

**IN THE DISTRICT COURT  
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE  
KI TĀMAKI MAKĀURAU**

**CRI-2024-004-007714  
[2026] NZDC 8953**

**NEW ZEALAND LAW SOCIETY**

v

**JINYUE (PAUL) YOUNG**

Hearing: 16 April 2026

Appearances: S McMullan for the New Zealand Law Society  
Mr Young in Person

Judgment: 30 April 2026

---

**DECISION OF JUDGE K G DAVENPORT KC**

---

[1] Mr Young was a solicitor until 2018. From that date he was no longer the holder of a practising certificate and so was not a lawyer as that term is defined in s 6 Lawyers and Conveyancers Act 2006. Yet in April 2023 he went to see a dying man in Auckland Hospital and drafted a Will for him. He had never met this man or his family, but he was paid \$800 in cash for the drafting. His drafting was not of a high standard and in addition the Will has been set aside by the High Court on the basis that Mr Lane did not have capacity.<sup>1</sup> The Court understands that the respondent Ms Li has appealed this decision to the Court of Appeal.

---

<sup>1</sup> *Lane v Li* [2024] NZHC 3663.

[2] Mr Young is charged under s 21(1)(a) and s 46(a) of the Lawyers and Conveyancers Act 2006. The New Zealand Law Society (NZLS) allege that he held himself out to be a lawyer and carried out legal services by preparing a Will for Frank Lane when he was not in fact a lawyer. It is common ground that Mr Young did not hold a practising certificate from 30 June 2018.<sup>2</sup>

[3] This is the first prosecution brought by the New Zealand Law Society under ss21 and 46(a) of the Lawyers and Conveyancers Act 2006 (LCA). The maximum penalty is a \$50,000 fine.

[4] Mr Young had a checkered disciplinary history during his time as a solicitor. He was suspended from practice twice. The first time was in 2018 when he was suspended from practice for 15 months. The decision was appealed but Mr Young was not successful. One of the issues in that case, of relevance to this case, is a discussion of the purposes of the Lawyers and Conveyancers Act.<sup>3</sup> The relevance of the purposes of the Act will be explored later in this judgment.

[5] In September 2020 Mr Young was suspended for a further two and a half years for what was described as incompetent and woeful conduct. However, this case is not about his professional competence or any aspect of the disciplinary procedures of the Lawyers and Conveyancers Act. This is a criminal charge, and the issue is whether a conviction should be entered against Mr Young for breach of s 21(1)(a) and if so, what penalty is appropriate under s 46(a) of the Lawyers and Conveyancers Act 2006.

[6] I must be satisfied beyond reasonable doubt that the charge has been established against Mr Young - i.e. I must be sure. I remind myself that the New Zealand Law Society has an obligation to prove the case against Mr Young and he has no corresponding obligation to prove or establish anything. It is however common ground that Mr Young was not authorised to practice as a lawyer at the time of the alleged offence.

---

<sup>2</sup> Certificate issued under s 28(2) of the Lawyers and Conveyances Act 2006, Bundle Exhibit 1, page 1.

<sup>3</sup> *Young v National Standards Committee* [2019] NZHC 2268, [2020] NZAR 581 at [56]-[58].

[7] Section 21 says:

## **21 Provision of legal services**

- (1) A person commits an offence who, not being a lawyer or an incorporated law firm,—
- (a) provides legal services in New Zealand; and
  - (b) describes himself, herself, or itself as—
    - (i) a lawyer; or
    - (ii) a law practitioner; or
    - (iii) a legal practitioner; or
    - (iv) a barrister; or
    - (v) a solicitor; or
    - (vi) a barrister and solicitor; or
    - (vii) an attorney-at-law; or
    - (viii) counsel.
- (2) This section is subject to the exceptions set out in sections 25(2) and 27.

