

Judicial Review Summary
BRENDA McCARTY
And
The Saskatchewan College of Psychologists

Date of Judgment: December 15, 2011
Court: Queen's Bench for Saskatchewan
Presiding Judge: Honorable J. B. Scherman

Summary:

- *Judicial Review is a legal process that allows the Courts to supervise the exercise of jurisdiction by statutory tribunals to ensure that they act within the jurisdiction given to them by the legislature and that they act fairly. Decisions of the Council of the SCP are thus subject to review by the Courts on this basis.*
- *Ms. McCarty requested that the Court quash all decisions pertaining to the results of her oral examination interviews which occurred in 2004, 2006, 2008, as well as the decision of the Executive Council to uphold the 2008 result and ultimately remove her from the Register and membership of the College as she failed to meet the requirements for Full Practice licensure as outlined in The Psychologists Act 1997 and the Regulatory Bylaws. She claimed that the process was "flawed" and that there was a reasonable apprehension of bias because one member of the third interview panel that failed her was aware that she had previously failed.*
- *The Court in reviewing the request looked to two principles governing the right to a judicial review :
 - *A review will not occur where "the applicant had a right of appeal or an adequate remedy that was not pursued."*
 - *The court "may refuse a review where there has been an undue delay and the granting of relief sought would be detrimental to good administration."**
- *The Court ruled that it would not consider a review of the examination results from 2004 and 2006 as Ms. McCarty chose not to challenge them. The Court therefore looked only at the August 4, 2009 review decision of Council that confirmed her failure.*
- *The Court noted that in its opinion the issue of timeliness is relevant, stating, "any regulatory body is entitled to proceed on the basis that decisions made and not challenged in a timely manner have settled the matter and are final. To permit otherwise could lead to administrative chaos."*
- *The Court stated "since Ms. McCarty seeks judicial review of a decision of Council, it was incumbent on her to demonstrate a denial of some element of the requirements of natural justice, an error of law or other failures on the part of Council that justifies intervention. There is no evidence to support any finding of reasonable apprehension of bias on the part of members of the Council nor of a flawed process on their part. No argument was advanced that the decision of Council was a decision made in excess of jurisdiction or that its decision should be quashed because of an error of law. Accordingly, I dismiss the application for judicial review of the August 4, 2009 decision of Council."*
- *The judgment can be read in its entirety at <http://www.canlii.org/en/sk/skqb/doc/2011/2011skqb471/2011skqb471.html>*