



AC-2023-LON-002895

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

ADMINISTRATIVE COURT

BETWEEN:

AC-2023-LON-002895

THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

- and -

(1) NURSING AND MIDWIFERY COUNCIL
(2) RAYMOND ODIGIE

Respondents

ORDER BY CONSENT

UPON the parties having agreed to the terms of this Order, in particular that it is just and convenient for the Court to make the Order set out below

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

AND UPON the Second Respondent being a Mental Health Nurse on the register established and maintained by the First Respondent.

AND UPON the First Respondent's Fitness to Practise Committee having found on 26 July 2023 that the Second Respondent should be suspended for a period of 12 months with a review, and not stuck off for assaulting a patient in his care ("the decision")

AND UPON the Appellant having lodged an appeal on 29 September 2023 against the decision of the Panel pursuant to Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended)

AND UPON the First Respondent conceding that the appeal should be allowed on the basis of the reasons set out in schedule 1, and the Second Respondent having no objection to the appeal being allowed on this basis

BY CONSENT IT IS ORDERED THAT:-

1. The appeal is allowed.
2. The decision is quashed and the matter is remitted to be heard by a freshly constituted panel of the First Respondent's Fitness to Practise Committee ("the Committee").
3. On remittal, the First Respondent will include charges to address the nature of the incident as set out in Ground 1 of this Appeal.
4. The First Respondent must place a copy of this order before the Committee.
5. The First Respondent is to pay the Appellant's reasonable costs in the agreed amount of £ 6,130.96
6. There be no order as to costs as between the Appellant and Second Respondent



For the Appellant



For the First Respondent



For and on behalf of the Second Respondent

Dated: 13 February 2024

APPROVED BY HON MRS JUSTICE HEATHER WILLIAMS

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B Y T H E C O U R T

Schedule 1 – statement of reasons

1. On 26 July 2023 a Fitness to Practise Committee (“the Committee”) of the Nursing and Midwifery (“NMC”) decided that Raymond Odigie (“the Registrant”) should be suspended, and not struck off for, assaulting a patient in his care.
2. The charges before the Panel were as follows:
 - 1) *On 29 July 2020 physically assaulted Patient A [Proved by admission]*
 - 2) *On 29 July 2020, mocked and/or taunted and/or intimidated Patient A in that you:-*
 - a) *stared and laughed at Patient A; [Not Proved]*
 - b) *said to another patient “Watch out because I’m dangerous” or words to that effect and pointed and laughed at Patient A [Not Proved]*
 - c) *Told Patient A that you were “going to call the Police on you” or words to that effect [Not Proved]*
 - d) *Laughed and/or smirked whilst holding your shoulder and told Patient A that you needed to go to A and E or words to that effect. [Not Proved]*
3. The Appellant appealed against the decision on the grounds that the decision was not sufficient to protect the public.
4. The First Respondent accepts that the appeal should be allowed on the following grounds:
 - (1) The First Respondent failed to lay charges relevant to, and the Committee failed to consider, the nature of the incident and the nature of the 2nd Respondent’s initial account. In particular:
 - a. As it could not be deduced from the memorandum of conviction, the nature of the assault (intentional or reckless) should have been expressly pleaded by the First Respondent and explored by the Committee.
 - b. The Second Respondent’s initial account of his interaction with Patient A should have been charged as dishonest and that question considered by the Committee.