[8] The other relevant sections of the Act are ss 3 and 6:

## **3 Purposes**

- (a) to maintain public confidence in the provision of legal services and conveyancing services:
- to protect the consumers of legal services and conveyancing services:
- to recognise the status of the legal profession and to establish the new profession of conveyancing practitioner.
- 2(d) states the fundamental obligations with which, in the public interest, all lawyers and all conveyancing practitioners must comply in providing regulated services:

## **6 Interpretation**

**lawyer** means a person who holds a current practising certificate as a barrister or as a barrister and solicitor

**legal work** includes—

- (a) the reserved areas of work:
- (b) advice in relation to any legal or equitable rights or obligations:
- (c) the preparation or review of any document that—
  - (i) creates, or provides evidence of, legal or equitable rights or obligations; or
  - (ii) creates, varies, transfers, extinguishes, mortgages, or charges any legal or equitable title in any property:
- (d) mediation, conciliation, or arbitration services:
- (d) any work that is incidental to any of the work described in paragraphs (a) to (d).

### **The Facts**

[9] The NZLS say that on 8 April 2023 Mr Frank Lane was gravely unwell in Auckland Hospital. Mr Young was asked to go to the hospital on this date to draft a Will for Mr Lane. He was asked to go by a Ms Lily Li, a family friend of Mr Lane. Mr Young had never met either Mr Lane or Ms Li.

[10] The New Zealand Law Society say a conversation took place between Mr Young and Mr Lane in which Mr Young took instructions for the drafting of the Will. Mr Young had brought with him to the hospital a template of a draft Will and this contained prompts for the further information needed eg the executor and the beneficiaries. There were 2 video recordings taken of the drafting/instruction conversations. One video was recorded by Mr Lane's son James from the foot of the bed and one by Ms Li from opposite Mr Young on the side of the bed. Both videos were played to the Court to show the critical opening part of the conversation – which was to establish what Mr Young said about who he was and what he was doing there. Mr Lane's video shows Mr Young telling the members of Mr Lane's family and Mr Lane that he was a "lawyer of the High Court". Ms Li's video does not have this discussion at all. It is important to note that the introduction was at the beginning of the videos, and it is probable that the 2 recordings did not begin at exactly the same time. Mr Young took instructions and then had Mr Lane execute the Will. He was paid in cash the sum of \$800.

[11] The New Zealand Law Society provided a transcript of the audio. Mr Jin Cha (a witness for and a lawyer from the NZLS) said he sent the video for transcription to a professional transcriber. The video filmed by Mr James Lane shows Mr Frank Lane in a hospital bed and Mr Paul Young in a suit sitting next to him. The opening words recorded are Mr Young saying, “lawyer of the High Court”. Mr Lane makes an inaudible response and Mr Young says: “now I am here to draft your Will -all right. I ask you question and then record it on this Will. Okay?” Mr Lane goes “yeah”. Mr Young tells Mr Lane that he’s going to have the drafting videoed. He goes through the various gaps in the proforma Will that he has brought along to fill in and asks questions and receives answers from other people in the room and fills in the blanks.

[12] The second was played by Mr Young but recorded by Ms Li. Shortly after the video commences Mr Young says (talking about Mr Lane), “*second son okay. I call it second son. So, he appoint you to be the executor and trust(ee), normally we write both because suppose he – you want to set up a trustee (sic) in the future or put all property into it then you would be the trustee all right.*<sup>4</sup> Now you are executor or trustee either one okay. “

[13] This explanation is legally wrong. Justice Churchman made a similar observation in the High Court estate case.<sup>5</sup>

[14] Mr Young says that he told Mr Lane that he was said he was a retired lawyer and an enrolled lawyer of the High Court (as he was still on the roll of barristers and solicitors). He said that he had made it clear to Ms Li when she called, that he was retired, and he could not practise law. However, he told her that anyone could draft a Will. After some persuasion from her he said he was prepared to come to the hospital and draft a Will for Mr Lane. He also said that he arranged for his friend and former colleague Tonderai Mukusha to come to the hospital. Mr Mukusha was to carry out the capacity test on the testator and (as described by Mr Young) to do the transfer of the properties (left in the Will). However, his evidence (and that of all others) is that when he arrived, he declined to do a capacity assessment. He did not transfer any property, and it is hard to see how Mr Young could ever have thought that any transfer

---

<sup>4</sup> Page 11 of Exhibit 1.

