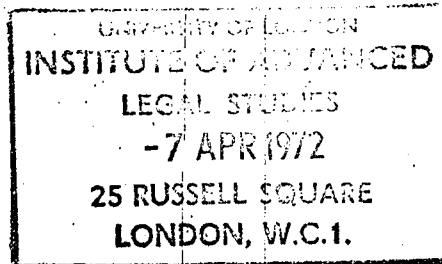


R. Russell 7

21, 1971

No. 6 of 1971

IN THE PRIVY COUNCIL
ON APPEAL FROM THE DISCIPLINARY
COMMITTEE CONSTITUTED UNDER SECTION 32
OF THE MEDICAL ACT 1956



RICHARD WORDSWORTH BARKER

Appellant

and

THE GENERAL MEDICAL COUNCIL

Respondents

A P P E N D I X

Solicitors for the Appellant
Messrs. Hempsons,
33 Henrietta Street,
Strand, London, W.C.2.

Solicitors for the Respondents
Messrs. Waterhouse & Co.,
4 St. Paul's Churchyard,
London, E.C.4.

I N D E X

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STATEMENT FORM

Name Dr. Richard Wordsworth BARKER,
Address Boundaries, Four Marks, Near Alton, Hants.
Date..... 5/3/69 Occupation..... Medical Practitioner Date of Birth..... 21/2/1926.....

I have been cautioned that I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be given in evidence.

Sgd: R.W. BARKER.

I married my wife Enid MOSE on the 18th August 1951. There are two children of the marriage, Christine and Paul Richard. For the last eight years my marriage has been unhappy and in recent years the situation has deteriorated. At the end of July 1968 Mrs. KERR became my receptionist for just over two weeks during the absence on holiday of my regular receptionist. In about October 1968, Mrs. Kerr gave me German lessons and towards the end of that month we became attracted to each other. For the first week-end in November 1968, we stayed together at the Oxford Motel, Oxford, where we committed adultery. We also stayed there together over the last week-end in November. Since then we have committed adultery together at the Mendip Motel, Frome, Somerset.

Sgd: R.W. BARKER

I have read over my statement, it is true and I have nothing more to add.

Sgd: R.W. BARKER

Statement taken by me in the presence of Carola Antonia Maria KERR on Wednesday the 5th March 1969 at Messrs. Woodford and Ackroyd, solicitors of 20 Havelock Road, Southampton.

Sgd: James D. BROWN

STATEMENT FORM

Name Carola Alfonso Maria KERR,
Address Sweet Briar, Blackberry Lane, Four Marks, Alton, Hants.
Date..... 5/3/69 Occupation..... Date of Birth..... 30/1/1935

I have been cautioned that I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be given in evidence.

Sgd: Carola A.M. KERR

I have read through the statement made by Dr. Richard W. BARKER and, so far as it concerns me, what is set out therein is correct.

Sgd: Carola A.M. KERR

I have read over my statement, it is correct and there is nothing more I can add.

Sgd: Carola A.M. KERR

Statement taken by me in the presence of Dr. Richard Wordsworth BARKER on Wednesday the 5th March 1969, at Messrs. Woodford and Ackroyd, Solicitors of 20 Havelock Road, Southampton.

Sgd: James D. BROWN

25th June, 1970

Recorded Delivery

Sir,

I am directed by the President of the Council to notify you in accordance with Rule 5 (2) of the Disciplinary Committee (Procedure) Rules, 1970, that the Council have received from the Solicitor to the Council certain information as to your conduct. This information appears to raise a question whether as a registered medical practitioner you have committed serious professional misconduct within the meaning of section 33 (1) of the Medical Act, 1956 as amended by section 13 (1) of the Medical Act, 1959. A copy of the relevant provisions is enclosed, together with copies of the Procedure Rules and a pamphlet on the Functions, Procedure and Disciplinary Jurisdiction of the Council.

It is alleged that

- (1) In September, 1963 you entered into a professional relationship with Mrs. Carola Alphonsa Maria Kerr then of Sweet Briar, Blackberry Lane, Four Marks, near Alton, Hants., and with her husband and son, and you subsequently attended her and members of her family on numerous occasions;
- (2) (a) You retained Mrs. Kerr's name on your list until November 20, 1968, when she removed her name from your list without the knowledge of her husband;
(b) You retained the names of Mr. Kerr and his son and daughter on your list until October, 1969;
- (3) For some weeks during July and August 1968 you employed Mrs. Kerr as a receptionist in your practice;
- (4) During the period when Mrs. Kerr and her family were your patients, and during the period when you employed Mrs. Kerr as a receptionist, you abused your position as a medical practitioner by forming an improper association with her,

and from November 1968 onwards you have frequently committed adultery with her, and since September 1969 or thereabouts you have cohabited with her.

