



Neutral citation number: [2024] UKFTT 00817 (GRC)

Case Reference: D/2023/340

**First-tier Tribunal
General Regulatory Chamber
Transport**

**Determined at an oral hearing
on 21st August 2024**

Before

**HHJ DAVID DIXON
RICHARD FRY
MARTIN SMITH**

Between

ADRIAN WHITING

Appellant

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

Decision: The appeal is adjourned.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 5th July 2023 to remove his name from the Register.
2. The Registrar’s reasons for refusal, in summary, were that the Appellant had behaved in an unacceptable way towards DVSA staff such that he was no longer fit and proper to be on the Register. The Registrar took the view the behaviour was serious and allowing him to remain on the Register would undermine confidence in it, so determined the Appellant must be removed.
3. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

4. The Appellant’s Notice of Appeal, dated 31st July 2023, indicates that “a number of comments that were not intended to be taken seriously or at face value” have been blown out of proportion. He alleges that there are no recordings or indeed proper evidence of the relevant issues and it is unfair as a result to rely upon hearsay to determine such an important issue that will affect his career.
5. He further denies that in a second communication he made similar threats to harm the driving examiner to his GP. He suggests comments have been taken out of context knowingly.
6. The Respondent submitted a Response indicating that the Appellant spoke to the Manager of a local Test centre indicating that he would run over a particular driving examiner, who he referred to as a “c***,” and said she was someone who he hated. He described how he would inflict further harm with a baseball bat until she was dead and he wouldn’t care if he went to custody over the same. He had already been warned about his behaviour previously.
7. The Appellant told the Registrar that the particular examiner, Rachel Lincoln, had a grievance against him and was actively trying to destroy his livelihood. He suggests she had been spreading malicious lies about him for some time now.
8. It seems matters were referred to the police and bail conditions preventing the Appellant contacting Ms Lincoln were put in place. A decision was taken to await the police investigation.

9. Subsequently the Appellant's GP contacted the police indicating further threats had been made to Ms Lincoln. The Registrar was appraised of the same and came to the view that the combined situation was too serious and the Appellant had to be removed.

Mode of Determination

10. The case was listed for oral hearing, and heard via the CVP system.
11. The Appellant was unrepresented. The Respondent was represented by Claire Jackson of the DVSA Appeals team.
12. The Tribunal considered a bundle consisting of 37 pages.

Evidence

13. Ms Jackson said the Respondent's position was as per the response.
14. She indicate that the Appellant had been convicted and sentenced on 27th March 2024 for an offence of what seems like malicious communications. He was fined £1025 plus costs and a restraining order for 6 months was imposed. No further details were available.
15. The Appellant said the conviction was being appealed and the Crown Court appeal was due to be heard on 18th October at the local Crown Court. He indicated that there were a number of other issues that would affect the ability of the Tribunal to determine this Appeal, and after hearing a little about the same the hearing was paused for the Panel to consider matters.
16. Following a private discussion the Tribunal came to the unanimous view that it simply didn't have enough information to make a proper evaluation of the factual position here and therefore decided that an adjournment was necessary. The Appellant was informed of the same, but given the option of continuing, albeit under a degree of difficulty, but he agreed an adjournment was required.

Directions

17. The Tribunal needs to know a good deal more about the circumstances of this case and its background and as a result orders the following be provided by the Registrar:
 - a. Details of the exact conviction the Appellant was convicted of;
 - b. A copy of the CPS bundle, including witness statements and interviews, that were provided to the Court re the conviction;
 - c. Copy of any report prepared by Colin Drummond into allegations made by or about Rachel Lincoln;
 - d. Details of any complaints made by the Appellant about Ms Lincoln, and any results from the same;
 - e. Details of any issues affecting Ms Lincoln's ability to examine at any of the "local" test centres to the Appellant;
 - f. Details of the warnings given to the Appellant, detailing what lead to the same;

- g. Any other relevant information.
18. The Appellant also needs to provide further materials:
 - a. A statement setting out the chronology of events, what happened, what he said to different people and any other actions he has taken re Ms Lincoln;
 - b. Details of any relevant medical position;
 19. All of the aforesaid to be supplied to the Tribunal by Friday 11th October 2024,
 20. The Appellant to indicate by 25th October 2024 the result of the appeal hearing, or an indication when it is to be heard if the planned hearing is vacated. In the event that the Crown Court Appeal is unsuccessful the Appellant is asked to inform the Tribunal whether this Appeal is maintained.
 21. If the Appellant indicates that the Crown Court Appeal was successful, then the Registrar is asked to indicate whether the decision to remove the Appellant from the Register is maintained. The Registrar must reply by Friday 15th November 24.
 22. On the basis that this remains an appeal before the Tribunal it is relisted on Thursday 19th December 2024 with a time estimate of 90 mins. It is perhaps best listed at 2pm for the afternoon. The current constituted panel should be reconvened to sit for this case.
 23. Save those directions the case is adjourned.

(Signed)

HHJ David Dixon
Richard Fry
Martin Smith

DATE: 21st August 2024