

THE HIGH COURT

[2021] IEHC 756

2020/69 MCA

**IN THE MATTER OF SECTION 69 OF THE HEALTH AND SOCIAL CARE PROFESSIONALS
ACT 2005 (AS AMENDED)**

BETWEEN

A SOCIAL WORKER

APPLICANT

**AND
CORU**

RESPONDENT

**Judgment of Ms Justice Irvine, President of the High Court. delivered the 17 day of
September, 2021**

1. This is an application brought pursuant to s. 69 of the Health and Social Care Professionals Act 2005 (as amended) in which the applicant seeks to appeal against the cancellation of her registration as a social worker, which decision was communicated to her in writing on 3rd February 2020.
2. The matter first came before the Court, pursuant to s. 60 of the Act on 2nd February 2016, on which date the applicant's registration was temporarily suspended.
3. Before I discuss the background of the main application herein, I intend to briefly outline what has occurred in relation to two preliminary matters – firstly the ruling the Court delivered on 14th June 2021 in relation to a final peremptory adjournment of this matter to the 19th July 2021 and secondly a ruling I made on 19th July 2021 in relation to the anonymity of proceedings.

Court Ruling on final adjournment

4. On the 14th June 2021, this matter was scheduled to proceed by remote hearing. However, the Court was then in possession of an application made by the applicant for an adjournment of her appeal.
5. In considering the application for an adjournment, the Court took into account the procedural history of the matter, set out hereunder in slightly more detail than is customary, due to the fact that central to the applicant's contention is that she hasn't been afforded fair opportunity to be heard throughout this process. I therefore consider it necessary to outline the manner in which the applicant has been dealt with by the High Court and the opportunities to participate which have been afforded to her.
6. The applicant, by Notice of Motion dated 28th February 2020, appealed to this Court under section 69 of the Health and Social Care Professionals Act 2005 against the respondent's decision to cancel her registration as a social worker, which decision was made by the Health and Social Care Professionals Council (the Council") on 31st January 2020. Following the delivery of a replying affidavit on 7th October 2020 the appeal was scheduled for hearing on the 18th day of January 2021.
7. In correspondence sent to the Court via email, the applicant applied for an adjournment of her appeal which had been listed for hearing on the following dates: 30 March 2020, 27

April 2020, 15 June 2020, 12 October 2020, 2 November 2020, 30 November 2020, 18 January 2021 and 22 March 2021. The reasons offered in the various letters sent by email included the Covid restrictions, a need for more time to prepare and the applicant's attempts to secure legal aid. Further reasons were advanced in correspondence dated 10th June 2021 and these included averments relating to her insolvency, the fact that she was awaiting a decision from an appeal to the Legal Aid Board and the fact that there are two outstanding criminal matters she had to deal with, in relation to which no further details were offered which might have assisted the Court in understanding their relevance.

8. The applicant had effectively sought the indefinite adjournment of her appeal, for the reasons she identified, rather than an adjournment to any specific date. Her correspondence was shared with the respondent who objected to the application, as per its email dated the 10th June.
9. The Court considered the application for adjournment and outlined the principal reasons for refusing the request:
 - a. The applicant gave no indication as to when she would be in a position to proceed with her appeal. This the Court considered was wholly unsatisfactory in circumstances where the tight statutory timeframes provided for in section 69 and section 70 of the Act make clear that all appeals from any decision of the Council should be dealt with expeditiously, as should any application seeking to confirm a sanction proposed by the Council;
 - b. The appeal had already been adjourned on eight occasions at the applicant's request;
 - c. The fact that the applicant might be insolvent and going through the bankruptcy process did not afford her the right to the adjournment she sought;
 - d. She has no entitlement to legal representation and her rights under article 40 of the Constitution, which require that she be treated equally before the law, do not entitle her to legal representation. Many unrepresented parties pursue litigation without representation;
 - e. Insofar as the applicant relied upon the fact that she has appealed the decision of the Legal Aid Board to refuse her legal representation, she put no evidence before the Court to establish the date upon which she had appealed that refusal or as to when a decision on her appeal might be expected. The Court also noted that she had applied for legal aid in early 2020 and her application was refused on 9th October 2020.
 - f. Insofar as the applicant sought to rely upon some outstanding criminal investigations which she stated might impact upon her appeal, she did not explain the nature of these investigations, nor how they might invalidate the findings made

by the Professional Practice Committee or the resolution of the Council that her name be erased from the register of social workers. The Court also noted that the Inquiry before the Professional Practice Committee had been adjourned for a period in excess of one year to allow a criminal complaint made by the complainant against the applicant and a complaint by the applicant against the complainant be concluded. The applicant has not explained any nexus between any ongoing claimed criminal enquiries and the disciplinary process the subject matter of the appeal. Also, these were not mentioned in her affidavit grounding her appeal; and finally

