

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11807-2018

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

MOHAMMED RIAZ (AKA JOHN WASHINGTON)

Respondent

Before:

Mr J. P. Davies (in the chair)

Mr P. Jones

Mr S. Howe

Date of Hearing: 12 December 2018

Appearances

Shaun Moran, solicitor, of the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant

The Respondent did not appear and was not represented

JUDGMENT

Allegations

1. The allegations made by the Applicant against the Respondent (who was also known as John Washington) were set out in a Rule 5 Statement dated 29 March 2018 and were that on 1 September 2016 he was convicted after trial upon indictment of committing “an act/series of acts with intent to pervert the course of public justice”, and thereby failed to:
 - 1.1 uphold the rule of law and the proper administration of justice in breach of Principle 1 of the SRA Principles 2011 (“the Principles”); and/or
 - 1.2 act with integrity in breach of Principle 2 of the Principles; and/or
 - 1.3 behave in a way that maintains the trust the public places in him and the provision of legal services in breach of Principle 6 of the Principles.

Documents

2. The Tribunal considered all of the documents in the case which included the following supplied by the Applicant:
 - Application and Rule 5 Statement dated 29 March 2018 and exhibit JRL1
 - Statement of costs at issue dated 29 March 2018 and updated statement of costs for the hearing dated 5 December 2018
 - Witness statement of CH dated 3 April 2018

The Respondent had not provided any documentation to the Tribunal (other than indirectly by way of the documents appearing within the exhibit to the Rule 5 Statement).

Preliminary Matters – Application to proceed in the absence of the Respondent

The Applicant’s Submissions

3. The Applicant applied to proceed in the absence of the Respondent. The Applicant submitted that the Respondent had received the case papers. On 26 February 2018 the Respondent had provided a postal address to the Applicant and this had been used since that date by the Applicant and the Tribunal. Mr Moran, for the Applicant, confirmed that both post and e-mail addresses, including the e-mail address from which the Respondent had written to the Applicant on 26 February 2018, had been used to serve the case papers. A further full set of all relevant papers had been served by e-mail on 25 July 2018.
4. Mr Moran stated that the Applicant had been engaged in correspondence with the Respondent following the Tribunal’s certification of the case, and this correspondence had included making the Respondent aware of the Tribunal’s practice note on adjournments which sets out the evidence which would be required to support an application to adjourn based on ill-health. Mr Moran stated that the Applicant had

received no updated medical evidence since a GP note dated 12 January 2018 which had stated the Respondent was suffering from anxiety and depression and would be unable to travel for the next few months.

5. Mr Moran further stated that the Respondent had telephoned the Applicant on 7 August 2018 and stated that he was due to see a consultant the following day. Mr Moran stated that the Applicant had since chased the medical report, both by post and by e-mail, most recently on 24 September 2018 but had received nothing further. The Applicant had specifically mentioned the need to seek a report from the consultant, along with other developments, in correspondence with the Respondent.

The Respondent's Position

6. The Respondent had not filed an Answer to the allegations and had made no contact with the Tribunal at any stage of the proceedings. An e-mail had been received by the Tribunal at 00:58 on the morning of the hearing from the e-mail address from which the Respondent had corresponded with the Applicant. It was unclear who the mail was from although it was stated to be from 'Tina'. The email asserted that the Respondent was innocent and had been the intended victim of blackmail. It also stated that the Respondent was suffering from depression and other conditions and that he was in no state to prepare for the Tribunal 'let alone attend'. The email stated that the Respondent had offered in good faith to leave the profession under a regulatory settlement agreement. The email referred to the interests of justice requiring that he be given ample time to prepare for a hearing.