<sup>5</sup> *Lane v Li* [2024] NZHC 3663 at paras 99-100.

of property would take place just after the drafting of the Will. He may have been referring to a time after Mr Lane's death and the grant of probate. However, this was not clear from the conversation.

[15] The videos both show Mr Young formally dressed in a suit looking like he was at the hospital for professional reasons. He had the Will executed, then gave advice to Ms Li that she could hand alter the Will to insert the word "not" in clause 5(d). This had the effect of altering the Will from a provision to share the legacy of \$500,000 given to Ms Li to not having to share it. Mr Young said he would retype the Will after the amendment and get it resigned. However, he was prevented from doing this at the hospital when he returned.

[16] Mr Young also appears to have aligned himself with Ms Li from the beginning of the drafting process and in the videos can be heard talking to her in Chinese and getting her instructions as to the provisions required. He gave evidence in the High Court trial for her. He called her to give evidence in this hearing.

[17] Mr Young submitted that the video of him saying he was an enrolled lawyer was edited (to delete the words he says he said) and is inadmissible. He says that what he told Mr Lane, and his family was that he was retired and an enrolled lawyer of the High Court and the fact that neither video showed this, must mean the videos have been altered. A more likely explanation is that the videos simply started after he said this, or he did not say it. An allegation that the video has been "doctored" requires evidence under s 137 Evidence Act. No such evidence was tendered (or indeed does any evidence exist beyond the assertions of Mr Young and Ms Li). I do not find this assertion established. This does not mean that Mr Young did not say these words just that all we have recorded is "lawyer of the High Court".

### **The Issues**

[18] Section 21 has three criteria – the person charged must have described himself or herself by any of the terms used to describe a lawyer in s 21 (1)(b); and they must not be a lawyer – meaning not have a practising certificate and they must have done "legal work". The definition of legal work in s 6 LCA includes drafting a document.

[19] It is accepted that Mr Young did not have a practising certificate; and that in drafting a Will he was doing legal work. The issue to be determined is whether the prosecution has established that Mr Young described himself as a lawyer et al in terms of s 21(1)(b). He says he used the words “retired lawyer” and “enrolled lawyer of the High Court”.

[20] Ancillary to this, is the question of whether the offence is in the nature of a strict liability offence or whether mens rea is an issue. So, does Mr Young’s view that he could say he was an enrolled lawyer mean that he was not intending to breach s 21 and thus had no mens rea for this offence and is not guilty?

[21] The Law Society submit that Mr Young **could** say he was enrolled as a barrister and solicitor of the High Court of New Zealand because that is strictly true. However, he could not say an enrolled lawyer of the High Court as those words have no meaning to members of the public. I need to also consider whether the words “enrolled lawyer of the High Court are in fact words prohibited by s 21 and whether if Mr Young said the words “retired lawyer” that would make a difference to my conclusion.

[22] The Law Society submit that the Defendant held himself out to be a “lawyer of the High Court” when he is not. This is prohibited under s 21. They also submit that it matters not whether he described himself as being an enrolled lawyer or a retired lawyer or simply a “lawyer of the High Court”. All these descriptions are prohibited under s 21. The NZLS submit that once he used words describing himself as a lawyer with whatever other words, he and then carried out prohibited work he was in breach of s 21.

[23] Mr Young makes the submission that the list of things that you cannot call yourself in s 21 is a prescriptive and detailed list. Thus, he submits a person could use words other than the prohibited words in s 21(1)(a) and not fall foul of the section.

[24] I do not agree. The Legislation Act 2019, s 10 says:

**10 How to ascertain meaning of legislation**

- (1) The meaning of legislation must be ascertained from its text and in the light of its purpose and its context.

