

Shaun Wallace

CALL/INN: Called to the Bar by Inner Temple, November 1984

TYPE OF HEARING: 3 Person Disciplinary Tribunal

DATE OF DECISION: 25th October 2016

In breach of

Paragraph 701(a) and pursuant to paragraph 901.5 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Details of Offence

Between the 16th July 2012 and the 16th March 2013, being a barrister under a duty to act conscientiously, diligently and with reasonable competence, failed to comply with his duty, in that, when representing a defendant in criminal proceedings, he held four conferences with the lay client at the lay client's home address without a solicitor being present and/or without having notified the instructing solicitor that he was holding each of those conferences and did not keep any note or other record of the advice given or what had taken place in each of those conferences or did not keep the solicitor informed of these matters. Such failure was serious by virtue of the nature and extent of the failure.

Between the 16th July 2012 and the 16th March 2013, being a barrister under a duty to act conscientiously, diligently and with reasonable competence, failed to comply with his duty, in that, in advising the lay client, and later to his solicitor, during the pre-trial conferences, that the lay client had a good case, he failed to explain the obvious strength of the prosecution case at any time prior to the day upon which the case was listed for trial when, for the first time, he gave advice that the prosecution case was strong. Such failure was serious by virtue of the nature and extent of the failure.

On or about the 18th February 2013, being a barrister under a duty to act conscientiously, diligently and with reasonable competence, failed to comply with his duty, in that he failed to record the advice given to the lay client and the instructions which he received from the lay client, which led the lay client to effect a change of plea to one of guilty to an offence under section 18 of the Offences against the Person Act 1861 (the "section 18 offence") and failed to record the basis of that plea of guilty with the lay client either on counsel's brief or any other form of written endorsement and failed to ensure that counsel's brief or some other document was signed by the lay client, to show that the lay client was agreeing to plead guilty and knew what he was doing and that he had made the decision to plead guilty of his own free will. Such failure was serious by virtue of the nature and extent of the failure.

On or about the 18th February 2013, being a barrister under a duty to act conscientiously, diligently and with reasonable competence, failed to comply with his duty, in that he:

- a. Failed to consider with and advise the lay client as to whether it was appropriate for a joint conference to be held with the lay client's co-defendant (who was also the lay client's mother) and other members of his family to discuss both defendants' respective pleas to the charges on the indictment, when there was an obvious risk that such a conference may put undue pressure on the lay client to plead guilty to the offences with which he was charged;
- b. Did not advise the lay client at all or in sufficiently clear terms so that the lay client understood that, in admitting the section 18 offence, he was admitting that, when he committed the assault, he intended to commit serious bodily harm to the victim and so that he was not left, or alternatively, so that there was no risk that he may have been left with the impression that he was actually admitting an offence in respect of which a plea of guilty to section 20 would have been more appropriate; and
- c. Failed to explore with the lay client the factual basis of his intended guilty plea to the section 18 offence and to take steps to satisfy himself that the lay client was agreeing to plead guilty to the section 18 offence of his own free will.

Such failure was serious by virtue of the nature and extent of the failure.

SENTENCE: Reprimanded. Fined £2,500.

STATUS: Open to Appeal.