

IN THE REPUBLIC OF SINGAPORE

SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL

[2022] SMCDT 4

Between

Singapore Medical Council

And

Dr Nagaputra Jerry Christian

... Respondent

GROUNDS OF DECISION

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Suspension from Register of Medical Practitioners

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Singapore Medical Council
v
Dr Nagaputra Jerry Christian

[2022] SMCDT 4

Disciplinary Tribunal – DT Inquiry No. 4 of 2022

Dr Vaswani Chelaram Moti Hassaram (Chairman), Dr Chan Kin Ming, Ms Teoh Ai Lin
(Legal Service Officer)

5 May 2022 and 29 June 2022

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Suspension

31 August 2022

GROUNDINGS OF DECISION

(Note: Certain information may be redacted or anonymised to protect the identity of the parties.)

Introduction

1. Dr Nagaputra Jerry Christian (“**the Respondent**”) was convicted on 9 March 2020 in the State Courts of three charges under the Films Act with another 20 Films Act charges taken into consideration. He was sentenced to undergo a 12-month Mandatory Treatment Order (“**MTO**”) with effect from 6 April 2020 which he has since successfully completed.
2. In the Notice of Inquiry dated 17 November 2021, the Respondent faced one charge of improper conduct which brings disrepute to the medical profession under section 53(1)(c) of the Medical Registration Act 1997 (2014 Rev Ed) (“**the MRA**”).

3. He appeared before the Disciplinary Tribunal (“DT”) in person on 5 May 2022, pleaded guilty to the single charge and admitted to the agreed facts without qualification.
4. After hearing the parties, the DT had, on 29 June 2022, ordered that:
 - (a) the Respondent’s registration in the Register of Medical Practitioners be suspended for a period of **four (4) months**;
 - (b) the Respondent’s registration under Part II of the Register be subject to the following conditions and restrictions after his suspension term:
 - (i) The Respondent shall, for a **period of 18 months**, engage in medical practice only under the equivalent of Level Two supervision of a supervising medical practitioner in accordance with the prevailing SMC Supervisory Framework for Conditionally/Temporarily Registered Doctors for Patients Safety;
 - (ii) Before the commencement of his medical practice, the Respondent shall provide the SMC with a Letter of Undertaking in accordance with the Supervision Framework, signed by the supervising medical practitioner who agrees to supervise his medical practice;
 - (iii) At six-monthly intervals commencing from the date of his medical practice, the Respondent shall submit a report of his mental condition from his treating psychiatrist Dr DE. Each report shall be dated no later than one (1) month from the date of submission; and
 - (iv) Upon completion of 18 months of practice under the Level Two framework, the Respondent may apply to the SMC for re-registration in Part I of the Register.
 - (c) the Respondent be censured;
 - (d) the Respondent to submit a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct; and

- (e) the Respondent to pay the full costs and expense of, and incidental to these proceedings, including the costs of the solicitors to the SMC.

The MRA charge and the Agreed Facts

The MRA charge

5. The section 53(1)(c) of the MRA charge against the Respondent reads as follows:

“That you, Dr Jerry Christian Nagaputra, a medical practitioner with conditional registration under the Medical Registration Act (Cap. 174, 2014 Rev Ed), are charged that on 9 March 2020, you were convicted in Singapore of three (3) counts of making an obscene film by taking videos of men at urinals, which are offences punishable under section 29(1) of the Films Act (Cap. 107, Rev Ed 1998) (the “Films Act Offence”) with 20 counts of the Films Act Offence taken into consideration for sentencing:

Particulars

- (a) At or about 8.31pm on 11 February 2019 at a male toilet at 201 Victoria Street, Bugis Junction, you made an obscene film by filming a male victim whilst he was peeing at a urinal which captured his exposed penis;
- (b) During investigations into the offence detailed at particular (a) above, you admitted to making the following two obscene films by:
- (i) Filming an unknown male subject peeing at a urinal at a male toilet located at 201 Victoria Street, Bugis Junction at or about 5.24pm on 11 February 2019, which captured the victim’s exposed penis; and
- (ii) Filming another unknown male subject peeing at a urinal at a male toilet located at 391 Orchard Road, Ngee Ann City at or about 4.40pm on 9 February 2019, which captured the victim’s exposed penis;
- (c) At all material times, you had reasonable cause to believe that the three films mentioned in particulars (a) and (b) above were obscene
- (d) On or about 20 February 2020, you were charged in the State Courts with 23 counts of the Films Act Offence;
- (e) On 9 March 2020, you were convicted in the State Courts by the learned District Judge May Mesenas of three counts of the Film Act Offence with the other 20 counts taken into consideration in sentencing, and were sentenced to undergo a Mandatory Treatment Order for a period of 12 months with effect from 6 April 2020; and
- (f) The aforesaid convictions have not been set aside;

and that in relation to the alleged facts you are guilty of such improper act or conduct which, in the opinion of the Disciplinary Tribunal bring disrepute to

the medical profession under section 53(1)(c) of the Medical Registration Act (Cap. 174. 2014 Rev Ed).”