- (2) Subsection (1) applies whether or not the legislation's purpose is stated in the legislation.
- (3) The text of legislation includes the indications provided in the legislation.
- (4) Examples of those indications are preambles, a table of contents, headings, diagrams, graphics, examples and explanatory material, and the organisation and format of the legislation.

[23] The purpose of this Act is set out in s 3 above and one of the main purposes is to protect the public. An interpretation consistent with this purpose is required. I find that s 21 must be intended to cover any variation on the word lawyer – so if you say you are an enrolled lawyer of the High Court – you intend to say that you are a lawyer – when you are not. This is equally true for the words “retired lawyer”. However, if you say you are a retired lawyer, or enrolled lawyer and do no more then the section does not bite – as the section requires the person to also do legal work . However, Mr Young said, “retired lawyer” and “enrolled lawyer of the High Court “ and then did “legal work” by drafting the Will. To be very clear any person can draft a Will, but no person can call themselves a “retired lawyer” or an “enrolled lawyer” and do legal work as defined in s 21 without a practising certificate.

[24] Mr Young admits he used the words enrolled lawyer and retired lawyer – so on my analysis he is in breach of the s 21. Given his admission, supported by the tape of Mr Lane I am sure that he has breached s 21.

[25] To support this conclusion is the way Mr Young behaved. He dressed like a lawyer, he took money, he gave legal advice ( albeit wrong) and later tried to have the Will re-executed. To the lay person he said he was a lawyer, and he acted like one.

[26] The decision of the High Court in *Young v National Standards Committee* also reiterated the public protection nature of the Act.<sup>6</sup>

[27] I therefore find that on the facts Mr Young is in breach of s 21. However, before a conviction can be entered, the court must consider Mr Young's claim of lack of mens rea. The NZLS have submitted that I must interpret s 21 as a strict liability offence.

---

<sup>6</sup> *Young v National Standards Committee* [2019] NZHC 2268.

[24] There are no authorities on s 21. In order to ensure that the analysis to be carried out by the court is the correct one further assistance has been obtained from the following sources:

- (1) Hansard - Parliamentary Debates
- (2) Any relevant cases in the Australian jurisdictions that consider a provision similar to s 21; and
- (3) Whether s 21 should be interpreted as a strict liability offence given the consumer protection nature of the LCA.

*Hansard - Parliamentary Debates*

[25] There was little detailed debate on the provisions of the Lawyers and Conveyancers Bill that placed restrictions on the provision of legal services. The following extracts are from the introduction of the Bill in Parliament at its first reading:

LAWYERS AND CONVEYANCERS BILL

First Reading

Hon LIANNE DALZIEL (Associate Minister of Justice), on behalf of the Minister of Justice: I move, That the Lawyers and Conveyancers Bill be now read a first time. ...

Part 2 contains title protection provisions. For example, it will be an offence to use the term "lawyer" or "law practitioner" if not entitled to do so. The part also defines the areas of work that are restricted to lawyers and licensed conveyancers. The select committee will need to consider which legal services should be restricted exclusively to lawyers. There are benefits, obviously, in a more open market, such as innovation and lower fees, but there are also possible risks for consumers when obtaining services from unregulated providers. ... I look forward to the select committee having a close look at what areas of work should be protected exclusively for lawyers, but specifically for the benefit of the clients. ...

[26] Further in the debate the Hon Simon Power (National MP for Rangitikei) said:

This bill is intended to maintain public confidence in the provision of legal services, and to provide protection for consumers. ...

[27] So, parliament saw the Act as part of consumer protection legislation.

#### *Australian Jurisdictions*

[28] A relevant Australian case is a decision of the Western Australia Supreme Court in *Dean v Legal Practice Board*.<sup>7</sup> This case concerned an appeal by the two appellants, Mr Dean and Mr Simonsen, who had been found guilty after a trial in the Magistrates Court of engaging in legal practice when they were not Australian legal practitioners, under s 12(2) of the Legal Profession Act 2008 (WA). Each were fined \$5,000. Mr Dean was found guilty on a further charge of aiding, counselling or procuring Mr Simonsen to engage in legal practice when Mr Simonsen was not an Australian legal practitioner and was fined \$1,000 on this second charge. Costs were also awarded against both appellants.

