

IN THE COURT OF APPEAL OF BELIZE, A.D. 2026
CIVIL APPEAL NO 18 OF 2025

BETWEEN:

HUBERT ELRINGTON, SC

Appellant

and

BRUCE CHO

Respondent

Before:

Hon. Madam Justice Hafiz Bertram
Hon. Madam Justice Minott-Phillips, K.C.
Hon. Madam Justice Arana

President
Justice of Appeal
Justice of Appeal

Appearances:

The Appellant, Hubert Elrington, SC *pro se*
Leslie Mendez for the Respondent

.....
2026: 29 June
25 September
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JUDGMENT

- [1] **MINOTT-PHILLIPS, JA:** On 27 September 2024 (following a hearing conducted on 21 June 2024) the General Legal Council (“**the Council**”)¹, unanimously found Senior Counsel Hubert Elrington (“**the Appellant**” or “**Senior Counsel Elrington**”) guilty of professional misconduct in his representation of Mr Bruce Cho (“**the Respondent**” or “**Mr Cho**”) and required him to show cause in writing on or before 4:00pm on 25 October 2024 why any of the sanctions set out in the Legal Profession Act (“**the LPA**”) should not be imposed on him. On the day of that deadline (25 October 2024) Senior Counsel Elrington filed this appeal.

¹ Comprising The Hon Mr Justice Rajiv Goonetilleke (Chair), Mrs Magali Marin-Young, SC, Mrs Cheryl-Lynn Vidal, SC, Ms Vanessa Retreage, Ms Samantha Matute & Mr Adler Waight.

[2] Specifically, the Council found Senior Counsel Elrington to be in breach of Rules 4(2), 22(1), 28(1) and 69 of the Legal Profession (Code of Conduct) Rules. Those rules state,

4(2) An attorney shall maintain his integrity and the honour and dignity of the legal profession and of his own standing as a member of it and shall encourage other attorneys to act similarly both in the practice of his profession and in his private life and shall refrain from conduct which is detrimental to the profession, or which may tend to discredit it...

22(1) An attorney shall always act in the best interest of his client, represent him honestly, competently and zealously and endeavor by all fair and honourable means to obtain, for him the benefit of any and every remedy and defence which is authorized by law, steadfastly bearing in mind that the duties and responsibilities of the attorney are to be carried out within the bounds of the law.

28(1) An attorney shall deal with his client's business with all due expedition and shall, whenever reasonably so required by the client, provide him with full information as to the progress of the client's business.

69 In the performance of his duties an attorney shall not act with inexcusable or undue delay, negligence or neglect.

[3] Under section 19(2) of the LPA, the appeal operates to suspend the order of the Council made on 21 June 2024 and no action can be taken on it unless this court confirms the order. This would explain why, so far as we are aware, the determination by the Council of the appropriate sanction has not yet occurred.

[4] On 19 June 2026 the Appellant filed a Notice indicating his abandonment of five of the six grounds set out in his Notice of Appeal filed on 25 October 2024, leaving only the following:

“The decision was unreasonable and could not be supported having regard to the evidence.” Accordingly, that is the sole ground of this appeal.

[5] Essentially, Mr Cho’s complaint against Senior Counsel Elrington, was that he did not discharge his duty owed to him as his attorney-at-law in prosecuting his case against S. Paquiul & E Chiac (Claim No 552 of 2016) for assault and false imprisonment.

[6] By an application filed on 1 November 2017, Mr Cho applied to the Council for it to require Senior Counsel Elrington to answer the allegations contained in his affidavit accompanying his application. The allegations in Mr Cho’s affidavit sworn to on 2 November 2017 were:

“He [the attorney] blames me for not presenting myself at his office and accept to pay \$700. Also he did not file any disclosure, witness statement and pre-trial memo. He ask for submission and we lose because of lack of evidence. I got documents that he can use in court but Mr Elrington refuse to use them. I also have to pay costs for defendants of \$12,500.”

[7] Mr Cho and Senior Counsel Elrington gave oral evidence at the hearing. At the conclusion of the hearing on 21 June 2024, the Council directed both Mr Cho and Senior Counsel Elrington to provide it with copies of the Claim Form that was filed in Claim 552 of 2016, the Statement of Claim, Defence, any witness statement served on the Claimant, interlocutory orders made by the court, the final order and any other filings including written submissions that were filed. This was to be done by 12 July 2024. The Council also permitted the parties to file any written submissions they wished.

[8] In compliance with that directive, Mr Cho submitted electronic copies of:

- a) His affidavit dated September 29th, 2026;
- b) Order dated November 4th, 2026;
- c) Claim Form and Statement of Claim dated November 17th, 2016;
- d) Submission on behalf of the Claimant dated November 17th, 2016;
- e) His further affidavit dated November 16th, 2016;
- f) Submissions on behalf of the Claimant dated May 3rd, 2017; and

g) Decision of Young, J. dated June 2nd, 2017.

