



Personal and Confidential

CJC File: 20-0067

23 November 2020

Mr [REDACTED]

By email: [REDACTED]

Dear Mr [REDACTED]:

I am responding to your emails, the first one dated 23 May 2020, in which you make a complaint in respect of the Honourable Ward K. Branch of the Supreme Court of British Columbia.

The information you provided through downloads was difficult to obtain, when it could be, and caused delays, for which we are sorry, in the review of your complaint. You should note that large downloads from complainants are reviewed only when easily and safely accessible, and when the downloaded material and complaint fall within the mandate of Council to review.

Your complaint concerns your family law matter, and more precisely the hearing of 9 March 2020. You allege that Justice Branch was “rude, condescending, threatening of potential physical violence/harm, unprofessional, mean-spirited, bias against me as a parent & blatantly not in the best interest of my children.” In your complaint, you provide your personal analysis and opinion of what was said and body language.

It is important to note that the mandate of Council in matters of judicial conduct is to determine whether a recommendation should be made to the Minister of Justice, after a formal investigation, that a judge be removed from office by Parliament. The reasons for removal are set out in the *Judges Act* and address situations where a judge has become incapacitated or disabled from performing the duties of a judge. This can be as a result of age or infirmity, misconduct, a failure to execute the duties of the position, or being in a

position incompatible with the functions of a judge. In certain cases, Council may recommend remedial measures or express concern about a judge's conduct.

Council is not a court. For this reason, and this is important, Council has no authority to review a judge's decision and orders to determine whether the judge rendered a decision that is congruent with the law and or the evidence. Judicial decision-making and the exercise of judicial discretion are not issues of judicial conduct. Similarly, it is not for Council to decide whether any of your rights, or that of your children, were violated. The appropriate recourse in case of disagreement is an appeal, when allowed by the legislation.

A great part of your complaint concerns Justice Branch's exercise of judicial discretion and judicial decision-making. As pointed out above, it is not for Council to review such issues. As an example, it is not for Council to review whether the decision of Justice Branch on medical, counselling and dental appointments by one of the parent is correct in law and congruent with the evidence that was presented.

As explained in the booklet *Ethical Principles for Judges*, part of the judge's general duty is to listen fairly but, when necessary, to assert firm control over the proceedings and to act with appropriate firmness to maintain an atmosphere of dignity, equality and order in the courtroom. A judge may question a litigant or counsel on any arguments that are being advanced. The judge may seek clarification about what is proposed, or some support to what is suggested. The judge may also raise perceived weaknesses in submissions, and point out to the existence of contrary evidence or law. A judge may direct a party not to discuss a matter or argument that is of no relevance to the case, has no evidentiary basis or has no basis in law. Such decisions fall within the exercise of judicial discretion and are not issues of conduct. You expressed the view that interruptions by the judge are evidence of bullying. As pointed out above, it is open to a judge to interrupt a litigant for a number of reasons, and such interruptions are not evidence of bullying as you suggest.

A good part of your complaint is based on speculation, conjecture and personal beliefs on the meaning of the judge's body language, his perceived intent, tone of voice and words used. Some of the language used in your complaint is clearly vexatious, such as using the expressions "kangaroo court" and "cesspool of debauchery." Bald allegations, in and of themselves, are not sufficient to warrant consideration. A complaint must provide a valid and rational factual basis that concerns the conduct of a judge before a meaningful review can be done.

The Council's *Review Procedures* provide an early screening process of complaints that falls under my responsibility. Having reviewed your complaint, it is my view that, without more, it does not warrant consideration by Council.

Yours sincerely,

Original signed

J. Michael MacDonald
Acting Executive Director