Neutral Citation Number: [2025] EWHC 62 (Admin)

Case No: AC-2024-CDF-000037

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 20/01/2025

Before :

THE HONOURABLE MR JUSTICE SAINI

- -

Between :

AHMED KAMEL ABDULHAMID **Appellant**

- and -

GENERAL MEDICAL COUNCIL **Respondent**

- -
- -

The Appellant did not appear and was not represented

Rachel Sullivan (instructed by **GMC Legal**) for the **Respondent**

Hearing date: 16 January 2025

- -

Approved Judgment

This judgment was handed down remotely at 10am on Monday 20 January 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE SAINI

Mr Justice Saini:

I. Overview

1. Dr Ahmed Kamel Abdulhamid "(the Appellant") brings a statutory appeal against the decision of the Medical Practitioner's Tribunal ("the MPT") dated 6 February 2024 directing his erasure from the medical register. The Appellant seeks orders quashing that decision and the substitution of a lesser sanction. The basis for the MPT's decision was its factual findings that dishonest representations were made by the Appellant as to his relevant medical experience in the field of urology in a job application and interview.

2. The Appellant is unrepresented and did not appear to argue his appeal when it was called on. He was given written notice on 15 October 2024 that his appeal would be heard on 16 January 2025. There is no issue that he received notice that the appeal was to be heard on that day and in person. The background to his non-attendance is a number of failed applications for a remote hearing. I will briefly summarise the position in this regard, before turning to the appeal itself.

3. On 20 November 2024, the Appellant made an application that he be permitted to conduct and attend the appeal hearing remotely from Iraq. By Order dated 28 November 2024, Eyre J dismissed that application on the papers. In his reasons, Eyre J noted that the Appellant had argued that he could not attend the hearing of his appeal because of the difficulty of obtaining a visa and because of the expense of travel from Iraq to the United Kingdom. Eyre J observed however that the Appellant had provided no particularisation, let alone any supporting material to confirm his assertions. Eyre J explained that in addition the Appellant had given no explanation as to why he could not engage lawyers based in England and Wales to conduct the appeal on his behalf. In those circumstances, Eyre J concluded that the Appellant had failed to provide any adequate basis on which the court could permit him to conduct his appeal remotely from overseas. By his Order, Eyre J further put the Appellant on notice that if he did not attend the hearing on 16 January 2025, either in person or through lawyers, the court was likely to take the view that the Appellant had abandoned his appeal (with consequences as to costs). In the normal way, Eyre J made provision for the Appellant to apply to vary or to set aside the Order at an oral hearing.

4. The Appellant made no such application. However, by an email of 9 January 2025 the Appellant made what was treated by Eyre J as a further application for a remote hearing. In that email, the Appellant said that he did not wish to abandon his appeal and that when he had appealed he thought the appeal would "…be virtual via Skype as happened with my Hearing with the GMC (which was via Skype)". By Order dated 10 January 2025, Eyre J held that this application had no merit. He noted that this appeared to be a renewed application for there to be a remote hearing or at least that the Appellant be allowed to attend the hearing remotely. Eyre J explained that such an application had already been dismissed in his earlier Order and it had been open to the Appellant to apply for that order to be varied or set aside at a hearing. He had not done that and he had instead renewed his application when there had been no change of circumstances since the earlier order (nor had he provided any further material). There was, therefore, held Eyre J, no basis for altering the decision already made. As at the date the appeal

came on before me, there was an unappealed and final order of a High Court Judge refusing a remote hearing and directions that the matter would proceed in person.

5. When the court is satisfied that an appellant has been given notice of the hearing date for his appeal and he does not appear to argue the appeal (either in person or by way of legal representatives), my reading of the case law in the field of medical appeals is that the court has two options if it decides to proceed and not to adjourn: (i) it can either strike out the appeal without more, or (ii) consider the appeal on the merits although no oral arguments have been made in support. I draw those principles from the various approaches taken in Malik v General Medical Council [2014] EWHC 2408 (Admin); Al-Daraji v The General Medical Council [2012] EWHC 1835 (Admin), and General Medical Council v Theodoropoulos [2017] EWHC 1984 (Admin). Counsel for the GMC, Rachel Sullivan, agreed that my summary of the options was correct.