In its reasons for judgment the Council notes that Senior Counsel Elrington failed to produce any material to assist them, and he also did not file written submissions, notwithstanding the invitation extended to the parties to do so.

[9] In assessing the material before it, the Council noted,

“The pleading of Mr Cho’s claim in that case by Mr Elrington left much to be desired. The claim form consisted of orders and declarations only and informed little, if any, of the facts underlying his claim. The statement of claim was pleaded no better than the claim form but gave the gist of Mr Cho’s claim.

In summary, Mr Cho recounted that on September 16th, 2016, he was detained and arrested by the Defendants for failing to heed their orders to remove some posts on property within Crique Jute. Mr Cho’s pleaded case was that “I know Crique Jute had not been declared an Alcalde Jurisdiction and I knew that their claim to be Alcalde and Deputy Alcalde of Crique Just was false. All appointments of Alcaldes must be made by the Attorney General by publication in the Gazette and no such appointment has ever been made in respect of the Defendants”.

Young J. found that the Defendants had, after conceding their appointments were not gazetted, filed a full defence.

Young J. had this to say of the Defendants’ position,

“Mr Paquil and Mr Chiac (sued in their private capacity) say they are protected by the Crown Proceedings Act which prohibits the prosecution of judicial officers for acts carried out in the execution of their duties. They maintain that they are the Aldalde and Deputy Alcalde of Crique Jute but they are silent as to whether their names have in fact been gazetted by the Attorney General. What they do say is that if this is proven to be a fact, that they at all times acted under the color of right as de facto judicial officers. They have admitted that Mr Cho was detained as he described but they deny handcuffing him and said they were supported in that detention by the Belize Police Department. They also admit that he had been convicted of a breach of the peace and fined. His conviction had nothing to do with the removal of any posts. When that fine was not paid a warrant for further imprisonment was issued. Most importantly, they strenuously deny that they falsely

imprisoned, assaulted, or committed any other unlawful acts against Mr Cho as he claimed.”

Unsurprisingly, the Court found against Mr Cho as he had produced no evidence at trial.”

[10] In its written reasons for its decision finding professional misconduct on the part of Senior Counsel Elrington, the Council noted that its review of the transcript of the disciplinary hearing conducted on 21 June 2024, and the documents submitted afterwards by Mr Cho, assured it that the underlying facts were not seriously disputed. According to the Council, those documents confirmed his evidence in material respects.

[11] The Council recounts Senior Counsel Elrington’s justification of his conduct of Mr Cho’s case as being that the Defendants’ concession (*viz.* that their appointments were not gazetted) was sufficient to foreclose the Defence and that Young, J. was wrong to have found as she did. Like the Council, I too cannot accept that to be so. Apart from anything else, factually, there is no such concession in the words of Young, J (quoted in paragraph 9 above). One need but read those words to appreciate that the defence of having *de facto* jurisdiction was alternative to that of having *de jure* jurisdiction- in the event it was established at trial that they did not have the latter.

[12] As the Council stated in the reasons it gave,

“Mr Elrington did not seek a judgment on admissions, assuming that he was so entitled to do; he also did not seek any orders to test his case theory as a preliminary issue (a matter which may have saved his client’s costs). Mr Elrington did nothing after filing the claim form and statement of claim except to make submissions before the Court upon a tenuous basis. Mr Elrington may have been forced to take up the legal argument as he did because he had been in default of the case management orders; had not filed evidence; and with passage of time was only left with the alternative of pressing on with a legal argument to salvage the matter. Mr Elrington failed, it seems to us, to address any of the factual and other legal contentions made in the Defence or to address any issue beyond the admitted failure to gazette the Defendants’ appointment. More than that, Mr Elrington was intentionally in default of Court orders and treated the case management orders of court without any sense of seriousness.

The Council finds that Mr Elrington has conducted Mr Cho's matter with neglect or negligence in breach of Rule 69 (In the performance of his duties an Attorney shall not act with inexcusable or undue delay, negligence or neglect). Mr Elrington also breached Rules 22 (1) (An Attorney shall always act in the best interests of his client...) and Rule 28(1) (An attorney shall deal with a client's business with all due expedition...) by failing to comply with any of the Case Management Conference Orders.

To compound his error, Mr Elrington also failed to heed Mr Cho's instructions [to file/submit evidence that he had prepared]."

