

News

Solicitors Regulation Authority v Solicitor Z

14 January 2021

The Solicitors Disciplinary Tribunal (SDT), which is independent of the SRA, has today published its findings in relation to two applications brought by Mark Mansell, a solicitor identified in the SDT proceedings as Solicitor Z, to dismiss the proceedings on a summary basis because there was no case to answer, alternatively to stay them on the basis of Mr Mansell's physical health.

The case remains the subject of privacy and anonymity orders made by the SDT on the basis of the substantial medical evidence before it.

The Tribunal declined to dismiss the proceedings summarily but stayed them. Medical experts instructed by both parties - who gave detailed evidence - substantially agreed that the continuation of the proceedings, and in particular a trial, represented a significant risk to Mr Mansell's life. In the circumstances the SDT concluded that a fair trial was not possible.

Both parties accepted before the SDT that a stay on medical grounds would only be appropriate in the most exceptional circumstances. The SRA opposed a stay in the circumstances of this case. The SRA regards the public interest in the determination of disciplinary allegations to be very strong.

The case concerned the compromise of employment claims made by two individuals (A and B) against a company (Y) and an individual (X) in 1998. The allegation made by B against X was of sexual assault or attempted rape outside of the UK.

The SRA's view was that, in the context of a serious allegation of sexual assault, a solicitor acting for an employer was guilty of misconduct because the settlement agreement, on the SRA's interpretation of the relevant clauses, purported to restrict the complainants' ability to report the alleged crime to the police, co-operate fully with criminal proceedings and obtain medical treatment.

Mr Mansell's position was that, properly construed, the agreement did not prevent a report to the police, co-operation with criminal proceedings or the obtaining of medical treatment.

The SDT decided that Mr Mansell had not shown that the SRA's position was unarguable and that the SRA was correct in submitting that there was a case to answer.

In light of Mr Mansell's medical condition and the particular circumstances of the case, Mr Mansell and the SRA have agreed to accept the decision of the Tribunal on both aspects of the application and have withdrawn their challenges to the Tribunal's decision.

In 2018, the SRA issued a warning notice on the use of non-disclosure agreements and continues to investigate a number of solicitors in respect of allegations related to breaches of that warning notice. The SRA expects that those it regulates will have careful regard to that notice and to their professional obligations when dealing with such matters.

The SDT's memorandum on this subject

[<https://www.solicitortribunal.org.uk/sites/default/files-sdt/Memorandum%20of%20Stay%20%26%20Appendix.pdf>] .