

IN THE MATTER OF JOSEPH SSENGOOBA NNYANZI, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr A G Gibson (in the chair)  
Miss T Cullen  
Ms A Arya

Date of Hearing: 8th April 2003

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## FINDINGS

of the Solicitors Disciplinary Tribunal  
Constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Office for the Supervision of Solicitors (the "OSS") by George Marriott solicitor and partner in the firm of Gorvins of 6-14 Millgate, Stockport, Cheshire, SK1 2NN on 16<sup>th</sup> October 2002 that Joseph Ssengooba Nnyanzi of Northumberland Road, Harrow, solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations against the Respondent were that he had been guilty of conduct unbefitting a solicitor in that he:-

1. In the course of practising as a solicitor compromised or impaired his duty to the court;
2. Breached the guidelines given to immigration practitioners in that he took on a case which was either outside his area of competence or beyond his caseload capacity;
3. Failed to reply promptly and substantively to correspondence from the OSS.

By a Supplementary Statement of George Marriott dated 6<sup>th</sup> February 2003 it was further alleged against the Respondent that he had been guilty of conduct unbefitting a solicitor in that he:-

3. Failed to comply with two court judgments ordering him to pay sums of money;
5. Failed to deal promptly with communications relating to the matter of a client or former client.

The application was heard at the Court Room, 3<sup>rd</sup> Floor, Gate House, 1 Farringdon Street, London, EC4M 7NS on 8<sup>th</sup> April 2003 when George Marriott solicitor and partner in the firm of Gorvins of 6-14 Millgate, Stockport, Cheshire, SK1 2NN appeared as the Applicant and the Respondent did not appear and was not represented. The Tribunal heard evidence as to service from the Applicant and from the Clerk to the Tribunal and the Tribunal was satisfied that all the documents had been duly served upon the Respondent.

At the conclusion of the hearing the Tribunal ordered that the Respondent Joseph Ssenooba Nyanzi of Northumberland Road, Harrow, solicitor be suspended from practice as a solicitor for an indefinite period to commence on the 8<sup>th</sup> day of April 2003 and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £3,455.28.

The facts are set out in paragraphs 1 to 25 hereunder:-

1. The Respondent, born in 1952, was admitted as a solicitor in 1995 and his name remained on the Roll of Solicitors.
2. The Respondent was the sole principal of a firm of solicitors known as Nyanzi & Co. practising from 63 Loveridge Road, Kilburn, London, NW6 2DR until the 26<sup>th</sup> February 2002.
3. The Respondent acted for C in connection with her appeal against the Secretary of State for the Home Office's decision to refuse asylum to C. An appeal was launched on C's behalf to a special adjudicator which was listed for hearing on the 27<sup>th</sup> February 2001.
4. The special adjudicator appointed to hear the case was RT who complained to the Immigration Appellate Authority about the conduct of the Respondent in connection with the appeal. In summary, the complaint was:-
  - (i) C attended well in time for the hearing;
  - (ii) C had been trying to see the Respondent for several months without success;
  - (iii) C did not know what was happening concerning her appeal;
  - (iv) Counsel instructed by the Respondent did not arrive at court at 10 am when the case was listed but did appear at 12.45 pm.

5. The OSS therefore wrote to the Respondent on the 2<sup>nd</sup> April 2001 asking him to deal, among other things, with two matters, namely why C had not been kept informed of the progress of her matter and why Counsel was instructed when he had other commitments.
6. By letter dated 18<sup>th</sup> June 2001 the Respondent in summary stated:-
  - (i) The matter was progressed by the Respondent using a case worker until his departure on the 3<sup>rd</sup> January 2001;
  - (ii) C was aware of his departure on the 3<sup>rd</sup> January 2001;
  - (iii) The Respondent took over conduct of the case personally on the 10<sup>th</sup> January 2001 and spoke to C;
  - (iv) When the matter came up for hearing the Respondent had not had the opportunity to see C and accordingly instructed Counsel to seek an adjournment on the day;
  - (v) Following the adjournment an appointment was made for C to see the Respondent to prepare the appeal;
  - (vi) C then requested that her file be transferred to new solicitors.
7. By letter dated 31<sup>st</sup> July 2001 the OSS in summary asked the Respondent the following:-
  - (i) Why he was unable to see C between January and March 2001?
  - (ii) What were the grounds of the appeal?
  - (iii) Did the Respondent know that Counsel was instructed elsewhere on that day and if so why had he instructed him?
8. The Respondent by letter dated 22<sup>nd</sup> August 2001 replied in summary as follows:-
  - (i) As this was the first hearing he instructed Counsel to apply for an adjournment;
  - (ii) Thereafter he planned to prepare her appeal;
  - (iii) That before he could do this she terminated her instructions.
9. By letter dated 10<sup>th</sup> September 2001 the OSS pressed the Respondent on the points already raised, namely:-
  - (i) Why did the Respondent not see C before the listed hearing?
  - (ii) Was the reason that Counsel was instructed to apply for an adjournment because the Respondent was not ready to deal with the appeal?

