

Indexed as: Ontario (College of Physicians and Surgeons of Ontario) v. Shamji, 2020 ONCPSD 26

**DISCIPLINE COMMITTEE
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed by
the Inquiries, Complaints and Reports Committee of the College of Physicians and Surgeons of Ontario
pursuant to Section 26(1) of the **Health Professions Procedural Code**
which is Schedule 2 of the ***Regulated Health Professions Act, 1991***,
S.O. 1991, c. 18, as amended.

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. MOHAMMED FARID SHAMJI

PANEL MEMBERS: **MR. P. GIROUX (CHAIR)**
 DR. J. RAPIN
 MS L. ROBBINS
 DR. V. MOHR
 DR. E. STANTON

COUNSEL FOR THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO:

MS LISA BROWNSTONE

COUNSEL FOR DR. SHAMJI:

MS JENNIFER McKENDRY
MR. PETER LEIGH

INDEPENDENT COUNSEL FOR THE DISCIPLINE COMMITTEE:

MS JENNIFER McALEER

Hearing Date and Decision Date: April 24, 2020
Release of Reasons date: June 9, 2020

DECISION AND REASONS FOR DECISION

The Discipline Committee (the “Committee”) of the College of Physicians and Surgeons of Ontario heard this matter at Toronto on April 24, 2020. At the conclusion of the hearing, the Committee released a written order stating its finding that the member committed an act of professional misconduct and setting out its penalty and costs order with written reasons to follow.

THE ALLEGATIONS

The Notice of Hearing alleged that Dr. Mohammed Farid Shamji (“Dr. Shamji”), a former member of the College, has committed an act of professional misconduct:

1. under paragraph 1(1)33 of Ontario Regulation 856/93 made under the *Medicine Act, 1991* (“O. Reg. 856/93”), in that he has engaged in an act or omission relevant to the practice of medicine that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and
2. under clause 51(1)(a) of the Health Professions Procedural Code which is Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “Code”), in that he has been found guilty of an offence that is relevant to his suitability to practise.

THE FACTS

The following facts were set out in an Agreed Statement of Facts and Admission which was filed as an exhibit and presented to the Committee:

1. Dr. Mohammed Farid Shamji (“Dr. Shamji”) became a member of the College with

a certificate of registration authorizing independent practice on July 3, 2003. He practised as a neurosurgeon in Toronto.

2. Dr. Shamji is no longer a member of the College, and has not been a member since August 10, 2017.

Criminal Finding

3. On December 2, 2016 Dr. Shamji was arrested and charged with first degree murder of his wife, Dr. Elana Fric-Shamji. A copy of the Information is attached at Tab 1 to the Agreed Statement of Facts and Admission.
4. On April 8, 2019, Dr. Shamji pleaded guilty and was convicted of second degree murder contrary to s. 235(1) of the *Criminal Code of Canada*. A certified copy of the Indictment is attached at Tab 2 to the Agreed Statement of Facts and Admission. A copy of the transcript of the guilty plea, which sets out the facts Dr. Shamji acknowledged that formed the basis of the plea and the finding of guilt, is attached at Tab 3 to the Agreed Statement of Facts and Admission.
5. Those facts included the following:
 - a. Dr. Shamji and the deceased, Dr. Elana Fric, married in 2004. At the time of her murder, they had three children aged 11, 8 and 3.
 - b. In October 2016, Dr. Fric retained a divorce lawyer to move forward with divorce proceedings.
 - c. Dr. Shamji was formally served with the divorce proceeding papers on Monday, November 28, 2016.

- d. On Wednesday, November 30, 2016, Dr. Fric and Dr. Shamji got into an argument in their bedroom while the children were sleeping in the family home. Their 11 year old daughter was awakened from her sleep by sounds of her parents arguing in the next room. She heard banging, her mother scream, and then silence.
- e. Dr. Shamji struck Dr. Fric multiple times causing her significant blunt force injuries all over her body, including a broken neck and broken ribs, and then choked her to death.
- f. The 11 year old went to her parents' room to investigate. She was ordered back to bed by her father.
- g. The cause of death of Dr. Fric was blunt/compressive neck injuries as a result of the choking. After he killed her, Dr. Shamji packed Dr. Fric's body in a suitcase and drove about 35 kilometres north of the city and dumped the suitcase in the Humber River.
- h. He did not call the police.
- i. In the days after he killed her, Dr. Shamji carried on with his daily routine, including performing surgeries the next day.
- j. He lied about his missing wife's whereabouts and planted evidence calculated to point the finger at somebody else and cover his own tracks.
- k. On Friday, December 2, 2016, Dr. Shamji was arrested by the Toronto Homicide Squad in Mississauga.

