

CITATION: *Saeed v Medical Board of Australia*
[2026] NTSC 73

PARTIES: SAEED, Muhammad

v

MEDICAL BOARD OF AUSTRALIA

TITLE OF COURT: SUPREME COURT OF THE
NORTHERN TERRITORY

JURISDICTION: APPEAL from NORTHERN
TERRITORY CIVIL AND
ADMINISTRATIVE TRIBUNAL
exercising Territory jurisdiction

FILE NO: 2026-00647-SC

DELIVERED ON: 3 September 2026

HEARING DATE: 24 June 2026

JUDGMENT OF: Burns J

Health Practitioner Regulation National Law (NT) s 193

Northern Territory Civil and Administrative Tribunal Act 2014 (NT)
s 62, s 141, s 141(1), s 141(2), s 141(3)

Gaykamangu v Northern Territory Police [2026] NTSC 20; *Rioli v The King*
[2026] NTCCA 11, referred to

REPRESENTATION:

Counsel:

Applicant:	P Maley
Respondent:	J Stoller

Solicitors:

Applicant:	Maleys Barristers and Solicitors
Respondent:	Minter Ellison

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IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

Saeed v Medical Board of Australia [2026] NTSC 73
No. 2026-00647-SC

BETWEEN:

MUHAMMAD SAEED
Applicant

AND:

MEDICAL BOARD OF AUSTRALIA
Respondent

CORAM: BURNS J

REASONS FOR JUDGMENT

(Delivered 3 September 2026)

- [1] On 28 March 2025 the respondent (the Board) referred a matter involving the applicant to the Northern Territory Civil and Administrative Tribunal (the Tribunal) pursuant to s 193 of the *Health Practitioner Regulation National Law* (NT).
- [2] On 25 February 2026, the Tribunal found that the applicant had engaged in professional misconduct by failing to maintain proper professional boundaries by engaging in a sexual relationship with a patient. The Tribunal made orders reprimanding the applicant, suspending his registration for six months and imposing conditions on his registration. The Tribunal also made two non-publication orders. The first was an order prohibiting publication of

anything tending to identify the patient. The second was an order prohibiting publication of anything tending to identify the applicant for a period of just over one month, being until 27 March 2026.

[3] The Tribunal published reasons for its orders on 25 February 2026.

[4] The applicant seeks leave pursuant to s 141 of the *Northern Territory Civil and Administrative Tribunal Act 2014* (NT) (the Act) to appeal from part of the decision made by the Tribunal. The proposed Notice of Appeal, should leave be granted, identifies the decision from which the applicant seeks to appeal as follows:

The applicant appeals against part of the decision by the Northern Territory Civil & Administrative Tribunal on 25 February 2026 to prevent publication of the decision of any information tending to identify the respondent in the proceedings only until 27 March 2026 (the applicant seeks a permanent nonpublication order).

[5] A party to a proceeding before the Tribunal may appeal to this Court against a decision of the Tribunal on a question of law: s 141(1) of the Act. Such an appeal may be instituted only with the leave of this Court.¹

[6] The powers which this Court has on the hearing of an appeal pursuant to s 141 of the Act are set out in s 141(3) of the Act, and include confirming the decision of the Tribunal, varying the decision or setting aside the decision and either substituting the Court's own decision or remitting the matter to the Tribunal.

¹ Section 141(2) of the *Northern Territory Civil and Administrative Tribunal Act 2014* (NT).

- [7] The grounds of appeal, should leave be granted, are appropriately summarised as a failure by the Tribunal to afford procedural fairness, failing to take into account relevant material, being a report from a psychiatrist, Dr Das, and taking into account an irrelevant consideration, being that BC (the applicant's wife) was not a party to the proceedings before the Tribunal. The report of Dr Das, and the matter on which the applicant submits he was not afforded procedural fairness, relate to the likely effect on BC's mental health if publication of any material was likely to identify the applicant.
- [8] At the hearing of the Board's application on 11 February 2026, the Tribunal observed that there was substantial agreement between the parties as to how the proceedings should be determined and that they had submitted a Statement of Agreed Facts, Findings and Proposed Determinations. The parties were divided on one issue. The Board submitted that the applicant should be reprimanded, identified conditions should be placed on his registration and that he should be suspended from practicing for a period of six months from the date of the Tribunal's orders. The applicant accepted that he should be reprimanded and accepted that the nominated conditions should be imposed but submitted that a period of suspension from practice should not be imposed.
- [9] On 11 February 2026, counsel for the Board made an application for a non-publication order relating to the names of the patients of the applicant referred to in the proceedings before the Tribunal. That was not the only application for a non-publication order before the Tribunal. The transcript of

the proceedings on 11 February 2026 shows that a further issue was raised by Mr Tippet KC for the applicant at the outset of the hearing. Mr Tippet sought that the proceedings be subject to a non-publication order “for an interim period”. Mr Tippet went on to say that he had instructions in relation to the manner in which BC is affected by the proceedings against the applicant and that he sought an interim non-publication order for approximately one month to allow the applicant to put medical reports before the Tribunal.

