

NOVA SCOTIA COURT OF APPEAL

Citation: *Psychologist “Y” v. Nova Scotia Board of Examiners in Psychology*,
2005 NSCA 116

Date: 20050902

Docket: CA 239448

Registry: Halifax

Between:

Psychologist “Y”

Appellant

v.

Nova Scotia Board of Examiners in Psychology

Respondent

Restriction on publication: pursuant to ss. 41(2)(b) and 41(3) of the
Psychologists Act.

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: June 16, 2005

Subject: Professional misconduct – jurisdiction – prohibition

Summary: The appellant, now a registered psychologist, was charged with professional misconduct during periods roughly 10 years ago while he was a registered candidate. The complaint was referred to a hearing committee for determination on the merits and the appellant applied to the Supreme Court for prohibition, arguing that the committee had no jurisdiction to proceed with the hearing because it could not apply new procedures and sanctions to him which did not apply at the time of the alleged misconduct. The chambers judge refused to prohibit the

hearing committee from proceeding but held that the appellant was to be judged according to the ethical and professional standards in place at the time of the alleged misconduct. The appellant appealed.

Issues: Did the judge err in refusing the order of prohibition?

Result: Appeal dismissed. Generally, prohibition is appropriate only if it is clear that the tribunal has no authority to proceed. While there were substantial issues of law and fact to be addressed, it was not clear that the complaint attempted to change the past effects of past acts or to apply new standards to old conduct. It was not clear that the tribunal had no authority to proceed and prohibition was, therefore, rightly refused.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 15 pages.