

Determination by Consent Decision

Name of regulated person and call date

Liam Michael Ryan

Inner Temple 11 October 2007

Case Reference

2022/1114/DC

Charges

Charge 1

Statement of Offence

Professional Misconduct contrary to Core Duty 5 of the Code of Conduct (Part 2 of the Bar Standards Board Handbook Version 4.6)

Particulars of Offence

Mr Liam Ryan, a barrister and BSB regulated individual, behaved in a way which is likely to diminish the trust and confidence which the public would place in him or in the profession, in that, on 17 March 2022 he drove a motor vehicle in a public place after consuming so much alcohol that the proportion of it in his breath, namely 78 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, for which he was convicted of an offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Basingstoke Magistrates' Court on 5 April 2022.

Charge 2

Statement of Offence

Professional Misconduct contrary to rC8 (integrity only) of the Code of Conduct (Part 2 of the Bar Standards Board Handbook Version 4.6)

Particulars of Offence

Mr Liam Ryan, a barrister and BSB regulated individual, behaved in a way which is likely to diminish the trust and confidence which the public would place in him or in the profession, in that, on 17 March 2022 he drove a motor vehicle in a public place after consuming so much alcohol that the proportion of it in his breath, namely 78 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, for which he was convicted of an offence under

section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988 at Basingstoke Magistrates' Court on 5 April 2022.

Statement of Facts

1. On 17 Mar 22, Mr Ryan met with a friend in London before returning via train to Whitchurch, having consumed five pints of beer and a meal. He then made the decision to move his car a short distance to the free parking in the town centre, in order that his car would not be clamped in the station carpark.
2. On the journey to the town centre, Mr Ryan stopped his car on double yellow lines outside the Co-op supermarket and entered the shop with the intention of purchasing goods. He was observed by a member of the public leaving his car (although not driving it). She considered that he looked drunk and informed a friend of hers who was an off duty police officer, who happened to be in the vicinity.
3. When Mr Ryan came out of the Co-op, the off duty police officer prevented him from getting back into his car. The off duty police officer drove Mr Ryan's car to a nearby car park and called the police. A police officer attended and administered a roadside breath test. This was positive and Mr Ryan was arrested at 8:54pm.
4. Mr Ryan was taken to the custody suite at Basingstoke where he took a further breath test at approximately 11:15pm. He was detained overnight and interviewed the following day at 2:50pm.
5. At Basingstoke Magistrates' Court on 5 April 2022 Mr Ryan plead guilty to a single offence under section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. He was sentenced to a fine of £1513 (reduced from £2269 with credit) and disqualified from driving for 17 months (to be reduced by 17 weeks if a rehabilitation course is undertaken by 8 March 2023). He was also ordered to pay a victim surcharge of £151 plus £85 costs.
6. Mr Stacey, Mr Ryan's solicitor, reported to the BSB on his client's behalf following his conviction in April 2022.
7. Mr Ryan accepts that his conviction inevitably amounts to a breach of Core Duty 5. However, he denies that the same amounts to acting in a way which lacked integrity, stating that the incident was a one-off error of judgment, having been of previous good character and having maintained an unblemished professional career.
8. Mr Ryan submits that the conduct on 17 Mar 22 was out of character and must be viewed in the context of his health conditions, and the work-related stress he was suffering at the time.

Previous Disciplinary Findings

9. Mr Ryan has no previous disciplinary findings.

Plea and Mitigation

10. Mr Ryan admits Charge 1.

11. Mr Ryan denies Charge 2.

12. Mr Ryan relies on paragraphs 7, 8, 13 and 14 as reasons for denying Charge 2.

13. Mr Ryan states that the incident which led to his conviction was a one-off error of judgement, being of previous good character with an unblemished professional record. He states that he made frank admissions to the police, pleading guilty at the first opportunity and reporting the matter to the BSB promptly.

Decision of the IDP

Charges found proved: Charge 1

Charges found not proved: Charge 2

Reasons for the decision

The Panel noted that Mr Ryan had pleaded guilty to the criminal offence on 5th April 2022; it was in possession of the memorandum of conviction confirming the offence and sentence imposed. Mr Ryan was fined the sum of £1,513.00 (reduced from £2,269.00 with credit), ordered to pay a victim surcharge of £151.00, and to pay costs to the Crown Prosecution Service of £85.00.

Mr Ryan was also disqualified from holding or obtaining a driving licence for 17 months (reduced by 17 weeks if Mr Ryan completed a drink driving course by 8th March 2023). The Panel noted Mr Ryan's submissions where he admitted the Charge [Charge 1] and his agreement to the DBC process.

Mr Ryan did not dispute the fact of the conviction.

The Panel considered the approach set out in case law, in particular *Wingate and Malins v. The Solicitors' Regulation Authority [2018]* together with the subsequent case law in *Beckwith v Solicitors Authority [2020]* It noted in particular the view in *Beckwith* that for a finding of lack of integrity the conduct is likely to need to be related to the individual's professional practice in a way that is demonstrably relevant. Whilst driving with excess alcohol and the subsequent conviction represented a falling short of the higher standards which society expected of the profession, the Panel also carefully balanced this with Mr Ryan's conduct subsequently, which showed substantial integrity, including his frank admissions during the police interview and pleading guilty at the first opportunity. The Panel also

considered that the conduct itself did not realistically touch upon Mr Ryan's professional practice. It, therefore, did not find Charge 2 proved.

The Panel agreed that the breaches amounted to misconduct. It also noted that MR Ryan accepted the facts and had indicated that he was likely to agree to a disposal by consent.

Sanction

The Panel had regard to its consideration of the BTAS Sanctions Guidance.

In deciding on the appropriate level of fine, the Panel carefully evaluated the relevant aggravating and mitigating factors.

In terms of aggravating factors, the Panel noted that the proportion of alcohol in Mr Ryan's breath (78mg) was over twice the legal limit and that Mr Ryan had made a conscious decision to drive knowing he was over the limit.

In relation to mitigating factors, the Panel considered a number were present:

- co-operation with the police, including at the scene of Mr Ryan's arrest – the prosecution had noted that the admission had assisted the prosecution which might otherwise have had difficulties proving the offence,
- a guilty plea by Mr Ryan at the earliest opportunity,
- a prompt self-report to the BSB,
- completion of the drink drive rehabilitation course on 21st September 2022,
- limited harm to others,
- evidence of a health condition which was being addressed,
- lack of previous similar conduct,
- Mr Ryan has taken full responsibility for the offence, and
- Co-operation by Mr Ryan with his Regulator.

The Panel had not been given any information about Mr Ryan's means and imposed a fine subject to any representations made by Mr Ryan following this decision.

Considering all of the above matters, the Panel concluded that a low level fine (up to £5,000) was indicated. In the light of the mitigation, it considered that a fine of £1,000.00 (one thousand pounds) would be proportionate. The Panel accordingly determined the sanction for this incident of professional misconduct to be a fine in the sum of £1,000.00 (one thousand pounds).