



Canadian
Judicial Council
Conseil canadien
de la magistrature

Personal and Confidential

CJC File: 12-0365

Ottawa, Ontario K1A 0W8

26 November 2012

Ms Kari D. Simpson
PO Box 12014
Murrayville Square
Langley, BC
V3A 9J5

By e-mail: karisimpson@telus.net

Dear Ms Simpson:

I wish to acknowledge receipt of your email message of 27 October 2012 addressed to me, titled "Request for Joint Petition to Justice Minister."

Before addressing some of the issues raised in that communication, I would clarify two important points.

First, you say that you wrote to the Council, by "both email and facsimile," on 24 August 2012. A search of records in the Council Office reveals that the information you claim to have sent to the Council was never received, either by email or by fax. Nothing was received by regular mail or courier either. I also note your hand written comment, in your correspondence of 6 October 2012, which reads "Fax conf. Attached." No fax confirmation note of any kind is in fact appended to the documents included in your correspondence.

Second, your letter of 6 October 2012, addressed to the Chairperson of the Council, the Right Honourable Beverley McLachlin, was referred to me by Chief Justice McLachlin's Executive Legal Officer for response. This is in keeping with general practice: Chief Justice McLachlin does not participate in any way in the Council's review of judicial conduct matters. This is because judicial conduct matters could, in some instances, be the subject of litigation and could, by way of appeal, be considered by the Supreme Court of Canada. Your letter of 6 October 2012 (appending a copy of your alleged communication of 24 August 2012) constitutes the first communication received from you by the Council.

I will now turn to some of the issues you have raised.

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Your correspondence dated 24 August 2012

As noted above, your letter of 24 August was only received at the Council Office on 18 October 2012, as an appendix to your letter to Chief Justice McLachlin (which will be discussed below).

That one-page letter asks three questions in respect of the Honourable M. Marvyn Koenigsberg of the Supreme Court of British Columbia, specifically whether the Canadian Judicial Council:

1. Received any form of complaint against her;
2. Investigated her;
3. Requested or directed anyone to review matters involving her.

I will address your questions as follows. As a general matter of policy, Council does not make public the fact that a complaint is made against a judge, or the nature of allegations made against judges. Many complaints received by Council are simply unfounded. Some allegations are frivolous or made for an improper purpose. Some allegations complaints are of course meritorious and appropriate steps are taken by Council in such cases. However, the early stages of review of allegations against judges are characterized by an informal and remedial procedure. When a matter is considered by Council, the complainant and the judge concerned are informed, in writing, of the disposition of the matter. As such, it would not be in the public interest for Council to publicize allegations that are part of this early screening procedure.

That said, where a matter giving rise to a complaint is of public notoriety, Council generally makes public the fact that a complaint is made, as well as information regarding the disposition of that complaint. This is done by press release issued on the Council website. Where a matter is referred to an Inquiry Committee, it also becomes public and all relevant information is made available on the Council website.

Specifically in respect of Justice Koenigsberg, I can say the following. There has been no inquiry committee constituted under section 63 of the *Judges Act* to investigate the judge, nor has there been any complaint made public about the judge. As to whether the Council “requested or directed” anyone to review the judge’s conduct, I would advise that, pursuant to the provisions of the *Judges Act*, any matter involving the conduct of a federally appointed judge is normally a matter for the Canadian Judicial Council to consider.

Your correspondence of 6 October 2012 to Chief Justice McLachlin

Your letter of 6 October asks Chief Justice McLachlin to respond to the three questions referred above. I have addressed that issue.

You also ask a number of questions relating to the long court matter that concerned you (*WIC Radio Ltd. v. Simpson*). The issues you raised are accompanied by bald allegations of fraud, defamation, and “unlawful antics” on the part of members of the judiciary who did not rule in your favour in the various court proceedings in the matter. I note that the court matter that concerns you was heard by various levels of courts, including the Supreme Court of Canada. I must emphasize the Council is not a court and does not have the authority to review evidence or the correctness of court decisions.

I also note that some of your accompanying materials contain broad statements of “judicial corruption” and “unlawful conduct by judges.” For example, you say that “Clearly Justice Koenigsberg, Chief Justice Beverley McLachlin ... are liars and judicial cheats...” These grave allegations appear to me to have no foundation whatsoever.

The above raises serious doubt about the true purpose of your correspondence.

Your correspondence of 26 October 2012 to Norman Sabourin

Your letter to me dated 26 October states that you are making a complaint and asks that your complaint be investigated by the CJC. In the same letter you write:

It would be a fruitless campaign to convince any reasonably-minded Canadian that the allegations I assert could be heard by an unbiased investigator or panel of the CJC’s choosing-not when the CJC itself is alleged to be culpable.

Later, you write “I believe that the interests of the Canadian people are best served by a Parliamentary Inquiry into this matter” and that “the summary brief enclosed is not to be considered a complaint.” These successive contradictions again raise real doubt about the true purpose or intent of your correspondence.

My duties as Executive Director of the Council include responsibility “for all administrative aspects related to the judicial complaints process.” One of my key duties under the *Complaints Procedures* of Council is to decide whether or not to open a file when a complaint or allegation against a federally appointed judge is received at the Council Office. I refer you to section 2.2 of the *Procedures*:

The Executive Director shall open a file when a complaint about a named, federally appointed judge made in writing is received in the Council office from any source, including from a member of the Council who is of the view that the conduct of a judge may require the attention of the Council. The Executive Director shall not open a file for complaints which, although naming one or more federally appointed judges, are clearly irrational or an obvious abuse of the complaints process.

Having considered all available information, I come to the view that your correspondence constitutes an obvious abuse of the complaint process and therefore falls within the scope of that provision. Accordingly, I will not be opening a complaint file.

I have taken good note of the fact that you have written to the Prime Minister, the Minister of Justice and others to ask for a Parliamentary inquiry into the conduct of the judiciary generally. I also note, from publicly available information, that you have written repeatedly to elected officials in recent years, including attorneys general, to ask them to direct the Council to conduct an inquiry into the conduct of Justice Koenigsberg. Should the Canadian Judicial Council receive a request from an attorney general under s. 63(1) of the *Judges Act*, you can be assured that the Council will immediately commence the appropriate inquiry. At this time, I can confirm to you that no Attorney General has presented such a request to the CJC.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'NSabourin', with a stylized flourish at the end.

Norman Sabourin
Executive Director and Senior General Counsel