- g. It was in the public interest that the within disciplinary process which commenced in 2015 and had led to her suspension by the High Court on 2nd February 2016 be brought to a conclusion.
10. Notwithstanding the foregoing, the Court was satisfied on that occasion that the applicant should be afforded one final peremptory adjournment of her appeal for a period of five weeks (until the 19th of July). This period was provided to the applicant so that she might prepare to present her own appeal in light of the Court's rejection of her application to postpone her appeal until such time as she might obtain legal representation and/or any outstanding criminal investigations in which she is involved have been completed.

Preliminary Application relating to anonymity

11. The matter then proceeded, and the Court conducted the hearing remotely on 19th July 2021. Initially the Court had received correspondence from the applicant indicating that she would not be in attendance of the remote hearing. However, notwithstanding this correspondence the applicant logged into the remote hearing and participated fully in the proceedings, in the course of which she made her own submissions to the court and countered those made by the respondent. As an preliminary matter, the Court heard submissions from the parties in relation to the reporting of this matter, the respondent having requested that the parties' identities be anonymised.
12. An application made on behalf of the respondent sought the following relief:
 - a. That the witnesses in the inquiry would be anonymised; and
 - b. That direction be given that nothing would be published connected with the appeal which might lead to those named in the proceedings being identified.
13. The reasons offered by the respondent in support of the application made were, in essence, that the reputation and good name of the witnesses stood to suffer serious damage if the proceedings were capable of identifying them, particularly one person (who I shall refer to as Mr. A) who was accused of sexual abuse by the applicant. The applicant made it clear to the Court in oral submission and also by email dated 15th July 2021 that she intended to waive her anonymity and that she would favour the public naming of the man who she has accused of sexually abusing her. She also notified the Court that she

intends to publish the details of the abuse which she alleges was perpetrated by Mr A. in a book which she is currently writing.

14. The respondent herein did not seek to have the entire hearing in camera, but given the nature of the interlocutory application, the Court exercised caution and heard the preliminary application relating to publication in camera.

15. The Court considered the reputational damage which the publication of unproven allegations of the nature involved in this case could have, and also considered the importance that justice be administered in public.

16. In the case of *Medical Council v T.M.* [2017] IEHC 548, Kelly P. considered whether the High Court had power under the Medical Practitioners Act 2007 (the Act) to hear an application under s.76 of the Act otherwise than in public. In that regard he said that "...there is no express or implied power conferred by the Act for a s.76 application to be heard otherwise than in public" but that:

"In accordance with the decision of the Supreme Court in the *Gilchrist* case there is a common law power vested in the court to conduct such a hearing otherwise than in public provided that the circumstances are appropriate and that the conditions identified by the Supreme Court are met."

17. The *Gilchrist* principles referred to are those set out by O'Donnell J. at para 45 in *Gilchrist v Sunday Newspapers Ltd* [2017] IESC 18, [2017] 2 IR 284:

- "(i) The Article 34.1 requirement of administration of justice in public is a fundamental constitutional value of great importance.
- (ii) Article 34.1 itself recognises however that there may be exceptions to that fundamental rule;
- (iii) Any such exception to the general rule must be strictly construed, both as to the subject matter, and the manner in which the procedures depart from the standard of a full hearing in public;
- (iv) Any such exception may be provided for by statute but also under the common law power of the court to regulate its own proceedings;
- (v) Where an exception from the principle of hearing in public is sought to be justified by reference only to the common law power and in the absence of legislation, then the interests involved must be very clear, and the circumstances pressing. Here that demanding test is capable of being met by the combination of the threat to the programme and the risk to lives of people in it or administering it. This is not a matter of speculation, but seems an unavoidable consequence of the existence of a witness protection programme.

