

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT



Claim No: CO/3481/2014

BETWEEN:

PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

and

(1) HEALTH AND CARE PROFESSIONS COUNCIL
(2) MR JOHN MCCARRON

Respondents

~~CONSENT~~ ORDER

Appellant and the First Respondent

UPON the ~~parties~~ *A* having agreed these terms and the statement of reasons as set out in Schedule

AND UPON neither party being either a child or protected party and the appeal not being an appeal from a decision of the Court of Protection

AND UPON the First Respondent conceding that the Suspension Order made at the hearing on 22 May 2014, which is the decision under appeal ("the Decision"), was unduly lenient within the meaning of Section 29 of the National Health Service Reform and Health Care Professions Act 2002

~~DECISION~~

IT IS ORDERED THAT:

- 1 The appeal be allowed and the decision of the First Respondent's Conduct and Competence Committee on 22 May 2014 to impose a suspension order of 12 months duration be quashed.
- 2 The court substitutes an order that the Second Respondent be struck off the register of the First Respondent pursuant to Article 29 of the Health and Social Work Professions Order 2001.

* AND UPON the Second Respondent filing no objection to the approval of this order by the Court within the time limited for so doing by the order of Mr. Justice Stewart made on 31 December 2014

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- 3 The First Respondent shall pay the Appellant's reasonable costs of the appeal to be subject to detailed assessment if not agreed.
- 4 The appeal hearing listed on 22 January 2015 with a time estimate of 1 day be vacated.

~~We consent to an order in the above terms.~~

Dated this 19 day of December 2014

~~17.12.2014~~
 Capsticks ANNIE SURDAK, PARTNER
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 Ref: AZS/048774
~~Solicitors for the Appellant~~

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~~Solicitors for the First Respondent~~

~~Mr John McCarron~~
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 Horwich
 Bolton
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~~Second Respondent~~

Nicholas Lovelace
 16:15

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SCHEDULE

- 1 The Second Respondent is a registered practitioner psychologist. On 22 May 2014, the Conduct and Competence Committee of the First Respondent imposed the Decision.
- 2 The Appellant appealed against the Decision on the grounds that it was unduly lenient within the meaning of section 29 of the National Health Service Reform and Health Care Professions Act 2002.
- 3 The Grounds of Appeal were that:

Ground 1 – The Panel erred in ordering suspension to enable the Registrant to reflect and gain insight when there is no evidence that he would or might do so;

Ground 2 – The Panel failed to consider or give any weight to the Registrant's conduct towards Client A after she had raised a complaint with the First Respondent.

Ground 3 – The Panel further failed to consider and/or give adequate weight to other positive evidence that the Registrant lacked insight, remediation or remorse;

Ground 4 – The Panel erred in failing to give adequate weight to Client A's vulnerability and the power imbalance inherent in the patient/practitioner psychologist relationship;

Ground 5 – The Panel's finding that there was no "deliberate plan" was perverse;

Ground 6 – The Panel erred in relying on the Registrant's own vulnerability as a mitigating factor when there is no evidence to support such a finding;

Ground 7 – The Panel erred in failing to consider and/or give adequate weight to the particular sensitivity of the Registrant's position;

Ground 8 – The Panel failed to address the issue of public confidence at all in its decision on sanction.



Ground 9 – The panel erred in finding head of charge 1(a)(i), and heads of charge 2 to 5 (insofar as they relate to head of charge 1(a)(i)) not proved.

- 4 The First Respondent concedes that the Decision was unduly lenient.

Deputy Chair