[10] Thus, there were two applications for non-publication orders before the Tribunal. The Tribunal possessed undoubted power to make the orders sought pursuant to s 62(1) of the Act. The circumstances in which the Tribunal can make such an order are found in s 62(2) of the Act:

- (2) The Tribunal must not do so [make a non-publication order] unless the Tribunal considers that the order is necessary:
 - (a) in the interest of justice; or
 - (b) by reason of the confidential nature of the evidence to be given before the Tribunal; or
 - (c) in order to expedite proceedings of the Tribunal; or
 - (d) for any other reason.

[11] In response to a question from the Chairperson of the Tribunal, Mr Tippet stated that he was instructed that BC suffers from depression of such severity that publication of the proceedings within the small ethnic community in Darwin, of which she is a member, “could cause her serious health and

behavioural problems”. When given the opportunity to respond to

Mr Tippet’s application, counsel for the Board said:

I appreciate Mr Tippet’s position is effectively that he’s got instructions but hasn’t had time to get the evidence together. So yes, but so that can be properly determined really there should be an opportunity to get the evidence together and that’ll have to be determined, I think, at a later date.

[12] In response, Mr Tippet confirmed that he was asking for an interim order to allow him to gather appropriate evidence for an application for a permanent order.

[13] The Chairperson of the Tribunal then stated that the application for an interim order had to be considered in the context where there had been some applications by members of the press for access to information relating to the proceedings. The Chairperson then said:

What I propose to do today is that we’ll make – I’ll make an interim order under s 62 for – against non-publication of anything arising out of this proceeding just while we consider those issues. So it’s not – I’m not saying it’s an interim order for a month at this stage, Mr Tippet... But at least it’ll prevent any publication of what’s happening while the proceedings are on foot and until the Tribunal can make a decision about just how far, if at all, it’s prepared to go in relation to s 62. So we might get you to speak to that again later on, even before we finish the hearing, either today or tomorrow and we’ll consider that. But, in the meantime, we’ll have some discussion amongst the Tribunal members about what we might want to hear about that...

[14] Later the same day, after dealing with the substantive issues in the proceedings, counsel for the Board said to the Tribunal:

I just did want to understand where we are at precisely on the non-publication applications... am I correct in my understanding that there is

a non-publication order applicable to the whole of this proceeding until further order, and that – and that in the sense, there will be an opportunity for Mr Tippet to gather some evidence about harm that might be suffered by [BC], and that we will then get a date... to deal with that.

[15] The Chairperson observed that the Board’s application, for a non-publication order regarding the names of patients, “is reserved for decision already”. The Chairperson then went on to say that he needed to consult with the other Tribunal members, before saying:

So and that’s the basis on which I’m saying at this stage we will just make an interim non-publication order so that while we’re deliberating and working out our position, nothing will be able to be published, and then we will communicate what our position is. *It may be that we allow Mr Tippet the month that he is after. It may be that we – it may be that we don’t.* I don’t know what position we will reach on that at this stage. (Italics added)

[16] On 25 February 2026, the Tribunal published its orders and reasons. In its reasons, the Tribunal stated that “At the hearing the respondent [Dr Saeed] made an oral application seeking an order under section 62 prohibiting the publication of his identity. The application was for an interim order for one month to allow the respondent to gather evidence in support of the substantive application.” The Tribunal noted that on 11 February 2026 it made an order under section 62 prohibiting any publication of the identity of a party or witness. The Tribunal stated that this order was made to preserve the position of the respondent while the Tribunal considered the oral application.

[17] In declining to make an interim order for non-publication of Dr Saeed's identity, the Tribunal said:

The default position under section 61 (sic) of the NTCAT Act is that proceedings are open to the public. While an order prohibiting publication may be made under section 62, the Tribunal may only do so if it considers such an order to be necessary. As has been previously observed, necessity is the touchstone.

The application was effectively made on behalf of the respondent's wife for the purposes of protecting her psychological well-being. No evidence of her psychological condition was provided in support. While we recognise that the purpose of the application for interim orders was intended to allow for evidence to be gathered, these proceedings have been on foot since March 2025. A statement of agreed facts had been drafted by July 2025 and settled by at least 28 August 2025. The respondent has had ample time to gather at least some evidence in support of an interim application under section 62. We are not prepared to make interim orders on the basis of broad submissions from the bar table.

