

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Hearing
Wednesday 3 August 2022 and Thursday 4 August 2022**

Virtual Hearing

Name of registrant: Patricia Jean Karen Dean

NMC PIN: 06B0863E

Part(s) of the register: Registered Nurse
Mental Health Nursing - June 2006

Type of case: Conviction

Panel members: Louise Fox (Chair, Lay member)
Jennifer Portway (Lay member)
Susan Anne Jones (Registrant member)

Legal Assessor: George Alliot

Hearings Coordinator: Margia Patway

Nursing and Midwifery Council: Represented by Matthew Kewley, Case
Presenter

Mrs Dean: Present and unrepresented

Facts proved: Charge 1

Facts not proved: None

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

Details of charge

That you, a registered nurse:

1) On 17 September 2021 at Bolton Crown Court were convicted of the following offence:

a) Assisting an offender contrary to section 4 Criminal Law Act 1967

AND in light of the above, your fitness to practise is impaired by reason of your conviction.

Background

You referred yourself to the Nursing and Midwifery Council (NMC) on 25 September 2019 having been charged with the offence of assisting an offender which is contrary to Section 4 of the Criminal Law Act 1967. On 21 September 2021, you were found guilty and on 18 October 2021, you were sentenced to an immediate prison sentence for 18 months.

You have been a Registered Mental Health Nurse since June 2006. It was alleged that on 21 January 2019, your son shot a man in the leg with a firearm, when the victim was in the back seat of your car which was being driven by your son and was leased by you from the NHS. It was further alleged that you were made aware of what your son had done and that subsequently you took the car to a car wash to have it valeted. It was alleged that this was done with the intention to remove any potential forensic evidence of the crime from the car.

You pleaded not guilty in the Crown Court but were convicted following a trial by jury in September 2021. On 15 October 2021, you were dismissed from your position at the Manchester North General Hospital (the Hospital).

Decision and reasons on facts

At the outset of the hearing, you told the panel that you accept that you were convicted but you did not willingly and knowingly commit a crime. You did not admit that your fitness to practice is impaired.

The charge concerns your conviction and, having been provided with a copy of the certificate of conviction and you having admitted the NMC's charge, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3).

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of your conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Submissions on impairment

Mr Kewley submitted that the nature and seriousness of the conviction are such that a finding of current impairment is required only on public interest grounds in order to maintain public confidence in the profession and in the NMC as a regulatory body and to declare and uphold proper standards of conduct. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Mr Kewley outlined the background to the case, including the actions that led to your conviction. Mr Kewley identified the specific, relevant standards from 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015) and (2018) (the Code). He submitted that you had breached the following paragraphs of The Code:

20 Uphold the reputation of your profession at all times

20.1 Keep to and uphold the standards and values set out in the Code

20.2 Act with honesty and integrity at all times

20.4 Keep to the laws of the country in which you are practising

Mr Kewley submitted that you had breached fundamental tenets of the profession and your conduct is not easily remediable. He stated that it was necessary for the panel to make a finding of current impairment on public interest grounds.

Mr Kewley submitted that you were aware your son had been involved in the shooting of another individual and made efforts to clean the crime scene in a bid to remove the evidence that would implicate your son. He stated you were dishonest as you were seeking to remove the evidence and that by doing so you failed to act with integrity. He stated that you placed your own interests to protect your son over anybody else. Based on the probation officer's report Mr Kewley accepted that there was a low risk of reoffending.

Mr Kewley referred the panel to the comments from your trial and that the Judge stated there was '*extremely serious criminality*' and the nature of the assistance you provided "*was clear, serious and significant.*" Mr Kewley submitted that this was plainly conduct which was capable of bringing the nursing profession into disrepute.

Mr Kewley submitted that the Judge acknowledged you were remorseful for what had happened to the victim. He stated that the panel could consider whether insight had been shown into the impact of your conviction. He further referred the panel to your positive character references and submitted that there is no issue with your clinical practice in the past.

Mr Kewley submitted that although the offence occurred solely in the course of your private life it is of such a serious nature that this also impacts on your registration as a nurse and has caused serious damage to the reputation of the profession.

You gave evidence under oath.

You provided the panel with a background of what had happened, leading up to and after the events of the incident.

You explained to the panel that, you had no knowledge at the time of your son's conduct and openly wanted to help the police and answered questions when asked. You told the police you had been going to the same car wash for many years and did not try to hide such evidence. You said you have always been open and honest with the process as you had contacted your manager at the time to contact the NMC in relation to being arrested. You told the panel that you cooperated with the police and that you would never tell a lie to protect your children. You told the panel that you would never commit a crime as you are an honest person and had never previously been convicted or arrested. You said you have always followed the Code of Conduct and have practiced lawfully at work and have kept your nursing skills and knowledge up to date. You further said you had always

promoted professional practice and would never do anything sneaky to try and hide evidence for anybody whether it is your son or anybody else.

You told the panel that although you wanted to carry on practising as a nurse, since the court case and your conviction you have decided that you now wish to voluntarily remove your name from the register to not cause further embarrassment. You told the panel you had not committed a crime and still maintain your innocence. You said that you want to remove your name from the registrar and carry on with your life. You said that it is a shame because you loved your profession and your colleagues as you have worked for 25 years as nurse. However, you would like your name to be taken off without a “bad stamp” against it. You told the panel that there was significant public interest in your case at the time of conviction with inaccurate press reports and you would like to avoid that and take control by being voluntarily removed from the register.

