

Rogerson struck off - a long winding road

Lawyers for Andrew Gordon Rogerson have lodged an application for special leave to appeal to the High Court against an order of the Full Court of the Supreme Court striking Rogerson off the Northern Territory Roll of Legal Practitioners.

The Full Court, comprising Chief Justice Martin, and Justices Gallop and Mildren, ordered on 16 August this year, that Rogerson be removed from the roll on the ground that he "is no longer a fit and proper person" to practice as a legal practitioner. The Law Society relied on the findings of Justice Angel in *Tchia and Others v Rogerson* (1992) 111 FLR 1.

In that case Justice Angel found Rogerson guilty of contempt of court after Rogerson claimed he had not been served with a Supreme Court injunction even though his secretary had handed the documents to Rogerson.

Rogerson denied on oath that he had any knowledge of the injunction. This was contrary to findings that Rogerson had deliberately attempted to avoid service, by taking such actions as locking his office during business hours.

Justice Angel said: "I regret to say that, in the present case, I think the defendant has deliberately lied and consciously sought to mislead the court."

The Council of the Law Society cancelled Rogerson's practising certificate on 12 October, 1992 and Rogerson left the Northern Territory.

Rogerson appealed Justice Angel's decision to the Court of Appeal. In March 1995 the Court of Appeal set aside the \$5000 fine imposed by Justice Angel, but the findings of fact relied upon by the Law Society were undisturbed.

An application by Rogerson for special leave to appeal to the High Court was refused in June 1995.

Between late 1995 and April 1997 the Law Society made attempts to locate Rogerson without success.

As soon as Rogerson applied to the Registrar of the Supreme Court of the Northern Territory in late April, 1997, for an unqualified certificate to the effect that his name was still on the roll, the Law Society moved quickly and filed an originating motion on 6 May, 1997.

The Council of the Law Society sought advice on the prospect of success of an application to have Rogerson struck off.

The advice was received in December 1997.

At its next meeting on 29 January, 1998, Council resolved to proceed with an application to have Rogerson struck off.

The matter came before the court on 4 December of 1998 and was adjourned to allow Rogerson to supply material by 1 March 1999. The material was not supplied.

On 21 April this year the Registrar listed the matter for hearing on 16 August. The order that Rogerson be struck off the roll was made after an unsuccessful attempt by Rogerson's lawyers to gain a further adjournment.

On 13 September, Rogerson applied for special leave to appeal to the High Court against the decision of the Chief Justice to refuse to disqualify himself from sitting to hear the trial on 4 December 1998, and the entire judgement of the Full Court given on 16 August.

A complaint by Rogerson to the UN Human Rights Committee in April 1996 is still on foot.

Rogerson is the fifth legal practitioner to be struck off the Northern Territory roll since 1961.

Business Names Act

Northern Territory business operators will no longer be unduly restricted in obtaining a business name of their choice with the recent change to the prohibited words directive issued pursuant to Section 9 of the *Business Names Act*.

The change brings the Northern Territory into line with policies adopted by other jurisdictions in respect of business names, and the Commonwealth in respect of company names, by permitting the registration of a name provided it is not identical, subject to specific qualifications, to an existing company name.

The prohibition remains on registering a business name that is likely to be confused or mistaken for an existing Northern Territory business name, misleading or offensive names, and various categories of words that may suggest a connection with governments or other defined entities.

A copy of the new directive can be obtained from the Deputy Registrar of Business names, Mr Robert Chamberlain on 8999 5021.

Mandatory Sentencing: Senate Inquiry

A Senate Inquiry into mandatory sentencing for juveniles has been established following Greens Senator Brown's introduction of the Human Rights (Mandatory Sentencing of Juvenile Offenders) private Senators Bill.

The terms of reference for the Senate Inquiry as follows:

That the following matters, arising from the introduction of the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, be referred to the Legal and Constitutional References Committee for reporting on or before the first day of sitting in 2000.

(a) *the legal, social and other impacts of mandatory sentencing.*

(b) *Australia's international human rights obligations in regard to mandatory sentencing laws in Australia.*

(c) *the implications of mandatory sentencing for particular groups, including Australia's Indigenous people and people with disabilities.*

(d) *the constitutional power of the Commonwealth Parliament to legislate with respect to existing laws affecting mandatory sentencing.*

Mandatory Sentencing Research Workshop

The Northern Territory University School of Law is hosting a Mandatory Sentencing Research Workshop on Thursday October 21, from 1pm.

Invitations to the workshop are extended to a broad range of interested parties from the Northern Territory and elsewhere.

It is hoped the outcome of the workshop may be the establishment of a working group to convene an international conference on aspects of mandatory sentencing to be held in Darwin early in the New Year.

Registration forms are available at the Law Society or at the NTU School of Law. There is no charge for attendance.