

2024 LSBC 36  
Hearing File No.: HE20240001  
Decision Issued: August 16, 2024  
Notice of Referral Issued: February 20, 2024

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL  
HEARING DIVISION

BETWEEN:

**THE LAW SOCIETY OF BRITISH COLUMBIA**

AND:

**APPLICANT 20**

APPLICANT

**DECISION OF THE HEARING PANEL  
ON AN APPLICATION FOR ENROLLMENT**

Hearing dates: June 10, 11 and 12, 2024

Panel: Herman Van Ommen, KC, Chair  
Erwin Nest, Public representative  
Robert V. Wickett, KC, Lawyer

Law Society Counsel: Jaia Rai

Counsel for the Applicant: Luisa Hlus

Written reasons of the Panel by: Robert V. Wickett, KC

## INTRODUCTION

[1] This Hearing was convened to determine whether Applicant 20 (the “Applicant”) should be permitted to enroll for temporary articles with a British Columbia law firm (the “Firm”) during the summer of 2023. During the summer of 2023, the Applicant was between her second and third year as a student at a law school in Canada. Following receipt of the application, the credentials committee of the Law Society of British Columbia ordered this Hearing pursuant to section 19(2)(c) of the *Legal Profession Act* (the “*Act*”) and Rule 2-56(3)(c) of the Law Society Rules (the “Rules”).

[2] As a consequence of the order requiring this Hearing the Applicant was unable to undertake temporary articles during the summer of 2023. The Applicant has subsequently completed her third year of law school and the Firm has offered to provide her articles commencing in 2024. The parties have agreed that this Panel will consider the Applicant’s application for temporary articles even though she has now completed law school. The Panel understands that this decision will be considered by the credentials committee in respect of the Applicant’s application for regular articles in 2024.

[3] This Hearing was ordered to determine if the Applicant is currently “of good character and repute and is fit to become a barrister and solicitor of the Supreme Court.”<sup>1</sup> The *Act* requires this Panel to either grant the application, grant the application with conditions or reject the application.<sup>2</sup>

[4] The circumstances giving rise to this Hearing are the Applicant’s history and relationship with a person convicted of violent crimes and currently serving a lengthy federal prison sentence (to be referred to as “M”), her alleged breach of a court order and her continued contact with M while he serves his lengthy prison sentence.

[5] The Applicant is required to demonstrate to the Panel that it is more probable than not that she is currently of good character and repute and fit to become a lawyer in British Columbia. To establish good character and repute the Applicant must establish that she has an appreciation of the difference between right and wrong, the moral fibre to do what is right, the belief that the law must be upheld, and the courage to see that it is upheld.<sup>3</sup>

[6] As a condition of enrollment as an articulated student the Applicant must also demonstrate that she “meets the special standards of honesty, integrity and

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<sup>1</sup> Section 19(1) of the *Act*

<sup>2</sup> Section 22(3) of the *Act*

<sup>3</sup> “What is Good Character” Mary Southin, QC, the Advocate (1977) v. 35, p. 129

trustworthiness required of a lawyer. [She] must also show that [she] possesses attributes from which a forecast of *future* honesty and integrity can be made.”<sup>4</sup>

[7] The Panel has concluded that as at the date of the Hearing the Applicant has met her burden to demonstrate that she is currently of good character and repute and that she should be admitted to temporary articles without conditions. The following are our reasons.

## **BACKGROUND FACTS AND EVIDENCE**

[8] Four witnesses gave evidence before the Panel. These witnesses consisted of the Applicant and three lawyers who have worked with the Applicant. The parties also entered a book of documents into evidence. These documents included various communications between the Applicant and the Law Society, the Applicant’s application for temporary articles, police and court records and three character witness letters authored by people familiar with the Applicant.

[9] The background facts drawn from the witnesses and documents are largely uncontested.

[10] The Applicant is now 33 years of age and residing in British Columbia, having just completed her third year of law school.

[11] The Applicant’s parents were immigrants to Canada. When the Applicant was in grade one, her mother separated from her father and returned to the country from which she had emigrated, taking the Applicant’s younger brother with her. The main cause of her parents’ separation was her father’s gambling addiction which caused tremendous friction between her parents. The Applicant was raised largely by her father in Canada. Her childhood was difficult as her father was largely absent from the household due to his work and his gambling addiction. The Applicant often returned from school to an empty home and was responsible for looking after herself. She was often shuffled off to relatives and friends on weekends. As a consequence, the Applicant struggled with acceptance. She testified that for portions of her childhood she felt abandoned and unwanted.

