

PUBLIC RECORD

Date: 31/03/2021

Medical Practitioner's name: Dr Khalid SHENDI

GMC reference number: 4324630

Primary medical qualification: MB BS 1983 University of Khartoum

Type of case	Outcome on impairment
Review - Misconduct	Consideration of impairment not reached

Summary of outcome

Adjourned to a new tribunal. Extend suspension.

Tribunal:

Legally Qualified Chair	Mr Neil Mercer
Lay Tribunal Member:	Dr Nigel Westwood
Medical Tribunal Member:	Mr John Hayward
Tribunal Clerk:	Mr Michael Murphy

Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Ms Shirlie Duckworth, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public

confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

ANNEX A – 31/03/2021

Determination on service and proceeding

1. Dr Shendi is neither present nor represented at these proceedings.
2. The Tribunal considered whether notice of this hearing had been properly served upon Dr Shendi, in accordance with Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended)(the Rules) and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended). In so doing, the Tribunal has taken into account all of the evidence placed before it, together with Ms Duckworth’s submissions on behalf of the General Medical Council.
3. The Tribunal has been provided with a service bundle, containing a copy of the GMC information letter sent from the GMC to Dr Shendi’s registered address on 24 February 2021. This letter informed Dr Shendi of the date of today’s hearing. A certificate of service for this letter was provided by the GMC.
4. The service bundle also contained the Notice of Hearing letter from the MPTS dated 25 February 2021, to Dr Shendi’s registered address. Proof of delivery for a letter was received showing that something was delivered on 26 February 2021 and signed for by ‘Shendi’. This document did not show Dr Shendi’s registered address or the document which had been delivered. Ms Duckworth submitted it can be safely inferred that this was the Notice of Hearing letter and it was delivered to Dr Shendi’s registered address. The Tribunal accepted, on the balance of probabilities, that both of these propositions were more likely to be right than not.
5. Having considered all the information, the Tribunal was satisfied that notice of this hearing has been properly served upon Dr Shendi.
6. The Tribunal went on to consider whether to proceed with the case in Dr Shendi’s absence in accordance with Rule 31 of the Rules. In doing so, it bore in mind the case of R v Jones [2003] 1AC1. It had regard to all the circumstances including the following:
 - The nature and circumstances of the doctor’s behaviour in absenting himself, in particular, whether the behaviour was voluntary and therefore waived the right to be present.
 - Whether an adjournment would resolve the matter.
 - The likely length of any such adjournment.
 - The extent of any disadvantage to the doctor in not being able to present his account of events.
 - The public interest that a hearing should take place within a reasonable time.

7. The Tribunal reminded itself that its discretion to proceed in the practitioner's absence must be exercised with caution and with regard to the overall fairness of the proceedings. It balanced the interests of the practitioner, including fairness to him, against the public interest which includes the need to protect patients.

8. In its deliberations the Tribunal bore in mind that on 12 May 2020 a letter was sent from the GMC to Dr Shendi's registered address stating that his review hearing would be held on 30 April 2021. This letter also gave a series of case management directions for April 2021. This letter was also emailed to Dr Shendi's legal representatives at the time. As late as 30 December 2020 a further letter was sent from the GMC to Dr Shendi stating that his review hearing would be held on 29 April 2021. It was not until February 2021 that the new date, effectively bringing the hearing forward by a month was sent to Dr Shendi.

9. The Tribunal took the view that it is entirely plausible Dr Shendi is now living and/or working abroad and as such, has not received any of the correspondence sent to him by the GMC or the MPTS. It is entirely possible that Dr Shendi still thinks that his review is due at the end of April 2021 and that he is not required to submit his material until the beginning of April.

10. On the basis of the information provided, the Tribunal was not satisfied that Dr Shendi has voluntarily waived his right to be present and represented at this hearing and that he is aware that the hearing can proceed in his absence. The Tribunal considered that were it to adjourn today, Dr Shendi may attend a future hearing.

11. The Tribunal has therefore determined that it is not in the public interest nor is it in Dr Shendi's own interests to exercise its discretion and proceed with the case in Dr Shendi's absence.

12. The Tribunal noted that the current order of suspension on Dr Shendi's registration is due to expire on 21 April 2021. It determined to extend this until 21 May 2021 to ensure proper notice can be served upon Dr Shendi and to maintain public confidence in the medical profession. Whilst the Tribunal was not prepared to deal with the matter substantively in Dr Shendi's absence, it did think that it was not unfair to him to extend the order for 28 days so that the hearing could be properly convened and he had an opportunity to attend and make representations.

Confirmed

Date 31 March 2021

Mr Neil Mercer, Chair