapel life and as a fine human being". Some of the highlights of the practitioner's two years at the school included playing the lead role in the school musical, achieving colours for music and symbols for drama and rugby, captaining the second XI cricket team, playing first XV rugby, playing principal French horn in the school concert band and "involvement in a stunning array of school groups". The chaplain emphasised the practitioner's "honesty and integrity". Having been informed of the practitioner's predicament, the chaplain considers it to be "completely out of character".

32 According to the submission made to the New South Wales Deputy Chief Magistrate, while the practitioner was a fourth year university student, he worked for the unrepresented criminal appellant's scheme on a voluntary basis. He has subsequently worked extensively on a voluntary basis with community radio in Fremantle, both in management and on air.

33 While at university, the practitioner worked as a casual clerk with a Perth law firm. He subsequently commenced as an Articled Clerk with that firm. After becoming a restricted practitioner on 4 February 2003, the practitioner continued to work with the firm full time for 11 months and subsequently worked on a casual basis until May 2005. From late December 2003 until May 2005, the practitioner toured from time to time with the band Eskimo Joe and worked as a legal practitioner between tours. He is described as an outstanding musician.

34 Mr John Poulsen and Ms Sandra Di Bartolomeo, partners of the Perth law firm where the practitioner worked, describe the practitioner as "a very talented lawyer" who has also "developed very strong and enduring relationships with our clients who enjoyed working with him". They describe the practitioner's character attributes as follows:

- "• a keen intelligence;

- efficient and well organised;
- thoughtful of others;
- honesty and integrity;
- ability to work well in a team; and
- friendly and open nature."

35 Mr Poulsen and Ms Di Bartolomeo would have no hesitation in employing the practitioner as a solicitor if he returns to Perth and is entitled to practise.

36 In August 2005, the practitioner was interviewed for employment as a solicitor with a Sydney law firm. The firm declined to make an offer of employment at that time, as the practitioner did not have a current practising certificate (as the certificate is termed in New South Wales). However, the practitioner was informed that the firm would be pleased to revisit the matter if he obtained a practising certificate and over the next three months the firm stayed in contact with him so as to be kept informed of the current status of this matter and the practitioner's voluntary drug testing regime.

37 In November 2005, the Sydney law firm offered the practitioner a role on the basis that he could start work with the firm's Banking and Finance group in February 2006 as either a solicitor, if he was able to obtain a practising certificate, or as a paralegal on a three month contract, with the expectation that the outstanding disciplinary matters would be resolved and a practising certificate issued within the three month period.

38 The practitioner commenced work as a paralegal with the Sydney law firm, in February 2006 for a period of three months. His contract was extended for a further period of three months in May 2006.

39 Before the practitioner commenced work with Henry Davis York in February 2006, Mr Michael Rowe, a partner of the firm, spoke at length with Mr John Fiocco, the practitioner's solicitor, in relation to the disciplinary matters. Since February 2006, Mr Rowe says that the practitioner has kept him informed of the status of the disciplinary matters and provided him with a copy of the application filed in the Tribunal on 30 March 2006 and a copy of the report from the consultant psychologist.

40 Mr Rowe says that "I have also found Daniel to be most forthcoming and frank in providing me with all the information I have requested from time to time, notwithstanding that the circumstances in which Daniel finds himself are obviously difficult and professionally embarrassing".

Mr Rowe says that "I have found Daniel to be a trustworthy, diligent and very capable member of the team" and "I am confident that given further time and opportunities, Daniel will develop into an excellent lawyer who will be able to make a significant contribution to the profession and the community".

Honesty and co-operation with the authorities after detection –

41 The practitioner was properly and fully co-operative with the New South Wales authorities after his detection to the point that, as noted earlier, the Deputy Chief Magistrate considered that the police would have had difficulty in proving the charge without the practitioner's frank and prompt admission. In addition, as noted earlier, the practitioner promptly and properly informed the Legal Practice Board of the charge, plea and penalty.

