



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2017/0422/D5

Shirley Ann Bothroyd

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of the Middle Temple

Disciplinary Tribunal

Shirley Ann Bothroyd

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 14 July 2022, I sat as Chairman of a Disciplinary Tribunal on 13 September 2022 and again on the 13 March 2023 to hear and determine six charges of professional misconduct contrary to the Bar Standards Board Handbook against Shirley Ann Bothroyd, barrister of the Honourable Society of the Middle Temple.

Panel Members

2. The other members of the Tribunal were:

Lakshmi Ramakrishnan [Lay Member]

Paul Robb [Lay Member]

Lyndsey de Mestre KC [Barrister Member]

Siobhan Heron [Barrister Member]

Charges

3. The following charges were found proven.

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Charge 1

Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (Version 9) Bar Standards Board Handbook (Version 3.0).

Particulars of Offence

On 6 June 2017, Ms Bothroyd, an unregistered barrister, behaved in a way which is likely to diminish the trust and confidence which the public places in her or in the profession, in that, she used threatening, abusive or insulting words or behaviour towards Person A with the intent of causing Person A to believe that immediate unlawful violence would be used against her, or to provoke the immediate use of unlawful violence whereby Person A was likely to believe that such violence would be used, or it was likely that such violence would be provoked. In respect of this offence, on 2 October 2017, Ms Bothroyd entered a Guilty Plea in respect of conduct contrary to Sections 4(1) and (4) of the Public Order Act 1986 at Newton Abbot Magistrates' Court. Ms Bothroyd sentenced to 6 weeks' imprisonment (to run concurrently to other sentences imposed) and was ordered to pay £50 compensation.

Charge 2

Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (Version 9) Bar Standards Board Handbook (Version 3.0).

Particulars of Offence

On 23, 25 and 26 June 2017, Ms Bothroyd, an unregistered barrister, behaved in a way which is likely to diminish the trust and confidence which the public places in her or in the profession, in that, she assaulted four members of staff at a hotel (Persons B, C, D and E as per schedule 1). Ms Bothroyd was under the influence of alcohol when these offences were committed. She entered one Guilty Plea and was convicted of four further counts of common assault contrary to s39 of the Criminal Justice Act 1988 at Newton Abbot Magistrates' Court on 2 October 2017. Ms Bothroyd was sentenced to an overall period of 22 weeks' imprisonment and was ordered to pay £300 in compensation.

Charge 3

Statement of Offence

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Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (Version 9) Bar Standards Board Handbook (Version 3.0).

Particulars of Offence

On 25 July 2017, Ms Bothroyd, an unregistered barrister, behaved in a way which is likely to diminish the trust and confidence which the public places in her or in the profession, in that, she assaulted PC F, a constable in the execution of his duty. Ms Bothroyd was on bail at the time of the assault. She pleaded not guilty and was later found guilty and convicted of the offence of assaulting a constable in the execution of their duty contrary to Section 89 (1) of the Police Act 1996 at Newton Abbot Magistrates' Court on 2 October 2017. In respect of this offence, Ms Bothroyd was sentenced to an overall period of 4 weeks' imprisonment (to run concurrently) and was ordered to pay £50 compensation.

Charge 4

Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 3.0).

Particulars of Offence

On 22 August 2017, Ms Bothroyd, an unregistered barrister, behaved in a way which is likely to diminish the trust and confidence which the public places in her or in the profession, in that, she threatened to damage the home address of Person G, namely a flat in a multiple occupancy building in Teignmouth. In respect of this conduct, on 2 July 2018, Ms Bothroyd was convicted of an offence of threatening to damage/destroy property at Exeter Crown Court on 2 July 2018. Ms Bothroyd pleaded guilty to this offence. On 19 September 2018, Ms Bothroyd was sentenced to a Hospital Order under Section 37 of the Mental Health Act 1983 in respect of this offence.

Charge 5

Statement of Offence

Professional misconduct, contrary to rule 65.2 of the Conduct Rules, Bar Standards Board Handbook (Version 3.0) and contrary to Core Duty 9 of the Code of Conduct of

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the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 3.0).

Particulars of Offence

Ms Bothroyd, an unregistered barrister, failed to report to the BSB that she had been charged and plead guilty to threatening to damage property/damaging property at Exeter Crown Court on 2 July 2018 and that she had been sentenced on 19 September 2018 to a Hospital Order under Section 37 of the Mental Health Act. Ms Bothroyd did not report the fact of her conviction to the BSB. Ms Bothroyd was not open and cooperative with her regulator.

Charge 6

Statement of Offence

Professional misconduct, contrary to rule 65.2 of the Conduct Rules, Bar Standards Board Handbook (Version 3.0) and contrary to Core Duty 9 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 3.0).

Particulars of Offence

Ms Bothroyd, an unregistered barrister was convicted of: (a) Five counts of common assault contrary to s39 of the Criminal Justice Act 1988; (b) Assaulting a Constable in the execution of his duty contrary to s89 (1) of the Police Act 1996; and (c) Conduct contrary to s4(1) and (4) Public Order Act 1986, of using threatening, abusive or insulting words or behaviour towards Person A with the intent of causing Person A to believe that immediate unlawful violence would be used against her. Ms Bothroyd was sentenced to an overall period of 22 weeks' imprisonment and was ordered to pay £400 in compensation. Ms Bothroyd did not report the fact of her convictions to the BSB. Ms Bothroyd was not open and cooperative with her regulator.