Further, we note that submissions of the respondent filed on 20 August 2025 addressing the question of non-party access to parts of the NTCAT file, also sought non-publication orders. Those submissions were framed largely in terms of the reputational impact on the respondent. The current application has been framed in terms of the respondent's wife who is not a party to this proceeding.

...

The Tribunal declines to make any order under section 62 of the NTCAT Act prohibiting the publication of the name of the respondent.

The Tribunal will, however, delay the publication of this decision to enable the respondent to consider whether or not he will appeal...

[18] The relevant order made by the Tribunal on 25 February 2026 was:

Under section 62 (1) of the *Northern Territory Civil and Administrative Tribunal Act 2014*, publication of this decision or of any information tending to identify (by name or otherwise) the respondent in this proceeding is prohibited until Friday 27 March 2026.

[19] I will pause at this point to make a few observations. The application made by Mr Tippet on 11 February 2026 was for an interim non-publication order for a period of approximately one month to enable the applicant to gather medical evidence in support of the application for a permanent non-publication order. It is tolerably clear from what fell from the Chairperson on 11 February 2026, as set out in the extract at [15] above, that the Tribunal had reserved the question of whether an adjournment of the proceedings for a period of one month as requested by Mr Tippet would be allowed.

[20] The proceedings were nevertheless adjourned for a period of two weeks for the Tribunal to consider the orders that should be made with regard to the substantive proceedings and the application by the Board for a non-publication order regarding the names of patients. Whilst I have sympathy for the frustration expressed by the Tribunal that relevant medical evidence had not already been obtained, finalisation of the proceedings would only have been delayed by a very short period if Mr Tippet's application had been granted. The report from Associate Professor Das is dated 26 February 2026 (one day after the Tribunal published its orders and reasons) and states that BC was seen on 11 February 2026.

[21] By refusing the application for an adjournment, it became likely that the focus of any appeal would be on issues of procedural fairness rather than whether the applicant could identify any question of law relating to the decision whether to make a final non-publication order.

[22] Having refused the application for an adjournment, the Tribunal did not seek to hear from the present applicant regarding what evidence may nevertheless have been available as of 25 February 2026 or what submissions could be made in support of the proposed order. Despite submissions by the present respondent to the contrary, it is clear that the applicant's complaint in the present proceeding is that he was effectively denied an opportunity to be heard by the Tribunal on his application for a permanent non-publication order.

[23] There is no merit in the respondent's submission that the applicant was on notice on 11 February 2026 that the Board may not grant the one-month adjournment sought by Mr Tippet and he should have advanced whatever evidence and submissions that were available to him on that date. The two issues of the application for an adjournment (with an interim non-publication order) and the merits of the application for a permanent non-publication order were quite separate.

[24] In addition, the reference to BC not being a party to the proceedings is cryptic. There is no explanation given by the Tribunal for the relevance of that fact such as to warrant its inclusion in the Tribunal's reasons. It was not contended by the Board in the present proceeding that the Tribunal did not have the power under s 62 to make the order sought because BC was not a party to the proceedings before the Tribunal. Because of the isolated nature of this reference in the Tribunal's reasons, I am unwilling to find that the Tribunal took an irrelevant consideration into account in determining not to

grant the adjournment and to refuse a non-publication order as sought by the applicant.

[25] I make it clear that no error has been demonstrated on the part of the Tribunal in refusing the application for an adjournment with an interim non-publication order as sought by Mr Tippet. There could be no error on the part of the Tribunal by failing to take into account the report by Associate Professor Das because that report was obtained subsequent to the decision of the Tribunal under review. The error made by the Tribunal was in not giving the applicant an opportunity to be heard on his application for a permanent non-publication order after refusing the adjournment.

Did this error constitute a breach of procedural fairness and thus an error of law?

[26] In the recent decision of the Court of Criminal Appeal in *Rioli v The King*² (*Rioli*), the majority of the Court adopted the statement of Brownhill J in *Gaykamangu v Northern Territory Police*³ that “the key to determining whether there has been a breach of the requirement of procedural fairness is to ascertain the consequence of any departure from the dictates of proper procedure because what is ultimately in issue is whether unfairness has resulted from the process, with the concern of the law being to avoid practical, and not merely theoretical, injustice”.

² [2026] NTCCA 11.

³ [2026] NTSC 20 at [65].

[27] In *Rioli* the appellant had been denied an opportunity to make submissions to the sentencing judge regarding the form of sentence to be imposed after a Crown concession that a particular form of sentence would be adequate to meet the needs of sentencing. The majority of the Court of Criminal Appeal held that there had not been a breach of procedural fairness because counsel for the appellant on the appeal could not identify what further material could have been placed before the sentencing judge had trial counsel been given an opportunity to address the issue, resulting in no practical injustice being demonstrated.