6. On May 9, 2019, Dr. Shamji was sentenced to life imprisonment, with the parole ineligibility period set at 14 years. A transcript of the criminal sentencing proceeding, including victim impact evidence from numerous people, is attached at Tab 4 to the Agreed Statement of Facts and Admission.
7. The victim impact statements included a statement from Dr. Fric's mother, who said: *"The nightmare that began that day, December 1, 2016, when me and my husband drove overnight to Toronto, fearing for my daughter has never ended, and will never end until the day I die...For two and a half years we have to not only deal with our horrific loss, but also the children even more horrific loss....There is no penalty this court can give him that will ever justify what Mo has done to Elana and to us and to the children. He has destroyed all of our life forever."*
8. Dr. Fric's father stated: *"It's not possible to describe sorrow and loss I have felt for the last two and a half years. Where anger, rage has filled me, and I suspect that anger and rage will never leave me...it's a nightmare beyond comprehension...The horror of having to identify my daughter after her brutal murder when she was totally unrecognizable will haunt me forever. No parent should ever have to do that..."*
9. Her sister noted: *"There will be a huge void for me in my remaining days on this earth. Often, all I do is think about Elana and I am haunted by what happened to her. I visit her grave and I am overcome by unbearable grief....Elana was stolen from her family, her friends, her children, her patients, her colleagues, but most importantly, her three children."*
10. Further witness statements came from friends and colleagues and all spoke of the devastating loss they suffered, and that the effect of that loss on them and the broader community. One friend described the children's loss as follows: *"This loss is most similar to someone who experiences war; senseless, obliterating, unfair, permanent, and filled with an anxiety, and overwhelming*

despair and uncertainty."

11. A transcript of the Reasons for Sentence is attached at Tab 5 to the Agreed Statement of Facts and Admission. In his reasons for sentencing, Justice McMahon noted that he was obliged to sentence Dr. Shamji to life imprisonment. and his responsibility was to set a period of time between ten and twenty-five years at which the accused could apply for parole. On the basis of a joint submission from counsel, he ordered that there be no eligibility for parole for fourteen years. He considered mitigating and aggravating circumstances.
12. In respect of mitigating circumstances, he noted the accused had been an important contributing member of our community, working as a neurosurgeon who saved the lives of many patients. He considered the letters of support of some of his patients and others in the community and found that his prior good character was a mitigating factor. He further noted that the family and community support behind Dr. Shamji were a positive factor when looking at rehabilitation and eventual re-integration. Justice McMahon stated: *"What is most critical to me is Elana's daughter, who was only 11 years old at the time and was scheduled to have to testify about what she saw and heard the night her father murdered her mother. The accused's election to plead guilty has saved that young person, who is now 14, from testifying in a trial where her dad is charged with murdering her mom. I don't think there could be a worse scenario for a young person in a courtroom."* He accepted that Dr. Shamji was remorseful.
13. With respect to aggravating circumstances, he noted that this was yet another case of domestic homicide, and that the victim, who wished to end the relationship, did what she was legally entitled to do, and that women or men have the right to end a relationship without having to fear abuse or death. The fact that the deceased was the victim of domestic homicide was found to be extremely aggravating, as was the fact that there had been ongoing concerns in the past

about verbal and physical abuse. In discussing the life lost, and considering the victim impact statements, Justice McMahon noted *"Elana Fric-Shamji from all accounts was a brilliant physician and contributor to medical policy. The victim impact statements refer to her as a rising star. A wonderful mother, daughter and friend to many. Patients were left without their doctor who they trusted. She was robbed of a wonderful life yet to be lived."*

14. Justice McMahon further noted that Dr. Fric did not die a quick and painless death. She was repeatedly struck with such force that Dr. Shamji broke her ribs and then manually strangled her by cutting off her air supply, and breaking her neck. The nature of the violence was extreme, and the nature of the killing is aggravating. It was also aggravating that she died in the home that she shared with her sleeping children and the accused - a place that a person should feel the safest. A further aggravating factor was the degradation of the deceased, in that Dr. Shamji placed her in a suitcase and dumping her in a river many kilometres from the home.
15. Further, there was no regret or remorse immediately after the killing. At that time, Dr. Shamji was only concerned with avoiding detection. It was a great indignity to the lifeless body of his wife, and caused additional angst and concern for those young children and the extended family and friends. His efforts to shift responsibility to another person was also an aggravating factor.
16. The most important aggravating factor to Justice McMahon and the greatest tragedy in his view is the impact of the accused's violent actions on the three young children. The enormity of their loss will be felt by them for the rest of their lives.
17. Justice McMahon concluded that based on the facts above, a period of fourteen years for parole ineligibility was appropriate.