In accordance with the provisions of Rule 5 of the Procedure Rules, the President may direct the Registrar to refer the information to the Penal Cases Committee of the Council; and in this event it will be the duty of the Committee to consider the information and any explanation furnished by you, and to determine whether the case shall be referred to the Disciplinary Committee of the Council for inquiry into a charge against you. The next meeting of the Penal Cases Committee to which your case may be referred will be held on October 6, 1970.

I am accordingly to invite you to submit to the Council any explanation which you may have to offer. In this connection I am to say that in considering the case the President, and the Penal Cases Committee, will be particularly concerned to determine whether there is prima facie evidence that you abused your professional position. You are therefore invited to deal especially with this point in any explanation which you may offer.

I am also to request you to acknowledge this letter upon receipt.

I am, Sir,

Your obedient Servant,

W. R. DRAPER

Dr. R.W. Barker,
The Boundaries,
Four Marks,
Alton,
Hants.

HEMPSONS
SOLICITORS

H. LEIGH TAYLOR, M.D.E.
R.W.W. STEPHENS.
PETER DAYLIS.
J. H. F. LIGHTLY.
C. H. H. BUTCHER.
R. H. JAMES.
J. A. A. WATT.

33 HENRIETTA STREET,
STRAND.

Our Reference:

M40/REF

Your Reference:

MRD/SS/PDI/
6438

LONDON, W.C.2.

20th July 1970

The Registrar,
General Medical Council,
44, Hallam Street,
London, W1N 6AE

Dear Sir,

We have been instructed by Dr. R.W. Barker to submit his observations upon the matters referred to in your letter of the 25th June 1970 for the Penal Cases Committee.

We are instructed to say:

- (a) that the facts set out in paragraph (1) are admitted;
- (b) that the facts set out in paragraph (2) (a) are admitted although Mrs. Kerr was in fact accepted as a patient by another general practitioner on October 8 1968;
- (c) the facts set out in paragraph (2) (b) are admitted although in fact Mr. Kerr, with his son and daughter, left the Alton area in December 1968 ceasing, for practical purposes, to be patients of Dr. Barker then;
- (d) the facts set out in paragraph (3) are admitted. The period was two and a half weeks;
- (e) as to paragraph (4), Dr. Barker admits that he formed an improper association with Mrs. Kerr in October 1968; that in November and on various dates thereafter he committed adultery with Mrs. Kerr and that he has cohabited with her since September 1969.

Except as stated, Dr. Barker does not admit paragraph (4) and

- (f) that he denies he has committed serious professional misconduct.

Yours faithfully,

HEMPSONS

SOLICITORS

N. LEIGH TAYLOR, M.C.E.
R. W. W. STEPHENS.
PETER DAYLIS.
J. M. P. LIGHTLY.
C. H. H. BUTCHER.
R. H. JAMES.
J. A. A. WATT.

Our Reference: M40/REF

Your Reference: MRD/SS/PDI/
6438

33 HENRIETTA STREET,
STRAND,
LONDON, W.C.2.

24th July 1970

The Registrar,
General Medical Council,
44, Hallam Street,
London, W1F 6AE

Dear Sir,

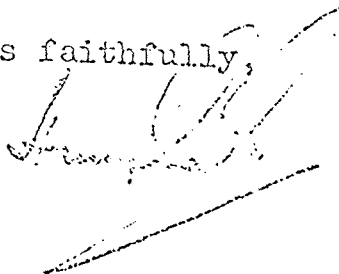
Re: Dr. R.W. Barker

We have looked again at your letter to Dr. Barker of the 25th June and we feel that it might be helpful to ask that the additional observations set out below should also be considered by the Council.

We are instructed that Dr. Barker had no social contact with Mrs. Kerr at all prior to July 1968. Then, at the suggestion of his receptionist who was leaving, Dr. Barker employed Mrs. Kerr for a period of 2½ weeks as a receptionist. Then Dr. Barker went on holiday with his family to Germany and whilst on holiday conceived the idea of learning German. On his return he arranged, with the knowledge of his wife and Mr. Kerr, for Mrs. Kerr (who is of German nationality) to give him lessons in the German language. These took place several times each week and it was through these lessons that the friendship between Dr. Barker and Mrs. Kerr came into existence. It so happened that neither were happy in their own marriage and the friendship quickly developed into a close affection and it was in November 1968 that Dr. Barker and Mrs. Kerr provided the evidence of adultery for divorce and they have lived together as man and wife ever since.

On the basis of these facts we respectfully submit that Dr. Barker did not, in his association with Mrs. Kerr, abuse his position as a medical practitioner.

