

James Boag Stevenson - - - - - *Appellant*

v.

The Royal College of Veterinary Surgeons - - - *Respondents*

FROM

**THE DISCIPLINARY COMMITTEE OF THE
ROYAL COLLEGE OF VETERINARY SURGEONS**

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 19TH MAY 1980

Present at the Hearing :

LORD DIPLOCK

LORD RUSSELL OF KILLOWEN

LORD LANE

[*Delivered by* LORD RUSSELL OF KILLOWEN]

In July 1979 the Disciplinary Committee after a hearing ordered the suspension from the register of the appellant for a period of 12 months. This order was made under s.16(1) of the Veterinary Surgeons Act 1966. That subsection provides—

“ If (a) a person registered in the register is convicted . . . of a criminal offence which, in the opinion of the disciplinary committee, renders him unfit to practise veterinary surgery . . . the committee may, if they think fit, direct [his removal from the register] . . . or that his registration therein shall be suspended, that is to say, it shall not have effect during a period specified in the direction.”

The appellant was charged with six offences of which he was convicted (after pleading guilty) at Sandbach Magistrates Court. The charges were that for the purpose of obtaining supplementary benefit he on each occasion made a representation which he knew to be false, namely that the information given by him was true and complete, whereas he did not disclose that he was working as a self-employed veterinary surgeon: contrary to section 21 of the Supplementary Benefits Act 1976 as amended by s.14(5) of the Social Security (Miscellaneous Provisions) Act 1977. Each charge was in the same form alleging offences on the following dates—20 March 1978, 25 April 1978, 4 July 1978, 11 July 1978, 29 August 1978 and 3 October 1978. On the first charge he was sentenced to 3 months imprisonment suspended for 12 months and ordered to pay £100 benefits: on the remaining five charges he was sentenced to three months imprisonment concurrent suspended 12 months.

In the case for the appellant it was contended that the subject matter of the convictions were such that the Committee was not entitled to form the opinion that they rendered the appellant unfit to practise veterinary surgery: and alternatively that the sentence was in all the circumstances too severe. At the opening of the appeal Lord Hooson, Q.C., plainly rightly in their

Lordships' opinion, found himself unable to pursue that first contention. Their Lordships however think it appropriate to say that they agree with propositions Nos. 4 and 5 advanced by Mr. Bayliss for the College to the Disciplinary Committee as being within the scope of the quoted part of s.16(1); these were:

4th

"if the offence is of such a nature as to call into question the Respondent's suitability to remain a member of the veterinary profession in light of the obligation upon all veterinary surgeons to be and be seen to be honest and trustworthy";

and 5th

"if the offence is of such a nature as is likely to bring the profession into disrepute"

Both counsel for the College and for the appellant were prepared to accept those as appropriately phrased headings, and so are their Lordships. It was suggested that when the Legal Assessor adopted those headings he put a gloss upon the 5th in a manner which suggested that it contained a requirement of some element of dishonesty: their Lordships do not agree that that is the true view of what was said by the Legal Assessor: if it had been their Lordships would not agree with it. Before leaving the jurisdictional point their Lordships add that they understood counsel for the appellant to abandon it only under the 5th head and not the 4th, contending that this was not a case of dishonesty. With this their Lordships cannot agree: to make a false statement with a view to obtaining benefit knowing the statement to be false cannot be other than dishonest.

Their Lordships turn next to the question whether the sentence of 12 months suspension from the register was one which should be set aside or reduced. It is of course only in the rarest and most exceptional case that this Board will take that step. This was well recognised by counsel for the appellant, but he contended that this was indeed an exceptional case.

The appellant was not represented before the Disciplinary Committee, nor was he present in person, though his expenses of attendance had been offered to him by the College.

