

Ian Anthony Martin you have been found guilty of a very serious crime of interfering with a witness. I find for the purpose of imposing sentence that in 1994 you entered into a sexual relationship with a married woman who was then a long-term patient of yours. The relationship continued for about 3 years. At about the beginning of 1998 you told this woman that the affair was at an end as you had found another girlfriend. This woman, to whom I shall refer as the complainant, said in her evidence that she was in love with you. Shortly after you brought the relationship to an end she made a complaint about you that later went to the Medical Council, and she gave evidence at a hearing of the Tribunal in November of that year.

However, you decided that she should be persuaded to drop her complaint or not give evidence at the Tribunal. In about August or September 1998 you offered a male patient of yours, Mr Kirkland, a man whom you knew was violent and had been to prison, \$1000 to do physical harm to the woman complainant and her family, consisting of a husband and two daughters. He accepted your offer. You took Mr Kirkland in your car and showed him where the complainant and her family lived and where her husband worked. A few nights later Mr Kirkland went to the complainant's home. At about midnight he bashed on the door and the sides of the house with a pipe, or iron bar that he had taken with him, in the hope that those inside would hear the noise and come out. His plan was to hit them with the bar and warn them off prosecuting the complaint. At the time Mr Kirkland did this, the complainant was in bed listening to her Ipod through earphones and her husband was in the shower. Although they heard some noises they did not go outside. Mr Kirkland decided that he should not hang about much longer and smashed the windows of a car that was parked in the driveway. The police were called. After they had left Mr Kirkland phoned the complainant's house from a nearby phone box and issued threats of more violence if the complainant continued to prosecute her complaint against you. I think this sequence of events is correct, although the sequence is not significant, Mr Kirkland then returned to the house and slashed the tyres of the car, the windows of which he had earlier smashed, and the tyres of another car in the driveway. The police were called again.

The next day Mr Kirkland went to collect his money but you only paid him half the promised amount because he had not harmed any person, only damaged property. Shortly afterwards, the complainant took out a restraining order against you and showing commendable courage, she refused to be intimidated by the violent conduct that you had ordered and in the following month, gave evidence before the Tribunal.

This is a very serious crime because the security of our peaceful, free and democratic society depends in large measure, upon the maintenance of a fair, just and uncorrupted judicial system, a system that all our citizens can access freely to make their complaints and give their evidence without fear of threats or coercion. This is not like the common case of perverting justice by giving a false name to police to avoid a driving prosecution. It is far more serious. Your criminal conduct struck at the wellbeing of our society in a fundamental way as well as instilling fear into the complainant and all her family. This Court would be failing in its duty if it did not impose a substantial penalty to mark the serious nature of your wrongdoing and sent a clear message to the community that the court will act to protect the judicial system.

Aggravating features of your crime include the facts that, at the relevant times:

- you were a medical practitioner in whom your patients were encouraged to place trust;
- the target of your crime was a former patient who had been your lover whilst a patient, and was most likely in a vulnerable state;
- that her complaint, the prosecution of which you tried to stop, was legitimate (I am not overlooking the fact that the Medical Council dismissed it);
- that you used another patient of yours whom you knew to have been to prison to do violence to this former patient and her family.

You are now 61 years old. You have been struck off the register of medical practitioners because of improper conduct with a female patient – not the complainant.

I accept Mr Hall's submission that prior to 1994 you served society well and do not overlook that you have no relevant prior conviction. I see little parity between you and Mr Kirkland for the purpose of sentence. Indeed, I consider your criminal culpability to be greater than his because he was a vulnerable patient and you instigated the criminal conduct.

There is no evidence of remorse. There are no mitigating features surrounding the commission of the crime.

The orders of the Court are:

- a sentence of 18 months' imprisonment;
- an order that you not be eligible for release on parole until you have served 10 months of that sentence;
- payment of the victims of crime compensation levy within one month; and
- compensation orders in favour of Paul Baylis and Rachael Baylis in sums to be assessed, the assessments adjourned to a date to be fixed.