[28] In the present case, Mr Tippet had already outlined the basis for the application for a permanent non-publication order to the Tribunal on 11 February 2026. The essential complaint made by the applicant in the present proceedings is that the Tribunal did not have a copy of the report of Associate Professor Das before it when it made its decision not to make a permanent non-publication order. The report was not in existence at that time so it is untenable to suggest that the Tribunal fell into error by not having regard to the report.

[29] The applicant's case in the present proceedings pivots on the decision of the Tribunal not to adjourn the proceedings and make an interim non-publication order to allow the applicant to obtain a medical report to support the application for a permanent order. The decision whether or not to grant the adjournment requested by the applicant was a discretionary decision. To successfully challenge such a decision the applicant must prove that the

Tribunal made an error of material fact, or an error of law, or that the decision was so unreasonable that no reasonable Tribunal would have made the decision. The applicant has not done any of those things in these proceedings.

[30] On the evidence before the Tribunal at the time, the Tribunal was entitled to conclude that the public interest in the record of proceedings of the Tribunal being available to the public required that the orders of the Tribunal and their reasons be published. Individual minds may disagree with the decision of the Tribunal not to grant the adjournment sought by Mr Tippet, but the Tribunal gave rational reasons for refusing the adjournment.

[31] In the present proceedings it has not been suggested that Mr Tippet could have advanced submissions beyond those which he made on 11 February 2026 if given the opportunity to do so on 25 February 2026. The reality was that without medical evidence to support the application for a permanent order the application was bound to fail. It has not been suggested that the applicant had any medical evidence on 25 February 2026 which he could have placed before the Tribunal.

[32] It follows that no practical injustice was occasioned to the applicant by the error on the part of the Tribunal in failing to give him an opportunity to be heard on 25 February 2026 on his application for a permanent non-publication order. There was therefore no breach of the requirements of procedural fairness.

- [33] For these reasons any appeal to this Court as foreshadowed by the applicant must fail. In my opinion, leave to appeal should be refused.
- [34] That is sufficient to dispose of the matter, but I will add the following. Even if I had been persuaded that there had been a breach of the requirements of procedural fairness, I would not have set aside the orders of the Tribunal and made a permanent non-publication order as sought by the applicant.
- [35] I have had regard to the report of Associate Professor Das, and I accept his professional opinion that when he saw BC in February this year BC was suffering from a major depressive disorder linked to the proceedings against the applicant. BC's concerns included reputational damage, financial implications and community pressures that may eventuate if the applicant's name was published in connection with the findings made by the Tribunal.
- [36] Associate Professor Das records that BC had "fleeting suicidal ideas over recent months, without intent, plan, or history of attempts/self-harm". Associate Professor Das identified the main risk to BC if a non-publication order was not made as "deterioration of depressive symptoms" which could exacerbate anxiety, hopelessness and suicidal ideation by financial strain, and community stigma. This may impair her ability to work, support her family, and maintain psychological stability. Associate Professor Das noted that BC has protective factors including strong family support, religious faith and good insight.

- [37] Associate Professor Das recommended a management plan involving a trial of antidepressant medication but noted that BC has declined medication because of concerns about side effects. Associate Professor Das advised BC to reconsider this decision and to discuss the issue with her General Practitioner. In addition, Associate Professor Das strongly recommended that BC be referred to a psychologist for ongoing therapy. Associate Professor Das offered to conduct a review of BC after a period of six to eight weeks to monitor her progress and to adjust her management plan.
- [38] The present proceedings came before me on 24 June 2026, well after the time suggested by Associate Professor Das for a review of BC. No further material was placed before me. It is therefore unknown whether BC acted on the recommendations of Associate Professor Das and, if so, with what results. It is unknown whether BC reconsidered her refusal of antidepressant medication.
- [39] Where the touchstone of the power to make a non-publication order found in s 62 of the Act is necessity, that requirement cannot be met where the basis of the application for the order is the potential for psychological harm to a party or a third party and that person unreasonably refuses treatment recommended to avoid or ameliorate the potential for harm. A mere concern about the possibility of side effects from recommended medication is not a reasonable excuse for not adopting the recommendation.

[40] There are compelling public interest reasons why the name of the applicant should be published in connection with the orders and reasons of the Tribunal. These reasons include:

- a) to facilitate open justice;
- b) to protect the public by providing the public with the right to know of the applicant's disciplinary history before determining whether they wish to be treated by him;
- c) to ensure that the aims of specific and general deterrence which are part of the legislative scheme for disciplinary proceedings are met; and
- d) to provide for public confidence in the safety of services provided by registered health practitioners.

Orders

[41] The application for leave to appeal is refused.

[42] On 20 March 2026 I made an order that the decision of the Tribunal and the name of the applicant not be published until further order of this Court. I now make an order discharging the order which I made on 20 March 2026.

[43] Any application for costs is to be made within 14 days of publication of these orders and reasons.