The Tribunal's Decision

7. The Tribunal reviewed the correspondence between the Respondent and the Applicant, and noted that a second full set of Tribunal paperwork had been served on the e-mail address provided and used by the Respondent, as well as being sent by post. The Tribunal noted the position as outlined by Mr Moran that the Applicant and Respondent had been corresponding about matters including the possibility of an Agreed Outcome and the necessity for medical evidence in the event that he wished to apply for an adjournment. This indicated that the Respondent had been served with notice of the hearing and was aware of the need to support any adjournment with relevant medical evidence. Nothing had been provided. The Tribunal had received an email on the morning of the hearing from the email address previously used by the Respondent. The Tribunal was satisfied that the Respondent had been served with notice of the hearing. Under Rule 16(2) of the Solicitors (Disciplinary Proceedings) Rules 2007 ('the SDPR') the Tribunal had the power, if satisfied service had been effected, to hear and determine the application in the Respondent's absence.
8. The Tribunal considered the factors set out in R v Jones [2002] UKHL 5 in respect of what should be considered when deciding whether or not to exercise the discretion to proceed in the absence of the Respondent. The Tribunal also considered the case of GMC v Adeogba [2016] EWCA Civ 162 which applied the case of Jones in a regulatory context.

9. The Tribunal decided that it should exercise its power under Rule 16(2) of the SDPR to hear and determine the application in the Respondent's absence. The Tribunal concluded that the Respondent had voluntarily absented himself from the hearing and was unlikely to attend a future hearing if the matter was adjourned. The allegations were of serious misconduct and the Tribunal was satisfied that in all the circumstances it was appropriate and in the public interest for the hearing to proceed in the Respondent's absence.

Factual Background

10. The Respondent was admitted to the Roll of Solicitors on 15 June 2015. At the date of the hearing he did not hold a Practising Certificate.
11. In August and September 2015, the Respondent informed the Applicant by telephone that he had been charged with perverting the course of justice. In January 2017, the Respondent reported his conviction of 1 September 2016 to the Applicant by telephone and by email. On 24 March 2017 the Respondent informed the Applicant that he had been charged under the name of "John Washington" rather than his real name.

Witnesses

12. There was no live evidence during the hearing. The documentary evidence referred to by the parties is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read or consider that evidence.

Findings of Fact and Law

13. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
14. **Allegation 1: On 1 September 2016 the Respondent was convicted after trial upon indictment of committing "an act/series of acts with intent to pervert the course of public justice", and thereby failed to:**
- 1.1 **uphold the rule of law and the proper administration of justice in breach of Principle 1 of the Principles; and/or**
 - 1.2 **act with integrity in breach of Principle 2 of the Principles; and/or**
 - 1.3 **behave in a way that maintains the trust the public places in him and the provision of legal services in breach of Principle 6 of the Principles.**

The Applicant's Case

- 14.1 As noted above, the Respondent was charged and then convicted under the name of "John Washington". The Respondent had at all times accepted that this was him and that John Washington was his pseudonym.
- 14.2 The certified Certificate of Conviction from the Crown Court at Mold states that on 1 September 2016 "John Washington" was convicted of "Commit an Act/Series of Acts with Intent to pervert the Course of Justice". The Certificate of Conviction also confirmed that a sentence of 8 months imprisonment was imposed.
- 14.3 The Applicant relied on the Certificate of Conviction as proof of the conviction. In relation to the underlying facts regarding his conviction, the Applicant's position was that the Respondent's disappointment and disagreement with the verdict of the Crown Court was not sufficient for the Tribunal to consider evidence of matters behind the conviction. The Applicant relied on Rule 15(2) of the SDPR which stated that proof of conviction, proved by way of a certified copy of the Certificate of Conviction, 'shall constitute evidence that the person in question was guilty of the offence'.
- 14.4 In relation to the background to the conviction, this was summarised by the Applicant as follows:
- The Respondent had owned a hotel in North Wales.
 - An allegation of sexual assault had been made against the Respondent's brother.
 - The case against the Respondent related to conversations he had with a manager of his hotel shortly after the allegations were made against his brother. The prosecution alleged that the Respondent tried (through these conversations) to persuade a witness [the complainant in relation to his brother] to withdraw her statement.
- 14.5 In opening the case, prosecution Counsel read out the indictment stating that John Washington [i.e. the Respondent] was charged with "Doing acts tending and intended to pervert the course of public justice" and that the particulars of the offence were that "John Washington between the 15th day of June 2015 and the 18th day of June 2015 with intent to pervert the course of public justice did a series of acts which had a tendency to pervert the course of public justice in that he spoke to [LT] in order to persuade a witness to withdraw her statement".
- 14.6 The brief sentencing remarks of His Honour Judge Parry included that:
- "This is a very serious matter because it strikes at the very root of our system of justice. A very serious criminal offence had been alleged. It was in the early stages of investigation and you sought to influence the main witness, the Complainant".
- "You sought to do that by utilising a person over whom you had influence, a person whose job depended on you".
- "...the public interest demands that there must be custodial sentences and that will be one of 8 months in custody".