6. When the case was called on and the Appellant did not appear, I directed I would strike out the appeal. However, given that I had considered the detailed appeal bundle, the grounds as set out in the Appellant's Notice and the well-argued and concise written submissions of Ms Sullivan, I will also briefly address the appeal on the merits (insofar as I could follow the Appellant's complaints).

7. Although I have sought to draw out of the Appellant's Notice what I understand to be his grounds of complaint (which appear to be mainly concerned with the sanction), in my judgment there was no discernible error in the decision of MPT. The MPT's findings of fact were supported by the evidence, its decision in relation to impairment was unimpeachable, and the sanction it imposed was appropriate and necessary in the public interest. Given that underlying the Appellant's complaints may be some form of allegation of procedural unfairness, I will also summarise the procedural history below. The MPT's approach was a model of fairness.

II. Background facts and procedural history

8. The Appellant qualified in 2005 with a MB ChB from the University of Baghdad – Al Kindy College of Medicine. His relevant employment history is as follows:
   (1) Between 7 August 2015 and 19 April 2016, employed at Broomfield Hospital as Trust ST1/2 in ENT.
   (2) Between 21 November 2016 and 20 April 2017, employed at Medway Maritime Hospital as a Clinical Trust Fellow ST1/2 equivalent in Trauma and Orthopaedics.
   (3) Between 5 June 2019 and 31 January 2020, employed at Royal London Hospital as Senior House Officer in Ear, Nose and Throat.

9. The allegations against the Appellant were, in summary, that he knowingly misled King's College Hospital NHS Foundation Trust as follows:
   (1) Between 11-17 March 2020, by submitting a job application in which he stated that his job titles at Medway Maritime Hospital and at Broomfield Hospital were "clinical fellow urology".
   (2) On 19 February 2021, by stating in a meeting that he had undertaken locum registrar urology on call work at the Royal London Hospital.

10. The MPTS sent a notice of hearing on 18 December 2023. By return, the Appellant responded "I do not understand what you mean by: the hearing may last for 15 day [sic]. Sorry I am unable to attend daily for 15 days".

11. By email dated 20 December 2023, the MPTS told the Appellant:

> "The hearing which is due to commence on 22/01/2024 is due to run every day for 15 days (although there may be times when you will not be required, such as when the Tribunal are deciding matters...Please could you clarify that you are asking for a change in hearing date? And if so, please could you provide further details. Any request for a change in hearing date will be considered as a postponement request, which will have to be formally considered by a Case Manager."

12. The Appellant did not respond. On 10 January 2024, the MPTS notified the Appellant of the constitution of the panel. By return, the Appellant responded:

> "As I have already told you, I am sorry to say that I am unable to attend for 15 days daily. I can attend the hearing on 21 January only via MS Teams or Skype. Otherwise, you can make this hearing based on paper only, I have already sent my answers and replies, or you can send or resend me the questions or allegations and I can respond by writing and sending my answers to you."

13. By return, the MPTS replied stating:

> "Thank you for your email. The hearing which is due to commence on 22 January 2024 is due to run every day for 15 days although there may be times when you will not be required such as when the Tribunal are deciding matters. I have attached a copy of our resource for doctors guidance which provides an explanation of the process the hearing will follow. Please could you clarify that you are asking for a change in hearing date? And, if so, please could you provide further details? Any request for a change in hearing date will be considered as a postponement request which will have to be formally considered by a case manager."

14. The Appellant did not apply for an adjournment at this stage. Nor it appears did he explain the nature of his unavailability.

