

**Nursing and Midwifery Council
Fitness to Practise Committee**

Substantive Meeting

Thursday, 23 May 2024

Virtual Meeting

Name of Registrant: Mr Godwin Tsakadi

NMC PIN 1510355E

Part(s) of the register: Registered Nurse
Mental Health – October 2015

Relevant Location: Reading

Type of case: Conviction

Panel members: Patricia Richardson (Chair, lay member)
Catherine Cooper (Registrant member)
Alyson Young (Lay member)

Legal Assessor: Oliver Wise

Hearings Coordinator: Catherine Acevedo

Facts proved: Charge 1

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to the prison where Mr Tsakadi is currently serving a prison sentence on 17 April 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this matter is being heard at a meeting.

In the light of all of the information available, the panel was satisfied that Mr Tsakadi has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse,

- 1) On 22 June 2023 were convicted at Reading Crown Court of rape contrary to section 1(1) of the Sexual Offences Act 2003.

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.

Background

On 2 July 2023, the NMC received a referral outlining that Mr Tsakadi had been convicted of rape, and providing a link to an online news article with further details.

Following investigation, it was confirmed that Ms Tsakadi had been convicted on 22 June 2023 at Reading Crown Court of rape.

The facts of the offence are that on 29 October 2020, Mr Tsakadi raped Person A while she was sleeping.

On 7 July 2023 Mr Tsakadi was sentenced as follows:

- a) 8 years imprisonment;
- b) Barred from working with children and/or vulnerable adults;
- c) Placed on the sex offenders' register for life.

Decision and reasons on facts

The charge concerns Mr Tsakadi's conviction and, having been provided with a copy of the certificate of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.— (2) Where a registrant has been convicted of a criminal offence—*
- (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
 - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Tsakadi's fitness to practise is currently impaired by reason of his conviction. There is no statutory definition of fitness to practise. However, the

NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Representations on impairment

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel was referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Mr Tsakadi has not engaged with the NMC and has therefore not provided any information for the panel to consider.

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the conviction, Mr Tsakadi's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and

the lives of their loved ones. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. At paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

At paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) ...'*

The panel found limbs a, b and c engaged in the *Grant* test. The panel found that while Mr Tsakadi's actions were not directly related to his clinical practice, his actions call into question whether he could be placed in a position of trust to care for individuals who may be vulnerable. Mr Tsakadi's conviction clearly breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel took into account the NMC's guidance on 'serious concerns which are more difficult to put right'. The panel was of the view that Mr Tsakadi's actions represent such an extreme departure from the standards expected of a registered professional that they would be difficult, if not impossible, to put right. The offence committed by Mr Tsakadi is indicative of a serious behavioural concern.

The panel noted that despite efforts by the NMC to contact Mr Tsakadi in two separate prisons, there has been no engagement from him. The panel has therefore had no evidence of insight, remorse, or remediation from Mr Tsakadi.

In the panel's view, without any evidence of insight, remorse, or remediation, there is no evidence these issues have been addressed.

The panel is of the view that there is a real risk of repetition based on the absence of any evidence of insight, remorse, or steps taken to address the concerns. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

Given the nature and seriousness of the offence with which Mr Tsakadi has been convicted, the panel determined that, in this case, a finding of impairment on public interest grounds was also required to uphold public confidence in the profession and the NMC as a regulator.

Having regard to all of the above, the panel was satisfied that Mr Tsakadi's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Tsakadi off the register. The effect of this order is that the NMC register will show that Mr Tsakadi has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that the NMC considers the appropriate and proportionate sanction in this case to be a striking-off order.

Decision and reasons on sanction

Having found Mr Tsakadi's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- The criminal offence which Mr Tsakadi was convicted of is serious;
- As a result of his conviction Mr Tsakadi is a registered sex offender; and
- Mr Tsakadi has failed to engage to show any evidence of insight or remediation.

The panel determined that there are no mitigating features in this case:

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Tsakadi's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Tsakadi's conviction was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Tsakadi's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed with conditions. Furthermore, the panel concluded that the placing of conditions on Mr Tsakadi's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel considered that Mr Tsakadi's actions in raping Person A while she was sleeping are fundamentally incompatible with registration as a nurse. The panel also took into consideration the lack of any engagement by Mr Tsakadi and determined that a suspension order would be insufficient to address the matters in issue.

The panel determined that the conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel concluded that the serious breach of the fundamental tenets of the profession evidenced by Mr Tsakadi's actions is fundamentally incompatible with him remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel determined that Mr Tsakadi's conviction raises fundamental concerns about his character and his professionalism. Public confidence in the profession could not be maintained if Mr Tsakadi was not removed from the register; and a striking-off order is the only sanction that would be sufficient to protect the public or maintain professional standards.

Mr Tsakadi's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Tsakadi's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mr Tsakadi's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This decision will be confirmed to Mr Tsakadi in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in his own interests until the striking-off sanction takes effect. The panel accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that an interim suspension order for a period of 18 months is necessary for the protection of the public, and is otherwise in the public interest. This will cover the initial period of 28 days before the sanction comes into effect, and the time taken for an appeal to be considered in the event that one is lodged.

Decision and reasons on interim order

The panel was satisfied that an interim order should be imposed because it is in the public interest. In reaching the decision to impose an interim order, the panel had regard to the

seriousness of the facts found proved and the reasons set out in its decision for the substantive order. It noted that Mr Tsakadi is currently serving a prison sentence and would therefore not be a risk to the public.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the appeal period.

If no appeal is made, then the interim suspension order will be replaced by the striking-off order 28 days after Mr Tsakadi is sent the decision of this hearing in writing.

That concludes this determination.