Admission

18. Dr. Shamji admits the facts specified above, and admits that, based on these facts, he engaged in professional misconduct under clause 51(1)(a) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18, in that he has been found guilty of an offence that is relevant to his suitability to practice.

RESPONSE TO ALLEGATIONS, AND WITHDRAWAL

As noted above in the Agreed Statement of Facts, Dr. Shamji admitted the second allegation in the Notice of Hearing, that is. the allegation of professional misconduct on the basis of having been found guilty of an offence relevant to his suitability to practise.

The College withdrew the first allegation in the Notice of Hearing, that is, the allegation of professional misconduct of the basis of disgraceful, dishonourable or unprofessional conduct.

FINDING

The Committee accepted as correct all of the facts set out in the Statement of Facts . Having regard to these facts, the Committee accepted Dr. Shamji's admission and found that he committed an act of professional misconduct under:

- (i) clause 51(1)(a) of the Health Professions Procedural Code, which is Schedule 2 of the *Regulated Health Professions Act, 1991*, in that he has been found guilty of an offence that is relevant to his suitability to practice.

PENALTY AND REASONS FOR PENALTY

The following facts were set out in an Agreed Statement of Facts on Penalty which was filed as an exhibit and presented to the Committee:

1. On May 9, 2019, Dr. Shamji was sentenced to life imprisonment, with the parole ineligibility period set at 14 years. A transcript of the criminal sentencing proceeding, including victim impact evidence from numerous people, is attached at Tab 1 to the Agreed Statement of Facts on Penalty.
2. The victim impact statements included a statement from Dr. Fric's mother, who said: *"The nightmare that begin that day, December 1, 2016, when me and my husband drove overnight to Toronto, fearing for my daughter has never ended, and will never end until the day I die...For two and a half years we have to not only deal with our horrific loss, but also the children even more horrific loss....There is no penalty this court can give him that will ever justify what Mo have done to Elana and to us and to the children. He has destroyed all of our life forever."*
3. Dr. Fric's father stated: *"It's not possible to describe sorrow and loss I have felt for the last two and a half years. Where anger, rage has filled me, and I suspect that anger and rage will never leave me...it's a nightmare beyond comprehension...The horror of having identify my daughter after her brutal murder when she was totally unrecognizable will haunt me forever. No parent should ever have to do that..."*
4. Her sister noted: *"There will be a huge void for me in my remaining days on this earth. Often, all I do is think about Elana and I am haunted by what happened to her. I visit her grave and I am overcome by unbearable grief....Elana was stolen*

from her family, her friends, her children, her patients, her colleagues, but most importantly, her three children."

5. Further witness statements came from friends and colleagues and all spoke of the devastating loss they suffered, and that the affect of the that loss on them and the broader community. One friend described the children's loss as follows: *"This loss is most similar to someone who experiences war; senseless, obliterating, unfair, permanent, and filled with an anxiety, and overwhelming despair and uncertainty."*
6. A transcript of the Reasons for Sentence is attached at Tab 2 to the Agreed Statement of Facts on Penalty. In his reasons for sentencing, Justice McMahon noted that he was obliged to sentence Dr. Shamji to life imprisonment. and his responsibility was to set a period of time between ten and twenty-five years at which the accused could apply for parole. On the basis of a joint submission from counsel, he ordered that there be no eligibility for parole for fourteen years. He considered mitigating and aggravating circumstances.
7. In respect of mitigating circumstances, he noted the accused had been an important contributing member of our community, working as a neurosurgeon who saved the lives of many patients. He considered the letters of support of some of his patients and others in the community and found that his prior good character was a mitigating factor. He further noted that the family and community support behind Dr. Shamji were a positive factor when looking at rehabilitation and eventual re-integration. Justice McMahon stated: *"What is most critical to me is Elana's daughter, who was only 11 years old at the time and was scheduled to have to testify about what she saw and heard the night her father murdered her mother. The accused's election to plead guilty has saved that young person, who is now 14, from testifying in a trial where her dad*

is charged with murdering her mom. I don't think there could be a worse scenario for a young person in a courtroom." He accepted that Dr. Shamji was remorseful.