15. The substantive hearing commenced on 22 January 2024 and took place over 11 days as follows:

22 January 2024: preliminary discussions and GMC's opening (Appellant attended remotely)
23-25 January 2024: GMC's evidence (Appellant did not attend)

26 January 2024: Appellant's evidence (Appellant attended remotely)

29 January 2024: GMC's closing speech (Appellant did not attend)

1 February 2024: Impairment hearing (Appellant did not attend)

2 February 2024: Determination on impairment (Appellant did not attend)

5 February 2024: Sanctions hearing (Appellant did not attend)

6 February 2024: Determination on sanction (Appellant attended remotely)

16. The GMC was represented by counsel at the hearing. The Appellant represented himself. The Appellant did not admit the charges and so the Tribunal was required to determine them. At the start of the hearing, the Appellant said that he would be unable to attend the hearing on a daily basis because he was looking after his mother. The Appellant provided no evidence of his mother's illness, that he was caring for her, that no other arrangements could be made for her, or that his caring for her meant that he would be unable to attend even remotely. He suggested that the MPT sit only on Thursdays and Fridays for six to seven weeks instead. The MPT treated this as a request for an adjournment. The MPT inquired whether the Appellant would be able to come to the UK for a three-week period in the foreseeable future, for example within the next six months. The Appellant answered that he would not. The MPT gave the Appellant an opportunity to explain about his mother's health and his caring responsibilities in more detail. It explained to the Appellant the possible consequences if he did not attend the hearing. It explained that conducting a hearing on the papers, including cross-examination by way of written questions, would be a departure from the norm. It invited him to make submissions about the impact that adjournment would have on the GMC's witnesses. It also explained that if the hearing proceeded in the Appellant's absence he would not be able to ask the witnesses questions and asked if there were any representations the Appellant wished to make in light of that. The Appellant said he did not think he wanted to ask the witnesses any questions but maybe "reply or comments" on them. The MPT nevertheless took into account the fact that the Appellant was unrepresented and interpreted his answer as being that he would wish to ask questions of the witnesses. It gave the Appellant an opportunity to adduce evidence about his mother if it was immediately available; it was not. It offered to adjust the hearing by having longer breaks if that would assist the Appellant tend to his mother; he said that it would not. It also contemplated changing the hours of the hearing day. The Appellant also explained that he sometimes worked Monday to Wednesday and that, when he did, others looked after his mother.

17. The MPT rejected the Appellant's request for an adjusted hearing timetable. It decided to proceed in his absence should the Appellant not attend. It nevertheless encouraged him to attend despite this decision. It said it would not request transcripts of the hearing but said that the Appellant could do so if he wished. It would not vary its practice to allow questions to be put in writing. It also pointed out that the prosecution witnesses were likely to be finished by Thursday 24 January 2024, and that the Appellant could therefore give evidence on Friday 25 January 2024, which was one of the days that he said he was available.

18. Seven GMC witnesses gave oral evidence between 22-24 January 2024. They were questioned in detail by the Panel. The Appellant did not attend on any of these days and so the evidence of the GMC witnesses was not challenged by way of cross-examination. That was his choice.

19. The Appellant attended on Friday 25 January 2024, gave evidence in chief, was cross-examined and was asked questions by the MPT. His evidence was, in short, that his work as a urologist in Iraq was adequate experience for the roles for which he applied; that his work at Medway Maritime, Broomfield, and Royal London hospitals involved urology, and that he was describing the substantive work he did rather than the job title; and that there was a miscommunication at the meeting on 19 February 2021.

20. The MPT told the Appellant that closing submissions would be on Day 6, and offered him the opportunity to provide a written closing. He neither attended nor provided any written submissions.

