



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case Reference:

Kelly Fernandez-Lee

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of: Middle Temple [2002]

Disciplinary Tribunal

Kelly Fernandez-Lee

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 12 December 2023, I sat as Chairman of a Disciplinary Tribunal on 30 January 2024 to hear and determine two charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Kelly Fernandez-Lee, barrister of the Honourable Society of Middle Temple [2002].

Panel Members

2. The members of the Tribunal were:
Geoffrey Williams KC (Chair)
Helen Compton (Barrister member)
Ken Cameron (Lay member)

Charges

3. The following charges were admitted

Charge 1

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Statement of Offence

Professional misconduct, contrary to Core Duty 5 and rC8 (integrity) of the Bar Standards Board Handbook (version 4.6).

Particulars of Offence

Ms Kelly Fernandez-Lee, a barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in her or in the profession and did something which could reasonably be seen by the public to undermine her integrity, in that, on 28 July 2022, she drove a motor vehicle on a road after consuming so much alcohol that the proportion of it in her breath, namely 136 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit of 35 microgrammes of alcohol per 100 millilitres of breath. On 25 January 2023, she was convicted of an offence contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Charge 2

Statement of Offence

Professional misconduct, contrary to Core Duty 5 and rC8 (integrity) of the Bar Standards Board Handbook (version 4.6).

Particulars of Offence

Ms Kelly Fernandez-Lee, a barrister, behaved in a way which was likely to diminish the trust and confidence which the public places in her or in the profession and did something which could reasonably be seen by the public to undermine her integrity, in that, on 28 July 2022, while driving a motor vehicle on a road, she failed to stop after an accident occurred whereby damage was caused to another vehicle. On 25 January 2023, she was convicted of an offence contrary to section 170 of the Road Traffic Act 1988.

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Parties Present and Representation

4. The Respondent was present and was represented by Mr Parker of Saunders Law. The Bar Standards Board (“BSB”) was represented by Gareth Tilley.

Findings

5. On 28th July 2022 the Respondent (“KFL”) committed the offences of driving with excess alcohol and failing to stop after an accident.
6. KFL was sentenced to 12 weeks imprisonment suspended for 12 months and disqualified from driving for 32 months.
7. Her blood alcohol level was very high – 136 microgrammes of alcohol in 100 millilitres of breath which exceeded the prescribed limit of 35 microgrammes of alcohol per 100 hundred millilitres of breath - and KFL failed to stop after colliding with another vehicle. Fortunately nobody was hurt and the damage to the other vehicle was relatively slight.
8. In the previous year KFL had suffered from considerable stress leading to her being signed off work by her GP. Clearly the stress was in large measure associated with extreme pressure of work.
9. At the time of the offences KFL was employed by a firm of Solicitors and was essentially running the firm’s criminal department single handed. Effectively KFL was doing the work of at least two people herself and after she left that employment the firm lost its Legal Aid contract.
10. On the day of the offences pressure of multiple work commitments combined with a genuinely traumatic event involving the impending demise of KFL’s Godmother. This came as a bolt out of the blue as KFL was unaware that her Godmother to whom she was extremely close had even been unwell let alone at end of life. This was a tipping point and caused KFL to purchase a bottle vodka from a nearby shop and consume a great deal of it

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before foolishly setting off to drive home. The upshot was the commission of the offences in question.

11. There were considerable mitigating circumstances which the Panel took into account.
12. These were the first offences in a lengthy career. KFL was of previous good character.
13. KFL cooperated fully with the Police, the criminal process and the Bar Standards Board to which she had self-reported.
14. KFL demonstrated complete insight and genuine remorse. Following the commission of the offences KFL voluntarily undertook inpatient treatment to address her relationship with alcohol and went on to undertake ongoing therapeutic treatment. This appears to have been successful.
15. There was a regrettable degree of delay prior to the hearing before the Panel. This was largely the result of the conduct of the criminal process but the passage of time had enabled KFL to demonstrate that the risk of repetition was very low.
16. Plainly these were serious offences resulting in a custodial sentence albeit suspended. The period of suspension has expired.

Sanction and Reasons

17. The Panel had recourse to its Sanctions Guidance and concluded that this case fell within the middle range of seriousness of misconduct offences with moderate culpability and low harm although the latter may have been a matter of good fortune. The Panel considered imposing a suspension but ultimately concluded that the penalty to be imposed to reflect both Charges was a fine of £10,000.00 together with a reprimand.
18. KFL was ordered to pay the costs claimed by the Bar Standards Board in the sum of £1,560.00.

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Dated: 9 February 2024

Geoffrey Williams KC

Chairman of the Tribunal

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