Agreed facts

6. On 11 February 2019 at about 8.39pm, a 27-year-old male (“V1”) called “999” and reported: “THERE IS THIS GUY HERE THAT TOOK VIDEO OF ME WHEN I WAS IN THE TOILET. I AM CATCHING HOLD OF HIM BUT HE IS STRUGGLING. I NEED POLICE ASSISTANCE ... (LINE WAS CUT OFF).” The incident location reported was at 201 Victoria Street, Bugis Junction, Singapore.
7. On 11 February 2019, at or about 8.31pm, V1 went to the male toilet at 201 Victoria Street, Bugis Junction (the “**Bugis Junction Male Toilet**”) and headed to a urinal to urinate. V1 noticed the Respondent rushing to the urinal next to him, on his right. He noticed the Respondent holding on to a mobile phone with the camera facing the direction of his penis. V1 felt disturbed and adjusted his position to avoid the Respondent’s phone. V1 also felt that the Respondent was behaving strangely, as the Respondent himself was not peeing.
8. After leaving the Bugis Junction Male Toilet, V1 waited for the Respondent outside of the toilet in order to confront him. However, the Respondent did not exit the toilet. After waiting for a while, V1 entered the Bugis Junction Male Toilet again to look for the Respondent. The Respondent was shocked to see V1, and he rushed out of the toilet. V1 followed the Respondent, and finally managed to confront him at a nearby traffic light. V1 then requested to see the Respondent’s phone. The Respondent claimed that he only had photographs of food in this phone, and began showing such photographs on his phone to V1. However, while the Respondent was scrolling through his photographs, V1 noticed an image of a urinal on the phone, and requested to check the Respondent’s phone himself. The Respondent complied. V1 then found films of men urinating in the Respondent’s phone. The Respondent then tried to delete the films and flee the scene, but was stopped by V1 and other passers-by.
9. V1 then called the police. The Respondent admitted to filming V1 peeing at the urinal with his mobile phone. The film in question captured V1’s exposed penis. The

Respondent also admitted to filming another unknown male subject (“V2”) at the same place on the same day (i.e., 11 February 2019) at about 5.24pm. This film depicts V2 peeing, and captures his exposed penis. While investigating into the film of V1, the Respondent admitted that on 9 February 2019, at or about 4.40pm at the male toilet at 391 Orchard Road, Ngee Ann City, he had filmed another unknown male subject (“V3”) peeing at a urinal in the said toilet. The film in question captures V3’s exposed penis. The three films of V1, V2, and V3 were found on the Respondent’s handphone. At all material times, the Respondent had reasonable cause to believe that these three films were obscene.

10. On or about 20 February 2020, the Respondent was charged in the State Courts with 23 charges of the Films Act Offence. The films of V1, V2, and V3 were each the subject of a separate charge.¹
11. The Respondent was dismissed from the Ministry of Health Holdings’ (“MOHH”) employment and his last day of service was 25 October 2019. His conditional registration was cancelled with effect from 25 October 2019.² He remained a registered medical practitioner as his name in the Register of Medical Practitioners (“Register”) was not removed.³

Parties’ submissions on sentence

SMC’s submissions

12. SMC submitted for six months’ suspension, a supervision order, censure, a written undertaking not to repeat the conduct, and for the Respondent to pay the costs of the proceedings, including the costs of SMC’s solicitors.

¹ Agreed Statement of Facts

² AB and D3

³ SMC’s further submissions dated 11 May 2022, page 1

Respondent's submissions

13. The Respondent was remorseful and asked for leniency. He had sought help from a counsellor and psychiatrist soon after the offending. His psychiatrist had opined that he was fully rehabilitated and recommended that the Respondent be allowed to practice under supervision/internship. The Respondent had also successfully completed his MTO, and his sentence was spent.⁴ His employment had been terminated and his registration was cancelled since 25 October 2019 and he was not given a chance to practice for more than 30 months pending the disciplinary proceedings. He questioned whether suspension was appropriate as his registration has been cancelled and asked the DT to consider a censure as he was keen to return to medical practice as soon as possible.⁵