III. The Decision

21. The MPT found all the allegations proved. The Appellant did not provide any evidence in advance of the impairment hearing, nor did he attend. The MPT found that he had not shown any evidence of "meaningful insight" that dishonesty is "not easily remediated", and that the Appellant had provided "no evidence of remediation". It noted that the Appellant had continued to maintain his innocence in the face of the findings. The MPT considered that there was an "inherent, unjustified, risk" to patient safety from doctors who were not honest about their professional experience. In the absence of any evidence of remediation (or even attempt to provide evidence of remediation), the MPT found that the risk of repetition remained "high". Unsurprisingly, it determined that the Appellant's fitness to practise was currently impaired.

22. No new evidence was provided at the sanction stage and the Appellant did not attend this part of the hearing. The MPT took account of aggravating and mitigating factors. It then considered each of the sanctions available to it in ascending order of gravity. In considering whether suspension was an appropriate sanction, the MPT had regard to the fact that a suspension would have a deterrent effect; and would send a signal to the Appellant, the profession, and the public. It noted that the Appellant had no previous findings against him. However, the MPT also noted that the Appellant had made no acknowledgement of fault or wrongdoing. It had received no evidence of meaningful remediation, testimonials, or a reflective statement. It observed that dishonesty was inherently difficult to remediate. There was no evidence that remediation might succeed, and it had already found there was a risk of repetition. It explained that the misconduct had taken place in the professional context. It involved "serious" breaches of the principles in Good Medical Practice and of honesty and integrity, the latter two being fundamental tenets of the medical profession. The Appellant had placed his own interests and career above the safety of his patients. A doctor overstating their experience was fundamentally incompatible with the profession as it put patients at risk of harm, which was "very serious". The Appellant had "continually failed to

acknowledge or take responsibility" for his misconduct. The lack of insight, remorse, or acceptance of wrongdoing, and the absence of evidence of remediation, meant there was a risk of repetition. In light of these factors, suspension would be insufficient to mark the seriousness of the Appellant's misconduct or uphold the overarching objective.

23. The MPT acknowledged that there was no evidence of actual harm to patients in the circumstances of the case. However, the overall circumstances of the case meant that the Appellant could not be regarded as a "safe medical practitioner". The MPT considered that, as long as he did not have insight into his actions, the Appellant presented a high risk to patient safety in future. The dishonesty was "persistent and deliberate". The February 2021 meeting might have involved the Appellant seeking to cover up his dishonesty. There was "vanishingly thin" acknowledgement by the Appellant about what he could have done differently, or his insight. In all these circumstances, it concluded that the only adequate sanction was erasure.

IV. The Appeal

24. The appeal is brought under section 40 of the Medical Act 1983. I have applied the guidance to such appeals as set out in Sastry v General Medical Council [2021] EWCA Civ 623; [2021] 1 WLR 5029 at [102]-[114]. Ms Sullivan also drew to my attention the familiar case law concerning appeals against findings of fact: see for example Volpi v Volpi [2022] EWCA Civ 464; [2022] 4 WLR 48 at [2].

25. As I stated above, it is not clear what the Appellant's grounds of appeal are. In his brief Appellant's Notice (not supported by a skeleton argument), he contends that he had sufficient training as a urologist albeit not in the UK, but it is unclear whether this is intended to go to the findings of fact, the findings of dishonesty, misconduct, impairment, or sanction. I note that he mentions the fact that the proceedings proceeded largely in his absence, but it is unclear whether he appeals against the decision to proceed without him. Finally, he seeks a substitute sanction other than an erasure on what can broadly be described as compassionate grounds.

26. The Appellant has not identified any alleged error, let alone error of law, in any of the findings of the MPT. Rather, his appeal is an impermissible disagreement with the merits of parts of the MPT's decision and/or an impermissible attempt to throw himself upon the mercy of the court. That is not a proper basis for an appeal. I will seek to address what the complaints may be under broad headings.

