



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2019/0266/D5

Mariam El-Sokby

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Lincoln's Inn

Disciplinary Tribunal

Mariam El-Sokby

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 22.04.2021 I sat as Chairman of a Disciplinary Tribunal on 11.05.2021 to hear and determine 5 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Mariam El-Sokby barrister of the Honourable Society of Lincoln's Inn.

Panel Members

2. The other members of the Tribunal were:

Jonathan Monk – Lay Member

David Crompton – Lay Member

Isabelle Watson – Barrister Member

Siobhan Heron – Barrister Member

Charges & Pleas

3. Permission having been given by a directions judge for the Bar Standards Board to amend the charges, all five charges below were admitted by the Respondent.

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9 Gray's Inn Square,
London
WC1R 5JD
T: 020 3432 7350
E: info@tbts.org.uk

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Charity Number: 1155640
Registered Office:
9 Gray's Inn Square, London WC1R 5JD

Charge 1

Statement of Offence

Professional misconduct contrary to Core Duty 1 and/or rC3.3. of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Ms Mariam Adel El-Sobky, a barrister, failed to observe her duty to the court in the administration of justice (CD1), and/or failed in her duty to the court to act with independence by failing to take reasonable steps to avoid wasting the court's time (rC3.3) in that, in family court proceedings in which Ms El-Sobky represented the Respondent, leading up to a hearing on 14 May 2019, on or around 12 May 2019 Ms El-Sobky attended the home of the Respondent where the Applicant also resided. Ms El-Sobky spoke to the Applicant, about the on-going proceedings, in the absence of the Applicant's legal representative.

As a result of Ms El-Sobky's conduct, the hearing on 14 May 2019 was adjourned, and Ms El-Sobky was made subject to a Wasted Costs Order.

Charge 2

Statement of Offence

Professional misconduct contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Based on the facts set out in charge 1 above, Ms Mariam Adel El-Sobky, 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.

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Charge 3

Statement of Offence

Professional misconduct contrary to rC65.7 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Following the conduct set out in charge 1 above, Ms Mariam Adel El-Sobky, a barrister, failed to report promptly to the Bar Standards Board that she had committed serious misconduct.

Charge 4

Statement of Offence

Professional misconduct contrary to CD5 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Ms Mariam Adel El-Sobky, 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 by failing to report promptly to the Bar Standards Board that she had committed serious misconduct following the conduct set out in charge 1 above.

Charge 5

Statement of Offence

Professional misconduct contrary to CD9 of the Code of Conduct of the Bar of England and Wales (9th Edition)

Particulars of Offence

Ms Mariam Adel El-Sobky, a barrister, failed to be open and co-operative with her regulator by failing to report promptly to the Bar Standards Board that she had committed serious misconduct following the conduct set out in charge 1 above.

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Parties Present and Representation

4. The Respondent was present and was represented by Amanda Savage QC.
5. The Bar Standards Board (“BSB”) was represented by Leo Davidson of counsel.

Sanction and Reasons

6. Following the Respondent’s admission to the charges the Tribunal heard submissions from both advocates on the issue of sanction. The Tribunal retired to consider its decision which is as follows:
 - a. In May 2019 the Respondent represented the wife who was the respondent in a family matter. The husband had made an application. The Respondent attended the home of the wife who at the time was living with the husband. Whilst there, the Respondent spoke to the husband about the proceedings in the absence of the husband’s legal representative.
 - b. The matter eventually came before District Judge Rowland and he gave a judgment in which he dealt with the fact that the Respondent had attended the home and had spoken to the husband. The court heard that the husband said that the Respondent discussed the impact of his application on the family and he felt under pressure to withdraw it. The District Judge took the view that the Respondent’s conduct was entirely inappropriate, as do we. He expressed a view that the Respondent could remain in the hearing but she could not take part. This left the Respondent’s client without effective representation. The District Judge made a wasted costs order against the Respondent. She had breached the applicable procedural rules and it was impossible for the Respondent to continue acting.
 - c. The Respondent has admitted the charges. Charges 1 and 2 concern her conduct with respect to the husband in the family case. Charges 3 to 5 concern her failing to report the conduct promptly once she knew it amounted to misconduct. The Respondent’s opponent also told her that she had a duty to report this and she would do so.
 - d. Having heard submissions on the appropriate guidance there in fact being little guidance in relation to charges 1 and 2 the Tribunal was of the view that the

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appropriate starting point is a fine and a reprimand. The Tribunal was aware that the Respondent had been the subject of disciplinary proceedings before and she would be familiar with that form of disposal. However, the Tribunal was of the view that the Respondent should in addition undergo some development and training.

