



MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DECISION NO: 270/03/110D

IN THE MATTER of the Medical Practitioners Act
1995

-AND-

IN THE MATTER of a charge laid by the Director of
Proceedings pursuant to Section 102
of the Act against **THOMAS PAUL
O'FLYNN** medical practitioner of
Invercargill

BEFORE THE MEDICAL PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING: By telephone conference on 18 February 2004

PRESENT: Miss S M Moran (Chair)
Dr F McGrath, Dr C P Malpass, Mrs H White, Dr L F Wilson
(members)

APPEARANCES: Ms T M Baker, Director of Proceedings
Mr H B Rennie QC for Dr T P O'Flynn
Ms G J Fraser (Secretary)
(for first part of call only)

**Order of the Tribunal regarding application by the “Southland Times” newspaper
regarding media coverage of the proceedings**

1. On 2 February 2004 Mr David Cosgriff, reporter of and on behalf of the “Southland Times” newspaper applied for *permission to take photographs and to occasionally film with a video camera during the hearing against Tom O’Flynn, Psychiatrist, to be heard in Invercargill in April this year.*
2. The Director of Proceedings submitted that if there were to be coverage in the form requested then it would have to be subject to ensuring that no person was identified who was the subject of an order prohibiting publication of identity, otherwise she would abide the decision of the Tribunal.
3. Counsel on behalf of Dr O’Flynn objected to the taking of still photographs and the use of video cameras within the hearing room at any time. He stated that in the case of the “Southland Times” there was no apparent reason why newspapers should use a video camera under any circumstances.
4. Mr Rennie referred to the hearing in November last year of Dr Fisher and submitted it was apparent that the taking of still photographs and the use of video cameras interfered in a material way with the operation of the Tribunal and the provision of a fair hearing and that it affected both the willingness of witnesses to participate and the manner of their participation.
5. Mr Rennie submitted that in the course of preparation for the present hearing, including contact with potential witnesses, it was apparent that the same concerns exist at this or a greater level.
6. Mr Rennie referred to the New Zealand Bill of Rights Act 1990 which guarantees a fair trial and in his submission it could not be met in this particular case if still photography or video recording were permitted. He stated it was not necessary to permit the presence of either for there to be a full opportunity for media reporting and coverage of the hearing.
7. With regard to particular witnesses, including those working in the mental health field, Mr Rennie stated there are issues of health and safety which arise in respect of any proposed visual material.

8. The Tribunal, having taken into account the submissions and all relevant matters, decided to decline the application to use a video camera during the hearing or take still photographs during the hearing.
9. However, an accredited representative of the newspaper is entitled to be present throughout the hearing and to report on it in the normal way subject only to orders which the Tribunal might make prior to or during the proceedings regarding name suppression or issues relating to publication.

DATED at Wellington this 5th day of March 2004

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S M Moran

Senior Deputy Chair

Medical Practitioners Disciplinary Tribunal