[12] The Applicant’s mother returned to Canada when the Applicant was 12 years old. Although her parents reunited there remained considerable conflict between them because of her father’s gambling. The Applicant described the period of her life from age 12 until she commenced her pre-law university studies as chaotic and stressful because of the conflicts between her parents and the lack of money. After

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<sup>4</sup> *Law Society of BC v. Applicant 15*, 2020 LSBC 15 at para. 6

the Applicant commenced her pre-law university studies her parents moved to a better home in a good community. Her family life then improved as her father demonstrated more devotion to the family and reduced his gambling.

[13] The Applicant received her pre-law degree in psychology. She then obtained training as a legal assistant, receiving a diploma from an Institute of Technology. Thereafter she worked in various retail and restaurant serving jobs until 2018 when she commenced employment as a legal assistant in a criminal defence firm. The Applicant then applied for and was admitted to law school commencing in the fall of 2021. At law school, the Applicant received a public interest award for her work in a law school clinic assisting low-income people with legal issues. She then applied for temporary articles with a criminal defence firm in British Columbia for the summer between her second and third year of law school. That application for temporary articles is the subject of this credentials Hearing.

[14] In 2012, at age 21, the Applicant met M.

[15] The Applicant was introduced to M at a restaurant. She testified that she was instantly attracted to him. M felt the same way and they began to see one another. Thereafter the Applicant went for a visit to the country from which she had emigrated. During this time, M made consistent efforts to contact her and check up on her. This impressed the Applicant and when she returned from her visit she and M commenced a romantic relationship.

[16] At some point in the early stages of her relationship with M the Applicant became aware that M was involved in criminality. M told the Applicant that he was a construction worker but she knew that was not true. The Applicant spent a great deal of time with M and his friends and she observed guns and drugs present in the places where M and his friends lived. She also observed the tattoos on M and his friends and she understood that these tattoos signaled membership in a criminal gang. Despite this, the Applicant did not see M dealing in drugs or in violence.

[17] Despite the knowledge that M was engaged in criminal activity the Applicant remained in a relationship with him. She testified that she did not care about the fact that M was involved in criminal activity because she was in love with him. M treated the Applicant with care and respect. He was protective of her and looked after her. M and his gang associates provided the Applicant with the stability and feeling of belonging that was absent in her relationship with her family. The Applicant was particularly drawn to the loyalty that M and his gang associates showed to each other. She felt that they were always there to protect her and each other.

[18] The Applicant was also drawn to M because of the money he was able to spend. M and his associates spent money freely and, to the Applicant's eye, lived a relaxed and carefree lifestyle unconcerned with any of the stresses that she experienced in her family life.

[19] The Applicant's relationship with M drew the attention of her parents. They recognized that M was a dangerous criminal and they made extensive efforts to persuade her to break off her relationship with him. She rejected these efforts and pushed her parents away. She did not feel loved or protected at home and she believed that M and his friends were providing her a stable and loving environment that she did not want to lose.

[20] In February of 2013 M asked the Applicant to rent an apartment for him. M required a new residence and he could not lease premises in his own name because he was wanted by the police. The Applicant agreed to lease an apartment in her name but for the benefit of M (the "Apartment"). M lived in the Apartment while the Applicant continued to reside with her parents while completing her undergraduate studies.

[21] Roughly three weeks after renting the apartment for M, he failed to pick the Applicant up from school as he had promised. M called her to advise that he had been arrested and was incarcerated. Shortly thereafter the police arrested the Applicant. The police sought information about M and his associates. During a police raid of the Apartment, the police discovered both drugs and guns. The police sought information from her about the source and ownership of the drugs and guns.

[22] The Applicant was released on bail for charges relating to the presence of the drugs and guns in the Apartment. As a condition of her release on bail the Applicant was ordered to have no contact with M, amongst other conditions. The Applicant immediately breached the terms of her bail by engaging in contact with M. M had been detained on the charges against him and he called her repeatedly from jail. The Applicant took his calls without regard for the court order barring her from such contact. She was not concerned with the terms of the court order. She was only concerned about M. She considered him her best friend and she continued to rely on him for emotional support.

[23] The authorities were of course monitoring all of the calls made by M to the Applicant from jail (the total number of calls were 100 calls over a 60-day period). In mid-June of 2013 the Applicant was arrested for breach of her bail conditions and she was remanded in custody. Her lawyer sought bail on her behalf but it was refused. The Applicant was detained in jail for roughly two months. She was eventually granted another bail hearing and was released on terms that required her to remain in the residence with her parents except when working or going to school or required to attend

probation services. She was also ordered again to have no further contact with M. The Applicant testified that she had no further contact with M during this period she was prohibited from contact with him.