Proceeding in absence

27. The MPT took account of the submissions of both the GMC and the Appellant in deciding to proceed. It directed itself correctly as to the applicable legal tests: Rule 29(2) of the Rules and Adeogba v GMC [2016] EWCA Civ 162; [2016] 1 WLR 3867. It took account of:

(1) The "significant" impact of proceeding in the Appellant's absence, especially given that he was not represented.
(2) The impact on the professional witnesses who had made arrangements to be available for the hearing, and the impact on the quality of their evidence.
(3) The earlier correspondence and the procedural history leading up to the trial, which the MPT rightly considered demonstrated a failure to engage meaningfully in the process.
(4) The Appellant's reasons for unavailability. It was rightly sceptical of these given the absence of any evidence, and the fact that the Appellant was able to make arrangements for the care of his mother in order to work but not to attend the hearing.
(5) The overarching objective, the public interest, the impact and inconvenience to witnesses, and the public who are owed a duty that cases be disposed of expeditiously.

28. In my judgment, the decision to proceed in the Appellant's absence was a case management decision that it was open to the MPT to make. I note:
(1) The Appellant did not apply for an adjournment until Day 1 of the hearing.
(2) The Appellant provided no evidence in support of his contention that he was unavailable. There were reasons to doubt his contentions.
(3) The Appellant's proposals for accommodating his availability – hearings two (half) days per week for several months; or obtaining transcripts of evidence and allowing him to put cross-examination questions in writing – were unworkable.
(4) The Appellant said that he would have no availability to attend the hearing for the foreseeable future.
(5) The MPT made reasonable adjustments to accommodate the Appellant, including changing its sitting time, keeping him informed of progress, informing him of the days that it would be most critical for him to attend, and encouraging his attendance.

Factual findings

29. On the basis of what is said in the Appellant's Notice, it is unclear whether the Appellant appeals against the Stage 1 findings. To the extent that he does, there was in my judgment ample evidence to support the findings:
(1) Two witnesses gave evidence that the Appellant's job title at Medway Maritime Hospital was SHO within trauma and orthopaedics. The Appellant agreed.
(2) The Appellant's job offer for Broomfield referred to Trust ST1/2 in ENT. The Appellant agreed.
(3) The Appellant's job offer and contract of employment for Royal London referred to Clinical Fellow ENT.
(4) Notwithstanding the above, his application for Kings stated "clinical fellow urology" in respect of Broomfield Hospital and Medway Maritime Hospital and "clinical fellow" in respect of Royal London.

30. The MPT considered whether the Appellant knew the information he included in the application was untrue. The MPT found, amongst other things:
    (1) The Appellant's evidence that he had done more urology work than other types of specialty was contradicted by the evidence of other witnesses. I note that the Appellant did not challenge the evidence of those witnesses.
    (2) The Appellant's own evidence was that he had only worked one or two urology locum shifts each month.
    (3) Even if the Appellant had carried out more urology work, the Appellant must have known that that would not change his job title.
    (4) The Appellant's evidence was inconsistent and not credible.
    (5) The Appellant's representations could not have been a typing error.

31. As to the meeting, there were near-contemporaneous notes. There was witness evidence to support the allegations about what the Appellant said. The MPT considered the Appellant's contention that there had been a misunderstanding; but dismissed it given the context of the meeting which was about the Appellant's urology experience in UK hospitals, and on the strength of witness evidence that the Appellant had been asked the same question three different times by three different people. This evidence was not challenged in cross-examination. The MPT had the benefit of hearing oral evidence both from the Appellant and from another participant at that meeting, and preferred the evidence of the latter. The Appellant himself had stated in his investigation meeting on 24 March 2021 that he had not been on the urology on-call rota at Royal London.

32. The MPT found that the Appellant "chose to put forward information that he knew to be untrue in order to portray himself as more experienced than he was in urology in UK hospitals." Regarding whether this conduct was dishonest, the MPT identified and applied the correct test i.e. that the Appellant knew that the representations he was making were false, and that making false representations in order to secure employment would be regarded as dishonest according to the standards of ordinary and decent people.

