

*Privy Council Appeal No. 2 of 1974*

James Vignoles - - - - - *Appellant*

v.

The General Medical Council - - - - - *Respondent*

FROM

**THE DISCIPLINARY COMMITTEE OF THE GENERAL  
MEDICAL COUNCIL**

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REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE  
1ST MAY 1974

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*Present at the Hearing :*

LORD WILBERFORCE

LORD SIMON OF GLAISDALE

LORD KILBRANDON

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[*Delivered by* LORD WILBERFORCE]

This is an appeal against a decision of the Disciplinary Committee of the General Medical Council constituted under s.32 of the Medical Act 1956 given on 12th March 1974.

In March 1973 the Committee considered a charge against the appellant of having issued prescriptions for drugs otherwise than in the course of *bona fide* treatment. The charge referred to two schedules of prescriptions issued in 1972 relating to a number of patients for whom drugs were prescribed. Some of these drugs were amphetamines; there were also prescriptions of Mandrax, Tuinal and Soneryl which as such were not covered by the Drugs (Prevention of Misuse) Act 1964 but which were prescribed in considerable quantity.

There was a hearing which lasted from 12th to 15th March 1973. At the conclusion the Committee found the facts set out in the charge to have been proved and found that the appellant was guilty of serious professional misconduct. Acting under the Medical Act 1969 s.13, the Committee did not direct, as they could have done, that the appellant's name should be erased from the register but did suspend his registration for twelve months with effect from 13th April 1973. They informed the appellant that consideration of his case would be resumed before the end of this period and told him that he would be asked to furnish the Council with the names of professional colleagues and other persons of standing to whom the Council might apply for information to be given confidentially as to their knowledge of his conduct in the interval.

On 24th January 1974 the Council's Solicitors wrote to the appellant giving him notice that his case would be further considered by the Disciplinary Committee on 11th March 1974 and inviting him to supply the names and addresses of his referees on or before 11th February 1974. It appears that this letter did not reach the appellant, but his solicitors, who received a copy, informed him of it on or about 5th February 1974 and he had of course known since early in 1973 that referees would be required. On 8th February 1974 the appellant wrote to the Chairman/Registrar of the Committee giving certain information and supplying the names and addresses of four referees.

On March 12th 1974 the Committee resumed consideration of the case. The appellant was represented by Counsel. At the conclusion the President announced that, in the absence of any effective response to the Council's request for the names of persons who could provide information as to his conduct since March 1973, the Committee could not feel satisfied that it would yet be proper to conclude his case. They directed that his registration should be further suspended for 12 months until 12th April 1975.

The appellant appealed to the Board against the last mentioned direction. His case was presented in a written petition and in oral argument. Their Lordships were supplied with a transcript of the proceedings before the Disciplinary Committee on 12th March 1974 and also heard Counsel on behalf of the General Medical Council.

The procedure by way of suspension and, if necessary, of further suspension is authorised by the Medical Act 1969 and there is no doubt that the Disciplinary Committee acted within its powers, both in directing the original suspension and in ordering a further suspension. Their Lordships appreciate that the Committee probably took this course, rather than that of erasure from the register, as less severe to the appellant: but its adoption gives rise to some difficulty. In a case where a practitioner has shown himself unfit to practise because of some physical or mental condition—for example alcoholic addiction—suspension for a period is an appropriate method: the Committee can obtain reports as to his rehabilitation or reform. But, in a case such as the present, the situation of the practitioner is a difficult one: being, by virtue of his suspension, unable to practise, he may find it difficult to name suitable people to vouch for his fitness to resume his medical work. This seems to have been the case here and their Lordships have felt some concern whether the Committee, in their desire to give the appellant a further chance, had not imposed on him an impossible requirement. It seems however to their Lordships that at the first hearing the Committee took a serious view of the appellant's medical conduct: indeed, without entering into details, the case was clearly one of grave misconduct. The Committee was entitled to be satisfied, before removing his suspension, that the appellant properly realised the gravity of his offences, and that he had a proper sense of responsibility in regard to prescribing for drugs, and generally as to the conduct of a practice.

Their Lordships have no doubt that the Committee looked to such references as the appellant could provide for reassurance on these points.

The appellant did provide the names of four referees. One, his Bank Manager, did not provide a reference in time: this was unfortunate, but it was not the appellant's financial status that was in doubt. The other three references were taken up: their Lordships have seen the confidential replies from the referees, as the Committee did, and their Lordships cannot disagree with the Committee's conclusion that they provided no effective response to the Committee's request. Apart from

these references there was evidence before the Committee of two minor acts of irregularity during the twelve months: their Lordships would not attach much importance to these and there is no indication that, after hearing the appellant's Counsel on them, the Committee did so either. Their Lordships gave consideration to the question whether the public interest could have been adequately protected by means of some guarantee or undertaking by the appellant as to his methods of prescribing in the future: this appeared to be an alternative procedure which might have been followed. Whether any such procedure would have been practicable or effective is however very much a matter for the appellant's professional colleagues. The matter was canvassed before the Committee, and though the suggestions made by the appellant's Counsel can be said to have been somewhat imprecise, their Lordships have no doubt that, the matter having been raised, the Committee must have considered it on its merits. They decided, instead, for further suspension. In conclusion their Lordships feel obliged to record that the terms of a supplementary petition filed by the appellant, and some of his oral observations, left their Lordships in some doubt whether the appellant even now has a full realisation of his responsibilities.

Their Lordships cannot, on the material available, conclude that the Disciplinary Committee's decision was unjustified. They hope, and have no doubt, that the Committee will deal with the question of fresh references on the next occasion with an understanding of the difficulties in which a suspended practitioner is inevitably placed.

~~For these reasons their Lordships humbly advised Her Majesty that the appeal should be dismissed.~~

**In the Privy Council**

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**JAMES VIGNOLES**

v.

**THE GENERAL MEDICAL COUNCIL**

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DELIVERED BY  
**LORD WILBERFORCE**