8. With respect to aggravating circumstances, he noted that this was yet another case of domestic homicide, and that the victim, who wished to end the relationship, did what she was legally entitled to do, and that women or men have the right to end a relationship without having to fear abuse or death. The fact that the deceased was the victim of domestic homicide was found to be extremely aggravating, as was the fact that there had been ongoing concerns in the past about verbal and physical abuse. In discussing the life lost, and considering the victim impact statements, Justice McMahon noted *"Elana Fric-Shamji from all accounts was a brilliant physician and contributor to medical policy. The victim impact statements refer to her as a rising star. A wonderful mother, daughter and friend to many. Patients were left without their doctor who they trusted. She was robbed of a wonderful life yet to be lived."*
9. Justice McMahon further noted that Dr. Fric did not die a quick and painless death. She was repeatedly struck with such force that Dr. Shamji broke her ribs and then manually strangled her by cutting off her air supply, and breaking her neck. The nature of the violence was extreme, and the nature of the killing is aggravating. It was also aggravating that she died in the home that she shared with her sleeping children and the accused - a place that a person should feel the safest. A further aggravating factor was the degradation of the deceased, in that Dr. Shamji placed her in a suitcase and dumping her in a river many kilometres from the home.
10. Further, Justice McMahon further found that there was no regret or remorse immediately after the killing. At that time, Dr. Shamji was only concerned with avoiding detection. It was a great indignity to the lifeless body of his wife, and caused additional angst and concern for those young children and the

extended family and friends. His efforts to shift responsibility to another person was also an aggravating factor.

11. The most important aggravating factor to Justice McMahon and the greatest tragedy in his view is the impact of the accused's violent actions on the three young children. The enormity of their loss will be felt by them for the rest of their lives.

12. Justice McMahon concluded that based on the facts above, a period of fourteen years for parole ineligibility was appropriate.

JOINT SUBMISSION ON PENALTY

The parties jointly requested an order that Dr. Shamji:

1. Receive a reprimand;
2. Have his certificate of registration revoked.

Although the Committee has the discretion to accept or reject a joint submission on penalty, the law provides that the committee should not depart from a joint submission unless the proposed penalty would bring the administration of justice into disrepute, or is otherwise not in the public interest (*R. v. Anthony Cook*, 2016 SCC 43).

After careful consideration of the joint submission on penalty, and considering the facts of this case, the Committee accepts the proposed penalty. The serious nature of this case requires the most severe penalty this Committee can impose, which is revocation of Dr Shamji's certificate of registration.

Analysis

The Committee considered the submissions of both parties as well as the sentencing decision of Justice McMahon, which included victim impact statements. The Committee also reviewed the relevant case law.

The Committee also considered the underlying principles which govern the determination of an appropriate penalty. Protection of the public is fundamental in all discipline hearings, but particularly in this case. As well, the need to maintain public confidence in the integrity of the medical profession and in the ability of the College to govern the profession in the public interest is paramount in this case. Other principles include specific deterrence of the member and general deterrence of the profession. In considering the horrific facts of this case, the Committee finds that strong denunciation of all acts of domestic violence is vital.

It is the Committee's task to weigh these guiding principles and to take into account the specific facts and circumstances of the case in arriving at its decision regarding penalty and costs. Aggravating and mitigating factors were reviewed.

Aggravating Factors

The Committee was shocked by the extreme nature and circumstances surrounding this case of domestic violence. A wife and mother of three wished to legally end her relationship with her spouse and this resulted in her being brutally beaten and murdered in the family home, while her children slept nearby. The crime involved the degradation of Dr. Fric's body which was dumped in a river in a suitcase. Dr. Shamji showed no remorse immediately after the murder, in that he went to work the next day. He also tried to shift responsibility onto another person.

The impact of Dr. Shamji's actions on his three young children is immeasurable and will affect them their whole lives. The impact on his wife's family and community is also immeasurable.

