

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12103-2020

BETWEEN:

DANIEL LLOYD WILLIAMS

Applicant

and

SOLICITORS REGULATION AUTHORITY

Respondent

Before:

Mrs C Evans (in the chair)

Ms B Patel

Mrs N Chavda

Date of Hearing: 13 August 2020

Appearances

The Applicant appeared in person.

Emma Priest, solicitor, of The Solicitors Regulation Authority of The Cube, 199 Wharfside Street, Birmingham, B1 1RN for the Respondent.

**JUDGMENT ON APPLICATION
TO VARY CONDITIONS**

Application

1. This matter came before the Tribunal on 13 August 2020 on the Applicant's application dated 11 June 2020 to vary a condition imposed by the Tribunal following a hearing on 3 December 2015. The Applicant's application to vary a condition was dealt with at a remote hearing.
2. At a hearing which took place before the Solicitors Disciplinary Tribunal on 23 December 2015, the Tribunal imposed the following conditions on the Applicant:
 - “1. The [Applicant]:
 - i. Must provide quarterly reports to the Solicitors Regulation Authority from a recognised medical practitioner as to the [Applicant]'s mental health and fitness to practise, the first such report to be submitted by 28 February 2016;
 - ii. Must disclose these proceedings, the outcome and the Tribunal's written Judgment to his current and any future employers;
 - iii. May not practice as a sole practitioner, partner or member of a Limited Liability Partnership (LLP), Legal Disciplinary Practice (LDP) or Alternative Business Structure (ABS).
 2. There be liberty to either party to apply to the Tribunal to vary the conditions set out at paragraph 1 above.”
3. The allegations admitted by the Applicant and found proved at the hearing on 2 and 3 December 2015 were as follows:
 - a. By fabricating a letter (“the letter”) purportedly dated 13 July 2013 to HD Solicitors (“HD”) on behalf of the Defendant in the proceedings, falsely stating that the Claim Form had been served and sending a copy of the letter to the Northampton County Court (“the Court”) and HD on 5 November 2013, the [Applicant]:
 - Failed to act with integrity, in breach of Principle 2 of the SRA Principles 2011.
 - Failed to behave in a way that maintained the trust the public placed in him and in the provision of legal services, in breach of Principle 6 of the SRA Principles 2011.
 - Failed to comply with his duties to the Court and therefore failed to achieve Outcome 5.6 of the SRA Code of Conduct 2011.
 - b. By misleading his client that he had served the Claim Form within the required four month period, the [Applicant]:
 - Failed to act with integrity, in breach of Principle 2 of the SRA Principles 2011; and

- Failed to behave in a way that maintained the trust the public placed in him and in the provision of legal services, in breach of Principle 6 of the SRA Principles 2011.
- c. By misleading his employers that he had served the Claim Form within the required four month period, the [Applicant]:
- Failed to act with integrity, in breach of Principle 2 of the SRA Principles 2011; and
 - Failed to behave in a way that maintained the trust the public placed in him and in the provision of legal services, in breach of Principle 6 of the SRA Principles 2011.

Documents

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

Applicant:

- Application dated 11 June 2020 together with attached witness statement and exhibits
- Email dated 10 June 2020 from the Applicant to the Tribunal and the Respondent together with attached documents
- Applicant's Reply to the Respondent's Answer dated 28 July 2020
- Medical Report dated 12 February 2020

Respondent:

- Submissions on behalf of the Respondent dated 14 July 2020 together with attached Bundle of Documents

Witnesses

5. No witnesses gave evidence.

The Submissions of the Applicant

6. The Applicant reminded the Tribunal that one of the conditions imposed on him in December 2015 had required him to submit medical reports to the Respondent Authority quarterly which he had done. He stated he had submitted 18 medical reports over 4½ years, copies of which he had provided to the Tribunal. The Applicant now requested the Tribunal to vary that condition allowing him to submit a medical report annually rather than quarterly.

7. The Applicant referred the Tribunal to the content of the medical reports provided which indicated he was fit to practise and confirmed there had been no issues with his health.
8. The Applicant submitted that although he had initially applied for the condition to be varied to a medical report being provided once every two years, having discussed his application with the Respondent Authority, he was willing to agree to a moderate variation of the condition to submit medical reports annually instead. This was agreed by the Respondent.
9. In his supporting witness statement dated 11 June 2020, the Applicant had referred to some difficult events that had taken place since the Tribunal hearing in 2015 and confirmed that he had remained resilient throughout these. He stated he had not practised as a solicitor since September 2016 and was currently employed by a property management company which was not regulated by the SRA. However, he had continued to submit medical reports as required by the condition. He confirmed in his statement that the SRA had continued to grant him a practising certificate each year. The Applicant stated that his medical practitioner considered the medical reports were no longer necessary at such frequent intervals due to the stable nature of his health over a prolonged period of time. He did not seek to remove the condition entirely but simply to moderate it.

