

**BEFORE THE FITNESS TO PRACTISE COMMITTEE
OF THE GENERAL OPTICAL COUNCIL**

GENERAL OPTICAL COUNCIL

F(09)15

AND

NATHAN SIVAJOTI (SO-4917)

DETERMINATION OF THE INQUIRY: 16 FEBRUARY 2010

On 16 February 2010, the Fitness to Practise Committee of the General Optical Council met to consider the following allegation against Nathan Sivajoti:

ALLEGATION

The Council alleges that in relation to you, Nathan Sivajoti (a registered student optometrist)

1. On 5 March 2009 at Harrogate Magistrates' Court you were convicted of assault occasioning actual bodily harm contrary to section 47 of the Offences Against the person Act 1861.

And by virtue of the matters set out above your fitness to undertake training is impaired by reason of your conviction.

DETERMINATION

Findings in relation to the particulars of the allegation

The registrant admitted the allegation and the Committee found the allegation proved.

Findings in relation to the conviction

The registrant admitted the conviction and the Committee found the conviction proved.

Findings regarding impairment

The Committee finds that this student registrant was convicted on 5 March 2009 at Harrogate Magistrates' Court of an offence against the 1861 Offences Against the

Person Act Section 47. The Committee is satisfied that as a result of that conviction that the registrant's fitness to undertake training as an optometrist is impaired. This was a serious and nasty offence as the registrant has himself admitted. Public confidence in the profession would be severely undermined were the Committee to reach any other conclusion.

Sanction

The Committee has heard evidence on behalf of the registrant and submissions on behalf of the Council and the registrant. It has accepted the advice of the legal adviser.

The Committee reminds itself that the offence for which the registrant was convicted was a serious one involving violence inflicted on an entirely innocent member of the public. The registrant was a 19 year old undergraduate when, in drink, he took part in an attack on a young man at 4 o'clock in the morning; kicking him twice whilst he was lying on the ground. This is unacceptable behaviour in anyone and not to be tolerated in a student member of a caring profession.

The Committee has heard evidence from the registrant and from three others and has received a number of character references. The Committee is satisfied that this was behaviour which was totally out of character. The registrant is a hard working young man who has involved himself in charitable endeavours, playing a great deal of sport and who has applied himself to his studies.

He was away from home for the first time at the end of his first term at university. His behaviour since the attack has demonstrated a great deal of insight.

Recognising that drink was an issue, the registrant took steps to prevent affecting his behaviour in future. His family have been mortified by his conduct; dealing with them has been a salutary experience for this young man. He has shown a great deal of remorse and admitted his impairment to the Committee.

The registrant told his tutor promptly of his arrest and sought help. He reported himself to the Council and then voluntarily removed himself from his academic studies at university. The Committee regards this as being of considerable importance. The registrant was told that his behaviour was so serious that his professional body was likely to suspend his registration. He accepted the advice and pre-empted the decision by ceasing his academic training at the end of his first year at university. The consequence will be that the registrant will not be able to qualify for at least a year after his peers. That in turn means that he will never be able to recover that years lost earnings.

The Committee has considered whether the public requires protection from this registrant. It is satisfied that this registrant has learnt his lesson and is very unlikely to behave in this way again. That said, public confidence in the profession would undoubtedly be undermined if no sanction were to be imposed. This is not a case for the imposition for conditions. Counsel for the registrant realistically submitted, at the very least, this was an appropriate case for suspension.

Recognising this to be an exceptional case the Committee has decided that the appropriate order is for a direction that this registrant's registration be suspended for a period of 3 months. An order for suspension will remain on this registrant's record for life. He will necessarily have to declare it on each occasion that he seeks to register or re-register.

The Committee is minded, in this instance, not to order a review hearing. A review after such a short period of suspension whilst the registrant has voluntarily removed himself from academic study would serve no purpose.

If no appeal against this sanction is lodged, this suspension will take effect 28 days from today.

Chairman of the Committee: Lady Margaret Wall

Signed _____ Date 16 February 2010

Registrant: Nathan Sivajoti

Signed _____ Date 16 February 2010