[29] The appellants were alleged to have engaged in legal practice for a Mr McCarthy by advising and drafting documents for him in relation to Family Court proceedings that Mr McCarthy was involved in. Both appellants admitted at their trial that they were not legal practitioners.

[30] The appellants appealed the decision to the Supreme Court but only ground 4 is relevant to the present case. On this ground the appellants submitted that the Magistrate erred in fact and law in the interpretation of "legal practice" when the Legal Profession Act 2008 (WA) contained no such interpretation of "legal practice".

[31] At trial the Magistrate had referred to the provisions of s 12 Legal Profession Act noting that s 12(2) prohibited a person from engaging in legal practice unless the person is an Australian legal practitioner, and that the term "legal practice" is not defined in the Act. The Court rejected the submission that no criminal offence was created by s 12(2).

[32] On appeal the Supreme Court noted that the Magistrate was satisfied beyond a reasonable doubt of each and every element of each and every offence against each of the accused (the appellants) and therefore found each of them guilty as charged. The

---

<sup>7</sup> *Dean v Legal Practice Board* [2015] 9 WWR 221

Court held that the offence created by s 12(2) is a simple offence, the learned Magistrate was correct, and this ground of appeal could not succeed.

[33] In reaching this conclusion the Court stated:

87 By ground of appeal 4, the appellants challenge the correctness of his Honour's interpretation of the term 'legal practice'. Although it is correct to say, as his Honour did, that the term is not defined in the Legal Profession Act, 'engage in legal practice' is defined in s 3 as including 'practice law'. It is clear therefore that the prohibition on engaging in legal practice in s 12(2) includes a prohibition on the practising of law by a person who is not an Australian legal practitioner. The position is made even clearer by the preceding section, s 11, which provides that the purposes of pt 3 of the Legal Profession Act are:

- (a) **to protect the public interest in the proper administration of justice by ensuring that legal work is carried out only by those who are properly qualified to do so;**
- (b) **to protect consumers by ensuring that persons carrying out legal work are entitled to do so. (Emphasis added)**

88 Section 11 makes clear that the prohibition in s 12 on a person who is not an Australian legal practitioner engaging in legal practice is a prohibition on such a person doing legal work. In *Barristers' Board v Palm Management Pty Ltd*, Brinsden J quoted with approval the following passage from *Florida Bar v Town*, saying that the case well illustrated what may be included in the practice of the law:

It is generally understood that the performance of services in representing another before the courts is the practice of law. But the practice of law also includes the giving of legal advice and counsel to others as to their rights and obligations under the law and the preparation of legal instruments, including contracts, by which legal rights are either obtained, secured or given away, although such matters may not then or ever be the subject of proceedings in a court. We think that in determining whether the giving of advice and counsel and the performance of services in legal matters for compensation constitute the practice of law it is safe to follow the rule that if the giving of such advice and performance of such services affect important rights of a person under the law, and if the reasonable protection of the rights and property of those advised and served requires that the persons giving such advice possess legal skill and acknowledge of the law greater than that possessed by the average citizen, then the giving of such advice and the performance of such services by one for another as a course of conduct constitutes the practice of law.

The Court held that (at 397):

**... The reasonable protection of the rights and property of those involved requires that the persons preparing such documents and advising others as to what they should and should not contain possess legal skill and knowledge far in excess of that possessed by the best informed nonlawyer citizen.**

Emphasis added

[34] Although the Supreme Court in the *Dean* case did not give a view about the nature of the criminal offence created by s 12(2) Legal Profession Act, namely whether it was a mens rea offence or a strict liability offence, the Court's dicta supports an interpretation that it is a provision intended for the protection of the public.