Yours faithfully,



NORTH HAMPSHIRE GROUP
HOSPITAL MANAGEMENT COMMITTEE

HACKWOOD ROAD HOSPITAL
HACKWOOD ROAD
BASINGSTOKE

Telephone No.
5001

STATEMENT BY DR. P. G. ARBLASTER, M.D., F.R.C.P.,
CONSULTANT PHYSICIAN
NORTH HAMPSHIRE GROUP HOSPITAL MANAGEMENT COMMITTEE

I have known Dr. Richard Barker, M.B., B.S., since July, 1965. Many of his patients have received hospital treatment at the Royal Hampshire County Hospital, Winchester, Lord Mayor Treloar Hospital, Alton and Basingstoke District General Hospital. I am happy to state that his standard of care has been excellent, and his personal interest in the patients' welfare commendable. I have also consulted with Dr. Barker on a domiciliary basis wherein he has shown considerable judgement in the selection of patients for whom domiciliary care was appropriate.

His medical practice has been single-handed. He has thus carried by present-day standards an unduly high moral and legal obligation towards his patients, and this he has executed conscientiously, achieving a high standard of patient care and satisfaction. I am not aware of periods of absence from his practice. His availability has seemed exemplary and I know that he has also undertaken cover for Mr. Alan Goode, F.R.C.S., in Alton. His patients speak highly of his ability and personal qualities, which have earned him respect in the community.



P. G. ARBLASTER, M.D., F.R.C.P.,
Consultant Physician

DR. D. A. BENNETT

HARTLEY WINTNEY 2266

4 SHAPLEY HILL,
WINCHFIELD,
HARTLEY WINTNEY,
BASINGSTOKE,
HAMPSHIRE.

DAB/MGR

28th October, 1970.

The Registrar,
The General Medical Council.

Dear Sir,

Dr. Richard BARKER

I have known Dr. Barker since taking up my present appointment in 1965. During this time I have worked closely with him and have had ample opportunity to observe him and to assess his professional attitudes.

In my opinion he is a highly competent and mature clinician, consistently concerned with the welfare of his patients. I have never had occasion to regret having him as a colleague throughout the time I have known him, and his professional conduct has always appeared unquestionable.

I shall be very pleased to provide a more detailed opinion should this be considered appropriate.

Yours faithfully,



D. A. Bennett,
M.B. B.S., M.R.C.P.(E.),
M.R.C.S. L.R.C.P., D.P.M.,
Consultant Psychiatrist,
North Hampshire Hospital Group.

21 SOUTHGATE STREET,
WINCHESTER, HAMPSHIRE.
(TEL. ALRESFORD 2488)

MR. HARRY HAYSOM

OLD ALRESFORD COTTAGE,
OLD ALRESFORD,
HAMPSHIRE.
TEL. ALRESFORD 2488

AMH/AVC

17th November 1970

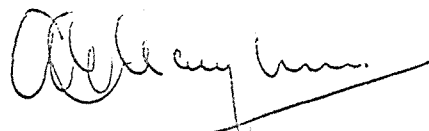
Dear Sirs,

Dr. Richard W. Barker was appointed to the Four Marks General Practice in May 1961. I met him within a day or so of his appointment and have done most of the surgery from his practice since this time. I think it would be fair to say that perhaps I know Dr. Barker and his family as well as any medical person in this area, because, not only have I done the surgery from his practice, but I have also treated all of his family over these years. Individually they are a very likeable family but there was little doubt in my mind when I first met the Barker family that there was a certain degree of tension within the family. When Dr. Barker first came to the area I was most impressed by his keenness in the Practice and his tremendous keenness to learn and improve his knowledge, never would I do a Domiciliary Visit in his Practice without him being present. A year or two after his arrival his keenness appeared to wane and there was a certain something about him that made one sense he was working under strain, and although to some extent it was a shock to hear of the break in the family, it was of no great surprise as I felt that this was a completely incompatible marriage.

Since Dr. Barker's marriage has dissolved there is no doubt that his keenness in his Practice has returned to its original zest. On the occasions that I have discussed with Dr. Barker his present domestic situation, he has told me that when the lady concerned was on his Practice list he had no feelings of affection towards her, nor did any unprofessional conduct take place. Knowing Barker as I do I am prepared to accept this statement.

Yours faithfully,

The Registrar,
General Medical Council.


Consultant Surgeon.

. FROM ALAN F. GOODE, F.R.C.S. .

TEL
2352

COBBERS
ALTON
HAMPSHIRE

17th November, 1970.

The Registrar,
General Medical Council.