Offence being unrelated to the practise of the law and has not impacted on the practitioner's professional duties –

42 Although the practitioner held a practice certificate at the time of the offence, as noted earlier, he had ceased legal practice and his trip to Sydney was unrelated to his work as a legal practitioner. There is no suggestion that the practitioner's possession or use of drugs has impacted on his professional duties.

Self-imposed suspension –

43 Ms Cahill for the Committee submits that the practitioner should not be treated as though he has had a self-imposed suspension from practice. She submits that he has been working in a legal environment in a way that suggests that his legal practice has not been impeded and that "it is simply business as usual for him".

44 The Tribunal does not accept this submission. Given the practitioner's study and experience, it is not unexpected that he would seek to earn a living, while disciplinary matters are pending, in a legal environment. However, as Mr Rowe notes, the practitioner's current paralegal role "involves considerably less responsibility and lower remuneration and status than the role of a solicitor in the firm". Although, as noted earlier, the practitioner indicated to the Legal Practice Board in May 2005 that he did not intend to renew his practice certificate for the 2005-2006 year, and did not seek to do so, from February 2006, the practitioner could have worked as a solicitor if he had held a practice certificate. In the circumstances, there was, in effect, a voluntary

suspension from legal practice of four to five months between February 2006 and the hearing date.

Clear and convincing evidence of rehabilitation –

45 As noted earlier, the practitioner undertook a voluntary six month drug testing regime during which time the consultant psychologist considers that it was highly unlikely that he used any illicit substances. The psychologist found that the practitioner is unlikely to have drug abuse or psychological problems. The psychologist is reasonably confident that the practitioner is unlikely to reoffend.

Contrition and remorse –

46 The police fact sheet completed shortly after the practitioner's arrest and interview states that the practitioner was "extremely despondent and apologetic for his actions". As noted earlier, the Deputy Chief Magistrate accepted that the practitioner's plea was "manifestly replete with contrition and remorse". The Tribunal also accepts that the practitioner has been properly and genuinely contrite and remorseful about his conduct throughout the period since he was apprehended.

Conclusion and orders

47 The practitioner's conduct with respect to his purchase, possession and intention to use 1.05 grams of cocaine was, in his solicitor's words, "stupid, selfish and personally disgraceful". We agree with this characterisation. The protection of the public and the maintenance of proper standards in the legal profession require an appropriate disciplinary consequence.

48 However, the Tribunal considers that, in the particular circumstances of this case, the usual professional disciplinary consequence for drug possession, namely, at least suspension from practice, should not be imposed. Nine of the 11 relevant considerations referred to in these reasons militate against the imposition of a suspension, one is not relevant, and one is, to some extent, adverse to the practitioner.

49 In light, in particular, of:

- (i) the practitioner's exemplary personal and professional background;
- (ii) his honesty and co-operation with the authorities;
- (iii) the offence being unrelated to the practise of law;

- (iv) what was, in effect, a four to five month voluntary suspension from practice;
- (v) the practitioner having voluntarily undertaken a six month drug testing regime with the result that he has not taken further prohibited drugs and is unlikely to do so; and
- (vi) the practitioner's proper and genuine contrition and remorse,

the proper disciplinary consequence is a reprimand and a substantial fine.

50 As Black CJ observed in *Chamberlain v The Law Society of the Australian Capital Territory* (1993) 118 ALR 54 at 62, "a reprimand, although not necessarily having the adverse consequences for a practitioner's partnership, reputation and income of an order suspending his right to practice, is nevertheless a serious matter". A fine of \$8000 is a substantial one, being approximately one-third of the maximum fine which the Tribunal can impose.

51 It is also appropriate that the practitioner pay the Committee's costs fixed in the sum of \$3500.

52 For these reasons, on 20 June 2006, the Tribunal made the following orders:

1. The Tribunal finds the practitioner guilty of unsatisfactory conduct.
2. The practitioner is reprimanded.
3. The practitioner pay a fine of \$8000 to the Legal Practice Board.
4. The practitioner pay the costs of the Legal Practitioners Complaints Committee fixed in the sum of \$3500.

I certify that this and the preceding [52] paragraphs comprise the reasons for decision of the State Administrative Tribunal.

JUSTICE M L BARKER, PRESIDENT