DT's Decision

14. Having regard to the agreed facts and his conviction in the State Courts for the offences stated, the DT was satisfied that the Respondent was guilty of improper conduct which brings disrepute to the medical profession under section 53(1)(c) of the MRA, and we found him guilty of the charge.
15. We agreed with the SMC that the nature of the Respondent's misconduct was not dissimilar to that of the defendant in *SMC v Dr Deshan Kumar Rajeeswaran* [2020] SMCDT 6 ("***Deshan Kumar***"). In *Deshan Kumar* the defendant had been issued a conditional warning for taking upskirt videos of two females in a supermarket and the DT had found the defendant guilty of a charge under section 53(1)(c) MRA. In the present case, the Respondent's criminal acts of filming numerous unsuspecting male subjects in public urinals pursuant to his voyeuristic urges had similarly brought the medical profession into disrepute.

⁴ AB pages 56 to 59 and 95 to 98

⁵ The Respondent's mitigation submissions dated 25 April 2022

Harm was Low and Culpability was at high end of Low

16. SMC argued that legislatively, the MRA draws a distinction between the cancellation of provisional registration and the removal of a person's name from Part II of the Register. The cancellation of conditional registration does not automatically mean a removal from the Register. As the Respondent's name remained on the Register, the DT retained jurisdiction over him and it may impose a suspension term on him even though his conditional registration had been cancelled on 25 October 2019. In support of these submissions, SMC also cited *In the Matter of Dr Wong Kee Maw Solomon* [2014] SMCDT 6, where the defendant was suspended for 24 months even though his conditional registration had been cancelled prior to the DT hearing.⁶
17. As for the length of the suspension, SMC argued that the harm caused was low, citing *SMC v Dr Gan Tau Ming Aaron* [2021] SMCDT 7 ("***Aaron Gan***"), and that the Respondent's culpability was medium. SMC further submitted that the starting point in calibrating an appropriate sentence was the Sentencing Guidelines for Singapore Medical Disciplinary Tribunals of 15 July 2020, and the sentencing framework laid out in *Wong Meng Hang v SMC* [2019] 3 SLR 526.⁷ SMC argued that in this case the starting point was a suspension term of nine months but because of the mitigating factors, the suspension should be adjusted to six months.
18. We agreed with SMC's submission that drawing reference from *Aaron Gan*, the harm caused in this case should be classified as low.
19. In *Aaron Gan*, the defendant was convicted of 14 public nuisance charges under section 268 of the Penal Code and four charges under the Films Act, with another 32 charges taken into consideration. The defendant had taken photographs and videos of men in the shower area of the men's toilets in swimming pools over a period of one and half years. The men were in various states of undress and some were completely nude with their genitals exposed. The defendant had placed his handphone on his ear pretending to speak on his handphone but was actually pointing the camera at the victims. He was

⁶ SMC's Further Submissions dated 11 May 2022

⁷ SMC's Sentencing Submissions, para 19

sentenced to a total six-week imprisonment term and a fine of \$14,900 by the State Courts.

20. Subsequently, he pleaded guilty to 16 charges under section 53(1)(b) MRA and was sentenced to a three-month suspension on each charge, with a global sentence of nine months' suspension. Notwithstanding the large number of victims, the DT was of the view that the harm was on the lower end as there was a lack of physical contact and the videos and photographs had been taken for his own viewing.
21. Similarly in this case, there was no physical contact with the victims and the images had been taken by the Respondent for himself pursuant to his voyeuristic urges. We agreed with SMC's submission that the harm caused was low.
22. As for the Respondent's level of culpability which measures a defendant's level of blameworthiness, we agreed with the factors raised by SMC that should be taken into account in assessing his culpability. First, there was premeditation involved, considering the surreptitious manner in which the offences had been committed and that there were 22 victims on 11 February 2019 itself, which included V1 and V2. These victims had been filmed at the Bugis Junction male toilet within a three-hour period from 5.24pm to 8.31pm, and the Respondent would have undoubtedly been lying in wait over this period, planning to execute these acts as the opportunity arose. Second, the Respondent had displayed escalating behavior. V3 had been filmed on 9 February 2017 at a male toilet in Ngee Ann City and was the sole victim two days prior to the Respondent's spate of offending on 11 February 2019. Third, the Respondent had tried to destroy evidence when he was caught and confronted by V1. He had not only denied that he had taken the images, but had also tried to flee the scene and to delete the images.
23. However, appropriate weight should be accorded to the contents of the Institution A ("**Institution A**") reports which stated that the Respondent was suffering from a mental condition that contributed to his offending at the relevant time. Both Institution A's psychiatrists, including the court-appointed psychiatrist for the MTO suitability report, had opined that the Respondent had been suffering from Adjustment Disorder with

depressed and anxious mood, which had contributed to the commission of the offences.⁸

In our view, this was a factor that reduced his culpability, which should be placed at the high end of low rather than medium as SMC had contended.

