



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO.: 245/03/106C

IN THE MATTER of the MEDICAL
PRACTITIONERS ACT 1995

AND

IN THE MATTER of disciplinary proceedings against S
medical practitioner of xx

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING by telephone conference on Wednesday 20 August 2003

PRESENT: Dr D B Collins QC - Chair
Mr P Budden, Dr I D S Civil, Dr F McGrath, Dr L Henneveld
(members)

APPEARANCES: Ms G J Fraser - Secretary
(for first part of call only)

COUNSEL: Ms K P McDonald QC for Complaints Assessment Committee
Ms J Gibson for respondent

Decision on the application for Withdrawal of Charge

1. On 16 May 2003 a Complaints Assessment Committee laid a charge with the Tribunal against Dr S. The charge was based upon section 109(1)(e) of the Medical Practitioners Act 1995. The basis of the charge was that Dr S had been convicted in the District Court in xx following a driving incident which occurred on 10 March 2002 at xx. As a result of Dr S's conduct he was charged with "dangerous use" of a motor vehicle (section 35(1)B of the Land Transport Act 1998) and driving with excess breath alcohol (section 56(1) of the Land Transport Act 1998).
2. The two offences which Dr S was convicted of carry a maximum term of imprisonment of three months or longer. In these circumstances his convictions fall within the first limb of section 109(1)(e) of the Medical Practitioners Act 1995 which confers jurisdiction on the Tribunal where a doctor:

"Has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of three months or longer, and the circumstances of that offence reflect adversely on the practitioner's fitness to practice medicine;"
3. The charge against Dr S was scheduled to be heard by the Tribunal on 18 July. However, prior to then the Complaints Assessment Committee made application to the Tribunal to withdraw the charge.
4. On the basis of the information which has been made available to the Tribunal, it would appear that the Complaints Assessment Committee's application is entirely responsible. The Tribunal understands Dr S was not practising medicine at the time of his offending. Furthermore, the Tribunal's recent decision in *Zauka* (236/03/103C) would indicate the Complaints Assessment Committee might have some difficulty in persuading the Tribunal that Dr S's offending "reflected adversely on the practitioner's fitness to practise medicine".

5. The Tribunal convened (by telephone conference) on 20 August and granted the Complaints Assessment Committee application to withdraw the charge.

Name Suppression

6. At the same time the Tribunal considered the Complaints Assessment Committee's application, it also considered an application by Dr S for permanent name suppression. That application was not opposed by the Complaints Assessment Committee. The Tribunal has resolved to grant Dr S permanent name suppression. There are three key reasons why the Tribunal has granted Dr S's application. Those reasons can be succinctly stated:

- 6.1 Dr S was not practising medicine at the time of the offences and has not practised since then;

- 6.2 Dr S is 68 and has been placed under significant stress by the steps taken in bringing this matter to the attention of the Tribunal;

- 6.3 If the Complaints Assessment Committee had the opportunity to consider the Tribunal's decision in Zauka before deciding whether or not to bring a charge it is highly likely the Complaints Assessment Committee would have resolved not to bring disciplinary charges against Dr S.

7. It is not necessary for a summary of this case to be published in accordance with section 138 of the Medical Practitioners Act 1995.

DATED at Wellington this 22nd day of August 2003

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D B Collins QC
Chair
Medical Practitioners Disciplinary Tribunal