- 14.7 The Applicant provided copy documents showing that the conviction received some media coverage, including some which noted the position of the Respondent as a solicitor.
- 14.8 On 20 June 2017 the Respondent stated to the Applicant that he planned to appeal his conviction. On 16 February 2018 the Applicant received confirmation from the Court of Appeal, Criminal Division that they had no record of any appeal. The Application and allegations in the Rule 5 Statement were brought approximately 18 months after the Respondent's conviction.
- 14.9 Principles 1, 2 and 6 of the Principles were submitted to apply to solicitors in relation to activities which fall outside their practice, whether undertaken as a lawyer or in some other business or private capacity. Principle 1 required solicitors to uphold the rule of law and the proper administration of justice. It was submitted that this required them, amongst other things, to abstain from criminal behaviour at all times. As the Respondent was convicted of a serious criminal offence, one involving an intent to pervert the course of justice, it was submitted that he had breached Principle 1.
- 14.10 Principle 2 requires solicitors to act with integrity. It was submitted that a solicitor acting with integrity would not engage in serious criminal activity such as that which the Respondent has been convicted of involving him intending to pervert the course of justice. It was submitted that a solicitor engaging in such criminal activity may properly be said to lack moral soundness, rectitude and steady adherence to an ethical code so as to lack integrity, in breach of Principle 2.
- 14.11 Principle 6 requires solicitors to behave in a way that maintains the trust the public places in them and in the provision of legal services. It was submitted that this trust depended upon the reputation of the solicitors' profession as one in which every member 'may be trusted to the ends of the earth'. It was submitted that the conviction of a solicitor for a serious criminal offence, particularly the type of which the Respondent had been convicted, undermined the trust that the public placed in him and in the provision of legal services, in breach of Principle 6. This was submitted to be exacerbated by the negative media coverage making reference to the fact that the Respondent was a solicitor convicted of a serious criminal offence.

The Respondent's Case

- 14.12 The Respondent had not submitted an Answer to the allegations. In a letter to the Applicant sent by email on 24 July 2017 he stated that the original certificate wrongly recorded that he had confessed when he had not. He maintained his innocence and stated that he was in the process of an appeal. He had requested that the Applicant suspend or delay the disciplinary proceedings pending the outcome of his appeal against his conviction.

The Tribunal's Decision

- 14.13 The Tribunal reviewed the Civil Evidence Act Notice pursuant to which a statement from a Police Constable confirmed that the Respondent was also known as

John Washington. The Tribunal noted that the Respondent had confirmed this was a pseudonym of his.

- 14.14 The Tribunal reviewed the certified Certificate of Conviction which recorded that on 1 September 2016 the Respondent was convicted of committing an act/series of acts with intent to pervert the course of public justice. The Respondent had not sought to challenge the validity of the Certificate of Conviction other than to protest his innocence and to make reference to an appeal. The Tribunal was not aware of any extant appeal proceedings. Rule 15(2) of the SDPR states that:

“A conviction for a criminal offence may be proved by the production of a certified copy of the certificate of conviction relating to the offence and proof or a conviction shall constitute evidence that the person in question was guilty of the offence.”

- 14.15 The Tribunal was accordingly satisfied that by virtue of the Respondent’s conviction for acts with intent to pervert the course of justice, allegations 1.1, 1.2 and 1.3 had been proved beyond reasonable doubt. The Tribunal accepted that Principles 1, 2 and 6 applied to the conduct of solicitors outside their professional practice. The Tribunal considered that such a conviction for a solicitor inevitably represented a failure to uphold the rule of law and the proper administration of justice and to act with integrity in breach of Principles 1 and 2. It involved a striking failure to uphold the ethical standards of the profession which acting with integrity required. Such conduct would also undermine the trust placed by the public in the Respondent and in the provision of legal services in breach of Principle 6.