- [13] In the transcript of the proceedings before the Council, at the point where the Council asks Senior Counsel Elrington if at any stage he moved the court for judgment on admissions, his response was,

"No and that is because the defendant had not admit everything. What the defendant had not admitted I was prepared to produce arguments, legal arguments to convince the court but like I said I was rarely [it was really] for the attorney having carriage. An attorney does not look over his shoulder to find out who is behind him watching. He is not a little boy is there to be told what to do by his parents, that is not how I understand the profession."

And later on, when asked by the Council if he told Mr Cho at any point in time that he has carriage of the case and is going to make legal arguments only,

"That's what I told him, first thing I told him I'm the lawyer and he is the lay man that's how I do it every time a client comes into my office and make that absolutely clear to them. Only one lawyer here."

And again, when the Council asked whether Mr Cho produced certain materials to him and asked him to use them at trial, he responded with an unequivocal 'yes'. Asked then if he disregarded Mr Cho's request, Senior Counsel Elrington responded,

"I decided they were not needed having regard to what I was going to do."

- [14] A perusal of the transcript of the hearing before the Council shows that after acknowledging that the parties were given an opportunity to file witness statements, Senior Counsel Elrington candidly told the Council that before the Case Management Conference he told Mr Cho he was going to file a witness statement but that there was no discussion as such. He said to him *"leave it to me I going to handle the case for you"*. After the Case Management

Conference Senior Counsel Elrington said he did not have a discussion with his client about filing a witness statement. As it turns out none was ever filed on behalf of Mr Cho.

[15] In light of the material before it, the Council stated,

“An attorney cannot, as Mr Elrington seems to suggest, take on a case and thereafter fail to inform or seek his client’s instructions. Mr Elrington boldly admitted that he took Mr Cho’s case and thereafter acted entirely at his discretion without Mr Cho’s input. It is an Attorney’s duty to advise his client of the consequences of his actions, but an Attorney cannot act unilaterally ignoring his client’s instructions. As such Mr Elrington’s conduct cannot be countenanced.”

[16] The Appellant’s only ground of appeal is that *“The decision was unreasonable or could not be supported having regard to the evidence.”*

[17] In his written submissions on this ground the Appellant posited that:

- a) *“The learned trial Judge wanted to hear the facts but Hubert Elrington SC as counsel for the Claimant decided that the law entitled him to stand on his legal submissions of Nemo. Nemo Judex In Causa Sua. By electing to stand on this legal principle he was not acting wrongly in law, he was acting in a manner he was entitled to act under our law.”*
- b) *In making this submission Hubert Elrington SC was discharging his legal and professional duty under our law and even if the trial judge disagrees with him on what the law was that was not evidence of misconduct so as to entitle the General Legal Council to find him guilty of professional misconduct.*
- c) *In this particular case the General Legal Council has held in effect that Hubert Elrington SC had no legal right to stand on a legal submission and was duty bound to follow the direction of the trial Judge that he dealt with both law and facts irrespective of his legal opinion that he was obliged to accept the trial Judge direction as to how he was to conduct his client’s case. It is the attorney who must decide how to conduct his client’s case not the trial Judge and where the issue in dispute between the client and his attorney is one of law it is the attorney’s view that must prevail...”*

The latin phrase in sub-paragraph a) above means, “No one should be a judge in their own cause”. The use of it by the Appellant in that particular submission seems misplaced as there does not appear to have been any issue of a lack of independence on the part of the trial judge.

- [18] At the hearing before the Council Mr Cho relied on his complaint and supporting affidavit in addition to his oral evidence. He was cross-examined by Senior Counsel Elrington. In the course of that cross-examination the Appellant conducted himself in a manner that the Council found unbecoming of an attorney in that he belittled Mr Cho. The following is extracted from the transcript of the Appellant’s cross-examination of the Respondent:

“Sr Elrington: You see I’m suggesting to you Mr Cho that you didn’t understand anything I did that day in court, you didn’t have the education.

Ms Marin: Oh my God, that’s not necessary.

Sr Elrington: He didn’t have the education to go to school.

Justice Goonetilleke: You just tell he didn’t understand, its find.

Sr Elrington: My lord, he has brought some serious allegation against me, but he is a man who didn’t bother to go to school to enlighten himself.

Ms Marin: I’m sorry your honour this is highly disrespectful of senior counsel.

Sr Elrington: That’s your opinion.

Ms Marin: No, no Mr Elrington you cross the line

Sr Elrington: It seems to me my lord whats happening my lord some of the people sitting in judgement wants to prosecute, I asking as a fact. Do you understand legal issues?

Mr Cho: I don’t study law, but I can understand English pretty well

Sr Elrington: you understand English, but do you understand law?

Mr Cho: I didn’t go to school for law

Sr Elrington: so, if I’m making legal submission that these people are not Alcades

Mr Cho: you can make the submission and if you don’t explain to me, I still won’t understand.”

