

Privy Council Appeal No. 4 of 1952

Arthur James Daly - - - - - *Appellant*

v.

The General Medical Council - - - - - *Respondent*

FROM

THE MEDICAL DISCIPLINARY COMMITTEE OF THE
GENERAL MEDICAL COUNCIL

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 24TH JULY, 1952

Present at the Hearing:

LORD PORTER
LORD TUCKER
LORD ASQUITH OF BISHOPSTONE

[*Delivered by* LORD PORTER]

In this case two problems have been raised : the first is as to the action of the Legal Assessor, and the second is as to the discretion of the Medical Council.

So far as the Assessor is concerned, their Lordships have had called to their attention a number of Rules giving him wide powers, and they must assume that in this particular case, considering the evidence as presented, the Legal Assessor had received the leave of the Chairman to put the questions which he did, in which case they were entirely in order. If questions were put against the wish of the Chairman, they would, of course, be out of order, but that was not the case. Therefore there is no irregularity which could make a difference to the decision of the case for this reason. It is for the Medical Council, when they are considering what action they should take and whether the conduct amounts to infamous conduct, to receive not only the evidence in the particular case but evidence as to the previous position of the doctor concerned: they are entitled to, and must, take into consideration this additional evidence when they are making up their minds as to whether, in the first place, they should find the doctor guilty of infamous conduct, and in the second place as to what action they should take upon that conduct. Therefore, in the particular case, they were entitled, not only to hear evidence of the surrounding circumstances but evidence also of the previous complaints and findings with regard to the doctor in question.

It is not, in their Lordships' view, true to say that in a medical case you must only look at evidence of similar offences. How much those other matters, provided they are matters relevant to an appellant's behaviour as a doctor, may affect the mind of the Council is a matter for them and for their discretion.

That being so, in this case their Lordships cannot say that the Council have in any way acted improperly or without evidence, or have not had ample ground upon which to exercise their discretion. In these circumstances, their Lordships must humbly advise Her Majesty that the appeal be dismissed. There will be no Order as to costs. The Order will take effect from the time when Her Majesty approves the advice tendered to Her.

In the Privy Council

ARTHUR JAMES DALY

v.

THE GENERAL MEDICAL COUNCIL

DELIVERED BY LORD PORTER

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