[24] M had been detained in jail on a charge of first-degree murder and on a charge of participating in a violent home invasion with some of his friends that were known to the Applicant. The murder charge against M resulted from a stabbing that took place on the dance floor of a club. The police had evidence showing the presence of M at the club on the evening of the murder and they knew that M had a dispute with the murder victim. Video from the club showed M going onto the dance floor with a hoody hiding his face but the video did not conclusively show that M stabbed the victim. While the Applicant was in jail on the breach of the no-contact order the police repeatedly interviewed her and sought information from her about the murder and the home invasion.

[25] M had admitted to the Applicant that he had stabbed the victim because they were in dispute because the victim had allegedly mistreated M's brother while in jail. The Applicant did not give the police any information about the murder or home invasion. Had the Applicant given evidence against M or his friends, it is possible that M would have been convicted of first-degree murder. In the absence of this evidence and as a consequence of the uncertainty of M's identity on the dance floor of the club, the Crown took a plea from M to a charge of manslaughter and to a charge in relation to the home invasion. As a term of M's plea, all charges against the Applicant were withdrawn and she was released from the order requiring no contact with M. M received a global sentence of 15 years imprisonment resulting from his plea. He remains imprisoned as of the date of this Hearing.

[26] Once released from the order prohibiting contact, the Applicant resumed regular contact with M. She visited M in jail and had many phone calls with him. The Applicant testified that she still cared for him and that she wanted to show him the same loyalty as he had showed her early in their relationship.

[27] The Applicant continued with this regular contact with M until 2018 when she gradually came to the realization that M was indeed a violent and dangerous criminal. Despite this, she continued contact with M as he was feeling depressed and suicidal in jail. The Applicant testified that she did not want to abandon him during this dark time. As time went on, she gradually came to the realization that she had to end her relationship with M. Finally, in 2021 the Applicant ended her relationship with M and she has not spoken to him since that time.

[28] In cross-examination at this Hearing and in response to questions from the Panel, the Applicant testified that she did not consider the harms that M had inflicted on other people and on society generally. She admitted that she was unconcerned

with the impacts of M's criminal behaviour. She testified that she was an immature, selfish 21-year-old concerned with her feelings for M and the protection and stability that he provided her. She was not concerned with the law or the harms that M perpetuated. She testified that her love for M was all that was of concern to her.

[29] In 2018 the Applicant began working for lawyer A as a legal assistant. Lawyer A is a criminal defence lawyer. During this time the Applicant came to the realization that she wanted to assist those charged with criminal offenses. She realized that she could relate to those involved with the criminal justice system and that she could be effective as a lawyer. She felt inspired to pursue a career in law and in particular as a criminal defence lawyer. The Applicant applied to law school and was eventually admitted to a law school in Canada. She commenced her legal studies in September of 2021 and she graduated in May of 2024.

[30] While in law school the Applicant volunteered with a program delivering legal advice to low-income individuals. As a consequence, she received a public interest award from the law school she attended.

[31] In 2023 she applied for and was accepted as a summer student at the Firm. The Applicant did not advise the Firm about the criminal charges against her or the nature of her relationship with M during a telephone interview when applying for temporary articles. The Applicant testified that when she saw the questions posed on the application for temporary articles she realized that she would be required to disclose these issues and she did so. She spoke to lawyer R (the managing partner of the Firm) and he agreed to support her application for articles despite the issues described in these reasons. The Applicant's description in her application for temporary articles with the Firm of her relationship with M, her criminal charges and her continued contact with M, resulted in this credentials Hearing.

[32] After this credentials Hearing was ordered, the Firm agreed to employ the Applicant during the summer of 2023 in a research and legal assistant capacity. This employment was approved by the Law Society. The Firm has also offered to provide regular articles to the Applicant if she is found to be of good character by this Panel. This credentials Hearing was convened to consider the application for temporary articles for the summer of 2023. Although the opportunity to be admitted for temporary articles for 2023 has obviously passed, counsel has advised the Panel that the Law Society credentials committee has agreed to consider this decision when evaluating the Applicant's application for regular articles with the Firm.

[33] In addition to the Applicant, lawyer A, lawyer R, and lawyer K (a partner at the Firm), gave evidence at this Hearing. Three close friends of the Applicant (friends I, T

and S) tendered letters attesting to the character of the Applicant. These friends did not give oral evidence.

