

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

**Substantive Hearing
Monday 14 October 2024 – Tuesday 22 October 2024**

Virtual Hearing

Name of Registrant: **Antonio Da Fonseca**

NMC PIN 10D0378E

Part(s) of the register: Registered Nurse – Sub part 1
RNMH: Mental health nurse, level 1 – February 2011

Relevant Location: Berkshire

Type of case: Misconduct

Panel members: Sue Heads (Chair, Lay member)
Helen Chrystal (Registrant member)
Beverley Blythe (Lay member)

Legal Assessor: Angus Macpherson

Hearings Coordinator: Rebecka Selva

Nursing and Midwifery Council: Represented by Iwona Boesche, Case Presenter

Mr Da Fonseca: Present and represented by Ryan Evans instructed by Royal College of Nursing (RCN)

Facts proved: Charges 1c and 1d

Facts proved by way of admission: Charges 1b, 2, 3a and 3b

Facts not proved: Charges 1a (i and ii) and 4

Fitness to practise: **Impaired**

Sanction: **Striking-off order**

Interim order:

Interim suspension order (18 months)

Decision and reasons on application for hearing to be held wholly in private

At the outset of the hearing, Ms Boesche, on behalf of the Nursing and Midwifery Council (NMC) made a request that this case be held wholly in private on the basis that proper exploration of your case involves private matters that links to a third party. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Evans indicated that he supported the application.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be reference to private and personal matters relating both to you and third parties, the panel determined to hold the entirety of the hearing in private.

Sanction

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

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 your own interests until the striking-off sanction takes effect.

The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Boesche. She submitted that an interim suspension order for a period of 18 months is required on both public protection and public interest grounds. She invited the panel to impose the interim suspension order on the same factual and regulatory basis as the substantive striking off order.

Ms Boesche submitted that you are not currently able to practise safely and effectively and therefore it would be a public safety issue if you were permitted to practise in the interim 28 days.

Ms Boesche submitted that a well-informed member of the public would be concerned if a struck-off registrant, with the allegations proven in this case, was permitted to practise unrestricted simply because the striking-off order had not, due to a matter of law, come into effect.

Ms Boesche submitted that the length of the order may be at the panel's discretion.

Mr Evans did not object to the imposition of any interim order, and he reminded the panel that you are not currently employed in any clinical setting.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

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 any potential appeal period.

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

This will be confirmed to you in writing.

That concludes this determination.