- (iii) Could he provide copy letters sent to C?
  - (iv) Had the Respondent received confirmation that Counsel could attend the hearing?
10. The Respondent did not reply to that letter and accordingly a reminder was sent dated 25<sup>th</sup> September and the Respondent replied on the 3<sup>rd</sup> October. In summary the Respondent explained as follows:-
- (i) After the departure of the caseworker he had to attend to matters that had been dealt with by the caseworker;
  - (ii) He needed more time to do this;
  - (iii) He asked Counsel to seek an adjournment;
  - (iv) Counsel confirmed that he would be able to attend court in the afternoon;
  - (v) That between October 2000 and February 2001 because two caseworkers had left he was under great pressure.
11. The OSS wrote once more to the Respondent by letter dated 25<sup>th</sup> October and enquired again among other things:-
- (i) When was Counsel first instructed?
  - (ii) When was the Respondent aware that Counsel could not attend until the afternoon?
12. Again the OSS received no reply to that letter and sent a reminder dated 16<sup>th</sup> November 2001 which resulted in a response from the Respondent dated the 26<sup>th</sup> November. In summary, the Respondent asserted:-
- (i) The Court had been put on notice that Counsel was going to be late for the hearing;
  - (ii) The caseworker was in regular contact with C until his departure;
  - (iii) Thereafter the Respondent took over the file in January 2001;
  - (iv) Counsel was instructed to seek an adjournment and to attend any subsequent directions;
  - (v) The late instruction of Counsel was an oversight which was an exception to the norm.
13. The matter was considered by an adjudicator who resolved on the 8<sup>th</sup> July 2002 to refer the Respondent's conduct to the Disciplinary Tribunal.

14. EJ provided professional services to the Respondent at a cost of £339.25. The cheque issued by the Respondent dated 6<sup>th</sup> August 2001 was dishonoured and EJ made complaint to the OSS.
15. EJ obtained judgment against the Respondent for the sum of £395.48 on the 26<sup>th</sup> November 2001 and attempted unsuccessfully to levy execution on that sum.
16. Despite repeated requests for payment, the Respondent had to date only paid the sum of £100 to EJ.
17. By Order dated the 14<sup>th</sup> November 2002 an Adjudicator authorised this matter to be referred to the Tribunal.
18. AMC was instructed by the Respondent to provide professional services and in the default of payment of them obtained a county court judgment against the Respondent for the sum of £1,877.50 on the 16<sup>th</sup> April 2002.
19. On the failure to comply with the judgment, complaint was made to the OSS and the Respondent wrote to the OSS once only on the 24<sup>th</sup> June 2002 hoping to come to an amicable settlement. No payment was received by AMC and by order dated 14<sup>th</sup> November 2002 the Respondent's conduct was ordered to be referred to the Tribunal. At the date of the Supplementary Statement no payment had been received by AMC.
20. The OSS received a letter from solicitors who advised that EA had instructed them in place of the Respondent in June 2001. EA was waiting to receive a decision from the Home Office and was unaware that his asylum application had been refused or that he had instructed anyone to lodge an appeal on his behalf.
21. Accordingly the replacement firm of solicitors wrote to the Respondent to request their file of papers and received no reply. They wrote again a month later in July 2001 and again there was no reply. Because of steps taken by the new firm, the Home Office were aware from August 2001 that the new firm was representing EA. The court sent notice of a first hearing and then a full hearing to the Respondent. EA received no notification of the hearing.
22. Following the complaint, the OSS wrote to the Respondent by letter dated 29<sup>th</sup> April 2002 seeking his explanation. As no reply was received, they wrote a further letter in May 2002 and then again in June 2002.
23. By letter dated 21<sup>st</sup> June 2002 the Respondent apologised for the delay in replying and blamed the failure to transfer the file to the inability to locate it but asserted that he had forwarded a file to the new firm by letter dated 17<sup>th</sup> August 2001.
24. By further letter dated 18<sup>th</sup> July 2002 the Respondent continued to say that he was looking for the file and repeated that in a further letter dated 20<sup>th</sup> September 2002.
25. By Order of the Adjudicator dated 9<sup>th</sup> September 2002 the Respondent was referred to the Tribunal. The Respondent applied for a review which confirmed the first instance decision on the 12<sup>th</sup> December 2002.