- (vi) While if it can be shown the justice cannot be done unless a hearing is conducted other than in public, that will plainly justify the exception from the rule established by Article 34.1, but that is not the only criterion. Where constitutional interests and values of considerable weight may be damaged or destroyed by a hearing in public, it may be appropriate for the legislature to provide for the possibility of the hearing other than in public, (as it has done) and for the court to exercise that power in a particular case if satisfied that it is a case which presents those features which justify a hearing other than in public.
- (vii) The requirement of strict construction of any exception to the principle of trial in public means that a court must be satisfied that each departure from that general rule is no more than is required to protect the countervailing interest. It also means that court must be resolutely sceptical of any claim to depart from any aspect of a full hearing in public. Litigation is a robust business. The presence of the public is not just unavoidable, but is necessary and welcome. In particular this will mean that even after concluding that case warrants a departure from that constitutional standard, the court must consider if any lesser steps are possible such as providing for witnesses not to be identified by name, or otherwise identified or for the provision of a redacted transcript for any portion of the hearing conducted in camera.”

- 18. I am satisfied that the Constitutional right to a good name of the man who the applicant accuses of sexual abuse stands to be irreparably damaged if the witnesses in the within proceedings are identified. The constitutional right to the presumption of innocence must be firmly borne in mind. I am also satisfied that to achieve the goal of protecting this right, I need not go as far as ordering that the proceedings be heard entirely *in camera* and indeed the respondent in making their application for anonymity did not ask for the hearing to be heard *in camera*.
- 19. Ultimately, I made an order on 19th July 2021 that the witnesses in the inquiry would be anonymised and a direction was given that nothing would be published connected with the appeal which might lead to the witnesses in the matter being identified. On more than one occasion the Court made it clear to the applicant that the order would cover both her own name and also restrain her from identifying any witnesses in the public domain.

Background to the main application

- 20. Following the applicant’s temporary suspension, the disciplinary process proceeded with a relatively complicated timeline involving a number of case management hearings and adjournments to allow complaints made to An Garda Síochána be investigated and decisions made by the DPP as to whether prosecutions would be pursued arising from the facts which are the subject matter of this case.
- 21. The Preliminary Proceedings Committee ultimately met on 25th April 2019 and referred various complaints against the applicant herein to the Health Committee for an inquiry on the ground of professional misconduct and relevant medical disability. On 27th May

2019, the Notice of Inquiry was served on the applicant containing numerous allegations that the applicant, being a registered social worker had:

1. Engaged in email correspondence with Mr. A, which was inappropriate/abusive/harassing;
 2. Written emails to Mr A, falsely representing that they had been written by a former ISPCC regional manager who I will call Ms. B;
 3. Written emails to Mr A, falsely representing to be from a woman who I will refer to as Ms. C;
 4. Failed to co-operate with the respondent's investigation in that she had:
 - a. Refused to provide consent to the release of medical records;
 - b. Refused to attend with a doctor who is a consultant forensic psychiatrist, who the PPC had instructed to prepare an independent psychiatric report;
 - c. Made inappropriate/unjustified complaints to the medical council against that doctor;
 - d. Made inappropriate/unjustified complaints against a CORU case officer who I will refer to as Ms. D;
 - e. Made inappropriate/unjustified complaints to the Medical Council against Ms E, CORU Fitness to Practice Manager;
 5. Such further allegations to be notified to the applicant;
 6. That she failed to co-operate with the respondent's investigation in that she:
 - a. requested Dr F, a retired GP, to erase her medical records which she knew/ought to have known would obstruct the inquiry process;
 - b. Refused to consent to the release of her medical records to the solicitors for the purposes of assisting the investigation;
 - c. Refused to attend with Dr G, consultant forensic psychiatrist;
 - d. Refused to attend with Dr H, consultant psychiatrist;
 - e. ...
 - f. Refused to attend with Dr I, consultant forensic psychiatrist;
 - g. Made inappropriate/unjustified complaints to the Law Society of Ireland against Ms J, solicitor;
 - h. Made inappropriate/unjustified complaints to An Gardaí Síochána against Ms J and/or Fieldfisher, solicitors;
 - i. Made inappropriate/unjustified complaints to An Gardaí Síochána against Fieldfisher and/or Ms K, solicitor;
 - j. On numerous occasions sent inappropriate/abusive emails or engaged in inappropriate telephone calls to Fieldfisher.
22. The Notice of Inquiry also alleged that the applicant suffered from a relevant medical disability which might impair her ability to practice social work including emotional

dysregulation, psychosis, emotionally unstable personality disorder, depressive illness, and/or mixed affective disorder.