33. Finally, I note that the Appellant's Grounds appear to accept he made false statements. At [9] he says:

> "...when I applied for this post, I tried to give impression (via my application form) that I have done urology in UK in order to get this job...
>
> ...all the information in the application form was totally correct apart from my role at Medway and Broomfield hospitals.
>
> ...
>
> I acknowledge my fault and I am really regretful. I have insight and I admit that I have done something wrong..."

(Emphasis added)

34. In my judgment it is clear that the MPT made a careful decision that took account of all the evidence. It considered each of the arguments put forward by the Appellant but dismissed each of them. It provided more than adequate reasons for rejecting each of the Appellant's contentions. The MPT's findings were based at least in part upon an assessment of the credibility of the witnesses including, importantly, that of the Appellant. As set out above, there was evidence to support each of the findings of the MPT. There was no misunderstanding of this evidence. The MPT's conclusion was one that it was open to the MPT to reach.

Misconduct and impairment

35. It is also unclear whether the Appellant appeals against the MPT's findings on misconduct and/or impairment. Here, too, the MPT identified the correct legal tests. It is obvious that repeated dishonesty by overstating one's clinical experience in order to obtain a job to which one would not otherwise be entitled amounts to serious professional misconduct, as the MPT correctly found.

36. As to impairment, the MPT reached a careful decision taking account of all relevant considerations. The Appellant did not attend the Stage 2 hearing and did not provide any evidence of insight, remediation, or risk-reduction. Dishonesty almost always results in a finding of impairment. The Appellant's actions harmed the reputation of the profession and risked causing patient harm. There is no fault in the MPT's decision in this regard.

Sanction

37. The Appellant's appeal seems focussed principally upon the MPT's decision on sanction. The MPT correctly followed its Guidance on Sanctions. It gave reasons for its decision as I have summarised above. The decision was one that was open to the MPT. I note that paragraph 128 of its sanctions guidance provides "Dishonesty, if persistent and/or covered up, is likely to result in erasure". The MPT found that the Appellant's dishonesty was both persistent and covered up.

38. In his written documents in support of the appeal, the Appellant makes a number of points on the matter of sanction which I will briefly address:

    (1) Personal mitigation, including need for a job and his wife's mental illness: personal mitigation will usually be less relevant in cases of professional misconduct: Bolton v Law Society [1994] 1 WLR 512 at 519.
    (2) Development of insight: at the hearing below, the Appellant maintained his innocence and adduced no evidence of insight. He did not participate in Stages 2 or 3 of the proceedings. I note that the Appellant has still provided the most limited evidence of insight, amounting to a few lines in his grounds of appeal. An appeal is not an opportunity for showing development of insight since the hearing. The appropriate time to do so would be upon any application for restoration.

(3) No clinical issues: these proceedings were not about clinical issues. As such, they played no part in the MPT's decision-making process and are not relevant on appeal.
(4) He made his situation clear during interview: The MPT found otherwise on the facts: it preferred Dr Lunawat's evidence to that of the Appellant.
(5) Sufficiency of experience, the remainder of the form was correct, the dishonesty was in relation to a less important part of the application: This amounts to a submission that the dishonesty was at the lower end of the spectrum. However, dishonesty is inherently serious. Further, the MPT found that the dishonesty was "serious" because it posed a risk to patient safety, that it "fell far short" of the expected standards, that it would bring the medical profession into "disrepute", that fellow practitioners would regard the conduct as "deplorable", and that members of the public would be "shocked and appalled" by it. It also found that the dishonesty was aggravated by the Appellant's lack of insight, lack of apology, and lack of acceptance of wrongdoing; by the fact that it put patients at risk of harm; that it persisted from March 2020 to February 2021, and involved an attempt to cover it up in February 2021. All of these features placed the Appellant's misconduct comfortably into erasure territory. It was open to the MPT so to decide and indeed it is hard to see how any other conclusion would have been open to the MPT. The sanction imposed was not wrong.

V. Conclusion

39. The appeal is struck out and/or dismissed on the merits.