



29 July 2010

PRESS SUMMARY

Reference to the Judicial Committee of the Privy Council pursuant to s 49J Cayman Islands
(Constitution) Order 1972
Re Madam Justice Levers

MEMBERS OF THE BOARD OF THE JUDICIAL COMMITTEE OF THE PRIVY

COUNCIL: Lord Phillips, Lord Saville, Lady Hale, Lord Mance, Lord Judge, Lord Kerr and Dame Janet Smith

BACKGROUND TO THE APPEAL

The Board of the Judicial Committee of the Privy Council (‘the Board’) was asked to advise Her Majesty whether Madam Justice Levers, a judge of the Grand Court of the Cayman Islands, should be removed from office pursuant to s 49J(2) Cayman Islands (Constitution) Order 1972 by reason of her ‘inability to discharge the functions of [her] office... or for misbehaviour’.

The Chief Justice, after initially attempting to resolve concerns brought to his attention about Madam Justice Levers’ conduct of certain criminal and family proceedings direct with her, referred these and subsequent concerns to the Governor of the Cayman Islands. On 25 September 2008 the Governor appointed an independent tribunal (‘the Tribunal’) to inquire into the question of removing her from office. The Tribunal investigated the matters complained of. On 12 August 2009 it delivered a report to the Governor, expressing the view in strong terms that Madam Justice Levers had been guilty of misbehaviour that justified her removal from office and advising the Governor to request that the question of removal be referred by Her Majesty to the Judicial Committee of the Privy Council. The Governor duly made the reference.

Before the Board, Madam Justice Levers challenged the Tribunal’s conclusions and submitted that the procedure followed in its appointment infringed principles of natural justice.

ADVICE

The Board advised that Madam Justice Levers should be removed from office by reason of her misbehaviour.

REASONS FOR THE ADVICE

- Madam Justice Levers complained that the Chief Justice had been in breach of the requirements of natural justice in referring some complaints to the Governor without first giving her a chance to respond, and in encouraging the Governor to appoint the Tribunal. The Board held that this did not invalidate the Tribunal’s appointment. It was the conduct of the Governor which was relevant to this issue. In any event the Board acquitted the Chief Justice of unfairness [paragraphs 31-32]
- The Tribunal was entitled to decline to entertain this attack on its jurisdiction [37]. However, the castigation of the conduct of Madam Justice Levers in extreme terms in the executive summary

of its Report was not appropriate as it might irreparably have damaged her reputation before her conduct had been appraised by the Board [46].

- The conduct of Madam Justice Levers alleged to constitute misbehaviour justifying removal was partly in court and partly out of court. The Board took the same course as the Tribunal in considering the incidents complained of: first her conduct of proceedings, second her relationship with the Chief Justice and attitude to her fellow judges and finally the implications of her conduct viewed as a whole against the background of the impressive evidence of her good character [51-52]:
 - (i) The Board found that the comments critical of her fellow judges made on two occasions in court constituted serious misconduct in one case and were inappropriate in the other [55-57]
 - (ii) Madam Justice Lever's interventions in the sentencing hearing in *R v Bryan* flagrantly violated the Bangalore Principles of Judicial Conduct, showed bias and contempt for Jamaicans and amounted to misbehaviour that would of itself have justified her removal from office [63-64]. She was guilty of serious misconduct in attempting to procure the acquittal of a defendant by improper means in *R v Irvahyn Bush* [67] and in making a recklessly inaccurate complaint against counsel in *R v Parchment* [73]
 - (iii) Among the family cases referred to the Tribunal, Madam Justice Levers was guilty of serious misconduct on three occasions. She made offensive and racist comments to a Canadian mother in the *C* litigation [83], demonstrated a similar attitude in suggesting that a Filipino mother go back to the Philippines [91] and made a remark to SE which would be perceived as outrageously racist and would be wholly unacceptable from the bench anywhere in the world [93].
 - (iv) The evidence from a number of witnesses showed that after May 2007 Madam Justice Levers had formed a powerful dislike of the Chief Justice and certain of her fellow judges. She had disparaged them in private conversations with others involved in court administration, which crossed the line from indiscretion to become misconduct although not misbehaviour justifying removal from office on its own [121, 126].
- Looking at the overall picture, it was clear that Madam Justice Levers showed strong disapproval of those whom she regarded as failing to live up to her high standards, which led her to make repeated comments in court which ranged from the inappropriate to the outrageous about those who appeared before her, and to her own colleagues [128]. Her reaction to the Chief Justice bringing to her attention conduct which already justified her removal from office was that she was being unfairly victimised and rather than mending her ways, this resentment led to further misconduct [131-132]. Accordingly, the Board was satisfied that Madam Justice Levers was not fit to continue to serve as a judge of the Grand Court and would advise Her Majesty that she should be removed from that office on the ground of misbehaviour [133].

NOTE

This summary is provided to assist in understanding the Committee's advice. It does not form part of the reasons for the advice. The full advice of the Committee is the only authoritative document.

Advices are public documents and are available at: www.jcpc.gov.uk/decided-cases/index.html