23. Despite notification of the date and time of the inquiry, the applicant did not attend the inquiry and was not legally represented. The inquiry took place on 29, 30, 31 July, 5 and 9 September, 14 October, 4 November and 2 December. Some twenty witnesses gave evidence at the inquiry and the respondent in the affidavit sworn by Ms Ginny Hanrahan emphasises that despite the applicant not being present, counsel and the legal assessor endeavoured to put the applicant's case to the witnesses so that the Health Committee would have the benefit of the witnesses' evidence in response to the points raised by the applicant in her correspondence, which correspondence is exhibited before the Court.
24. At the end of each day of the inquiry, the applicant was sent a copy of the transcript but she did not attend at any of the subsequent hearing dates.
25. On 4th November 2019, the Health Committee convened and the applicant was not in attendance. The Committee convened again on 2nd December 2019 and at that hearing the applicant was also not present nor represented. On that occasion, the legal assessor, Ms Patricia Dillon S.C, set out what she considered, from the documentation available, the applicant would likely have said if she had been present and urged consideration of these matters by the Committee when considering mitigation of sanction.
26. The Committee, having considered those submissions, found a number of allegations proven as to fact and found that they amounted to professional misconduct. The allegations found proven are set out at para 60 of the affidavit sworn by Ms Hanrahan and a list of allegations not proven as to fact appears at para 61. The Health Committee did not find the allegation of a relevant medical disability to be proven and stated that they were not satisfied that the evidence of Dr L was sufficient to establish the allegation beyond a reasonable doubt. This was primarily because the evidence only established on a balance of probabilities that the registrant had a relevant medical disability, mostly because the registrant had refused to meet with Dr L and had made her findings *inter alia* on the basis of extensive correspondence, which the Court has also had sight of.
27. On the basis of the numerous findings of fact which the Committee considered amounted to professional misconduct, on 2nd December 2019 the Committee recommended that the applicant's registration be cancelled. The Board then, pursuant to s 64(1)(b) of the Act received a request from the Health Committee to recommend disciplinary sanctions and they held a meeting pursuant to s 65 of the Act on 12 December 2019. The applicant was invited to attend but was neither present nor represented at that meeting. The Board issued a report recommending that the registration of the applicant be cancelled. Then in terms of s 66(1) of the Act, the Council held a meeting on 23rd January 2020. The applicant was invited to attend and given the opportunity to make written submissions. The applicant attended that hearing and made detailed oral submissions. After considering these submissions and all the evidence before it, the Council directed that the professional registration of the applicant should be cancelled.

