

Adam Godwin Herbert

Solicitor

020645

Fined Date: 9 June 2023

Decision - Fined

Outcome: Fine

Outcome date: 9 June 2023

Published date: 12 June 2023

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Wilson Solicitors LLP

Address(es): Alexandra House, St Johns Street, Salisbury, SP1 2SB

Firm ID: 466564

Firm or organisation at date of publication

Name: Non applicable

Address(es): Non applicable

Firm ID: Non applicable

Outcome details

This outcome was reached by SRA decision.

Decision details

1. Agreed outcome

1.1 Adam Godwin Herbert (Mr Hebert), a solicitor agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- i. he is fined £3,400.
- ii. to the publication of this agreement.
- iii. he will pay the costs of the investigation of £675.

2. Summary of Facts

First Matter.

2.1 On 7 March 2022, Mr Herbert was stopped by the police after a member of the public reported his erratic driving. After being stopped, Mr Herbert was physically and verbally confrontational towards the police officers trying to investigate. He provided a road side sample of breath and was arrested.

2.2 At the police station Mr Herbert gave a sample where the reading was 108 microgrammes of alcohol in 100 millilitres of breath, which exceeded the legal limit of 35 microgrammes.

2.3 In his police interview, Mr Herbert admitted that he had made an entirely wrong judgement to purchase alcohol and drink it before driving home. He was subsequently charged with the offence of driving a motor vehicle after consuming alcohol in excess of the prescribed legal limit.

2.4 On 25 March 2022 at South East Wiltshire (Salisbury) Magistrates Court, Mr Herbert pleaded guilty to this charge. He was:

- a. banned from driving for 20 months and
- b. fined £2,788.

2.4 He was also ordered to pay:

- a. costs of £85 and
- b. a victim surcharge of £190.

2.5 Mr Herbert reported his conviction promptly to the SRA via his then employer on 28 March 2022.

2.6 Mr Herbert has a previous conviction for the offence of being drunk in charge of a motor vehicle in 2016. Accordingly, this is his second conviction for similar offences.

3. Admissions

3.1 Mr Herbert makes the following admissions which the SRA accepts, that by virtue of his conduct and conviction he failed to behave in a way which upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons, in breach of Principle 2 of the SRA Principles 2019.

4. Why a fine is an appropriate outcome

4.1 The SRA's Enforcement Strategy and its topic guide on driving with excess alcohol convictions, sets out its approach to the use of its enforcement powers where there has been a failure to meet its standards or requirements.

4.2 When considering the appropriate sanctions and controls in this matter, the SRA has taken into account the admissions made by Mr Herbert and the following mitigation which he has put forward.

4.3 At the time of the incident, he was dealing with a number of personal issues, including relating to his health and that of close family members, the subsequent pressures from which caused him to act in the manner described.

4.4 The SRA considers that a fine is the appropriate outcome because:

- a. Mr Hebert's high alcohol reading resulting in a driving ban of 20 months, meant that his conduct had the potential to cause significant harm.
- b. His confrontational manner towards the police officers while they tried to investigate his conduct, meant that he was directly in control of and responsible for his behaviour.
- c. In admitting to the police that he made the wrong decision to consume the alcohol before driving home, his conduct was reckless.
- d. In 2016, Mr Hebert was convicted for being drunk in charge of a motor vehicle and a public order offence for confrontational behaviour. He was banned from driving for three months and fined a total of £1,500. We issued him with a letter of advice and told him that:
 - a. he had breached Principles 1, 2 and 6 of the SRA Principles 2011 and
 - b. we would take that conduct into account if we received reports of a similar nature in the future.

By acting in this way again, Mr Herbert has recklessly disregarded his regulatory obligations.

4.5 A fine is therefore appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. The public demand that the profession will uphold high standards and robust and proportionate sanctions will follow when standards are not upheld. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

5. Amount of the fine

5.1 The amount of the fine has been calculated in line with the SRA's published guidance on its approach to setting an appropriate financial



penalty (the Guidance). It also takes into consideration a similar conviction in 2016.

5.2 Having regard to the Guidance, the SRA and Mr Herbert agree that the nature of the misconduct was medium. Mr Herbert's conduct was reckless, but it did not continue after it was known to be improper, however it did form a pattern of misconduct. Mr Herbert has also fully cooperated with the investigation. The Guidance gives this type of misconduct a score of one.

5.3 The SRA considers that the impact of the misconduct was medium. Mr Herbert's conduct in driving after consuming a high level of alcohol and his confrontational approach to the police officers, had the potential to cause a moderate impact. The conduct in question was also after being advised about his regulatory obligations in 2016. The guidance gives this level of impact a score of four.

5.4 The nature and impact scores add up to five. The Guidance indicates a broad penalty bracket of £1,001 to £5,000 is appropriate.

5.5 In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above which Mr Herbert has put forward. The SRA has recognised our guidance demands that we achieve a credible deterrence, it states, penalties should be of such an amount that they are capable of deterring future misconduct by the person directed to pay and by others who may be engaged in similar conduct.

5.6 The SRA considers a basic penalty of £4,000 which is at the top end of the bracket, to be appropriate.

5.7 The SRA considers that the basic penalty should be reduced to £3,400. This reduction reflects the genuine remorse that Mr Herbert has shown, his early guilty plea at court and his full cooperation with the SRA investigation.

5.8 Mr Herbert has not made any financial gain or received any other benefit as a result of his conduct. Therefore, no adjustment is necessary to remove this, and the amount of the fine is £3,400.

6. Publication

6.1 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. Mr Herbert agrees to the publication of this agreement.

7. Acting in a way which is inconsistent with this agreement

7.1 Mr Herbert agrees that he will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

8. Costs

8.1 Mr Herbert agrees to pay the costs of the SRA's investigation in the sum of £675. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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