[35] Counsel also refers to the explanatory note contained in an early version of the Lawyers and Conveyancers Act which says:

Explanatory note: restrictions on the practice of lawyers and conveyancers. The bill creates new offences to protect the areas of reserved work and the title of lawyer or conveyancer and related title to ensure that those clients who seek the protection that a qualified practitioner can provide are not misleading.

[36] This explanatory note notes that more general legal services and advice such as drafting of documents such as a Will are not restricted to lawyers alone. So it is clear they submit, that the section prohibits the carrying out the drafting of documents without being a lawyer only if the tenets of s 21 have been satisfied. That is, the person is holding themselves out to be a lawyer when they are not.

### **Strict Liability**

[37] In my view the consumer protection aspect of the Lawyers and Conveyancers Act and the purposive approach to interpreting s 21, supports a finding that s 21 creates a strict liability offence. The purposes of the LCA, set out in s 3, clearly support the finding that that Act is a consumer protection statute. Consumer Protection Legislation is generally regarded as being strict Liability in order to achieve its purpose.

[38] Consumer protection was discussed in the Court of Appeal decision of *Commerce Commission v Steel and Tube Holdings Ltd*, which concerned an appeal

against sentence imposed for offences under the Fair Trading Act 1986.<sup>8</sup> The offences involved misleading conduct and false representations over the grading of steel mesh as seismic grade. The Court of Appeal said:

[61] The Fair Trading Act is a consumer protection statute which regulates conduct in trade. It promotes fair conduct and prohibits certain unfair conduct and practices. Relevantly, s 10 prohibits conduct that is likely to mislead the public as to the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of goods; and s 13(e) prohibits false or misleading representations that goods have (among other things) any approval, endorsement or performance characteristics. It is an offence to do these things. It is common ground that both the offences of contravening s 10 and s 13(e) are strict liability offences and that some other offences under the Act require mens rea.

[39] The Court then said:

[70] ... After all, strict liability is designed to encourage those in trade to meet the standards of care that legislation requires of them. ...

[40] I apply this reasoning to the present case. Thus, the purposes of the LCA, which are to maintain public confidence in the provision of legal services, to protect the consumers of such services, and to recognise the status of the legal profession, can only be met if they are able to be enforced by the criminal prosecution of those who call themselves a "lawyer" when they are not certified to practise law in New Zealand. The issue of whether they intended to do this is not relevant to this analysis. A strict liability offence promotes public confidence in the legal profession, provides consumer protection and encourages compliance with the Act.

[41] A person who gives legal advice and prepares documentation that affects people's rights, obligations and property must be appropriately qualified in law and certified to practise as a lawyer. The public would suffer serious consequences if legal services were conducted incompetently and by non-qualified persons, as had occurred in the present case. A lawyer with a current NZLS practising certificate is an indication to the public that they meet the Society's high regulatory standards to practise as a lawyer in NZ and can be subject to disciplinary action for any misconduct. Such disciplinary action is not available against a person who is not currently certified to

---

<sup>8</sup> *Commerce Commission v Steel and Tube Holdings Ltd* [2020] NZCA 549.

practise law. Accordingly, charging and convicting such persons with a criminal offence under s 21 is the appropriate action to condemn their actions and to protect the public. Therefore to interpret s 21 as a strict liability offence is correct in my view.

### **Conclusion**

[42] I am thus satisfied that this offence is a strict liability offence and that Mr Young's intentions are not relevant to the Court's analysis. He did not have to intend to hold himself out as a lawyer. He simply needs to have committed the actions of holding himself out as a lawyer (whatever his intentions), do "legal work" and not being the holder of a practising certificate.

[43] I am satisfied that the NZLS have discharged the burden and standard of proof to establish this charge.

[44] I therefore convict Mr Young under s 21. The penalty is a fine of up to \$50,000. The Registry is to set this case down for sentencing on a date suitable to Mr Young and the NZLS for 45 minutes.

---

Judge K G Davenport KC  
District Court Judge | Kaiwhakawā o te Kōti ā-Rohe  
Date of authentication | Rā motuhēhēnga: 30/04/2026