Appropriate suspension period

24. SMC cited three cases in their arguments for a six-month suspension.
25. In *Aaron Gan*, the DT opined that the starting point of four months for each of the 14 proceeded charges should be reduced to three months per charge in view of the mitigating factors, and a global sentence of nine months suspension was imposed.
26. In *Deshan Kumar*, the defendant had taken upskirt videos of two women at a supermarket. The DT was of the view that the harm caused was moderate. While the harm to the victims was considered slight or close to moderate, the defendant's misconduct had undermined the public's confidence in the medical profession. His culpability was considered low, as they accepted that there was no premeditation and the defendant was suffering from Persistent Depressive Disorder which was precipitated by his work and home stress, and this had compromised his ability to manage his impulses and urges. The DT imposed a four-month suspension on the defendant for the single section 53(1)(c) MRA charge that he faced.
27. In *SMC v Dr Lum Yang Wei* [2020] SMDCT 4 ("**Lum Yang Wei**"), the defendant was convicted in the courts of one charge under section 509 of the Penal Code for recording a video of a nurse easing herself in a hospital toilet and sentenced to six weeks imprisonment. In relation to the single charge he faced under section 53(1)(b) of the MRA, the DT suspended him for four months.
28. In the present case, the DT was of the view that the Respondent's offending was far less egregious than that of the defendant in *Aaron Gan*, and overall considering the mitigating and offender-specific factors, could not be regarded as more egregious than

⁸ AB 118 to 120, and D2

that of the defendants in *Deshan Kumar* and *Lum Yang Wei*, where suspension periods of four months had been imposed.

29. The offending in *Aaron Gan* had taken place over one and a half years and there were more numerous occasions of offending. 18 charges had been proceeded against the defendant with another 32 charges taken into consideration during the court proceedings. Neither did the grounds disclose that the defendant was suffering from any mental condition that contributed to the commission of the offences. This was also the case in *Lum Yang Wei*, where the grounds did not disclose that the defendant was suffering from any mental condition that would mitigate his culpability. As for *Deshan Kumar*, the DT noted that although there were lesser incidents of offending by the defendant and the tribunal had considered that his mental condition had compromised his ability to manage his urges and impulses, it was not clear from the grounds whether there was medical evidence opining that his mental condition had indeed contributed to his commission of the offences.
30. In this case, the DT was of the view that the appropriate starting point would be a suspension period of six months, which should be lowered to four months on account of the mitigating and offender-specific factors.
31. The DT considered that the Respondent had pleaded guilty at the outset to both the court charges and also to the MRA charge, and we accepted that he was genuinely remorseful and desired to change and make positive contributions to his profession. The Respondent had taken prompt and proactive steps to seek professional help after the incident, and he has made positive progress in his rehabilitative efforts as seen from the reports of his psychiatrist, including successfully completing the 12-month court-ordered MTO. IMH had also assessed his risk of re-offending to be low.⁹ We also considered that the Respondent has not practiced in the nearly 32-month period since his employment was terminated and registration cancelled, pending the conclusion of the disciplinary proceedings on 29 June 2022.

⁹ D2, para 7

Conclusion

32. The DT was of the view that the supervision orders sought by SMC were reasonable and the Respondent's own psychiatrist had also recommended that the Respondent return to practice under supervision and mentorship.¹⁰ The DT also agreed with all the other orders sought by SMC.
33. All things considered, the DT was of the view that a four-month suspension together with the other orders sought by SMC would be sufficient to meet the objectives of upholding the public trust and confidence in the profession as well as deterring the medical profession and the Respondent from such misconduct. Accordingly, the DT ordered four months' suspension and all the other orders sought by the SMC against the Respondent.
34. We further order that the Grounds of Decision be published with the necessary redaction of identities and personal particulars of persons involved.
35. The hearing is hereby concluded.

Dr Vaswani Chelaram Moti Hassaram
Chairman

Dr Chan Kin Ming

Ms Teoh Ai Lin
Legal Service Officer

Mr Sui Yi Siong (M/s Harry Elias Partnership LLP)
for Singapore Medical Council; and

Dr Nagaputra Jerry Christian in-person

¹⁰ AB 124, para 13