28. It is the respondent's position that at all times the applicant's right to fair procedures and natural justice were respected. The respondent has set out in detail the repeated invitations made to the applicant to appear in person or participate via video link at the various stages of the proceedings. But despite being given what the respondent describes as "every conceivable opportunity", the applicant chose not to participate in the process until the Council meeting of the 23rd January 2020. The respondent contends that the transcripts reveal significant efforts made by the respondent at all stages, to afford the applicant fair procedures and to consider matters from the applicant's perspective. It is the respondent's contention that the applicant should not be entitled to deliberately absent herself from the process and then complain about it thereafter. It is also the respondent's submission that the sanction imposed is fair and proportionate in light of the circumstances especially in light of the obligation to protect the public and uphold professional standards.
29. The grounding affidavit of the applicant sets out her reasons underpinning her appeal against the cancellation of her registration. Firstly, at para 5 she says that she was not in attendance throughout the course of the disciplinary process and that her constitutional right to earn a living has been affected by the suspension of her registration as a social worker since February 2016. She says this has negatively impacted her financial situation and her ability to pursue private legal representation. She points to her constitutional right under article 40, of equality before the law. She indicates that the main complainant in the case, Mr A is someone who is known to her in that she was an ex service user when Mr A handled her matter as a social worker. In a number of disturbing allegations, the applicant says inter alia that she was threatened by Mr A and was in her words "scared to death of his influence over her". She makes reference to a historical sexual abuse statement which she made against Mr A in July 2016 and she says that the duress and mental torture which she has endured has affected her ability to engage with these proceedings. She makes reference to what she describes as years of sexual abuse by Mr A and also makes reference to the tragic circumstances of a rape which she endured, for which she blames Mr A due to her contention that he was the social worker who placed her in the place of care where the rape ultimately occurred. The applicant makes reference to the respondent repeatedly and without her consent making appointments for her to attend a number of psychiatrists in what she calls an attempt to discredit, discriminate and label her with a medical disability.
30. The Court has received what can only be described as extensive evidence for the purpose of dealing with the within appeal, especially in the form of correspondence. The psychiatric report from Dr L is especially helpful. Although the report did not make a finding of a relevant medical disability, it has been particularly useful in assisting the court analyse the correspondence written over a long period of time by the applicant. And, while the Court has a large amount of empathy for the very vulnerable position in which the applicant finds herself, she having been apparently subjected to extensive traumatic events during her lifetime, the analysis of the correspondence and the Court's reading of the plain words therein, are cause for concern. In addition to this, the findings

of fact made against the applicant by the respondent and the findings that these amount to professional misconduct, must be considered as very serious.

31. The email written by Mr A on 13 November 2015 sheds light on the complicated history between Mr A and the applicant, in which he complains that the applicant had established what he referred to as the "façade" of being his half-sister. In the course of the evidence, allegations are made by Mr A that the applicant *inter alia* impersonated a number of people when corresponding with him and counter allegations are made by the applicant that Mr A had at one stage proposed marriage to her and sent her text communications of a romantic nature before moving to Australia the following day and more alarmingly the series of allegations made in her latest affidavit filed before the Court and relating to the allegations of sexual abuse. The relationship is extremely complicated and frankly, concerning. This application does not deal with the allegations made between the parties and certainly, the allegations of a criminal nature are a matter for An Garda Síochána, if the appropriate complaints are made. The Court is aware of previous decisions made by the DPP not to pursue prosecutions in this matter, but the Court makes no comment beyond this other than to remind the parties of their rights to pursue criminal complaints in circumstances where they deem it appropriate.

The hearing on 19th July: Parties' Submissions

32. I will now summarise the applicant's oral submissions to the Court. These have been considered in addition to the written documentation placed before the Court by both parties. The applicant herein maintains that she has not been afforded a fair procedure. She submitted to the Court that her lack of legal representation has meant that she cannot participate equally in the proceedings and that CORU, knowing about her particular vulnerability due to the abuse she says she has suffered, should not have allowed the inquiry proceed in the absence of legal representation. She spoke to the Court about the manner in which she says the proceedings have caused her to suffer in terms of her mental health, stress and anxiety. She said to the Court that she does not feel that victims of sexual abuse are heard or believed and that the entire process has been unfair to her. When the Court asked the applicant what CORU should have done in the absence of the applicant being able to secure legal aid, the applicant responded that the inquiry then should not have proceeded because she could not fairly participate. The applicant acknowledged in her submissions that she did not participate in the proceedings to date and that this amounted to what she described as her "running" from the proceedings. She told the Court "she has made mistakes along the way". It is evident that the applicant elected to avoid the proceedings rather than engage with them due to the fact that she says victims are not treated fairly and she mistrusts the system. She mentioned to the Court that she was worried she would not be believed and she also wanted to protect her daughter and didn't want her to have to see or hear about Court proceedings. She also said that she was occupied with the DPP and criminal proceedings which were ongoing. At a certain point the applicant indicated that she felt the matter would be pre-decided by the Court and went as far as saying that she thought the Court would "side with her abuser", to which the Court reassured the applicant that the matter would be decided without fear or favour and with no pre-judgment. The Court also took

the opportunity to remind all parties of the limits of its jurisdiction in a case such as this, and that the role the Court plays in this type of appeal is statutorily defined. The applicant confirmed that she was not asking the Court to consider new evidence on the day of the hearing.

