

2024 LSBC 45
Hearing File No.: HE20230025
Decision Issued: November 27, 2024
Citation Issued: December 12, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
REVIEW BOARD

BETWEEN:

HONG GUO

RESPONDENT

AND:

THE LAW SOCIETY OF BRITISH COLUMBIA

**DECISION OF THE MOTIONS ADJUDICATOR
ON AN APPLICATION TO DISMISS THE REVIEW PROCEEDING**

Hearing date: July 24, 2024

Motions Adjudicator: Gurminder Sandhu, KC

Discipline Counsel: J. Kenneth McEwan, KC
Saheli Sodhi

No one appearing for the Respondent

INTRODUCTION

[1] The Law Society of British Columbia (“Law Society”) seeks an order under Rule 5-28(3) of the Law Society Rules (“Rule(s)”) to dismiss the review proceeding initiated by the Respondent, Hong Guo, by Notice of Review dated December 15, 2023.

[2] On December 12, 2018, the citation underlying this review was issued, alleging that the Respondent engaged in professional misconduct by acting in a conflict of interest as

between her clients, acting in a conflict of interest as between herself and her clients, failing to provide the quality of service expected of a competent lawyer, and failing to cooperate fully with the Law Society's investigation into her conduct.

[3] The facts and determination hearing proceeded over 12 days between December 2019 and March 2021.

[4] On August 24, 2022, the hearing panel issued its facts and determination decision (*Law Society of BC v. Guo*, 2022 LSBC 30), making findings of professional misconduct against the Respondent in respect of all but one sub-allegation.

[5] The disciplinary action hearing proceeded on March 16 to 17, 2023.

[6] On November 17, 2023, the hearing panel issued its disciplinary action decision, pursuant to which the Respondent was declared ungovernable and disbarred (*Law Society of BC v. Guo*, 2023 LSBC 46). The Respondent was ordered to pay the costs of the hearing, and the parties had 30 days to make submissions on costs to the hearing panel if they were unable to come to an agreement.¹

[7] On December 15, 2023, the Respondent filed the Notice of Review, seeking to set aside the facts and determination decision, or alternatively, to substitute the hearing panel's disbarment decision with a decision imposing a fine, and awarding the Respondent the costs of the hearings and the review.

[8] Counsel for the Law Society stated in its Notice of Motion at para. 7, that although the precise scope of the Respondent's grounds for review are not clear, the Notice of Review describes two issues:

- (a) [i]n respect of the facts and determination decision, whether the hearing panel misapprehended evidence or failed to give weight to factors supporting the conclusion that the [R]espondent's conduct did not amount to professional misconduct; and
- (b) [i]n respect of the disciplinary action decision, whether the hearing panel misapprehended evidence or failed to give weight to factors which supported that a fine was an appropriate disciplinary action, including letters of reference and support, the hearing panel's findings, and evidence supporting the application of *Charter* values.

¹ *Law Society of BC v. Guo*, [2023 LSBC 46](#) at para. 245.

[9] According to counsel for the Law Society, under Rule 5-24.1(1.1), the party initiating the review must file the record for the review within 60 days of filing the notice of review.

[10] Counsel for the Law Society argued that the Respondent did not file the record for the review by February 13, 2024, or at all. It is further argued that the Respondent has likewise neither sought nor been granted an extension of time to perfect the review proceeding.

[11] On February 23, 2024, the hearing panel in a separate disciplinary proceeding, declared Ms. Guo ungovernable and disbarred.² Neither Ms. Guo nor the Law Society sought a review of that decision.

EFFORTS TO COMMUNICATE WITH THE RESPONDENT

[12] Apart from filing the Notice of Review on December 15, 2023, the Respondent has taken no steps to advance this review, has neither sought nor been granted an extension of time to file the review record, and has provided no explanation for why she has not advanced the review.

[13] The Respondent was reminded of the existence of the review proceeding and/or her obligation to take steps to advance the review on a number of occasions:

- (a) On December 19, 2023, when Alison Kirby of the Law Society Tribunal directed the Respondent to refer to the relevant rule and practice direction.
- (b) On February 20 and 26, 2024, when counsel for the Law Society inquired whether the review record had been filed, and when Michelle Robertson of the Law Society Tribunal confirmed that the record had not been filed nor had an application for an extension of time to do so been received.
- (c) On April 5, 2024, when counsel for the Law Society delivered to the hearing panel and to the Respondent supplementary submissions on the costs decision. In those submissions, the Law Society noted that the Respondent had not taken any steps to advance the review or sought an extension of time, and noted that the Law Society could apply to dismiss the review after six months of inactivity.