### **The Submissions of the Applicant**

26. The Applicant had served Civil Evidence Act notices on the Respondent in respect of all the documentation before the Tribunal and had received no counter notices. The Applicant would therefore seek to prove the allegations on the documents.
27. In relation to the matter of C, the Tribunal was asked to note that although in his letter of 22<sup>nd</sup> August 2001 the Respondent had written that as 27<sup>th</sup> February 2001 was the first hearing he had instructed Counsel to apply for an adjournment, the matter had in fact been listed as ready to proceed that day not as an application for adjournment.
28. The Tribunal was asked to note the Respondent's letter of 26<sup>th</sup> November 2001 in which he had said for the first time that the court had been put on notice that Counsel would be late. The Tribunal was asked to give that assertion as much weight as the Tribunal thought fit. The Tribunal might think that the Respondent should have mentioned this earlier. The Respondent had not said when Counsel was instructed, although he had repeatedly been asked to do so.
29. In relation to the matters contained in the Supplementary Statement, EJ had confirmed on the 28<sup>th</sup> March 2003 that she had received no further payment. In relation to AMC, the Applicant was not aware of any further payment but would have expected the Respondent to have indicated if he had in fact made payment.
30. In the submission of the Applicant failing to comply with court judgments was a very serious matter.
31. The Tribunal was asked to find all the allegations proved from the documents before it.
32. The Respondent's practising address was now closed and his Practising Certificate had been terminated because of his failure to re-apply for a certificate.
33. The Applicant sought his costs in the sum of £3,455.28. A schedule of costs had been served upon the Respondent without response.

### **The Findings of The Tribunal**

34. The Tribunal had considered carefully the documentation before it including the Respondent's letters of explanation to the OSS. The Applicant's documents had not been challenged by the Respondent. In relation to the matter of C, the Respondent had not provided a satisfactorily or consistent explanation for his failure to see C prior to the hearing nor had he given detailed answers to questions regarding his instructing of Counsel. He had put forward no evidence to support his assertion that the court had been put on notice that Counsel would be late for the hearing. He had clearly failed to deal properly with C's case. The Tribunal noted the Respondent's explanation regarding the departure of case workers but the Respondent as sole principal of Nyanzi & Co had a responsibility to ensure that he had the capacity and competence to deal with the firm's caseload. The Tribunal found allegation 2 proved. The Tribunal was also satisfied that the Respondent had compromised or impaired his duty to the court. His client had not had appropriate representation at the court at the

appropriate time resulting in a complaint by the special adjudicator. The Tribunal found allegation 1 to have been proved. The Respondent had not completely ignored correspondence from the OSS but had required reminders and had failed to answer a number of the questions raised. The Tribunal was satisfied that allegation 3 was proved.

35. In relation to the matters contained in the Supplementary Statement, the Tribunal was satisfied that the Respondent had failed to comply with the county court judgments. The Tribunal found allegation 4 proved. In relation to the matter of EA, the Respondent had failed to deal with communication relating to the case including letters from EA's new solicitors and Notices of Hearing from the court. The Respondent had failed to transfer EA's file to the new solicitors, his explanation being that he could not locate it. There was no evidence before the Tribunal that the file had ever been transferred. The Tribunal was satisfied that allegation 5 was proved.
36. This was a case where clients had been neglected by the Respondent and had been caused significant inconvenience. The Respondent had also failed in his duties to the court in the matter of C. He had failed to comply with court judgments obtained by EJ and AMC and that situation was continuing. The Respondent had not attended the Tribunal nor sent any written representation to explain his conduct. The public needed to be protected from a solicitor who allowed such an unsatisfactory state of affairs to develop in the first place and then to continue. The Respondent had let down his clients and others and was clearly not fit to practise at present. The Respondent would need to put his house in order before it would be appropriate for him to seek to resume practice. The Tribunal ordered that the Respondent Joseph Ssenogooba Nnyanzi of Northumberland Road, solicitor be suspended from practice as a solicitor for an indefinite period to commence on the 8<sup>th</sup> day of April 2003 and they further ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £3,455.28.

DATED this 26th day of May 2003  
on behalf of the Tribunal

A G Gibson  
Chairman