

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF a discipline proceeding against Ronald Wayne Archer, a member of the Ontario College of Teachers.

PANEL: Eileen Walker, Chair
Rosemary Fontaine
Jacques Tremblay

BETWEEN:)	
)	
	)	Michael Dunn,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
	)	Ronald Wayne Archer was not
	)	present, nor was he represented
Ronald Wayne Archer)	
(CERTIFICATE # 107845))	
	)	Scott Hutchison,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: February 20, 2006

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (“the Committee”) on February 20, 2006 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing (Exhibit 1)*, dated May 22, 2001 was served on Ronald Wayne Archer, requesting attendance before the Discipline Committee of the Ontario College of Teachers on June 11, 2001 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for February 20, 2006.

The Member did not appear, nor was he represented. Counsel for the College submitted an Affidavit of David E. Leonard (“Leonard”), a partner at McCarthy Tétrault attesting to the fact that the Member’s counsel had been informed of the date of the hearing. The Member’s counsel advised Leonard that his client was aware of the proceeding and that neither his client nor himself would be attending the hearing on February 20, 2006. (*Exhibit 3*)

The Allegations

The allegations against Ronald Wayne Archer (“the Member”) in the *Notice of Hearing* are as follows:

IT IS ALLEGED that Ronald Wayne Archer is guilty of professional misconduct and/or incompetence as defined in sections 30(2) and (3) of the *Ontario College of Teachers Act* (the “Act”), in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) he abused a student or students physically, sexually, verbally, and/or psychologically, and/or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the Act and the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or

the Regulations made under those *Acts*, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);

- (d) he contravened laws and that contravention is relevant to his suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1 (16)
- (e) he committed acts that having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- (f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (g) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the Member is either unfit to carry out his professional responsibilities or that the Member's Certificate should be made subject to terms, conditions or limitations.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Ronald Wayne Archer (the "Member"), is a member of the Ontario College of Teachers.
2. At all material times, the Member was employed by the Waterloo Region District School Board (the "School Board") as a teacher.
3. At all material times [XXX], whose date of birth is [XXX], was a student [XXX] while he was teaching grades [XXX] at [XXX]. [XXX] was in grade [XXX] for the [XXX] school year, when he would have been [XXX] years old.

4. [XXX] was in grade [XXX] during the [XXX] school year, and in grade [XXX] during the [XXX] school year. [XXX] was between [XXX] years of age during those years.

5. Between approximately the spring or summer of 1993 and 18 February 1998, while [XXX] was between [XXX] years of age, the Member committed a series of acts of sexual impropriety on [XXX], at or near [XXX], in the County of Perth, and at other locations in the Province of Ontario.

6. Between 1 July 1993 and 30 September 1993, at or near [XXX], in the County of Bruce, in the Province of Ontario, the Member used a loaded firearm in the course of committing an act of sexual impropriety on [XXX]

7. Between 1 July 1993 and 30 September 1993, at or near [XXX], in the County of Bruce, in the Province of Ontario, the Member threatened [XXX] with death in the course of committing an act of sexual impropriety on [XXX]

8. Between approximately 11 May, 1995 and 18 February, 1998, the Member, who was in a position of trust of authority towards [XXX], who was then between [XXX] years of age, did for a sexual purpose, exploit [XXX] by touching the body of [XXX] at [XXX], in the County of Perth and at other locations in the Province of Ontario, with a part of his body.

9. From 1993 to 1995, the Member met alone with a male student, [XXX], in a closed or locked classroom at his school until he was directed by the principal in November 1995, not to be in a closed room with one student either during or after school hours.

10. Between 1993 and 1998, the Member purchased marijuana in the presence of [XXX] and smoked marijuana with [XXX]

11. Between 1993 and 1998, the Member provided [XXX] with alcohol while [XXX] was a student [XXX].

12. At some time during the late 1980's or early 1990's, the Member watched a pornographic movie at his home with [XXX], a [XXX] old male, who was a grade [XXX] student at [XXX], another school in the Board.

13. Between approximately 1992 and 1995, the Member showered with male students at [XXX], following [XXX], which the Member had [XXX] school, until the school's administration directed him to use a separate shower available to teachers.

14. On or about 24 February, 1998, the Member was charged with one count of sexual assault on [XXX] between March, 1993 and February, 1998, contrary to section 271 of the *Criminal Code of Canada*, one count of sexual exploitation of [XXX], between May, 1995 and February, 1998, contrary to section 153(1)(a) of the *Criminal Code of Canada*, one count of sexual assault with a weapon on [XXX], between July,

1993 and September, 1993, contrary to section 272(1)(a) of the *Criminal Code of Canada*, and one count of uttering a death threat to [XXX], between July, 1993 and September, 1993, contrary to section 264.1(1)(a) of the *Criminal Code of Canada*.