### **Lawyer A**

[34] Lawyer A is an experienced criminal defence lawyer. Lawyer A came to know the Applicant after hiring her as a legal assistant in 2018. The Applicant worked for Lawyer A from 2018 until 2021 when the Applicant left to attend law school.

[35] Lawyer A testified that early in the Applicant's employment she became aware of the Applicant's relationship with a person who was in jail. Lawyer A learned about M and the Applicant's involvement with the criminal justice system only after this credentials Hearing was ordered. Lawyer A was made aware that the Applicant had rented an apartment for M and that the Applicant had been charged with drug and firearm offences. Lawyer A was also aware that the Applicant had breached a no-contact order and had spent two months in prison. Lawyer A testified that she knew that the charges against the Applicant had been withdrawn and that she had continued to be in contact with M.

[36] Lawyer A testified that she had no concerns about the Applicant after learning of her history with M and the criminal justice system. She testified that the Applicant was a valued member of her administrative staff and that the Applicant demonstrated a superior work ethic and an ability to problem solve in high stress situations. Lawyer A is of the opinion that the Applicant's experience with the criminal justice system gives her a unique insight into the difficulties faced by people charged with criminal offences and an ability to communicate effectively and empathically with clients. She considers the Applicant's experiences in the criminal justice system to be an asset as a legal assistant in a criminal defence firm. She further testified that the Applicant never tried to avoid responsibility for mistakes that she made. Although the Applicant was honest and forthright in her dealings with lawyer A, the Applicant did not disclose to lawyer A her history with M or the existence and outcome of the criminal charges she faced.

[37] Lawyer A was particularly impressed with the Applicant's ability to connect with and calm down her clients who were incarcerated.

[38] Although lawyer A did not learn of the details of the Applicant's relationship with M, the nature of his criminal offending and the Applicant's charges until this Hearing had been ordered, lawyer A testified that she had no concerns about this history and she would have hired the Applicant even if she had known all the relevant details. Lawyer A testified that since the Applicant had been clear of criminal charges for at least 5 years when she hired the Applicant and that the Applicant had demonstrated good character through her work with the Elizabeth Fry society and the legal assistance program, she

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would have considered her a good candidate from the outset. She further testified that she would hire the Applicant again without reservation.

### **Lawyer K**

[39] Lawyer K is a partner at the Firm and she practices primarily as a criminal defence lawyer. She first met the Applicant in the summer of 2023 when the Firm made her an offer of employment as a summer student. Shortly thereafter she learned some of the details of the Applicant's history with the criminal justice system and eventually Lawyer K was made aware of all of those details. Lawyer K testified that she was not particularly concerned by the Applicant's history. Lawyer K recognized that the Applicant is now a different and more mature person than the 21-year-old who first became involved with M. Lawyer K testified that young people make stupid mistakes and that she did not place much weight on the Applicant's past behavior. She takes this view of the Applicant because of lawyer K's work as a criminal defence lawyer where she has observed many people who have committed criminal offences but turned their lives around and gone on to live as productive, law-abiding citizens.

[40] Lawyer K describes the Applicant as smart, dedicated, kind and compassionate in her dealings within the Firm. She further testified that the Applicant gets along well with everyone in the Firm and that her work is excellent. Lawyer K testified that she has observed the Applicant's dealings with clients of the Firm. She observed that the Applicant demonstrated empathy with clients and that she has the ability to make clients feel comfortable. Lawyer K is of the opinion that the Applicant's experience in the criminal justice system was an asset to the Firm and that it gave the Applicant great insight into the difficulties faced by those charged with crimes.

[41] Lawyer K observed no ethical issues with the Applicant. She noted that the Applicant demonstrated a clear and proper understanding of her ethical obligations. She further commented that the Applicant compared favourably to the many other law students she has mentored and observed. Lawyer K is of the opinion that the Applicant would make an excellent lawyer and that her work product as a student is of such quality that she could probably practice as a lawyer immediately.

### **Lawyer R**

[42] Lawyer R is the managing partner of the Firm and he practices primarily in the field of creditors remedies and insurance. He first came into contact with the Applicant when he reviewed her application for temporary articles that had been filed on the Firm's website on December 11, 2022. Lawyer R interviewed the Applicant on the phone on

December 19, 2022 and immediately offered her a summer student position scheduled to commence in April of 2023.

