

ONTARIO REGISTERED PSYCHOTHERAPISTS DISCIPLINE TRIBUNAL

Citation: *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Andreyechen*, 2024 ONRPDT 10

Date: October 17, 2024

File No.: 24-009-RP

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

College

- and -

Jamie Andreyechen

Registrant

FINDING AND PENALTY REASONS

Heard: October 1, 2024, by videoconference

Panel:

David A. Wright (Tribunal Chair)

Heidi Ahonen (registered psychotherapist)

Sherine Fahmy (public)

Kathleen (Kali) Hewitt-Blackie (registered psychotherapist)

David Keast (public)

Appearances:

Ahmad Mozaffari, for the College

Jamie Andreyechen, self-represented

Introduction

[1] The registrant, Jamie Andreyechen, recorded images and videos of an individual without their knowledge or consent. He pled guilty in criminal court to one count of mischief, received an absolute discharge and entered into a peace bond. This was professional misconduct, because he was found guilty of an offence relevant to his suitability to practise and he engaged in conduct unbecoming a psychotherapist.

[2] Mr. Andreyechen admitted that he committed professional misconduct. The parties have agreed that the appropriate penalty should be a two-month suspension, education in ethics and a reprimand. They have also agreed on costs of \$6,055.

[3] A discipline panel can only depart from a joint submission in exceptional circumstances: when the proposed penalty is so unhinged that it would bring the administration of the professional discipline system into disrepute. We found this was not the case, and made the requested order at the hearing with reasons to follow.

The Misconduct

[4] Mr. Andreyechen admitted that he committed professional misconduct in two ways. First, he was found guilty of an offence relevant to his suitability to practise, under s. 51(1)(a) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, SO 1991, c. 18. Second, he engaged in conduct that other registrants would regard as unbecoming a member of the profession, under para. 53 of s. 1 of Ontario Regulation 317/12 under the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R. Conduct unbecoming refers to a registrant's conduct that happens outside the practice of the profession, but that reflects on their suitability to practise the profession.

[5] Mr. Andreyechen violated the trust and privacy of the person whose image he recorded. While the victim was not a patient, his actions are relevant to his suitability to practise. Clients confide the most private information about their lives to psychotherapists. They must be confident that the professional who is treating them respects all individuals' privacy, integrity and autonomy. As stated in the College's Code of Ethics, a psychotherapist undertakes to "participate in my community as a responsible citizen, always mindful of my role as a trusted professional."

[6] Mr. Andreyechen's actions violated the dignity and privacy of the victim. His failure to respect boundaries in his private life affects the public's confidence in him and

in the entire profession of psychotherapy. He committed professional misconduct as alleged.

Penalty and Costs

[7] Our role in a case where the College and the registrant jointly agree on penalty is limited. We must implement the parties' agreement unless the penalty is so unhinged from the circumstances that it would bring the administration of the College's professional discipline system into disrepute. This is a high bar. See *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 at paras. 9-12 and *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Muscat*, 2023 ONCRPO 5 at paras. 13-20.

[8] This is an unusual case, because the full details of the circumstances of Mr. Andreyechen's criminal offence are covered by a publication ban to protect the victim and were, appropriately, not shared with the panel. The circumstances affect the seriousness of the misconduct. For example, if the images had been made public, taken in a public place or involved a patient or someone involved in the registrant's practice such as an employee, it would be much more serious. College counsel assured us during the hearing that these types of factors were not present here and that the misconduct was at the less serious end of the spectrum. This is also supported by the agreement of the Crown to and acceptance by the court of a guilty plea to the relatively minor charge of mischief and the granting of an absolute discharge.

[9] As noted in *Muscat* at para. 18, we must "consider a joint submission with humility and confidence that negotiations by the parties have resulted in both the public interest and the registrant's interest being balanced." As the Supreme Court said in *R. v. Anthony-Cook*, 2016 SCC 4 at para. 44, the prosecution and defence together "are entirely capable of arriving at resolutions that are fair and consistent with the public interest." In this case, we should and do rely on this evaluation, particularly that of the College which entered into the agreement.

[10] There were cases cited to us involving misconduct like this. The most relevant precedents are those related to intimate partner violence. In *Jha v. College of Physicians and Surgeons of Ontario*, 2022 ONSC 769 (Div. Ct.), the Divisional Court upheld a suspension of three months, ordered after a contested hearing, for a physician who was convicted of physically assaulting his partner and smashing her phone. The same

penalty was imposed on a physician who assaulted his intimate partner, and also failed to report the criminal charges and conditions to the College: *College of Physicians and Surgeons of Ontario v. Nugent*, 2023 ONPSDT 25. This penalty is in the same range, demonstrating that it is not unhinged from the circumstances.

[11] We also take into account that Mr. Andeyechen admitted guilt in criminal court and misconduct before us, a mitigating factor. Among other things, it spared the victim from having to testify, which would likely have required the images to be entered into evidence.

[12] This penalty is at the low end of the range for a health professional's criminal conduct in their personal life affecting another's dignity or bodily integrity. A longer suspension would, in our view, be necessary where there were circumstances like the recording being made in a public place, sending of intimate images to others or a connection to the practice of psychotherapy.

[13] It is also essential for Mr. Andreyechen to take the education set out in our order below. It is critical that he keeps the privilege of being a member of the psychotherapy profession in mind in all he does. The costs, which reflect the College's tariff, are also appropriate.

Order

[14] We made the following order:

Penalty

1. The Tribunal requires the Registrant to appear before the panel to be reprimanded following the hearing.

2. The Tribunal directs the Registrar to:
 - a. suspend the Registrant's certificate of registration for a period of two (2) months commencing October 2, 2024 at 12:01 a.m.

 - b. immediately impose the following terms, conditions and limitations on the Registrant's certificate of registration, all of

which shall be fulfilled at the expense of the Registrant and to the satisfaction of the Registrar;

i. The Registrant shall successfully complete the College's Professional Practice and Jurisprudence course within six (6) months of the date of the Tribunal's order;

ii. The Registrant shall successfully complete a course pre-approved by the Registrar about ethics and professionalism, and provide proof of completion to the Registrar, within six (6) months of the date of the Tribunal's order.

Costs

1. The Tribunal requires the Registrant to pay the College costs of \$6,055, which may be paid in 23 monthly installments of \$252, and a final payment of \$259, with the first installment due one month from the date of the Tribunal's order.