

**Leonard Ogilvy**

*Applicant*

v.

**The Minister of Legal Affairs**

*Respondent*

FROM

**THE EASTERN CARIBBEAN COURT OF APPEAL  
(SAINT LUCIA)**

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REASONS FOR DECISION OF THE LORDS OF THE  
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL  
UPON A NOTICE OF MOTION OF THE  
17th January 2002, Delivered the 13th February 2002

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*Present at the hearing:-*

Lord Hutton  
Lord Millett  
Lord Rodger of Earlsferry

*[Delivered by Lord Rodger of Earlsferry]*

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1. On 24 July 2001 their Lordships' Board heard and dismissed Mr Ogilvy's petition for special leave to appeal against the decision of the Eastern Caribbean Court of Appeal affirming the decision of Barrow J (Ag) in the High Court of Saint Lucia to refuse Mr Ogilvy leave to apply for judicial review. In that application Mr Ogilvy asked the High Court to quash a decision contained in a letter dated 9 May 2000 from the Permanent Secretary of the Ministry of Legal Affairs informing him that he had been unsuccessful as a candidate for employment as a magistrate in Saint Lucia.

2. Mr. Ogilvy subsequently lodged a second petition for special leave to appeal against the decision of the Court of Appeal but the Registrar refused to receive it under rule 52 of the Judicial Committee (General Appellate Jurisdiction) Rules. Mr. Ogilvy appealed against that refusal. As the relevant authorities show, their Lordships will grant special leave on a second petition only in

exceptional circumstances. Without going further, their Lordships simply indicate that, despite the well-presented submissions by Mr Jus on his behalf, the Board was satisfied that the circumstances relating to Mr Ogilvy's second petition did not meet the established criteria and his appeal against the Registrar's decision was accordingly dismissed.

3. The essence of Mr Ogilvy's application for judicial review was an allegation that his application for appointment as a magistrate had been dealt with and rejected by the Ministry of Legal Affairs rather than by the Judicial and Legal Services Commission, as would be required in terms of section 91(2) of the Constitution of Saint Lucia. In giving his decision Barrow J recorded that he accepted Mr Ogilvy's submission as to the law – viz that the power to appoint magistrates vested in the Commission rather than in the Ministry. He went on, however, to dismiss the application for judicial review on the basis that the facts alleged in the petition did not displace the presumption that Mr Ogilvy's application for appointment had been dealt with properly. The Court of Appeal dismissed Mr Ogilvy's appeal on the same basis but without specifically stating that his application for appointment required to be considered by the Commission rather than by the Ministry. On the other hand their Lordships consider that this is indeed implicit in the decision of the Court of Appeal.

4. Counsel for Mr Ogilvy informed the Board that Mr Ogilvy intends to make a fresh application for appointment as a magistrate. In these circumstances their Lordships simply observe that under the Constitution any decision on an application for appointment as a magistrate must indeed be taken by the Judicial and Legal Services Commission and not by the Ministry of Legal Affairs. Moreover, the decision on any such application should be conveyed to the applicant in a form which makes it clear that the proper course has indeed been followed.