15. On or about 27 October 2000, the Member was convicted of all four counts referred to in paragraph 14 above.

16. On or about 17 January, 2001, the Member was sentenced to a term of four years imprisonment, was banned from possessing firearms, ammunition or explosives for ten years and ordered to [XXX].

17. The Member was terminated for cause by the Waterloo District School Board on 20 November 2000.

18. The details of the Member's sexual and other inappropriate activity with [XXX] are as follows:

- (a) In the spring or early summer of 1993 at the request of the Member, [XXX], who was then approximately [XXX] years old, began [XXX] the Member and his family. On the first occasion that [XXX] was at the Member's home, the Member suggested to [XXX] that they measure each other's penis and proceeded to do so.
- (b) On subsequent visits, the Member began fondling [XXX] and engaged him in mutual masturbation.

- (c) In the summer of 1993, when [XXX] was [XXX] years old, the Member and the student, [XXX], were at [XXX], Ontario. While at the [XXX], the Member, who was carrying a loaded shotgun and [XXX] went into the bush to hunt wildlife. When they were in a clearing in the bush, the Member pulled down his pants and told [XXX] to perform fellatio on him threatening to kill him if he did not. [XXX] then performed fellatio on the Member who ejaculated into [XXX]'s mouth.
- (d) [XXX] was afraid to tell anyone about the incident because the Member threatened to kill him and further reminded [XXX] of the threat.
- (e) During 1994, while [XXX] was [XXX], and continuing in 1995 while [XXX] was XXX], and thereafter until approximately February 1998, the Member engaged in repeated oral sex and anal sex with [XXX] which took place on numerous occasions and at several locations including:
- in the recreation room in the basement of the Member's house and in the Member's [XXX];
 - at the [XXX];
 - at the [XXX] in Toronto and at other hotels;
 - on canoe trips;
 - in cabins at [XXX]; and
 - in a [XXX] owned by the Member.
- (f) In addition, on at least one occasion, the Member engaged in oral sex with [XXX] at [XXX] on a weekend when the Member and [XXX] were in the school setting up for a [XXX] Program and Seminar.

- (g) The Member met alone in a closed or locked classroom with [XXX] at [XXX] until the School Principal directed him in an evaluation report in November, 1995, not to be in a closed room with one student either during or after school hours.
- (h) The Member, who was not a guidance counsellor at [XXX], told Ms [XXX], the mother of [XXX], during the course of an interview, that he, the Member, had permission from the school principal to [XXX], but the principal was not aware that the Member was [XXX] [XXX]
- (i) During a trip to Toronto in January 1998, when [XXX] was [XXX] years old, the Member along with [XXX], purchased marijuana from a dealer on the street. From time to time, the Member smoked marijuana with [XXX] and also provided alcohol to [XXX]
- (j) The Member continued the acts of sexual impropriety on [XXX] after the Member moved to another school in the Board up until approximately February 19, 1998.

19. The aforesaid activities and the publicity resulting from media coverage and communications within the general public has resulted in a reputation, image and lifestyle inconsistent with that expected of a member, and that which would enable the member to discharge the duty of a teacher to the public, the students and to his employer.

At the hearing of the matter, Counsel for the College withdrew the allegations of professional misconduct in paragraph (g) of the *Notice of Hearing* and paragraph 12 of the particulars of the allegations therein.

Publication Ban

On February 20, 2006, the Committee made an order that there be a publication ban on the name of the victim or any information that may disclose the identity of the victim involved in this matter.

Member's Plea

As the Member was not present, nor represented by counsel, the Committee proceeded on the basis that the Member denied the allegations set out in the *Notice of Hearing*. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

The Evidence

Counsel for the College entered into evidence the following additional documents:

Registered Member Information (Exhibit 2)

Ronald Wayne Archer is a member of the Ontario College of Teachers as shown on the *Registered Member Information*.

