



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2018/0208/D5

John Guess Esq

The Director-General of the Bar Standards Board

The Chairman of the Bar Standards Board

The Treasurer of the Honourable Society of the Middle Temple

Disciplinary Tribunal

John Guess Esq

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 20 February 2019, I sat as Chairman of a Disciplinary Tribunal on 19 March 2019 to hear and determine 1 charge of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against John Guess Esq, barrister of the Honourable Society of the Middle Temple.

Panel Members

2. The other members of the Tribunal were:

Mrs Kathryn King (Lay Member)

Mrs Alison Thorne (Lay Member)

Robert Walton QC (Barrister Member)

Charge

Statement of Offence

Professional Misconduct contrary to Core Duty 5 of the Bar Standards Board Handbook.

Particulars of Offence

John Guess engaged in conduct likely to diminish the public trust and confidence which the public places in a barrister or in the profession and behaved in a way which could reasonably

be seen to undermine his integrity in that between 15 August 2015 and 6 April 2018 he: 1] sexually abused a child under the age of 13, 2] recorded and distributed images of the abuse referred to in [1]; 3] sexually abused a child under the age of 13 on more than one occasion; 4]] recorded and distributed images of the abuse referred to in [3]; 5] aided another individual in his sexual assault of a child under the age of 13; 6] incited a girl under the age of 18 to expose herself to him in a sexual manner and to send him photographs of the behaviour; 7] made multiple indecent photographs of children; 8] possessed indecent images of Category A¹, 1000 images of Category B, 10,000 images of Category C and multiple images and videos characterised as extreme pornography.

As a result of the conduct summarised above, on the 6 August 2018 was convicted at the Crown Court on his pleas of guilty and sentenced under section 226[a] of the Criminal Justice Act 2003 to a total of 20 years imprisonment with an extended licence period of 6 years. He was also made the subject of a Sexual Harm Prevention Order and ordered to register on the Sex Offenders Register indefinitely.

Parties Present and Representation

3. The Respondent was present by video link and represented himself for the first part of the hearing (as set out below). The Bar Standards Board (“BSB”) was represented by Paul Pretty Esq.

Preliminary Matters

4. On 13 March 2019 the BSB had informed the Tribunal that it wished to amend the charge sheet. On the morning of the hearing (19 March 2019), the BSB provided the Tribunal with a copy of a handwritten letter dated 12 March 2019 from the Respondent to the BSB saying that he too wished to amend the charge sheet. Shortly before the start of the hearing on 19 March 2019, the BSB provided the Tribunal with an amended charge sheet incorporating the changes desired by both parties. We indicated following consideration of the amendments that we were content to proceed with the amended version.
5. The hearing commenced and the Respondent appeared by video link. The Tribunal explained to him that some changes had been made to the charge sheet at his request. It was clear to the Tribunal that he fully understood the nature and substance of the amendments made the effect of which was to reduce to the necessary minimum the amount of detail placed in the public domain. This had been for the Respondent and his immediate family a matter of considerable concern.

6. The Tribunal explained that there were now four members on the panel due to the late withdrawal of a barrister member, but in the Tribunal's view it was proper and appropriate for the Tribunal to continue as a panel of four. The Respondent confirmed that he had no objection.
7. The Tribunal reminded all present that the provisions of the Sexual Offences (Amendment) Act applied to these proceedings and directed that until further order there must be no publication of any material which could identify the names or identities of any of the victims. The Respondent confirmed that he understood.
8. The Tribunal asked the Respondent, given that he was then present whether he would be prepared to enter a plea today. He confirmed that he would enter a plea and he did so.

Plea

9. The Respondent admitted the charge.

Preliminary Matters (continued)

10. The Tribunal then asked the Respondent whether there was anything else which he wished to say. He said that he was very sorry. He reminded the Tribunal that he had pleaded guilty from the start in the criminal proceedings, and had taken the same realistic approach in the BSB's proceedings. He accepted that he would be disbarred. He expressed regret for what he had done.
11. The Tribunal asked the Respondent to confirm that it was still his wish that the hearing should continue and conclude in his absence. He so confirmed.
12. Thereafter, the Respondent was not present for the remainder of the proceedings. In correspondence prior to the hearing the Respondent had said no less than five times that he did not wish to be present at nor participate in these proceedings. In those circumstances the BSB had prepared written submissions in support of their application that the proceedings could nonetheless take place in the Respondent's absence. This was on the basis that he had in effect voluntarily absented himself. It was submitted that applying the principles established in *R v Jones [2002] UKHL 5* a decision found to apply to Bar Disciplinary Tribunals in the case of *BSB v Norton [2014] EWHC 2681 (Admin)* it was open to us to proceed in his absence. We found that it was and indeed we did so. We were entirely satisfied that the Respondent prior to today had indicated that he did not wish to be present and before us voluntarily waived his right to be present. Further, we were entirely satisfied that the various

procedures stipulated in the Disciplinary Tribunal Regulations had been fully complied with. We reminded ourselves that the Respondent is legally qualified and has made it plain that he did not beyond his brief appearance before us wish to be present. In our judgment he made an informed, deliberate and voluntary decision to absent himself in full knowledge of the case he has been required to meet in these proceedings. We found that it was appropriate and just for the hearing to proceed in the Respondent's absence.