[43] During the application process the Applicant did not disclose to lawyer R any of her history in respect of M or her involvement in the criminal justice system. Once she arrived to commence temporary articles in April of 2023, Lawyer R told her to download the temporary articles application form from the Law Society website. The Applicant downloaded the application and immediately noticed that the application form sought information about any dealings she had with the criminal justice system and whether she had ever been charged with a criminal offence or spent any time in jail. Upon reading the application form the Applicant immediately told lawyer R that she had been charged with drug and weapons offences and with breach of the no-contact order regarding M.

[44] Upon learning this information lawyer R told the Applicant to fill out the application for temporary articles and send it to the Law Society. He expected that she would be approved for articles and was surprised when this credentials Hearing was ordered. Lawyer R had no issues with the Applicant's history as he thought it was long in her past and all the criminal charges against her had been withdrawn. He testified that he is well aware that many people are wrongfully charged with criminal offences.

[45] After the Applicant was refused temporary articles pending this credentials Hearing, Lawyer R sought permission from the Law Society to employ the Applicant to do research and other administrative tasks. Once approval was received from the Law Society the Applicant commenced work with the Firm. Her start date was May 1, 2023. During the summer of 2023 lawyer R had the opportunity to view the Applicant's work product. Lawyer R testified that the Applicant was excellent in her role with the Firm. The Applicant presented as very intelligent and the quality of her work was excellent. Lawyer R considers the Applicant one of the top students he has seen in the Firm. Further, Lawyer R was impressed with ethical decisions made by the Applicant during her time at the Firm. He testified that she was able to recognize ethical issues and able to make correct decisions in dealing with those issues. He feels strongly that the Applicant is on the right path in life and that she would make an excellent lawyer.

[46] Lawyer R was asked in cross-examination if he had any concerns about the Applicant resulting from her failure to disclose her history with M and the criminal justice system during the interview process for temporary articles. He testified that he had no such concerns and that he considers her a good person and of good character.

### **Friend I**

[47] Friend I provided a character reference letter to the Panel. Friend I has known the Applicant since high school. Her letter describes how the Applicant went from a curious  
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person, seeking new experiences, to someone who was closed off and unreceptive to friend I because of the Applicant's relationship with M. Friend I noted that once the Applicant dealt with the criminal charges brought against her, she chose to follow a different path and improve herself. In her letter friend I states:

She has grown immensely over the years and has become an independent individual who contributes positively to those around her. I have always known [the Applicant] to be genuine and caring, and over time I've witnessed her commitment to being honest and mindful in her actions. She places great value in her family and friends and has surrounded herself with a strong support system.

### **Friend T**

[48] Friend T also met the Applicant in high school. He states that he worked with the Applicant in various jobs while in university and he observed that she struggled with her first romantic relationship. This relationship ended on bad terms and left her feeling vulnerable and hurt. He states that the Applicant met M shortly after this failed relationship. In his opinion, the decisions the Applicant made while involved with M were the product of a foolish girl making bad choices because of her infatuation with M. In his letter friend T states:

[The Applicant] has grown tremendously as a person over the last decade; that once lost girl I mentioned previously is now an unshakable, confident, self-assured and ethical woman. I believe [the Applicant] is one of the most intelligent, hardworking and meticulous people I know. She is fiercely loyal to her loved ones, reliable, caring and will fight to the bitter end for what she believes in.

In conclusion, [the Applicant] is a good person and has grown an immense amount from the person she was a decade ago. The person [the Applicant] is today (sic) kind, generous, ethical and has a great deal of integrity, as seen through her many community involvements over the last 5 years.

### **Friend S**

[49] Friend S has known the Applicant for 20 years. She observes that the Applicant is a person of honesty and truthfulness in her interactions and that consequentially when the Applicant commenced her relationship with M, she and the Applicant grew apart resulting in isolation of the Applicant. She knows the Applicant to be someone who always treats people with dignity and kindness. In reference to the person the Applicant has become in the last several years, friend S states the following in her letter;

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Based on my knowledge of [the Applicant], I believe that her breach was uncharacteristic of her true nature, I genuinely believe that she is a person of integrity who made a mistake and is deeply remorseful of the consequences it has caused. She has grown over the last 10 years and has allowed these experiences from her past to guide her in choosing to live responsibly.

## THE ISSUE

[50] The sole issue in this Hearing is whether the Applicant is “of good character and repute and is fit to become a barrister and a solicitor of the Supreme Court” as required by s. 19(1) of the *Act*.

[51] S. 22(3) of the *Act* requires that where a credentials hearing has been ordered and heard (as in this case) this Panel must: grant the application (in this case, the application for temporary articles); grant it subject to appropriate conditions or limitations; or reject it.