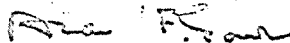
Dear Sir,

I am writing on behalf of Doctor R.W. Barker of Four Marks who has been in General Practice in this area for about nine years. Soon after he arrived here we agreed to deputise for each other on alternate weekends and one half day each week. This has continued ever since.

He has always carried out his duties conscientiously in spite of the fact that my own practice extends over a wide area. His personal conduct to my patients has always been above reproach.

I have little knowledge of his domestic troubles, but am in no doubt that the present affair is an isolated instance of two people, each with unhappy marriages, meeting on common ground.

Yours faithfully,



ALAN F GOODE.

DR. W. D. BRINTON

WINCHESTER 3758.

CARLOWAY,
SLEEPERS HILL,
WINCHESTER.

23rd October, 1970

Mr. P. Bayliss,
Hempsons,
Solicitors,
33 Henrietta Street,
Strand,
London, W.C.2

Dear Sir,

Dr. Richard BARKER, M.B., B.S.
Boundaries, Four Marks, Nr. Alton

I have known Dr. Barker since he came to Hampshire in 1961 and have seen quite a lot of him from the point of view of Consultant Physician to the Winchester Hospital Management Group.

I have always had the highest opinion of Dr. Barker's professional capacities and also of his conduct in the wider field of human behaviour.

Yours faithfully,



D.M., F.R.C.P.

NORTH HAMPSHIRE GROUP
HOSPITAL MANAGEMENT COMMITTEE

ALDERMASTON ROAD HOSPITAL
ALDERMASTON ROAD
BASINGSTOKE

Telephone No.
3202

PRP/SF

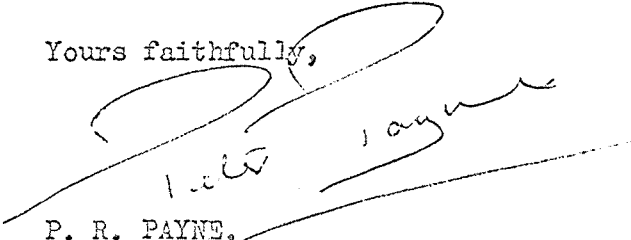
28th October, 1970

Dear Sir,

I have known Dr. R. W. Barker for the last nineteen months, and have always found him to be not only a pleasant colleague, but also a conscientious doctor.

I have also known Mrs. Carole Kerr as a patient, and have found her to be a very pleasant and sincere person. My impression is that the association between these two persons is a genuine and lasting one, and I am told that the Practice in general has benefited rather than suffered from the liaison between Dr. Barker and Mrs. Kerr. They are both anxious to start a new life with their children, and the sooner that the divorce proceedings are concluded the better it will be for everyone concerned. Mrs. Kerr is a great help to Dr. Barker with regard to the Practice, and I feel that it is unfortunate that the present situation has had to involve the General Medical Council.

Yours faithfully,



P. R. PAYNE,
Consultant Gynaecologist.

The Registrar,
General Medical Council.

Dr. M.B. Wilson

Telephone 2340

10 High Street,
Alton, Hants.

2.11.70

The Registrar,
General Medical Council

Dear Sir,

Dr. Richard Barker of The
Boundaries, Four Marks is a colleague with
whom I have enjoyed good relations. On
occasion I have been happy to leave my
practice under his care. I feel that
he is competent in medical matters

and honest in his everyday life.

I have on many occasions heard high praise of him and I am sad to learn of his present dilemma. I hope you will be able to make some consideration of these qualities when judging his case.

Yours

faithfully,

M.B. Wilson
(signed)

NATIONAL HEALTH SERVICE
HAMPSHIRE EXECUTIVE COUNCIL

TELEPHONE NO. 2236/7
J. H. SHAW
CLERK OF THE COUNCIL
In reply please quote—

JHS/DM

Friarsgate,
Winchester.

20th October, 1970.

Dear Sir,

Dr. R. W. Barker

My Executive Council learned with great regret that Dr. Barker is to appear before the General Medical Council and they have asked me to write and inform you of this and to express their willingness to give such help they can at this time.

Dr. Barker was appointed by the Executive Council to the practice at Four Marks some nine years ago and has in every way justified the Council's choice. The practice has grown over the years and the doctor now has almost 2,500 patients on his list. He dispenses for almost all of them, 17% of whom are over the age of 65 and many live in the small villages and hamlets surrounding Four Marks.

My Council would find it extremely difficult to find a replacement with the qualities that Dr. Barker has and they sincerely hope that it will not be necessary for them to have to do so.

Yours faithfully,



Clerk of the Council.

The Registrar,
General Medical Council,
44 Hallam Street,
LONDON,
W1N 6AE.