

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 10980-2012

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

FRANCIS MICHAEL BRIDGEMAN

Respondent

Before:

Mr D. Glass (in the chair)

Mr A. G. Gibson

Mrs N. Chavda

Date of Hearing: 31st October 2012

Appearances

Geoffrey Williams QC, Geoffrey Williams & Christopher Green, The Mews, 38 Cathedral Road, Cardiff CF11 9LL, for the Applicant.

The Respondent did not appear and was not represented.

JUDGMENT

Allegations

1. The allegations against the Respondent Francis Michael Bridgeman were that he had:
 - 1.1 Made Statements to the police which were false and misleading, contrary to Rule 1.01 and 1.02 of the Solicitors' Code of Conduct 2007 ("the Code");
 - 1.2 Been convicted of an offence of perverting the course of public justice, contrary to Principles 1, 2 and 6 of the SRA Code of Conduct 2011.

Documents

2. The Tribunal reviewed all the documents submitted by the Applicant and the Respondent, which included:

Applicant:

- Application dated 27 April 2012;
- Rule 5 Statement dated 27 April 2012 with exhibit "GW1";
- Schedule of Costs dated 29 October 2012.

Respondent:

- Statement of the Respondent dated 26 October 2012 and attachments "FMB1" and "FMB2";
- Psychiatric Report prepared by Dr Paul McLaren dated 11 July 2012;
- Letter to the Tribunal dated 26 October 2012;
- Email to the Tribunal dated 30 October 2012.

Preliminary Matters

3. Mr Williams QC told the Tribunal that the Respondent had confirmed that he would not be attending at the hearing and that he had not instructed anyone to represent him. He acknowledged that the Respondent had filed a Statement but said that the contents were not agreed and the Tribunal should give the Statement whatever weight it considered appropriate.
4. The Tribunal noted that in his letter of the 26 October 2012, the Respondent had stated that he would not be attending at the hearing and that he could not afford representation. The Tribunal was satisfied that notice of the hearing had been served on the Respondent in accordance with the provisions of The Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") as the Respondent had referred to the hearing date in his letter. Accordingly, the Tribunal decided to hear and determine the application in accordance with Rule 16(2) of the SDPR notwithstanding that the Respondent had not attended in person and was not represented at the hearing.

Factual Background

5. The Respondent was born on 7 August 1968 and was admitted as a solicitor on 15 October 1993. His name remained on the Roll of Solicitors. At all material times, the Respondent carried on practice as a solicitor in partnership at MacFarlanes LLP, 20 Cursitor Street, London, EC4A 1LT. He ceased to practise on or about July 2011. The allegations did not arise from the course of his conduct as a solicitor.
6. On 7 April 2010, a member of the public reported a road traffic collision to the police. A vehicle was found in a substantially damaged condition in a hedge, having hit a telegraph pole. Checks revealed that the Respondent was the owner of the vehicle.
7. In due course, the Respondent was interviewed by the police. He stated that he had arrived at Wadhurst Railway Station and had gone to his car which had been parked there. As he began to drive away, he noticed that there was someone in the back of the car who wielded a knife and told him to drive on. The Respondent stated that he was eventually made to pull over into a lay-by, a hood was put over his head and he was told to get out of the car. The Respondent said that he was then placed in another vehicle which was driven by a third party. After being driven around for a time, the Respondent stated that he was taken out of the car and thrown through a hedge into a field. He said that his belongings had been thrown in after him, and he found that there was £300 missing from his wallet.
8. Subsequent police investigations cast doubts upon the Respondent's explanations. On 9 August 2010, the Respondent was charged with:
 - Obstructing the course of public justice contrary to common law;
 - Driving without due care and attention;
 - Driving with excess alcohol; and
 - Failing to report an accident.
9. In his reply to the charges, the Respondent strenuously denied the allegations and stated that he had never deliberately or knowingly misled the police.
10. The Respondent was bailed by the police to appear at Lewes Magistrates Court on 1 September 2010.
11. On 19 August 2010, the Respondent reported himself to the Solicitors Regulation Authority ("SRA").
12. On 25 January 2011 there was a Case Management Hearing at which the Respondent entered a plea of not guilty and the matter was listed for trial at the Crown Court.
13. The trial of the Respondent took place at Lewes Crown Court between 12 and 16 December 2011. The Respondent was convicted by a jury of the offence of doing an act tending and intended to pervert the course of public justice. The case was adjourned until 20 January 2012 so that the related summary offences could be dealt with along with the conviction.