Brief of Court Documents – Her Majesty the Queen v. Ronald Wayne Archer (Exhibit 4)

A *Brief of Court Documents* with respect to the criminal proceedings against the Member was submitted into evidence. This *Brief* consisted of:

- A. Certified copy of Indictment
- B. Transcript of Trial Proceedings before Mr. Justice R.C. Sills and a Jury, on 27 October 2000

- C. Transcript of Reasons for Sentence delivered by The Honourable Mr. Justice R.C. Sills, on 17 January 2001
- D. Decision of the Court of Appeal for Ontario on appeal by Ronald Wayne Archer from the Convictions entered by Justice Ronald Sills on 28 October 2000; and appeals by Ronald Wayne Archer and the Crown from the sentence imposed by Mr. Justice Sills on 17 January 2001, released on 13 October 2005

The evidence presented in the Court Documents confirms that on or about 7 May 1999, an Indictment was laid against the Member in the Superior Court of Justice setting out the following charges:

- (a) that between 1 March 1993 and 18 February 1998, both dates inclusive, at the [XXX], in the County of Perth and elsewhere in the Province of Ontario, the Member did commit a sexual assault on [XXX], contrary to section 271 of the Criminal Code of Canada;
- (b) that between 11 May 1995 and 18 February 1998, both dates inclusive, at the [XXX], in the County of Perth and elsewhere in the Province of Ontario, the Member, being in a position of trust or authority towards [XXX], a young person, did, for a sexual purpose, touch directly the body of [XXX] with a part of his body, contrary to section 153(1)(a) of the Criminal Code of Canada;
- (c) that between 1 July 1993 and 30 September 1993, both dates inclusive, at the [XXX], in the County of Bruce, in the Province of Ontario, the Member, in committing a sexual assault on [XXX], did use a weapon, to wit: a firearm, contrary to section 272(1)(a) of the Criminal Code of Canada; and
- (d) that between 1 July 1993 and 30 September 1993, both dates inclusive, at the [XXX], in the County of Bruce, in the Province of Ontario, the Member, while armed with a weapon, did knowingly utter a threat to [XXX] to cause death to [XXX], contrary to section 264.1(1)(a) of the Criminal Code of Canada.

A certified copy of the Indictment is attached. (*Exhibit 4, Tab A*)

On or about 27 October 2000, following a trial in the Superior Court of Justice at Kitchener, the Member was found guilty on all four of the above charges. Attached is a

copy of the transcript of the proceedings in the matter of *Her Majesty The Queen. v. Archer* in respect of the finding of guilt of the Member. (*Exhibit 4, Tab B*)

On or about 17 January 2001 the Member was sentenced by Mr. Justice Ronald C. Sills to a total of four years imprisonment. Mr. Justice Sills also made an order under section 109 of the Criminal Code of Canada banning the Member from owning or possessing firearms, ammunition or explosives for a period of 10 years from the date of his release from prison. Further, the Member was ordered to, [XXX]. Attached is a copy of the transcript of the proceedings before Mr. Justice Sills on 17 January 2001. (*Exhibit 4, Tab C*)

The Member appealed the conviction and sentence. The Crown also sought to appeal the sentences imposed by the trial judge. The appeals were heard before the Court of Appeal for Ontario on 6 and 17 June 2005.

On or about 13 October 2005, all of the appeals were dismissed and the Member commenced serving his sentence. Attached is a copy of the Reasons of the Court of Appeal for Ontario with respect to the dismissal of the appeals. (*Exhibit 4, Tab D*)

Decision

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof with which the Committee is familiar as set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Committee, in accordance with the *Bernstein* decision, was a balance of

probabilities with the qualification that the proof must be clear and convincing and based upon cogent evidence accepted by the Committee. The Committee also recognized that the more serious the allegation to be proved, the more cogent must be the evidence. The Committee viewed the allegations in this case to be very serious.

(ii) Decision

Having considered the evidence and onus and standard of proof, and the submissions made by Counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Ronald Wayne Archer committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(16), 1(18) and 1(19).

Reasons for Decision

It is uncontested that, after a trial, on or about October 27, 2000 the Member was convicted of sexual assault, sexual assault with a weapon, sexual exploitation and uttering threats contrary to Sections 271, 272(1)(a), 152(1)(a) and 264.1(1)(a) of the *Criminal Code* (Canada).

It is also uncontested that on or about January 17, 2001, Mr. Justice Sills sentenced the Member to a total of four years imprisonment.

The Member appealed the conviction and sentence and the Crown appealed the sentences imposed by the trial judge. The appeals were heard before the Court of Appeal for Ontario on June 6 and 17, 2005.

On October 13, 2005, all of the appeals were dismissed and the Member commenced serving his sentence. (*Exhibit 4, Tab D*)

Rule 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* states as follows:

13.05 Proof of Prior Conviction or Discharge

13.05(1) Proof that a person has, in proceedings before a court in Canada, been convicted or discharged of an offence following a finding of guilt is proof, in the absence of evidence to the contrary, that the offence was committed by the person, if:

- (a) no appeal of the conviction or discharge was taken and the time for an appeal has expired; or
- (b) an appeal of the conviction or discharge was taken but dismissed or abandoned and no further appeal is available.