Parties Present and Representation

4. The Respondent was not present and was not represented. The Bar Standards Board ("BSB") was represented by Rachel Gourley of Counsel.

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Preliminary Matters

Application to Proceed in Absence of the Respondent – 13 September 2022

- Ms Gourley on behalf of the BSB, made submissions in relation to the application that was outlined in a document provided by her on the 9 September 2022, which the Tribunal panel members had received and considered. Ms Gourley explained in detail the efforts that had been taken by the BSB to ensure that the Respondent had been served with the necessary documents in accordance with rE183.

The Tribunal were satisfied that the BSB had complied with the procedure in relation to rE183 and that all reasonable efforts had been made, including using a Private Investigation Company to contact the Respondent. The Respondent had not attended or contacted the Tribunal with any explanation as to why she could not attend the hearing and it appeared that she had voluntarily absented herself from the proceedings. The Tribunal considered it just and in the interest of the public to proceed in the absence of the Respondent.

However, the Tribunal were concerned that the Memorandum of Conviction which the BSB were relying on was incomplete. The Tribunal considered that they could only proceed in the Respondent's absence if the documentary evidence that the BSB were relying on was complete. Following an adjournment to allow Counsel for the BSB to take instructions, it was decided that the matter would be adjourned in order for the BSB to obtain a correct copy of the Memorandum of Conviction.

Preliminary Matters

Application to Proceed in Absence of the Respondent – 13 March 2023

- Ms Gourley on behalf of the BSB, renewed her submissions in relation to the application that was outlined in a document provided by her on the 7 March 2023, which the Tribunal panel members had received and considered. Ms Gourley explained in detail the efforts that had been taken by the BSB to ensure that the Respondent had been served with the necessary documents in accordance with rE183.

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7. As Ms Bothroyd did not attend this hearing, the first matter to decide, applying the principle in Jones, was whether to go ahead in her absence.
8. We are satisfied that she was personally served with the charges and all other relevant documentation on 28 February 2023. We consider further, from all the documentation placed before us, including a purported resignation from the Bar written by her, that she has no wish to engage with these proceedings. We consider in these circumstances that it is proper to proceed in her absence.
9. The BSB applied to amend the charge sheet due to the fact that since the correct Memorandum of Conviction had been received the BSB wanted to clarify the charges to reflect the charges documented in it. The BSB stated that the Respondent would not be disadvantaged by this application and accordingly the Tribunal approved the amendment in accordance with rE161.

Pleas

10. As the Respondent did not attend the hearing, the Charges were deemed to be denied.

Evidence

11. Ms Gourley presented the case on behalf of the BSB. In the absence of the Respondent, she detailed the BSB's case which was outlined in her Skeleton Argument of the 7 March 2023 and the written bundles of documents.

Findings

12. Following retirement to consider the matter, the Tribunal unanimously found all the charges proved to the requisite standard, which in this case was the criminal standard of proof. The BSB outlined the procedure in relation to the Sanctions Guidance which should be followed.

Sanction and Reasons

13. The Finding and Sanction were made in accordance with rE234 .1 and .3. The Tribunal considered the Sanctions Guidance and in particular the sections on Criminal Convictions, Behaviour towards Others and Obligations to the Regulator.

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14. Following retirement to consider that matter, in light of the submissions made and the evidence provided it was the Tribunal's unanimous decision that in relation to Charges 1-4 that the Respondent be disbarred; in relation to Charge 5, it appeared from the evidence that at the time of the conviction, the Respondent was suffering from mental health issues, which was at least some explanation of her failure to report and the sanction was accordingly a reprimand. In relation to Charge 6, the sanction was six months suspension.
15. The Tribunal considered that there were no mitigating factors in this case, apart from the apparent ill health of the Respondent in relation to Charge 5 and many aggravating factors. We consider that the criminal matters are of high culpability and harm, in that the offences were serious and involved a number of victims. Aggravating features were that they attracted custodial sentences and there was a failure to report them. It would, in our view, harm the standing of the profession to a significant degree if we were to impose any sanction other than disbarment, and so disbarment is the sanction we impose on charges 1 to 4.
16. Pursuant to rE225.1, following its decision that disbarment is appropriate in this case, the Panel subsequently received representations (in writing) from the BSB under rE226 on the appropriateness of taking action under rE227. The Panel was satisfied that it must (pursuant to rE227.3) require the Bar Standards Board not to issue any practising certificate to Ms Bothroyd, and it so orders. For the avoidance of doubt the Panel considered that disbarment should take place with immediate effect and therefore considered that rE228 and rE229 were of no application in this case.
17. It is the BSB's duty to protect the public and consumers of legal services and to maintain public confidence and trust in the profession and enforcement system. The Respondent has a history of not responding to requests from her Regulator regarding professional misconduct matters. The repetition of her actions accumulates in these being very serious matters, including violence and threats of harm to others and to property.

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Costs

18. The BSB applied for costs in the sum of £2,128.50. The Respondent had not provided any information regarding her means to the BSB or the Tribunal. The BSB clarified that the amount did not include the aborted hearing on the 13 September 2022. In those circumstances, the Tribunal agreed to the application in accordance with rE244.

Action Required by the Inn

19. 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 Tribunal Regulations 2017.

Approved 20 March 2023

His Honour Nicholas Ainley
Chairman of the Tribunal

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