14. On 20 January 2012, the Respondent entered guilty pleas to the offences of driving with excess alcohol and driving without due care and attention. He was sentenced to:

- 12 months' imprisonment for perverting the course of public justice;
- 2 months' imprisonment to run concurrently for driving with excess alcohol; and
- Disqualification from driving for a period of 18 months.

No separate penalty was imposed for careless driving. The sentence of imprisonment had immediate effect. The charge for failing to report an accident had been withdrawn.

15. Mitigation was adduced by Leading Counsel on behalf of the Respondent. The salient points were as follows:

- The jury verdict had been unanimous;
- The Respondent's denials of his actions were "unattractive";
- It had been shocking that the Respondent had constructed an untruthful account and adhered to it throughout the police investigation;
- The mitigation relied greatly on the health of the Respondent's wife;
- The Respondent was expressing humility and contrition which was "well overdue";
- The Respondent had taken a considered decision not to renew his Practising Certificate;
- The Respondent had shown a reckless disregard of responsibility;
- The Respondent had suffered a fall from grace.

16. The Respondent was sentenced by His Honour Judge Anthony at Lewes Crown Court on 20 January 2012. The salient points of the Judge's sentencing remarks were as follows:

- The evidence against the Respondent had been "clear and compelling, if not indeed overwhelming";
- By the time of sentencing the Respondent accepted that he had not been kidnapped but had no recollection of the accident;
- The Respondent accepted the verdict of the jury;
- The Respondent's lies and concealment triggered a significant police investigation involving some 200 hours of investigative time;
- The Respondent had thrown away his career and his character;
- The Respondent had told "quite deliberate lies" to the police and had stuck to them resolutely throughout the police investigation;
- The Respondent's professional status was an aggravating feature;

- The previous good character of the Respondent was taken into account.
17. The Respondent obtained leave of the Court of Appeal to appeal against sentence. He did not appeal against the conviction. The appeal was heard on 21 February 2012 and resulted in the immediate custodial sentence being replaced with a suspended sentence order coupled with residence requirements.
18. The salient points of the Judgment of the Court of Appeal were as follows:
- A pre-sentence report had referred to stress;
 - The seriousness of the matter was addressed;
 - The only point in the appeal was the health of the Respondent's wife and but for that consideration, the sentence imposed would have been entirely appropriate;
 - The Court was intervening as an act of mercy in exceptional circumstances and the Court expressly disregarded the Respondent's fall from grace.
19. The decision of the Court of Appeal was brought to the attention of the SRA by solicitors acting on behalf of the Respondent.

Witnesses

20. None.

Findings of Fact and Law

21. The Tribunal determined all the allegations to its usual standard of proof, that is beyond reasonable doubt.
22. **The allegations against the Respondent Francis Michael Bridgeman were that he had:**
- Allegation 1.1: Made Statements to the police which were false and misleading, contrary to Rule 1.01 and 1.02 of the Solicitors' Code of Conduct 2007 ("the Code");**
- Allegation 1.2: Been convicted of an offence of perverting the course of public justice, contrary to Principles 1, 2 and 6 of the SRA Code of Conduct 2011.**
- 22.1 Mr Williams told the Tribunal that these allegations arose from the Respondent's personal conduct and not from the course of his professional practice. He said that although the Respondent admitted the facts of the case and the allegations against him, he did not accept that he had acted dishonestly. Mr Williams stated that the explanation given to the police regarding the incident by the Respondent had been wholly untrue. He said that the Respondent had lied to conceal the fact that he had been the driver of the car when it had crashed, and that he had consumed excess alcohol before driving. He said that the Respondent had made dishonest statements to the police and that when he had made those statements, he had known that he had

been acting dishonestly. Mr Williams invited the Tribunal to find that the Respondent had been dishonest and he asked the Tribunal to consider the “combined” test for dishonesty as set out in Twinsectra Ltd v Yardley & Others [2002] UKHL 12, in which Lord Hutton had stated that:

“Before there can be a finding of dishonesty it must be established that the Defendant’s conduct was dishonest by the ordinary standards of reasonable and honest people, and that he himself realised that by those standards his conduct was dishonest”.

- 22.2 The Tribunal was told that a vehicle which had been involved in a road traffic collision on 7 April 2010 had been traced to the Respondent. Mr Williams said that in interview with the police, the Respondent had claimed that when he had collected his car from the railway station and started to drive away, he had noticed someone in the back of the car who had wielded a knife and subsequently forced him to get out of his car and into a vehicle driven by a third party. The Respondent had then claimed that after being driven around for a time, he had been taken out of the car and thrown through a hedge into a field, and his belongings had been thrown in after him. Mr Williams told the Tribunal that following investigation by the police, doubts were cast over the Respondent’s version of events and the Respondent had subsequently been charged with a number of offences. He said that the Respondent had portrayed himself as the victim of a serious crime when, in fact, he had been attempting to “cover up” the fact that he had been driving whilst unfit through alcohol. Mr Williams told the Tribunal that the Respondent had strenuously denied the allegations made against him and had maintained that he had never deliberately or knowingly misled the police. He explained that the Respondent had subsequently been convicted of an offence of perverting the course of public justice and had also pleaded guilty to two lesser offences of driving with excess alcohol and driving without due care and attention. He had subsequently been sentenced to a period of imprisonment.
- 22.3 Mr Williams said that the Respondent had been dishonest in his dealings with the police. He referred the Tribunal to the comments made by the Respondent’s Counsel in mitigation at the Crown Court. He asked the Tribunal to note that Counsel had made reference to the Respondent’s “unattractive continuing denials” and to the fact that the Respondent had constructed an “untruthful account” which he had adhered to throughout the police investigation. Mr Williams pointed out that Counsel had also expressed, on the Respondent’s behalf, his “humility and contrition” which was “well overdue”. In addition, he said that Counsel had referred to the fact that the Respondent had not renewed his Practising Certificate which was “a real indication of remorse” and “an acceptance of what he has done, an acceptance of punishment that must follow”. Mr Williams told the Tribunal that the Respondent’s mitigation had also made reference to his “reckless disregard of responsibility...” and to his wife’s serious ill- health.
- 22.4 The Tribunal was then referred to the sentencing comments made by His Honour Judge Anthony. Mr Williams told the Tribunal that the evidence against the Respondent had been described as:

“clear and compelling, if not indeed overwhelming”.

He said that the Judge had stated that the Respondent's lies had:

“involved both the concealment of evidence as to who was driving, and the allegation not just that somebody else must have been, but of a serious criminal offence committed against you, [the Respondent], triggered a significant police investigation”.

Mr Williams acknowledged that reference had been made to the Respondent's previous good character but asked the Tribunal to note that the Judge had stated that it was an:

“aggravating feature that, as a solicitor and officer of the court, you elected to try and evade the consequences of your poor decision by telling those quite deliberate lies and thus attempting to pervert the course of public justice.”

Mr Williams told the Tribunal that the Respondent had subsequently appealed against his sentence and the Court of Appeal had accepted that it should intervene:

“as an act of mercy in exceptional circumstances”

due to the poor health of the Respondent's wife. The immediate custodial sentence had been replaced with a suspended sentence in order to allow the Respondent to be able to continue to care for his wife.