The panel accepted the advice of the legal assessor. This included reference to *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

a)'

b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

Although this relates to misconduct, it can equally be read across the issue of conviction.

The panel noted your explanation of your conduct and your denial of criminal intent or conduct. If correct, your case is a tragic conclusion to a long and successful nursing career. Nevertheless, you were found guilty before a Judge and jury who heard all the evidence which included details of phone calls made, people you met and your movements after the shooting. In his sentencing remarks the Judge stated that you gave a false account to the police in interview and to the jury and characterised your offence as extremely serious criminality. Your conduct was described as clear, serious and significant in the aftermath of a serious crime. Pursuant to Rule 31 of the NMC (Fitness to Practise) Rules 2004 those findings of fact are admissible before the panel as proof of those facts. The panel can only proceed on the basis of those facts proved.

The panel found that the behaviour leading to your conviction had breached the fundamental tenets of the nursing profession as you acted without integrity and were found to be dishonest. The panel also found that you failed to maintain professional standards specifically breaching paragraphs 20, 20.1, 20.2 and 20.4 of the NMC Code. It was satisfied that your behaviour undermined the reputation of the profession and that confidence in the nursing profession would be undermined if its regulator did not find charges relating to your conviction extremely serious.

Regarding insight, the panel considered that you maintain your innocence and that you do not accept that your fitness to practise is currently impaired. The panel noted it that would be difficult to show insight into the impact of the actions behind the conviction when you deny any wrongdoing. The panel recognised that you understood that the public would be shocked to hear a nurse had behaved in the way that led to your conviction. However, you showed only limited insight into the impact your conviction may have on the reputation of the profession and trust in nurses and tended to focus more on the impact on yourself.

The panel noted that no concerns were raised about your clinical practice and had sight of positive testimonials from colleagues about your nursing skills. Your criminal behaviour happened outside of a work context and the panel concluded you do not pose any risk to patients.

The panel is of the view that there remains a risk to the wider public interest due to the serious nature of your conviction and your ongoing sentence. The panel therefore decided that a finding of impairment is necessary on the grounds of public interest in these circumstances. The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike you off the register. The effect of this order is that the NMC register will show that you have been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been presented in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC.

Submissions on sanction

Mr Kewley submitted that a striking off order is the only order which will meet the aim of maintaining public confidence in the profession and to declare and uphold proper professional standards. He briefly outlined the aggravating and mitigating factors which, in the NMC's view, were present in this case.

Mr Kewley submitted that your case was described as "*serious criminality*" by the trial Judge. He stated that your conviction involved dishonesty as there was an attempt to remove evidence of a serious crime. He stated that you were found guilty and as the panel have identified, you have shown limited insight. He accepted that you have had a very long career in public service, that you were a dedicated nurse and that there were no previous findings against you.

Mr Kewley submitted that your conviction is fundamentally incompatible with remaining on the register, and as such the only proportionate order is a striking-off order. He submitted that taking no further action, imposing a caution order or conditions of practice would not maintain public confidence in the profession. He submitted that your actions raise fundamental questions about your professionalism.

You gave evidence under oath.

You told the panel that, you never willingly committed a crime and after being arrested, and following a period of suspension, you returned to work and carried on working as normal until your court date. You said that you are still doing voluntary work and that you are well respected and would be disappointed and upset if you could not keep your NMC PIN. You told the panel you would like to go back to working in "*patient flow*" and would not work in clinical practice. You said that you feel it is very harsh for you to be struck off the register and that you would rather be voluntarily removed to avoid any further disrespect to yourself or the NMC. You said that the newspapers have written terrible things in relation to your case and that it has been hard for you.

The panel heard and accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- The conviction involved serious criminality
- The behaviours leading to the conviction involved dishonesty
- Your limited insight into the impact of your conviction on the wider public interest

The panel also took into account the following mitigating features:

- Your long successful career as a nurse with positive testimonials

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that due to the seriousness of your conviction, your case is not at the lower end of the spectrum and that a caution order would be inappropriate and would not mark the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. There were no concerns about your clinical practice and the panel is of the view that there are no practical or workable conditions that could be formulated, that would address the wider public interest concerns in this case. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not uphold public confidence in the profession.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel noted that your actions and conviction amount to a serious breach of the fundamental tenets of the profession and were a significant departure from the standards expected of a registered nurse. The panel therefore decided that a suspension order would not mark the seriousness of the case and would not be a sufficient, appropriate or proportionate sanction. The panel concluded that the circumstances leading to your conviction are fundamentally incompatible with you remaining on the register. Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel considered that the aggravating features in this case outweigh the mitigating features. In addition, the panel was mindful that the purpose of a sanction is not to punish you and, where there has been criminal behaviour, personal circumstances or mitigation is less useful or helpful to the panel when considering the appropriate sanction than it would have been to the criminal court. The panel recognised the adverse effect a striking off

order may have on a nurse but noted the guidance that the reputation of the profession is more important than the fortunes of an individual member of those professions.

Balancing all of these factors and after taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to you in writing.

Submissions on interim order

The panel took account of the submissions made by Mr Kewley. He submitted that an interim suspension order was necessary in the public interest due to the panel's finding of current impairment. He submitted that an interim suspension order for 18 months was necessary in the public interest during the 28-day appeal period.

You did not oppose the application.

You submitted that you have not been working as a registered nurse and you have been doing voluntary work as a carer in a Hospice.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary in the wider public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to allow time for any appeal period.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after you are sent the decision of this hearing in writing.

That concludes this determination.