33. Counsel for the respondent herein also made oral submissions which in essence said that the applicant had not engaged in the process. He indicated that the respondent was aware of the fact that the applicant wanted to have legal representation (and that along the way there had been legal representatives working for the applicant, but that they had pulled out in circumstances the respondent had no knowledge of). He also indicated that the respondent was aware that the applicant considered that proceeding without legal representation was unfair, but that firstly it was their submission that a registrant is not entitled to legal representation at the inquiry stage (*A.A v Medical Council* [2003] IEHC 611) and secondly that the respondent had, at all times, been at pains to ensure that the hearing was as fair as possibly could be achieved. The respondent had, at all stages, put the arguments of the applicant (as best as they could be formulated in the absence of the applicant herself) to the various witnesses. The legal assessor had also tried at all stages to ensure that the hearing was as fair as possible in the absence of the applicant's engagement. Transcripts of each day of proceedings had been shared with the applicant. He also says that there are other indicators that the process was fair and even handed, for example the fact that the Health Committee found that 9 allegations were proven but that 8 allegations were not proven to the required standard. Counsel for the respondent also said that the applicant was not found to have a relevant medical disability, another indicator that the hearing was fair and even handed. In summation, the respondent says that the proceedings were fair, CORU tried their best to ensure that as much was done in the circumstances to accommodate the applicant but that it was her choice not to participate and that she had no entitlement to legal representation.

The Court's Jurisdiction

34. The jurisdiction of the Court is set out in the Act in s 69 of the Health and Social Care Professionals Act 2005:

"69.—(1) A registrant affected by a direction to impose a disciplinary sanction (other than an admonishment or a censure) may apply to the Court for an order cancelling the direction.

- (2) An application for an order under this section must be made within 30 days after the registrant receives from the Council notification of the direction.
- (3) At the hearing of the application, the Court may consider any evidence adduced or argument made, whether or not adduced or made to a committee of inquiry.
- (4) After hearing the application, the Court may—
 - (a) make any order that it considers appropriate, including an order cancelling, confirming or modifying the direction, and

(b) give to the Council or the registration board concerned any direction that the Court considers appropriate.”

35. The Court can therefore make any order deemed appropriate, after considering all of the evidence. As mentioned before, the applicant did not introduce any new evidence on the day of the hearing.

Legal Aid

36. On the point relating to legal representation, I will briefly refer to the case of *A.A v Medical Council*, cited above, where Mr. Justice O’Caoimh said in relation to legal representation at an Inquiry before the Medical Council’s Fitness to Practice Committee:

“An examination of the facts of this case is necessary to determine whether the applicant can obtain a fair hearing before the Committee in the absence of legal representation. In this regard it is necessary to note the nature of the inquiry which is essentially addressed to the conduct of the applicant and an ascertainment as to whether the same can be said to have constituted professional misconduct.

It is clear that the applicant is entitled to legal representation. However, this should not be confused with the right to legal aid.

...

In light of the authorities cited to me it is clear that no authority of this Court or of the Supreme Court establishes the right contended for on behalf of the applicant. While the hearing before the Committee is a hearing by a body of persons of the applicant's own profession, which may lead to a finding of misconduct, I am satisfied, in particular having regard to the decision of Finlay P. in *M. v. Medical Council* [1984] I.R. 485 that such a hearing in the absence of legal representation to the applicant would not be a hearing in disregard to the essentials of fairness or due process.”

37. The applicant’s inability to secure legal aid therefore was not fatal to the fairness of the inquiry *per se* and I would echo the distinction made by Mr. Justice O’Caoimh that legal representation, while permitted at inquiry stage – does not translate into a right to legal aid in the circumstances that the applicant was not in a position to pay for her own legal representative.

Decision

38. The first thing I should say is that I have immense sympathy for the personal circumstances of the applicant herein. It is very clear that the whole disciplinary process which she has been through (including the High Court portion thereof) has caused her a very high level of stress, pressure and anxiety. The impact on her personal wellbeing and the concerns she has for the impact on her family’s wellbeing have been heard by the Court. It is clear to me that the process has overwhelmed the applicant and she therefore elected to not participate in a process which she thought she would not be heard in, and one which she presupposed would be unfair to her. I have also heard the

applicant explain to the Court that she is particularly vulnerable and that she believes victims of sexual abuse are not heard by society.

