

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE

ANGUILLA

Claim Number: AXAHCV2014/0022

In the matter of section 65 of the Eastern Caribbean Supreme Court (Anguilla Act, RSA c. E15

And

In the matter of the Application of **TESSA OUDKERK**, the holder of Certificate of Standing, awarded by the General Council of the Bar of England and Wales, and a Barrister at Law admitted to the Bar of England and Wales, to be admitted as a Barrister of the Eastern Caribbean Supreme Court (Anguilla) Circuit

Before:

Justice Cheryl Mathurin

Appearances:

Mr. Patrick Patterson

2014: March 24th

RULING

[1] **MATHURIN, J;** This is an application brought by way of Fixed Date Claim Form seeking the admission of Tessa Oudkerk to practice as a Barrister of the Eastern Caribbean Supreme Court in Anguilla.

[2] The Applicant holds a Graduate Diploma from Nottingham Trent University and a Postgraduate Diploma in Bar Professional Studies. She was also admitted as a member of the Honorable Society of Inner Temple and called to the Bar on the 22nd November 2012. She has also filed in support of her application a Certificate of Good Standing from the Honourable Society of Inner Temple which states that in the absence of any pupillage she is an unregistered Barrister at the Bar of England and Wales. I note that the Certificate was issued on the 15th February 2013 and that it states that it is only valid for three months. This Fixed Date Claim having been filed on the 5th March 2014, I note therefore that there is not a valid Certificate of Good Standing before this Court.

[3] Apart from the requirement under section 65 of the Eastern Caribbean Supreme Court (Anguilla) Act that a receipt of a requisite fee for admission and the certificate of call to the English Bar be deposited with the Registrar for inspection by the Court, the section also requires that;

“in respect of a person applying to be admitted as a barrister and who was called to the English Bar after the 1st January 1966, he shall –

(d) have either –

(i) obtained a certificate issued by the Council of Legal Education of London, England, that he has satisfactorily completed a Practical Training Course provided by the Council and approved by the Chief Justice for the purposes of this section, or

(ii) obtained a certificate signed by his pupil master and countersigned by his Inn of Court that he has either before or after Call or partly before and partly after Call read as a pupil for an aggregate period of not less than 6 months in the chambers of one or more barristers of not less than 5 years standing practicing in England or Wales or in the chambers on one or more barristers of not less than 10 years standing practicing in Anguilla;

but in a special case the judge may exempt any such person from depositing, or producing any of the certificates, if otherwise satisfied that he has the qualifications required.”

- [4] The Applicant has stated in her Affidavit in support that she has undergone a two month period of pupillage with one Mr. Icah Peart QC of Garden Chambers in the UK and exhibits a letter in which he states that he was "*happy to certify that Tessa Oudkerk successfully completed the equivalent of at least two months pupillage with me before her call to the English Bar..*".
- The letter also reads that Mr. Peart QC took silk in 2002 and is a Bencher at the Middle Temple indicating more than 5 years standing practicing as a Barrister in the UK as required by s.s (ii).
- Regrettably in my view, the letter is not an actual certificate and does not meet any evidential requirements as to authenticity of author or otherwise.
- [5] Mr. Patrick Patterson has also filed an affidavit in support of the application in which he establishes his vintage as practicing Barrister in Anguilla for more than 23 years and states that the Applicant has been undergoing pupillage under his supervision at his law firm, Caribbean Associated Attorneys from the 13th November 2013 to the date of his swearing his affidavit on the 3rd March 2014. I note here that this period is less than 4 months and in total the aggregate pupillage required of 6 months in accordance with the statute, has not been met on the evidence before me.
- [6] The Applicant has asked the Court that she be exempted from depositing or providing any of the certificates required under section 65(2)(d) as she believes that such certificates are merely formal and do not affect the substance of her application for admission.
- [7] The Court asked for submissions on the issue of whether or not it should exercise its discretion in exempting the Applicant from depositing or producing certificates certifying pupillage referred to in the Act. Counsel for the Applicant states that the Court can be properly satisfied that Ms Oudkerk has the qualifications required having completed the aggregate of 6 months pupillage and that the law permits the combining of the two periods of training to meet that aggregate time period.
- [8] Counsel also suggests that the Court take a purposive approach to the interpretation of the section and submits that the aim of the provision is "*to ensure that there is, and provide an alternative means of access to, admission where the standard form of United Kingdom pupillage under the auspices of the Inns of Court is not available or has not or cannot be undertaken, but a satisfactory*

equivalent has been undergone, and to permit a satisfactory equivalent to be achieved by combining periods of training obtained in the United Kingdom and Anguilla."

- [9] Counsel further states that the draftsman of the legislation in question could not have intended that substantial periods of pupillage in the United Kingdom which fall short of six months, count as nothing. He asks that the Court bear in mind that the objective of pupillage is for the pupil to gain practical training under the supervision of an experienced barrister. He states in his submissions that this is the special case to be considered.
- [10] I agree that the combination of pupillage in the UK and Anguilla for an aggregate of 6 months constitutes the relevant time period required as the law quite clearly states this. The evidence however does not support that this six month period has been met. Additionally I am not satisfied that the countersigning of the Applicant's Inn of Court is irrelevant. It appears that the pupillage, however undertaken, is also to be under the supervision of the Inn of Court of the Applicant in a situation where a person who was called to the English Bar wishes to be admitted as a barrister in Anguilla. Had it been otherwise, I imagine there would be an additional category of certification which did not require the countersigning of the Inn of Court. There is no evidence of any intervention by the Inn of Court to suggest pupillage was undertaken under its supervision or with its approval.
- [11] I am of the view that the intention of section 65(d)(i) and (ii) is plain and the requirements laid down are unambiguously expressed. It is unnecessary therefore for the court to resort to a purposive interpretation of the section.
- [12] I am also of the view that inasmuch as the section permits in special cases the exemption of depositing or producing the requisite certificates, it does not permit for an exemption from obtaining the certificates in accordance with the section i.e. from the Council of Legal Education of London or from the pupil master(s) countersigned by the Inn of Court of the Applicant.
- [13] In summary, I am of the view that the evidence in support of the application; i.e. the unqualified letter from Mr. Icah Peart QC, the period of less than six months, the failure to obtain a certificate

signed by pupil master(s) and countersigned by the Inn of Court, is insufficient not only to admit Ms Oudkerk to practice as a barrister in Anguilla but for the Court to exercise its discretion and as such I am constrained to dismiss the Fixed Date Claim filed herein.

Cheryl Mathurin
High Court Judge