13.05(2) Sub-rule (1) applies whether or not the convicted or discharged person is a party to the proceeding.

13.05(3) A certificate of conviction or discharge or certified copy of a Court Information meeting the requirements of sub-section 22.1(3) of the *Evidence Act* (Ontario) shall be accepted by the Discipline Committee as proof that the person was convicted or discharged of the offence for purposes of sub-rule (1).

13.06 Findings of Fact in Prior Proceedings

13.06(1) Where a certificate of conviction or discharge or certified copy of a Court Information has been admitted in evidence under sub-rule 13.05(3), the Discipline Committee shall also admit as ancillary to the certificate of conviction or discharge or certified copy of a Court Information the specific findings of fact contained in the court's reasons for judgment or reasons for sentence, which findings of fact are proof, in the absence of evidence to the contrary, of the facts so found.

Having no evidence to the contrary, the Committee accepts as proof that the Member was convicted of sexual assault, sexual assault with a weapon, sexual exploitation and uttering

threats, and that he was sentenced to four years imprisonment for such conduct. All of these criminal acts were perpetrated against [XXX], a student [XXX].

The Committee finds that the Member breached the standards of the profession and breached section 264 (1) (c) of the *Education Act* and Ontario Regulation 437/7, subsection 1(5), 1(14) and 1(15) by his acts of sexual assault, sexual exploitation, sexual assault with a weapon and uttering threat to cause death against [XXX], who was a minor when these assaults occurred.

The Committee also finds that the Member's sexual abuse of [XXX] is contrary to Ontario Regulation 437/97, subsection 1 (7) and (18) and as such the Member engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable and unprofessional.

The Committee finds that by sexually assaulting [XXX], the Member contravened laws relevant to his suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16) and engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

Penalty

Counsel for the College submitted that the appropriate penalty be as follows:

1. revocation of the Member's certificate of qualification and registration; and
2. publication of the findings of the Discipline Committee, with the name of the Member in *Professionally Speaking/Pour parler profession*.

Penalty Decision

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Member's certificate of qualification and registration, which the Member is to surrender immediately to the Registrar.
2. Pursuant to Section 30 (5) (3) of the Ontario College of Teachers Act, the findings and order of the Committee shall be published in summary, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Reasons for Penalty Decision

The Member was an elementary school teacher who was convicted of sexual assault, sexual assault with a weapon, sexual exploitation, and uttering threats against [XXX], a student [XXX]. The Member had become [XXX]'s [XXX] in 1992. The Member approached [XXX]'s mother for permission [XXX] him for perceived bad behaviour, suggesting to her that he believed [XXX] had been sexually abused previously. She apparently felt that the Member would provide [XXX] and be a [XXX] on [XXX] (*Exhibit 4, Tab C*). On the contrary, the Committee finds that he exploited the situation and rather than being a positive influence on [XXX], he was in fact the opposite. He caused [XXX] great emotional and psychological harm.

(*Exhibit 4, Tab C*)

The Committee finds this conduct to be particularly heinous, given the age and vulnerability of the victim. In fact, these assaults began when [XXX] was [XXX] years old. On one particular occasion in 1993, shortly after the sexual abuse began, the Member held a loaded gun to [XXX]'s head, demanded and received oral sex, and threatened to kill [XXX] if he said anything about the incident. The Member continued to sexually abuse [XXX] from 1993 until 1998 on numerous occasions and in various locations.

The Member throughout the criminal proceedings denied the charges against him. At no time did the Member accept responsibility for his actions, resulting in a lengthy judicial process for his victim.

There has been substantial media coverage of this case, locally and provincially, resulting in a reputation which portrays an image and lifestyle inconsistent with that expected of a member and contrary to the ethical standards and standards of practice for the teaching profession. (*Exhibit 5 – Examples of Media Reports*)

The Member's actions violate the trust placed upon a teacher. He abused the power and trust vested in him in his role as a teacher by fostering a sexual, emotional, psychological, and physically abusive relationship with a student for his own sexual gratification.

The penalty must meet the objective of general deterrence to the members of the profession as well as the objective of specific deterrence to the Member. For all of the above reasons, the Committee determined that revocation of the Member's certificate of

qualification and registration and publication of the findings and order of the Committee, with the name of the Member, in *Professionally Speaking/Pour parler profession* was appropriate.

The Committee is satisfied that this decision serves and protects the public interest.

Dated: February 20, 2006

Eileen Walker
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel