

Privy Council Appeal No. 21 of 1968

John Petro - - - - - *Appellant*

v.

General Medical Council - - - - - *Respondent*

REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE
28TH OCTOBER 1968

Present at the Hearing :

LORD HODSON

LORD DONOVAN

LORD DIPLOCK

[*Delivered by* LORD DIPLOCK]

The appellant appealed from a determination of the Disciplinary Committee of the General Medical Council, dated 31st May 1968, that his name should be erased from the Register. There were two charges against him. The first, which he admitted, was that he had been convicted at Marylebone Magistrate's Court of seventeen offences of failing to enter in his Register of dangerous drugs quantities of heroin and cocaine obtained or supplied by him. The second, which he denied, was that he was guilty of infamous conduct in a professional respect. The substance of this charge was that he had recklessly over-prescribed heroin, cocaine and methedrine to a number of addicts without making any adequate attempt to reduce their dependence on drugs and in quantities so large as to enable them to dispose of the excess on the black market and so contribute to the spread of the habits of drug addiction. Detailed particulars of the facts relied upon in support of this charge were contained in the charge and oral evidence thereon was given on behalf of the respondent and by and on behalf of the appellant at the hearing before the Committee.

The Disciplinary Committee found the conviction to be proved. They also found most of the facts alleged by the respondent in support of the second charge to be proved to their satisfaction and upon the facts so proved judged the appellant to have been guilty of infamous conduct in a professional respect. In their Lordships' view there was ample evidence to justify the Committee's findings of fact. The facts found by the Committee were in their Lordships' view clearly capable of being held to amount to infamous conduct in a professional respect. That being so it was for the Committee to determine whether those facts did amount to infamous conduct in a professional respect. It is not for their Lordships to do so though it must not be thought from this that their Lordships see any reason whatever to differ from the opinion of the Committee.

The main ground upon which the appellant sought to attack the Committee's findings of fact was that any decision as to the quantity of drugs to be prescribed for a patient was a matter of clinical judgment and that his proved, and in some cases admitted, failure to make inquiries as to the medical history or circumstances or clinical condition of new patients or himself to conduct any clinical examination of them was due to his *bona fide* opinion that such inquiries and examination were unnecessary, and so could not amount to infamous conduct in a professional respect. In their Lordships' view it was pre-eminently a matter for the Disciplinary

Committee composed as it is of distinguished medical men who had the advantage of hearing the appellant's evidence and of themselves putting questions to him, to decide whether the appellant's conduct in this respect was reckless or *bona fide* and, if the former whether it amounted to infamous conduct in a professional respect.

The appellant also contended that the offences of which he had been convicted at Marylebone Magistrate's Court were of a technical character only. Having regard to the number of offences and the period over which they extended their Lordships would in any event be unable to accept this contention. But the conviction was only the first of two charges and the second is, in their Lordships' view, of the gravest possible kind. The penalty when a conviction of infamous conduct in a professional respect has been found by the Disciplinary Committee lies within their discretion. Their Lordships consider that the Disciplinary Committee properly exercised their discretion in ordering the appellant's name to be erased from the Register. No responsible body of professional men could have done otherwise.

For these reasons their Lordships humbly advised Her Majesty that this appeal should be dismissed.



In the Privy Council

JOHN PETRO

v.

GENERAL MEDICAL COUNCIL.

DELIVERED BY

LORD DIPLOCK