² *Law Society of BC v. Guo*, [2024 LSBC 11](#).

- (d) On April 9, 2024, when counsel for the Law Society wrote to the Respondent about, *inter alia*, the review proceeding and the Respondent's failure to take steps to perfect the review.
- (e) On May 27, 2024, when counsel for the Law Society wrote to the Respondent about the rescission of other citations issued against the Respondent. In that letter, the Law Society confirmed that this review proceeding remained outstanding, that the Respondent had taken no steps to advance the review, and that she was out of time to do so absent an extension.
- (f) Most recently, on July 8, 2024, when counsel for the Law Society again inquired whether the review record had been filed, and when the Law Society Tribunal confirmed that the record had not been filed nor had an application for an extension of time to do so been received.

[14] Despite efforts to communicate with the Respondent on this and other disciplinary matters, counsel for the Law Society have not heard from the Respondent since February 6, 2024. The Respondent has recently failed to attend three scheduled hearings before the Law Society Tribunal in January 2024, May 9, 2024, and June 10, 2024.

[15] On July 25, 2024, the Respondent's sister – M Guo wrote to counsel for the Law Society advising that the Respondent is mentally ill and was mentally incapable of making any response to the application. M Guo further stated that she was “not going to pass any of your orders to [the Respondent]” and “[t]he best thing for her is to live a quiet life to recover”.

[16] The Respondent has raised concerns about her mental health in prior exchanges with the Law Society and before other hearing panels. The Law Society included these communications and documents in evidence. However, counsel for the Law Society states that the Law Society has no direct knowledge of or insight into the Respondent's mental health. The Respondent has not provided medical evidence demonstrating an inability to participate in this process.

[17] As it stands, it is counsel for the Law Society's position that there is no reason to believe the Respondent intends to proceed with this review, and furthermore, the Respondent has provided no explanation from medical experts as to her failure to take any steps to perfect the review in nearly seven months.

ANALYSIS

[18] Where a review proceeding has been initiated but no steps have been taken for six months or more, Rule 5-28(1) permits a party to apply to the Tribunal for an order dismissing the review proceeding.

[19] A motions adjudicator may dismiss the review under Rule 5-28(3) if it is in the public interest and not unfair to the parties.

[20] As noted in *Law Society of BC v. Gurney*, 2019 LSBC 23, there is a public interest in the timely resolution of disciplinary proceedings. The Rules and Practice Directions create a temporal structure to ensure the public interest is served by the swift conduct of the disciplinary proceedings and its corresponding review.

[21] More than six months have passed since the section 47 review was filed. In that time:

- (a) the Respondent has taken no steps to advance the review, nor sought or obtained consent or an order for an extension of time to take such steps;
- (b) the Respondent has not responded to any communications from the Law Society regarding the review;
- (c) the Respondent has been put on notice of the Law Society's intention to apply to dismiss the review;
- (d) since February 6, 2024, the Respondent has not responded to any communications from counsel for the Law Society on this or other disciplinary matters;
- (e) the Respondent has failed to attend discipline hearings scheduled in late January 2024 and on May 9 and June 10, 2024;
- (f) the Respondent has not retained counsel; and
- (g) the Respondent has not provided any medical expert evidence to support any claim of disability.

[22] The Respondent has been provided ample opportunity to proceed with her review, but has not done so. Her obligation to perfect the review and her failure to do so have been repeatedly brought to her attention. The Respondent has provided no explanation for her inaction and there is no indication that she intends to proceed with the review.

[23] In the circumstances, it is in the public interest to dismiss the review under Rule 5-28(3), and no unfairness to the Respondent arises from the dismissal.

ORDER

[24] It is ordered that pursuant to Rule 5-28(3) of the Rules that the review proceeding initiated by the Respondent, Hong Guo, by Notice of Review dated December 15, 2023 is hereby dismissed.

[25] Counsel for the Law Society has not sought costs of the motion, and no costs are ordered.