Mitigating Factors

The Committee reviewed the mitigating factors as set out by Justice McMahon in his sentencing decision. Dr. Shamji had letters of support and was of prior good character. His profession as a neurosurgeon enabled him to help many patients and save lives. However, the Committee noted the fact that Dr. Shamji was educated and had the knowledge and ability to seek medical help for his emotional state, which he failed to do; this in our view diminished any mitigating factors.

Justice McMahon also accepted that Dr. Shamji showed remorse at his sentencing hearing.

Counsel for Dr. Shamji submitted that Dr. Shamji's participation by phone in the College proceeding showed that he acknowledged his obligation to the profession and that his admission was a mitigating factor. It was noted, however, that since the offense has been proven in court, there would have been no reasonable prospect of successfully contesting this allegation of professional misconduct.

Prior Cases

The facts of this case of domestic violence were unprecedented, so the case law was of limited value other than in establishing guiding principles.

Counsel for the College presented four previous cases; however, in the Committee's view, they were not of sufficient similarity to be helpful, other than relating to egregious criminal behaviour.

The Committee was provided with the case of *Ontario (College of Physicians and Surgeons of Ontario) v. McKnight* 1996 ONCPSD 7 (CanLII), which also dealt with a domestic dispute that resulted in the death of the physician's wife. The Committee ordered revocation and a reprimand in that case.

CONCLUSION

This is a case of the most horrific domestic violence resulting in the death of a wife and mother of three children. This heinous act has impacted the lives of the children and family of Dr. Fric. As such, it represents the most egregious criminal behaviour .

The most important penalty principles in this case were the protection of the public and the maintenance of the public trust. Regulation of the profession imposes extraordinary responsibility on the College and denunciation of Dr. Shamji's act must be forceful. The stain on the profession from this case is so great that revocation of Dr. Shamji's certificate of registration was the only appropriate penalty. Unfortunately, even revocation is not commensurate with the gravity of his crime. A reprimand will reiterate the Committee's repugnance of all domestic violence, particularly by a physician who should have sought emotional support rather than act out in such a violent way resulting in the loss of life.

The Committee would like to end these reasons with recognition of the loss of Dr. Elana Fric. This is a significant loss not only to her family, but also to our profession and to the community. The Committee hopes that Dr. Fric will be remembered not for the tragic circumstances of her death, but rather for all that she accomplished in her life and the important role she played in the community and in the lives of those who knew and loved her.

ORDER

The Committee stated its findings in paragraph 1 of its written order of April 24, 2020. In that order, the Committee ordered and directed on the matter of penalty as follows:

2. **THE DISCIPLINE COMMITTEE ORDERS** Dr. Shamji to attend before the panel to be reprimanded.
3. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to revoke Dr. Shamji's certificate of registration effective immediately.

**DISCIPLINE COMMITTEE
COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO**

B E T W E E N:

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. MOHAMMED FARID SHAMJI

1. This reprimand is delivered in writing on the consent of the parties and pursuant to section 3 of the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020*, SO 2020, c 5, Sch 3.

Reprimand

Dr. Mohammed Farid Shamji

2. The Discipline Committee's finding that you have committed an act of professional misconduct, couched in the bland legal text of the *Regulated Health Professions Act* and the *Health Professions Procedural Code*, can not in any way convey the actual brutality of the crime you deliberately inflicted on your spouse, Dr. Alana Fric Shamji, resulting in her death.
3. Doctors are supposed to save lives, not take lives. The fact that you intentionally took the life of your spouse is viewed by the members of this Committee with revulsion and sorrow. Words cannot express the impact of your acts on your wife's family, her friends, her patients and colleagues, the community in which she lived and, most importantly, your own children. It is simply immeasurable.
4. Revocation of your certificate of registration is not simply a symbolic gesture. The Discipline Committee feels very strongly that it must convey to the profession and the public in the strongest language possible that there is no place for domestic abuse among members of this profession. Your crime was abhorrent and certainly falls at the extreme end of the spectrum, but members of this profession must understand that physicians are expected to be self-reflective and to seek help when they cannot cope with the stresses in their lives. Your selfish and yet self-destructive act should stand as an awful lesson to others to

seek the help they need to ensure that they do no harm. This Committee condemns you for your absolute failure of insight and the harm you caused to all those who once loved or trusted you. There is certainly no longer any role for you within this profession.

5. You have taken responsibility for your actions and have expressed remorse for the damage it has caused to all concerned. However, the road to rehabilitation and redemption before you is long and arduous.