## THE LAW

[52] A concise summary of the law governing this credentials Hearing appears in the decision of *Law Society of BC v. Applicant 3*, a decision of this tribunal.<sup>5</sup> At paras. 14 to 18 of that decision, the panel wrote:

[14] The Applicant has the burden of proving that he meets the character and fitness test on a balance of probabilities (Rule 2-67). In *Re. McOuat*, June 12, 1992 Panel Decision at p. 11 (affirmed by the Court of Appeal in *McOuat v. Law Society of BC* (1993), [1993 CanLII 1794 \(BC CA\)](#), 78 BCLR (2d) 106), the panel commented on the central question of what constitutes good character:

What constitutes good character and repute and fitness to become a barrister and a solicitor of the Supreme Court? In an article entitled, “What is ‘Good Character?’” published in *The Advocate*, (1987) v. 35, at 129, Mary Southin, QC (as she then was), considered the meaning of the terms, stating:

I think in the context “good character” means those qualities which might reasonably be considered in the eyes of reasonable men and women to be relevant to the practice of law in British Columbia at the time of application.

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<sup>5</sup> *Law Society of BC v. Applicant 3*, 2010 LSBC 23

Character within the Act comprises in my opinion at least these qualities:

1. An appreciation of the difference between right and wrong;
2. The moral fibre to do that which is right, no matter how uncomfortable the doing may be and not to do that which is wrong no matter what the consequences may be to oneself;
3. A belief that the law at least so far as it forbids things which are *malum in se* must be upheld and the courage to see that it is upheld.

What exactly “good repute” is I am not sure. However, the Shorter Oxford Dictionary defines “repute” as “the reputation of a particular person” and defines “reputation” as:

1. The common or general estimate of a person with respect to character or other qualities; the relative estimation or esteem in which a person is held.
2. The condition, quality or fact of being highly regarded or esteemed; also respectability, good repute.

In the context of s. 41 I think the question of good repute is to be answered thus: would a right-thinking member of the community consider the applicant to be of good repute? ...

If that right-thinking citizen would say, knowing as much about an applicant as the Benchers do, “I don’t think much of a fellow like that. I don’t think I would want him for my lawyer”, then I think the Benchers ought not to call him or her.

[15] Mary Southin’s article has been quoted with approval in several other British Columbia Law Society Credentials decisions, such as *Re. Smart* (December 19, 1996 Panel Decision at p.3).

[16] The test of good character and repute has both subjective and objective aspects. This was explained by the hearing panel in *McOuat, supra*, at p. 12:

The word “character” in the expression “good character and repute” has been treated in many decided cases, especially the older ones, as importing the character or “characterization” given the applicant by other persons, what may be called a subjective sense. An example

is *Leader v. Yell* (1864), 16 CB (NS) 584; 143 ER 1256 where Erle CJ said

Good or bad character does not depend on what a man knows of himself; it means his general reputation in the estimation of his neighbours.

In the same case Byles J said

... character does not mean a man's real conduct and mode of life, but it means his reputation among his neighbours.

In more recent cases the words "good character" seem to be applied in the context of "strength of character" or "character defect". Used in that way the expression "good character" refers to what a man's personality, principles and beliefs actually are as opposed to the way the community regards him, whether or not he has earned the good or bad regard in which he is held. This sense may be considered objective.

One tends to naturally consider it more important that a lawyer be a good person and have and act upon correct principles as opposed to being regarded, rightly or wrongly, by others as seeming to be good or bad. But we think we are required to consider the regard in which the candidate is held by others as well as the qualities of character Mr. McOuat possesses, that is both the subjective and objective senses of "good character".

[17] In this same case, the panel explained the fitness test at pp. 17-18:

The demands placed upon a lawyer by the calling of barrister and solicitor are numerous and weighty and "fitness" implies possession of those qualities of character to deal with the demands properly. The qualities cannot be exhaustively listed but among them must be found a commitment to speak the truth no matter the personal cost, resolve to place the client's interest first and to never expose the client to risk of avoidable loss and trustworthiness in handling the money of a client.

The canons [sic] of legal ethics [*Professional Conduct Handbook*, chapter 1] adopted by the Law Society provide assistance, when they assert:

A lawyer is a minister of justice, an officer of the Courts, a client's advocate, and a member of an ancient, honourable and learned profession.

In these several capacities it is a lawyer's duty to promote the interests of the State, serve the cause of justice, maintain the authority and dignity of the Courts, be faithful to clients, be candid and courteous in relations with other lawyers and demonstrate personal integrity.

[18] There is overlap between the character test and the fitness test. If this applicant fails the character test, he will automatically fail the fitness test (*McOuat, supra*).