He is a man in his late fifties. He qualified in Glasgow in 1946. Thereafter he worked as assistant in three practices, including that of Mr. Edward Straton, and then entered practice in Hay-on-Wye, a practice which he took over and conducted until he removed in 1974. After the hearing by the Disciplinary Committee Mr. Straton out of the kindness of his heart re-employed the appellant as assistant, and (their Lordships were told) supported the appellant in this appeal. He removed from Hay-on-Wye in 1974 after being divorced being unwilling to live in the same town as his ex-wife, and went to Chorley, Lancashire. In 1975 he remarried. In 1976 owing in part to his obligations to his ex-wife under the divorce settlement and for costs he became in financial difficulties and filed his petition in bankruptcy: his case on appeal indicates that he hopes that his deficiency may shortly be reduced to a level that may result in his discharge.

According to the Appellant's case he was employed during 1975 as assistant in a practice at Chorley: apparently early in 1976 his second wife became severely ill and required nursing until her death in hospital in October 1979 from liver disorder. October 1979 was of course a year after the subject of the last conviction, and three months after the hearing by the Disciplinary Committee. They moved from Chorley to Sandbach early in 1976. The extent to which he practised in Sandbach is uncertain, but was not regular: the Disciplinary Committee were informed of three statements involving payments for treatment in June, July and September 1978.

The normal letter (dated 20 March 1979) was sent to the appellant warning of possible referral of the matter to the Disciplinary Committee. The appellant consulted solicitors, who wrote on 4 April 1979 to the Registrar as follows—a letter which was of course brought to the attention of the Disciplinary Committee:—

“Your letter dated the 20th March addressed to our Client, Mr. Stevenson, has been handed to us for attention.

Clearly Mr. Stevenson is most concerned about the implications of the conviction recorded against him at Sandbach Magistrates Court on the 13th March. It is regrettable that in the circumstances the representative of the College was not present in the Court or he would have been in a position to witness the very substantial mitigating factors which the Court accepted on behalf of Mr. Stevenson.

The position quite simply is that in 1978 Mr. Stevenson having moved into a new house with his wife at Wheelock, near Sandbach, proposed to resume practice as a Veterinary Surgeon. With that in mind he arranged for the printing and distribution of a number of cards which reflected his intention to practise as a Veterinary Surgeon. Furthermore it became common currency in the neighbourhood that Mr. Stevenson was in fact a Veterinary Surgeon. He did not at that stage practise however but what did happen was that he made an application for planning permission to convert a part of his house into a surgery. That application for planning permission was in fact refused and accordingly Mr. Stevenson has never practised as a Veterinary Surgeon. On the other hand he was visited from time to time by members of the public who called uninvited and unsolicited at his house with sick animals for treatment. Mr. Stevenson did in fact assist members of the public when they did so call and on many occasions did so totally free of charge. When any charge was made it was merely a nominal payment by way of partial reimbursement for any drugs which may have been used. This was entirely accepted by the Prosecution and by the Court and there was never any suggestion that Mr. Stevenson had practised for gain.

The reason that Mr. Stevenson was obliged to plead “Guilty” to the offences which were brought against him was a purely technical one and in the circumstances of these exceptional and strong mitigating factors we would respectfully suggest that it would not be appropriate to refer this matter to the Disciplinary Committee.”

Their Lordships do not find it easy to understand how in the light of distribution of professional cards it can be established that everyone who brought an animal for treatment was uninvited and unsolicited.

Counsel for the appellant submitted that this was an exceptional case justifying interference with the sentence of the Disciplinary Committee, urging that the case of mitigation had not been adequately before that Committee. In particular he urged the illness of the second wife. It is to be observed that this was not mentioned in the letter from the solicitor quoted above: nor does the letter condescend to particulars of the “very substantial mitigating factors” referred to in the second paragraph.

Their Lordships are of the opinion that no sufficient case has been made for interference with the twelve months suspension ordered by the Disciplinary Committee, and that the appeal should accordingly be dismissed. However they do not propose that an order for costs be made, lest the burden should indirectly fall on the kindly shoulders of Mr. Straton. Their Lordships will humbly advise Her Majesty accordingly.

In the Privy Council

JAMES BOAG STEVENSON

v.

**THE ROYAL COLLEGE OF
VETERINARY SURGEONS**

**DELIVERED BY
LORD RUSSELL OF KILLOWEN**