- [19] Senior Counsel Elrington defended Mr Cho’s complaint, and his failure to take steps to comply with the Case Management orders made by the court, by insisting there was no need to do so as the case would be won on his submission that the Defendants’ defences were doomed to fail. He never discussed this proposed strategy with Mr Cho. Nor did he tell him he would not be using the documents Mr Cho drafted (at the request of Senior Counsel

Elrington) for use in the court proceedings. Senior Counsel Elrington's position throughout was that, as he was going to fight the case on a legal submission, there was no need for him to put in any documents after he filed the statement of claim. His evidence was that, when he drafted the claim, he knew at that time he would only make a legal submission. When the Council enquired whether he had informed the court of his intention at the Case Management Conference, he replied, *"No my lord and I didn't do so because I felt as the lawyer having carriage, I can keep all my options available..."*

[20] In my view the Appellant has missed the points made by the Council in its decision. The Council was not saying that an attorney cannot conduct his client's case by relying on points of law. Rather, it was saying that an attorney-at-law must conduct his client's case expeditiously, responsibly and without undue delay, negligence or neglect. Mr Elrington's conduct of Mr Cho's case before the court contravened those principles in that,

- a) He did not comply with any of the Case Management directions of Young, J. at the Case Management Conference (including directions for filing witness statements and affidavits);
- b) He failed to settle and utilize the draft affidavits his client prepared on being instructed by his (Senior Counsel Elrington's) agent to do so;
- c) He put no evidence before the court that Mr Cho could rely on at the trial;
- d) The case was dismissed after the Defendants' no case submission in June 2017 on the basis that the Claimant, Mr Cho, had failed to prove his case, with costs of \$12,500 awarded against Mr Cho;
- e) Not only did he ignore his client's instructions, he did not speak with him to let him in on the strategy he intended to deploy on his behalf; and
- f) He took no steps to ensure that he was nevertheless able to prosecute Mr Cho's case in the event the court was not with him on his legal submissions.

[21] On top of that, and in the face of the tribunal, Senior Counsel Elrington, when interacting with Mr Cho during the proceedings, disparaged him as *"not bothering to go to school to enlighten himself"* and for not having the money to hire him. In no circumstance was either

disparagement warranted and certainly not in these circumstances where the Record contains:

- a) A letter dated 15 October 2017 written by Mr Cho to the Bar Association of Belize stating, *inter alia*, that he “...graduated from the University of Belize in 2015...”
- b) A receipt was issued on 29 November 2016 on behalf of Mr Elrington SC to Mr Cho for \$1,000 for services.

[22] Counsel Mendez for the Respondent submitted the following:

- i. *“...non-compliance with a court order is not a legal strategy. Court orders must be complied with.*
- ii. *...attorneys cannot shield themselves from all consequences under the banner of legal strategy...The question is would a competent, responsible attorney adhering to his duty to act in the best interest of his client to obtain the benefit of any and every remedy have acted in this manner. The simple answer is no.*
- iii. *The claim was a fact-heavy one about false imprisonment and assault. The Appellant argues that the facts were admitted in the Defence. That is not so...*
- iv. *Additionally, the failure to file witness statements, leaving the Respondent, then claimant, with no evidence before the court, carried obvious risks. An attorney must always consider that the court may disagree with their position and seek as best they can to mitigate any adverse consequence for his or her client. An attorney cannot say “well I thought it would work, it didn’t.”*
- v. *Furthermore, it was clear from the evidence that the Appellant was not communicating with the client in the manner expected from an attorney.”*

In my view all those submissions are sound.

[23] The issue for this court is whether on the material before it the Council could properly have reached the conclusions it did. The Appellant has not directed our attention to any part of the Council’s written reasons that he says are unsupported by the evidence. Having looked at those reasons I see nothing in them that is unsupported by the evidence adduced at the hearing, or is unreasonable. Accordingly, there is nothing to warrant this Court interfering with the order of the Council made following its hearing of the Respondent’s complaint on 21 June 2024.

[24] For those reasons our order is that:

- a) The appeal is dismissed;
- b) The order of the Council made on 27 September 2024 in complaint No 6 of 2017 between Bruce Cho and Hubert Elrington, SC (heard on 21 June 2024) is confirmed save as varied in sub-paragraph c below.
- c) The date by which Senior Counsel Elrington is required to show cause in writing to the Council as to why any of the sanctions set out in section 16(2) of the LPA should not be imposed on him is varied from 25 October 2024 to 30 November 2026.

Sandra Minott-Phillips
Justice of Appeal

[25] HAFIZ BERTRAM, P.

I concur.

Minnet Hafiz Bertram
President

[26] ARANA, JA

I concur.

Michelle Arana
Justice of Appeal