39. The Court's role is to decide whether to confirm the decision of the respondent to cancel the applicant's registration, or to make any other Order. I have before me substantial evidence with which to make that decision, including the transcripts of every stage of the disciplinary process as well as the submissions made to me on 19th July by both parties.
40. What is evident is that from the beginning of the process, the applicant has been unwilling to participate in proceedings, by her own admission in Court she said she "ran away" and "should have stayed to fight".
41. I am satisfied in the circumstances that the applicant has been afforded as fair a hearing as possible, despite her non-engagement in the proceedings. While I have a lot of sympathy for the applicant's personal circumstances, I do not see how the respondent had any choice but to proceed in the absence of the applicant. The matter could not have stood in perpetual abeyance and at some point the safety of the public (the protection of which is a key function of any regulatory body) dictates that a disciplinary process be brought to conclusion.
42. It is unfortunate that the applicant was unable to advance her arguments at the inquiry stage, however her voice has been heard at this stage of the proceedings very clearly. The applicant has articulated her arguments clearly and the Court has fully understood them. In considering the decision I will make today, I am not limited to the evidence before the inquiry stage and accordingly I have placed due emphasis on the oral submissions made to the Court at this stage.
43. What is for this Court to decide is whether the decision reached by the respondent is just and proportionate in all the circumstances. It was ultimately the applicant's behaviour in allegedly impersonating a number of characters as well as the tone and content of her emails, as well as her non-cooperation with (and thwarting of) the investigation into her misconduct which resulted in the cancellation of her registration. What was also relevant was her alleged repeated and inappropriate complaints/reports made against a number of people involved in the inquiry, including solicitors, members of CORU and a medical professional.
44. Given the serious nature of the findings of professional misconduct against the applicant, and given what the Court considers to be an extensive effort made by the respondent at all times to seek out the applicant's participation in the disciplinary process against her, the Court is not convinced at this late stage that the entire process, which has been meticulously conducted, should be set aside in circumstances when the applicant has repeatedly refused to engage with the process. The allegations made against the complainant in the applicant's affidavit grounding this application are not accompanied by any evidence to which the Court could have regard in assessing the reasonableness of her decision not to participate in the process until the eleventh hour. Again, the Court has empathy for the vulnerability of the applicant herein, and certainly acknowledges the very

difficult position she is in and the troubling and traumatic past experiences she has endured. What the Court cannot find, is that this constitutes grounds to set aside a sanction imposed on her by the respondent for conduct which was found to be unprofessional and constitutes misconduct which is, in the Court's view, on the serious end of the scale.

45. The Court is of the view that the transcripts reveal that the respondent made extensive efforts to have the applicant's version of events placed before the twenty witnesses and the legal assessor even offered commentary in mitigation and in line with the applicant's interests on more than one occasion. Participation by video link was offered, and the transcripts were sent to the applicant on a daily basis. The disciplinary process has been subject to extensive case management processes, meetings and postponements and it appears that at every stage possible, the principles of natural justice and fair hearings have been afforded to the applicant with repeated invitations to participate. The evidence upon which the decision to ultimately suspend was based upon is extensive.
46. The findings made against the applicant are serious and this Court is of the opinion that the cancellation of her registration is not a disproportionate response and is necessary to protect the public and uphold the standards of the profession. The respondent has gone no further than necessary to protect the public and has erred on the side of caution in the treatment of the evidence before it. This is evidenced by the numerous allegations which the respondent did not find proven beyond reasonable doubt and specifically the respondent's declining to find that a relevant medical disability exists due to the fact that Dr L's conclusion in this regard was only on a balance of probabilities.
47. Having said that, the Court is satisfied that the respondent has treated the evidence with as much caution and due process as has been possible in the face of the non-participation and at times obstructive approach by the applicant. The applicant cannot avoid sanction by simply not participating in the process and while the Court is mindful of what the applicant paints as a very complex history between the applicant and the complainant, the Court is satisfied that sufficient evidence was before the respondent to sustain the findings of misconduct justifying the sanction of the cancellation of her registration.
48. I would therefore make an order confirming the decision of the respondent to cancel the registration of the applicant.