[53] Our objective is to assess the Applicant's fitness to be admitted to the legal profession as at the date of the hearing.<sup>6</sup> Were it otherwise, past mistakes would never be forgiven. The Panel must determine whether the Applicant has shown that she is now of good character and repute such that it is more probable than not that the Applicant, if admitted as a lawyer, will uphold the high standards of trustworthiness, honesty and integrity required of all lawyers. This standard is required to ensure that public confidence in the legal profession is retained.<sup>7</sup>

## ANALYSIS

[54] The Applicant submits that she is now of good character and entitled to be admitted as a barrister and solicitor. Counsel for the Law Society took no position on the issue of the Applicant's character and fitness to practice law in British Columbia.

[55] As described in the preceding section of this decision, the Applicant must demonstrate to the Panel that she is currently of good character and repute. The Applicant admits that if this application had been heard in 2012 or in the few years thereafter, she could not have demonstrated that she was of good character so as to entitle her to admission to the profession of law. She formed a close association with a violent criminal and, by her own admission, knowingly breached a court order because she was more concerned with her relationship with M than with compliance with the laws of the land. Further, the Applicant refused to assist the police in their investigation of M thereby frustrating the investigation and prosecution of the most serious charge in the Criminal Code, the charge of first-degree murder. Had the Applicant chosen to assist the police it is possible that M would have been convicted of first-degree murder rather than manslaughter. These actions, taken over the course of several years, are completely antithetical to the duties owed by lawyers to the public and to the legal system.

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<sup>6</sup> *Applicant 3*, fn 5, at para. 19 (second)

<sup>7</sup> *Applicant 3*, fn 5, at para. 19 (first)



[56] That said, the Applicant's fitness for admission to the legal profession is to be adjudged as at the date of the credentials hearing and not at the date she engaged in illegal and dangerous behavior. The Applicant testified that she is now a different person than she was in the period of 2012 through 2014 before M was incarcerated. She testified that she now recognizes the impropriety and illegality of the behaviors she engaged in during this period. She noted that she has not engaged in any criminal behavior other than the breach of the no-contact order in 2013 and that she has not associated with M or anyone else involved in criminal behavior since she cut off contact with M in 2021.

[57] The Applicant testified that she has reconciled with her family and has maintained a strong and continuing relationship with both her parents. She further testified that she has identified the psychological reasons that she engaged in the relationship with M and stayed so loyal to him for so many years. She believes that she has matured and that if afforded the privilege of practicing law she will be able to use her experiences with M and with the criminal justice system to assist and represent those charged with criminal offences.

[58] Had the Panel only heard from the Applicant the Panel would have been hard pressed to reconcile the illegal and otherwise dishonest behaviors of the Applicant in 2012 through 2014 with the person she now says that she has become. This is particularly the case because she continued contact with M for many years after he was incarcerated in 2014. The Panel acknowledges that the Applicant has been entirely truthful and forthcoming about her past, commencing with the disclosure given in the application for temporary articles and in her disclosures to the Firm, lawyer A and, ultimately, this Panel. The Panel concludes that the Applicant has fairly, fully and truthfully disclosed the salient details of her past without attempting to minimize or excuse her past behavior. This weighs in her favour when considering whether she is now of good character and repute.

[59] The Panel attaches importance to the evidence given by all the witnesses, particularly lawyers A, K and R. These professionals have had the opportunity to observe the Applicant at close quarters in a law firm environment and they are uniformly of the view that she is not just hardworking and intelligent but ethical in her dealings with them and with clients. They all observed that the Applicant does not now evade responsibility for her errors and she understands not only the difference between right and wrong but also ethical obligations imposed on lawyers.

[60] The evidence of Friends I, T and S is also instructive. These people have known the Applicant since high school and they have all noted that she is a changed person since M went to prison. The Applicant is now back in their lives and they consider that she is a changed person from the young person they knew in 2012.

[61] The Panel finds that the Applicant has rehabilitated herself, she “appreciates the difference between right and wrong” and has “the moral fibre to do that which is right... no matter what the consequences may be to oneself.” And she has “a belief that the law ...must be upheld and the courage to see that it is upheld”.

[62] The Panel therefore concludes that the Applicant is currently of good character and repute and fit to become a barrister and solicitor of the Supreme Court. The application for temporary articles is allowed.

### **APPLICATION TO PROHIBIT DISCLOSURE OF EVIDENCE**

[63] The Applicant seeks an order pursuant to Rule 5-8(2)(a) of the Rules to prohibit disclosure to the public of the joint book of documents filed in the Hearing and the transcript of the proceedings (collectively, the “Evidence”). The Applicant submits that this order is required to protect the safety and privacy of the Applicant and the witnesses who testified in the Hearing.