- e. Having been reprimanded the Tribunal imposed a fine of £2,000.
- f. Turning to the matter of additional training and development, this was not a de facto pupillage, but the Tribunal felt that it should be similar to the type of shadowing of an experienced barrister that pupils undertake. The Tribunal was informed that two experienced practitioners had agreed to act in a supervisory role to assist and guide the Respondent.
- g. Accordingly, the Tribunal imposed a condition that the Respondent would undertake a period of supervision and training for a period of 6 months starting immediately. The purpose is to allow the Respondent to become more familiar and experienced with the applicable procedures and rules that must be followed in the field of family law. During her practice, the Respondent decided to change course. She had previously worked for the Crown Prosecution Service and was practising in criminal law. The Tribunal was of the view that the Respondent had insufficient experience of the rules and procedures that apply in family law and the conduct that is expected of barristers who practise in that field.
- h. The Tribunal requires that the Respondent shadow her experienced practitioner to learn fully the conduct required when acting in family matters. At the end of the 6 month period the experienced practitioner who has supervised the Respondent must provide a certificate of competence and that must contain an assurance that the Respondent meets the requirements of family law procedures and that she is competent to practise in that field.
- i. However, on the basis that the Respondent undertakes the 6 months development and training that the Tribunal has imposed, the Tribunal is willing to allow the Respondent to accept public access instructions. There is no restriction on the Respondent accepting public access instructions. The Tribunal

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was concerned that the Respondent's practice is largely made up of public access work so that to restrict that would be tantamount to a suspension.

- j. It should be clear that what the Tribunal has in mind is that she should work with the experienced practitioners who have agreed to act as supervisors when her diary allows her bearing in mind her other professional commitments. When she is not engaged with her own work she should shadow the experienced practitioners so that she is able to understand the rules of practice, procedures and ethics that are required in family law practice.
- k. In reaching its decision the Tribunal considered a number of aggravating factors:
 - i. The conduct of the Respondent was capable of undermining the confidence in the profession in the eyes of the public;
 - ii. The concerns that the husband would have had and the pressure that he felt subjected to;
 - iii. The delay that was caused because the conduct was not reported;
 - iv. The previous disciplinary findings on 27.02.2020 when the Respondent was reprimanded and fined £3,000. That was a different matter and it post-dated these matters.
- l. In mitigation the Tribunal that the character references that were summarised by Miss Savage QC and the Tribunal paid due regard to them. The Tribunal noted that the Respondent acted with an anxiety to help people but the Respondent had little experience in family law and she was simply not on top of the applicable rules. The Tribunal felt that this was a serious breach and the District Judge felt the same as did the Respondent's opponent.
- m. However, the Tribunal felt it was right to say that the Respondent had taken some positive steps. She had undertaken a refresher course in public access work and she had completed further training and development. She had already sought a mentor for guidance and advice. She also undertook a course of therapy for her mental health which benefitted her.

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- n. The Tribunal noted the difficulties that the Respondent had experienced with her mental health. It was said that because of this she struggles to naturally know where the boundaries lie. It is said on the Respondent's behalf that she needs to learn the boundaries. The Tribunal had every sympathy for the Respondent's mental health. However, the Tribunal was of the view that once the Respondent is aware that she has to learn where the boundaries lie she must do so if she is to practise as a barrister.
 - o. The Tribunal noted that the Respondent acted out of concern for her client at the time. Unfortunately in doing so the boundaries became blurred and the Respondent must take responsibility for that as a member of the Bar.
 - p. The Tribunal took account of the fact that the Respondent had completed pupillage and some of that period of training included some experience in family law. But that was insufficient and that is the basis for the course that the Tribunal has taken.
7. The Tribunal ordered that the Respondent do pay the costs of the Bar Standards Board in the sum of £1,560.

Approved: 17 May 2021

HH Alan Greenwood
Chairman of the Tribunal

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