

IN THE MATTER OF the application
of WILFRED EDWYNE KNIGHT for
registration under the Medical,
Dental and Pharmacy Act No. 13 of
1928.

In Counsel's Summary dated 14th December 1935 in the above matter, a statement is made at Page 2 thereof that whilst the Applicant was serving his sentence of imprisonment, certain facts had come to the cognizance of his legal advisors which seemed to throw considerable doubt upon the justice of the conviction.

This evidence was not placed before the Trial Court because at the time of the trial, its very existence was unknown to the Applicant and his legal advisors, and there exists no machinery under the law for placing this evidence before the Trial Court after the Trial Court has arrived at a finding.

We think we shall be best able to answer both questions which the Medical Council has put to us by setting out the various steps which were taken and which led to the gradual discovery of the truth in this case.

In the early part of 1933, the Applicant instructed Mr. W.L. Howes of Pietermaritzburg to go into the matter of his conviction and to see whether steps could not be taken to establish the Applicant's innocence.

In July 1933, Mr. Howes went from Maritzburg to Durban and there he met Mr. Harold Stuart, who had been the Attorney and Junior Counsel for the Applicant at his trial which, will be remembered, took place in June 1932. In the course of conversation Mr. Stuart produced to Mr. Howes an affidavit from the witness Rose Dry.

It appears that during the first week in June 1933, Mr. Stuart was visited by Mr. Moorcroft, at that time a Detective Head Constable in the Criminal Investigation Department stationed at Durban. This officer told Mr. Stuart that Mrs. Dry had made a statement to Mrs. Brand, her wardress, that Mrs. Brand had told Mr. Moorcroft and as a result of that, Mr. Stuart interviewed Mrs. Dry and took the affidavit.

Mrs. Dry had made her first statement to Mrs. Brand at the time of the Applicant's trial, but Mrs. Brand had kept her own counsel with regard to this statement and in about May 1933 (Mrs. Dry being again in gaol), Mrs. Dry had again discussed with Mrs. Brand the innocence of the Applicant and the guilt of Mrs. Dry. It was then that Mrs. Brand spoke to Mr. Moorcroft, who spoke to Mr. Stuart, who took a statement from Mrs. Dry and in July of 1933, more than a year after the trial, Mrs. Dry's statement first reached the Applicant's present Attorney.

So much for the evidence of the witness Rose Dry.

But the matter could not rest there, as before any steps were taken, this statement had to be carefully checked, sifted and corroborated and Mr. Howes thereupon engaged Mr. Robert Grant, an Ex-Detective Inspector of the Criminal Investigation Department, to commence enquiries.

Mr. Grant then came to Durban and from Mrs. Dry learned

that/...

that Mrs. Noot (her sister) could give further information on the subject and, testing Mrs. Dry's statement, Mr. Grant interviewed all the persons that Mrs. Dry mentioned to him as having been connected in one way or another, with her confession. Mr. Grant, at about this time, took statements from Mrs. Noot, Edith Dry, Mrs. Brand, Mr. Moorcroft and Mr. Stuart.

This covers those witnesses which we have classified at Page 39 of our Summary under Class (c).

The evidence of Mrs. McCann was discovered purely by chance.

It may be remembered by the Medical Council that during the early part of 1934, the Applicant was engaged in a big civil action for defamation in the Natal Supreme Court. Counsel responsible for this Argument happened to be Junior Counsel in that case and as it so happened that one of the allegations over which the defamation action arose was that on the fatal morning of Wednesday, the 13th January 1932, Dr. Knight was intoxicated, Counsel instructed Dr. Knight to go through his visitors' book that morning and interview all the people that he had seen on the morning in question in order to obtain their evidence as to his sobriety.

(Although it does not affect this issue, we should remark here that the allegation against the Applicant of insobriety on the morning of the 13th January 1932 was held to be false by all three Judges of the Natal Provincial Division who sat in the defamation case).

Be that as it may, the Applicant interviewed some eight or nine people whom his records showed he had seen that morning and among them was Mrs. McCann, who had taken her daughter along at the same time as the late Miss Pirie was in Dr. Knight's consulting room.

Mrs. McCann was able to state that the Applicant was perfectly sober and she mentioned entirely ex-parte to the Applicant, what she had noticed that morning. This appears at Page 53 of the new evidence submitted in the following extract "Did he (Dr. Knight) come and see you? - Yes, he came to see me about Findlay's case to say whether he was drunk or sober when he operated on my child.

He did not come to see you about this case? - No, I mentioned that to Dr. Knight."

When the Applicant reported to Counsel what Mrs. McCann had told him, Counsel (Mr. E. R. Browne) went down and interviewed Mrs. McCann and took a statement from her, subsequently taking another statement from Sister Butler to corroborate Mrs. McCann as to the time that Miss Pirie was in the consulting room on the morning of 13th January 1932 and as to the clothing Miss Pirie was wearing.

This, we submit, answers the Council's query with regard to the witness classified in our previous argument under Class (b).

In about the month of June 1935, the disclosure was made to Counsel by Mrs. Dry that she had been assisted in the illegal operation upon Miss Pirie by her native servant girl,

Lucy./....

Lucy Faba, whereupon Counsel went immediately and interviewed Lucy Faba who, although frightened and very reluctant to speak, made a statement to Counsel entirely corroborating Mrs. Dry's story.

At about the same time it was thought advisable to bring evidence to show that the type of person who frequented Mrs. Dry's night club was varied and that people of the class to which the deceased and her lover belonged did frequent Mrs. Dry's night club.

A representative of the Applicant thereupon began to make a systematic round of the Durban taxi-drivers, who, as it is well known, support these night-clubs by introducing guests for a quid pro quo.

Among the taxi-drivers interviewed was one Douglas Gilbert Field, whose evidence appears in Volume 2 at Page 241 of the new evidence.

As will appear from a study of this evidence at Page 245, this witness was interviewed by Counsel just prior to the enquiry before the Appellate Division's Commissioner (Mr. Advocate de Wet) and upon two photographs being shown to the witness (one of the deceased and one of another female), he immediately recognised the photograph of the deceased as being the photograph of a girl whom he had seen at Mrs. Dry's night club in the latter part of 1931. Accordingly, the evidence of this witness was tendered to the Commission.

This completes, we think, the list of lay witnesses in the case and shortly shows how the story unfolded itself to the Applicant's legal advisors.

It was then thought desirable by Counsel that the evidence of expert gynaecologists should be tendered in evidence in support of the story told by the new lay witnesses and accordingly, Dr. Hullett, and Dr. Malan, both eminent gynaecologists, were interviewed.

At the time of the enquiry, however, Dr. Hulett had had a very serious accident as a result of an explosion and was in the Sanatorium, and the defence therefore tendered the evidence of only Dr. Malan.

It was really only at the hearing of the enquiry and during the examination and cross-examination of Dr. Malan and Dr. Basil Sampson (the latter witness having been called by the Crown), that it became so apparent that on medical facts alone, the Applicant was innocent and it will be seen that over one fourth of all the evidence taken was the evidence of these two doctors.

Durban,
27th February, 1936.

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