



Canadian
Judicial Council
Conseil canadien
de la magistrature

Our File : 07-0176

28 August 2007

Ottawa, Ontario K1A 0W8

Mr Trevor Holsworth
622 Front Street
Unit 203
Nelson British Columbia
V1L 5B4

Dear Mr Holsworth:

I am responding to your letter of 10 July 2007 in which you make a complaint against The Honourable D.W. Shaw of the Supreme Court of British Columbia. In accordance with the *Complaints Procedures* of the Council I referred your letter to The Honourable Robert Pidgeon, Senior Associate Chief Justice of the Superior Court of Quebec and Vice-Chairperson of the Judicial Conduct Committee of the Council.

The mandate of the 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.

You complain that Justice Shaw accepted the evidence of your former spouse and her lawyer instead of accepting the transcript. You also complain Justice Shaw allowed a lawyer to not comply with an order.

The admissibility and weighing of evidence is a matter that falls within the ambit of judicial discretion. Chief Justice Pidgeon is of the view that Justice Shaw exercised his judicial discretion when he preferred certain evidence over others. The exercise of judicial discretion is not a matter of conduct. The failure by a party to abide by the order is not either a matter of judicial conduct.

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Given the foregoing, Chief Justice Pidgeon advises your complaint falls outside the mandate of the Council and he has directed me to close the file with this reply.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Norman Sabourin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Norman Sabourin
Executive Director and General Counsel