22.5 Mr Williams stated that an offence of perverting the course of public justice was a most serious matter for a solicitor who was an officer of the Court. He told the Tribunal that the Respondent's “fall from grace” was complete. He said that the Respondent's appeal against his sentence would have been refused but for the tragic circumstances relating to his wife's health. He submitted that reasonable and honest people would consider that the Respondent had acted dishonestly and the Respondent, himself, must have been aware that he was being dishonest. He had given an elaborate explanation to the police which he had repeated and maintained over a period of time when he had known that the explanation was untrue. Mr Williams acknowledged that the medical evidence that had been filed on behalf of the Respondent confirmed his claim to have no recollection of the incident. He told the Tribunal that this was no defence to the allegation that the Respondent had acted dishonestly. He said that the medical report did not establish that the Respondent had not known what he was doing at the time and it did not deal with the explanation that the Respondent had given for his actions. In summary, Mr Williams stated that the Respondent had made up his story in order to conceal the fact that he had been driving whilst unfit and in so doing, the Respondent had been dishonest. Mr Williams stated that the Respondent, as an officer of the Court, had damaged the reputation of the profession. He reminded the Tribunal that Bolton v The Law Society [1994] 1 WLR 512 had established that dishonesty on the part of a solicitor was the most serious type of misconduct.

22.6 The Tribunal found allegations 1.1 and 1.2 to be substantiated against the Respondent on the facts and the documents before it, and indeed the Respondent had admitted the allegations. The Tribunal had been invited to find that the Respondent had acted dishonestly. In considering the “combined” test for dishonesty as set out in

Twinsectra, the Tribunal concluded that ordinary and reasonable people would consider that the Respondent had acted dishonestly and, in addition, the Respondent, himself must have known that he was being dishonest. He had expressed contrition at the Crown Court and had apologised for his actions. Accordingly the Tribunal found that the Respondent had been dishonest.

Previous Disciplinary Matters

23. None.

Mitigation

24. There was no formal mitigation but the Tribunal read and considered the Respondent's statement dated 26 October 2012. It accepted that his conviction had ruined his career. It noted that he had cooperated with the Applicant and had not sought to contest the application. The conviction did not arise out of his professional work. He chose to retire from his firm in part at least to try to avoid any consequences of the trial process (whatever the outcome) having a negative bearing on the firm..
25. The Tribunal had however found both allegations to be substantiated and had also found that the Respondent had acted dishonestly. This was a serious case and the reputation of the profession had been damaged, as well as public confidence in the administration of justice. The Tribunal had carefully considered the medical report that had been filed on behalf of the Respondent. It was clear that he had very difficult matters to deal with in his personal life, particularly in relation to the ill-health of his wife, and the Tribunal had sympathy with the situation in which the Respondent found himself. Although the Respondent's judgement may have been clouded by his domestic circumstances and pressures of work this did not excuse what he had done. The Tribunal was mindful of the observations of Lord Bingham in Bolton when he had said:

“The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.”

Sanction

26. In all the circumstances, and having regard to the Tribunal's own Guidance Note on Sanctions, the appropriate penalty in this case was that the Respondent should be struck off the Roll of Solicitors and the Tribunal so ordered. The Tribunal had noted reference in the Respondent's Statement to “the normal 6 years” in relation to any application for re-admission to the Roll but there was no statutory or other provision which required an order for strike-off to be limited in time.

Costs

27. The Applicant's claim for costs was £7,238.40. Mr Williams told the Tribunal that the Respondent had agreed to pay costs fixed in that amount. This had been confirmed in the Respondent's email to the Tribunal dated 30 October 2012. There

had been no application for the Tribunal to consider the Respondent's financial means and accordingly, the Tribunal ordered that the Respondent should pay the Applicant's costs fixed in the sum of £7,238.40.

Statement of Full Order

28. The Tribunal Ordered that the Respondent Francis Michael Bridgeman, solicitor, be Struck Off the Roll of Solicitors and it further Ordered that he do pay the agreed costs of and incidental to this application and enquiry fixed in the sum of £7,238.40.

Dated this 10th day of December 2012
On behalf of the Tribunal

D. Glass
Chairman