The BSB Opening

13. Following the departure of the Respondent the hearing resumed. By reference to his Opening Note, Mr Pretty made brief opening remarks on behalf of the BSB.

The Evidence

14. The case against the Respondent brought by the BSB relied upon the provisions of rE169 this being a case in which the Respondent had been on the 6th August 2018 at the Crown Court convicted by his pleas of guilty of 37 Counts of offences contrary to the Sexual Offences Act 2003, the Protection of Children Act 1978, the Criminal Justice Act 1988 and the Criminal Justice and Immigration Act 2008. The Respondent having been found by the Learned Judge to be a dangerous offender as that term is understood in the Criminal Justice Act 2003 he was sentenced to an extended prison sentence the custodial term of which was 20 years together with an extended licence period of 6 years making a total sentence of 26 years.
15. It suffices to say that the offending admitted by the Respondent was grave and prolonged. He was described by the judge as a sexual predator. Having been notified of the convictions the BSB launched an investigation. In a letter dated the 21st October 2018 the Respondent said: *"I do not contest these assertions and accept that my conduct amounted to a breach of the code"*
16. The Certificates of Conviction set out the record of offences and by virtue of rE169 provides conclusive proof that the offences were committed by the Respondent who has never sought to deny any of them. In those circumstances we proceeded on the basis that all the factual matters relied upon by the BSB are admitted by the Respondent to be true, given that the admissions he has made are against his interests, the inference open to us to draw is that these matters are not only admitted but are true.

Decision

17. The Tribunal was unanimously of the view that the single charge before the Tribunal was proved beyond reasonable doubt.

Submissions on Sanction

18. Mr Pretty drew our attention to version 4 of the Sanctions Guidance at pages 42 and 20 which the Tribunal duly noted.

Sanction and Reasons

19. Our decision on sanction is as follows.
20. Notwithstanding the Respondent's concession on the issue of sanction, it nonetheless remains a matter for this Tribunal to determine. We are bound to say that in considering the material in this case that led to the Respondent's conviction and sentence it is difficult to conceive of conduct more likely to diminish public trust and confidence in the profession.
21. The nature and gravity of the Respondent's proven conduct, the prolonged and repeated nature of it, taken together with the sentencing remarks of the trial judge indicated that there was only one appropriate penalty in this case.
22. It is right that we should highlight some of the aggravating factors. In the Tribunal's judgment: some of the offences may have been opportunistic, but there was a continuing feature of premeditation in most of the offending. There was the extreme youth of some of the victims. The Respondent actively involved others in his conduct. The conduct took place over a lengthy period of time: and it was only his arrest that brought his criminality to an end. The Respondent's conduct involved repeated breaches of trust and would undoubtedly have had and will continue to have a profound effect on his victims.
23. There were some mitigating factors. The Respondent had entered a guilty plea before the Crown Court. He had admitted the charge in these proceedings when put to him today as we have already observed. He co-operated throughout with the BSB's investigation. He had shown some remorse in making a public apology today. Finally, he was of previous good character. In all the circumstances of this case we are unanimously of the view that none of these factors either taken alone or together could possibly indicate that anything less than disbarment is appropriate.

24. It was the Tribunal's unanimous view that the only appropriate penalty in this case is one of disbarment, a penalty that the Respondent had indicated in correspondence and told us this morning that he accepts as inevitable.

Concluding Matters

25. Mr Pretty told us that Mr Guess holds a Practising Certificate and referred us to rE225, rE226 and rE227.1.

26. The Tribunal noted the power it has under rE227.1 to require Mr Guess to suspend his practice immediately. Given he has said that he has already done so and given that he is now serving a prolonged sentence of imprisonment we recognise that this particular provision is academic. Nonetheless, we understand that we are required to direct that the BSB suspend the Respondent's Practising Certificate with immediate effect. The Tribunal noted the right of the Respondent to apply under rE230 for the order to be varied if there was a change of circumstances at some point in the future.

27. Albeit that the Respondent briefly appeared before us this morning, for the avoidance of any doubt, with his explicit consent, we have made our findings and imposed a sanction in accordance with rE183.

28. The Treasurer of the Honourable Society of the Middle Temple is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunals Regulations 2017.

Approved: 29 March 2019

**His Honour Michael Topolski QC
Chairman of the Tribunal**

ⁱ Category A – Images involving penetrative sexual activity and/or images involving sexual activity with an animal or sadism. Category B – Images involving non-penetrative sexual activity. Category C – Other indecent images not falling within categories A or B.