[64] The Law Society agrees that the Panel should make an order prohibiting public disclosure of the Evidence in the form discussed in paragraph 69 of this decision. Rule 5-8(2) states:

(2) On application by anyone, or on its own motion, the panel or review board may make the following orders to protect the interests of any person:

- (a) an order that specific information not be disclosed despite Rule 5-9 (2) *[Transcript and exhibits]*;
- (b) any other order regarding the conduct of the hearing necessary for the implementation of an order under paragraph (a).

[65] Rule 5-9(2) and (3) states:

(2) Subject to the Act, these rules and the *Freedom of Information and Protection of Privacy Act*, any person may obtain, at the person’s own expense, a copy of

- (a) a transcript of any part of the hearing that is open to the public, or
- (b) an exhibit entered in evidence when a hearing is open to the public.

(3) This rule must not be interpreted to permit the disclosure of any information, files or records that are confidential or subject to a solicitor client privilege.

[66] The Parties jointly submit that the Panel may make an order pursuant to Rule 5-8(2)(a) if the Applicant is able to establish that the test for non-disclosure articulated by the Supreme Court of Canada in the case of *Sherman Estate v Donovan*<sup>8</sup>. (the “Donovan Test”) is met.

[67] The Donovan Test was established by the Supreme Court of Canada to protect privacy and ensure safety of participants in a hearing while ensuring minimal interference with the important principle that courts (and administrative tribunals) remain open to the public.

[68] The Donovan Test, as applied to LSBC Tribunal hearings, provides that an applicant is entitled to an order of non-disclosure of evidence if the applicant establishes that:

- (a) the Tribunal’s openness poses a serious risk to an important public interest;
- (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonable alternative measures will not prevent this risk; and
- (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.<sup>9</sup>

[69] The Applicant submits that disclosure of the Evidence might reasonably be expected to jeopardize the Applicant’s chances of success in the legal profession if she is granted temporary articles. The Law Society makes a broader submission; that disclosure of the Evidence could cause harm to the Applicant and her supporting witnesses and that an order for non-disclosure of the Evidence is justified in the circumstances of this proceeding. The Law Society submits (and the Applicant concurs) that the Panel should make the following order pursuant to Rule 5-8(2):

- (a) The Transcript shall not be disclosed to any person other than the parties to this Hearing, subject to any further order of the Tribunal in accordance with subparagraph (c).
- (b) Exhibit 2 shall not be disclosed to any person other than the parties to this Hearing, subject to any further order of the Tribunal in accordance with subparagraph (c).

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<sup>8</sup> *Sherman Estate v Donovan*, 2021 SCC 25

<sup>9</sup> *Law Society of BC v. Applicant 18*, 2024 LSBC 12 at para 62

- (c) Should any person seek disclosure of the Transcript or Exhibit 2, they must apply in writing to the Tribunal. Any application made shall be determined by the Tribunal in accordance with the Tribunal's practice and procedure, which shall include reasonable notice and opportunity to respond given to the Law Society and Applicant 20.
- (d) Nothing in this order shall prevent the Panel from referring, in general terms or summary form, to evidence reflected in the Transcript and Exhibit 2 in their published written reasons, so long as the evidence is referenced in a manner that protects the anonymity of Applicant 20 as required by Rule 2-104.

[70] The Panel agrees with the Law Society that disclosure of the Evidence presents a risk of harm to the Applicant and her supporting witnesses. The Evidence demonstrates that M and his associates are dangerous and violent criminals and that it is reasonable to assume that they could pose a risk of harm to the Applicant and her supporting witnesses. The Panel also finds that disclosure of the Evidence should be restricted on the basis of its obligation to maintain the anonymity of the Applicant under the Rules. Rule 2-104 prohibits the publication of information in a decision that would identify the Applicant. Any information contained in the Transcript or Exhibit 2 that could be used to identify the Applicant must accordingly also be protected from disclosure.

[71] The Panel concludes that disclosure of the Evidence poses a serious risk to an important public interest, the physical safety of the Applicant and her supporting witnesses. The Panel further concludes that the benefits of the order for non-disclosure outweigh the negative effects of the order as members of the public must apply to the Tribunal for an order to obtain access to the Transcript or Exhibit 2 and that application could be denied.

[72] The Panel therefore makes the order set out in subparagraphs (a) through (d) of paragraph 69 of this decision.