The Submissions of the Respondent

10. Ms Priest, on behalf of the Respondent Authority, confirmed that there was no objection to the application, providing medical reports were provided once a year rather than once every two years as the Applicant had originally requested in his application. Provision of an annual medical report had been agreed with the Applicant. Ms Priest confirmed the Applicant had complied with all the conditions and there had been no issues in this regard.
11. In the Respondent's written submissions, the Respondent Authority had confirmed that practising certificates had been granted to the Applicant since 2015. The Applicant's most recent practising certificate for 2019/2020 had been subject to the condition that the Applicant "may act as a solicitor, only as an employee whose role has first been approved by the Solicitors Regulation Authority", and that he "must immediately inform any actual or prospective employer of this condition and the reason for its imposition".

The Tribunal's Decision

12. The Tribunal had carefully considered all the documents provided and the submissions of both parties. The Tribunal had due regard to the Applicant's rights to a fair hearing 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. The Tribunal also referred to its Guidance Note on Sanctions in considering the application.
13. The Tribunal noted that both parties had agreed there could be a variation to the condition requiring the Applicant to file medical reports from filing them quarterly to once a year.

14. The Tribunal had been provided with copies of all the medical reports that had been filed by the Applicant since February 2016. The reports made reference to events that had taken place since December 2015, which had the potential to impact on the Applicant's health. However, none of those reports raised any concerns about his health and all of them confirmed he remained fit and well. In the most recent report dated 12 February 2020, the Applicant's Consultant had confirmed the Applicant was managing well and again stated there were no concerns about his health. The Consultant had stated:

“From a clinical point of view I am of the opinion that the period between assessments can be extended from this point inwards [sic].”

15. The original condition had been imposed in December 2015, over 4½ years ago. The Applicant had produced 18 medical reports since then and the Tribunal considered that if there were any issues of concern about the Applicant's health, such matters would have arisen during that time. Although the Applicant had not worked as a solicitor since September 2016, he had been in other employment since then. He had been deemed fit to work whilst working as a solicitor. He had changed jobs in September 2016 due to personal family circumstances and had worked full time with no issues since then. In any event, the Tribunal noted that the regulator had placed a condition on the Applicant's current practising certificate requiring him to obtain the SRA's approval before he could be employed as a solicitor. This provided additional protection to the public.
16. It was also relevant that the Applicant's Consultant supported the request for a reduction in the number of medical reports required to be submitted each year, as in her view he had now been assessed for an extended period of time.
17. The Tribunal concluded that although the Applicant's ability to work as a solicitor more recently, dealing with the stresses that that might entail, had not been tested, this could be balanced with the fact that the Applicant had provided regular timely quarterly medical reports since Dec 2015 and no issues had been raised in those reports. During that time the Applicant had dealt with a bereavement, challenging family circumstances as well as a change in his job, but his health had remained stable throughout. The Tribunal concluded that these would all have been stressful events and the Applicant had coped well throughout.
18. The Tribunal was mindful that the purpose of sanction was not intended to be punitive. The frequency of the requirement for medical reports to be filed had been determined to protect the public, the reputation of the profession and the Respondent. In its Judgment, the original division of the Tribunal in December 2015 had stated:

“44.....The medical evidence provided confirmed the [Applicant]'s decision making ability had been significantly compromised due to his health. The [Applicant] also had employers who were aware of his condition and were willing to supervise him.

45. In the very particular circumstances of this case, the Tribunal concluded that the public, the reputation of the profession and indeed the [Applicant] himself

would be protected by restrictions being placed on the [Applicant]’s practising certificate. The restrictions were not intended to prevent the [Applicant] from practising but to ensure that he did so in a safe and constructive environment.”

19. The Tribunal was satisfied that the Applicant had demonstrated that he had been able to work with no issues since December 2015. The Tribunal was further satisfied that it was no longer necessary for such frequent medical reports to be required. The remaining conditions would still apply, namely that the Applicant would still be required to disclose the Tribunal proceedings and Judgment from the hearing in December 2015, together with the outcome to his current and any future employers. He was also still unable to practise as a sole practitioner, partner or member of a Limited Liability Partnership, Legal Disciplinary Practice or Alternative Business Structure. In addition to these conditions, a medical report from a recognised medical practitioner once a year would be sufficient to protect the public, the reputation of the profession and the Applicant himself.
20. In the circumstances, the Tribunal granted the Applicant’s application to vary the condition from providing medical reports quarterly to providing a medical report annually.

Costs

21. Ms Priest, on behalf of the Respondent Authority, requested an Order for the SRA’s costs in the total sum of £200. She confirmed this amount had been agreed with the Applicant. There was no objection from the Applicant to the application for costs in this amount.
22. The Tribunal noted costs were agreed and Ordered the Applicant to pay the costs of the Respondent’s response to his application in the sum of £200.00.

Statement of Full Order

23. The Tribunal Ordered that the application of DANIEL LLOYD WILLIAMS, for variation of a condition imposed by the Tribunal on 3 December 2015 (to provide quarterly medical reports) be GRANTED.

The Tribunal further Ordered that the Respondent must provide annual reports to the Solicitors Regulation Authority from a recognised medical practitioner as to the Respondent’s mental health and fitness to practise, the next report to be submitted on or before 11 May 2021 and it further Ordered that he do pay the costs of the response of the Solicitors Regulation Authority to this application fixed in the agreed sum of £200.00.

Dated this 1st day of October 2020
On behalf of the Tribunal



C Evans
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
01 OCT 2020