Previous Disciplinary Matters

15. There were no previous Tribunal disciplinary findings.

Mitigation

16. Whilst he did not present any mitigation to the Tribunal, the Respondent had raised issues with the Applicant by email in February 2018. The key mitigation put forward was:
- 16.1 The Respondent maintained his innocence. He stated that he intended to appeal (but had not to date done so).
- 16.2 The conduct for which he was convicted was a single episode of very brief duration. The sentencing judge had stated that he ‘had acted entirely out of character’.
- 16.3 His brother, on whose behalf he had done the acts which gave rise to the conviction, was not ultimately prosecuted.

Sanction

17. The Tribunal referred to its Guidance Note on Sanctions (5th Edition) when considering sanction. The Tribunal assessed the seriousness of the misconduct by considering the

level of the Respondent's culpability and the harm caused, together with any aggravating or mitigating factors.

18. In assessing culpability, the Tribunal found that the motivation for the Respondent's conduct was to help ensure that his brother was not prosecuted. The conduct was to some extent planned and could not be described as spontaneous. The Respondent had control over the circumstances giving rise to the conduct; the individual he sought to influence was someone whose job depended on him. The Tribunal considered that as a qualified solicitor the Respondent must have known that seeking to influence a potential witness in the early stages of the investigation into allegations of serious criminal conduct was thoroughly inappropriate. The Respondent was relatively inexperienced but he must have been aware of this fundamental point. The Tribunal assessed the Respondent's culpability as high.
19. The Tribunal considered the harm caused by the conduct. The person influenced had reported feeling threatened and intimidated. The press coverage of the conviction was likely to have caused reputational damage to the profession. The Tribunal assessed the harm to be significant.
20. The conduct was aggravated by the fact that it represented serious criminal misconduct. The Respondent sought to take advantage of the authority he had over an employee which also aggravated the conduct. The Tribunal also considered that the impact on the original complainant could have been significant and the fact that the Respondent must have known that his actions were thoroughly inappropriate further aggravated the conduct.
21. The Tribunal considered mitigation. The Respondent had notified his regulator of his arrest and subsequent conviction. The misconduct was also of brief duration and described by the sentencing judge as entirely out of character in an otherwise hardworking, industrious life.
22. Having found the Respondent's culpability to be high and the harm caused significant, the Tribunal assessed the appropriate sanction. The Respondent had been sentenced to 8 months imprisonment for a conviction which included intent to pervert the course of justice. The fact that the conduct was out of character did not outweigh the seriousness or the harm caused to the reputation of the profession and the public's trust in it.
23. The Tribunal considered that No Order, Reprimand, Fine or Suspension were inadequate sanctions which did not reflect the seriousness of the conduct. The misconduct was of the utmost seriousness and this fact, together with the need to protect the reputation of the legal profession, required that the appropriate sanction was Strike Off from the Roll.

Costs

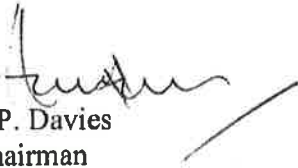
24. Mr Moran applied for the Applicant's costs in the sum of £2,368.50 as set out in the Schedule of Costs dated 29 March 2018. The Tribunal assessed the costs for the hearing. The Tribunal considered the costs claimed to be reasonable and the

Respondent was ordered to pay the costs of and incidental to the application and enquiry fixed in the sum of £2,368.50.

Statement of Full Order

25. The Tribunal ORDERED that the Respondent, Mohammed Riaz (AKA John Washington), solicitor, be STRUCK OFF the Roll of Solicitors and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,368.50.

Dated this 31st day of January 2019
On behalf of the Tribunal


J. P. Davies
Chairman

Judgment filed
with the Law Society
on 31 FEB 2019

