

**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 Danny Donato Ciarmoli, a member of the Ontario College of Teachers.

PANEL: Annilee Jarvis, Chair
 Dean Favero
 John Tucker

BETWEEN:)	
)	
	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
DANNY DONATO CIARMOLI	)	Simon Blackstone,
(CERTIFICATE #214209)	)	Green & Chercover,
	)	for Danny Donato Ciarmoli
)	
)	
	)	Paul Le Vay,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: September 12, 2007

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on September 12, 2007 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated January 19, 2006, was served on Danny Donato Ciarmoli, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on February 20, 2006 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for September 12, 2007.

Danny Donato Ciarmoli was in attendance at the hearing.

THE ALLEGATIONS

The *Notice of Hearing*, (*Exhibit 1*) sets out the following allegations:

IT IS ALLEGED that Danny Donato Ciarmoli is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (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, psychologically 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 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);
and

- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19).

At the hearing on September 12, 2007 College counsel sought to withdraw the particular allegation contained in paragraph (b) of the *Notice of Hearing*, being an alleged breach of Ontario Regulation 437/97, subsection 1(7). The Committee agrees that this allegation shall be withdrawn.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced an *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty (ASF – Exhibit 2)*.

The Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty provides as follows:

1. Danny Donato Ciarmoli (the “Member”) is a member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information in respect of the Member.
2. At all material times, the Member was employed by the Hamilton-Wentworth District School Board (the “Board”) as a teacher at [REDACTED] (the “School”) in Hamilton.
3. In some parts of North America, including Hamilton, the night of October 30 which immediately precedes Halloween in each year, is called Devil’s Night. On that evening, youngsters play pranks on their neighbours such as ringing doorbells and

running away, soaping windows, decorating trees with toilet paper and occasionally throwing eggs at houses.

4. During the 2004-2005 school year, [REDACTED] was a [REDACTED] year old grade [REDACTED] male student at the School. Although he was known to the Member, [REDACTED] was not a student of the Member.

5. In [REDACTED], when [REDACTED] was a student of the Member at the School, the Member told students in that class that if they were successful in getting their [REDACTED] assignment into his mail box on Devil's Night, they would get bonus marks. [REDACTED] participated in this challenge and had fun in doing so.

6. In October 2004, [REDACTED], a friend of [REDACTED], was in the Member's class at the school.

7. By approximately 9:00 p.m. on the night of 30 October 2004, the houses of the Member and a neighbour had been struck repeatedly by eggs and shots fired from a paint ball gun. The Member reported this damage to the police and attempted to wash off his house with a power washer before the paint dried. The Member also reported the damage to the police.

8. At approximately 10:00 pm. on the night of 30 October 2004, [REDACTED] and [REDACTED] approached the Member's house.

9. At about 10:30 p.m., the wife of the Member heard a loud clattering noise from the back of their home and saw two individuals jumping over the fence which divided

the Member's property from the property behind it. Mrs. Ciarmoli then went to the front of the house and informed the Member, as well as several other neighbours who were cleaning the exteriors of their houses, that individuals were moving from backyard to backyard. After a search of the backyards, the Member pursued a trespasser to the nearby parking lot of a [REDACTED] store which parking lot is close to the residential properties. The Member had no knowledge as to who the trespasser was and no knowledge that the individual trespassing in his backyard was a student of the school.

10. The [REDACTED] store, with its parking lot, is located at [REDACTED].

11. The Member resides on a [REDACTED] which runs [REDACTED] which at that point is parallel to [REDACTED]. [REDACTED] then turns east where it forms a junction with [REDACTED]. The distance from the Member's home to the [REDACTED] parking lot by proceeding along [REDACTED] is approximately [REDACTED].

12. When the Member approached the person whom he thought was the trespasser in the parking lot, the Member recognized him as [REDACTED] [REDACTED] was badly winded and bent over from lack of breath. When the Member asked [REDACTED] how he was, [REDACTED] replied that he felt that he was going to be sick. By that time, [REDACTED] had gone home and had no further involvement in the matter.

13. There were about three or four cars in the [REDACTED] parking lot. The Member observed that [REDACTED] was carrying a backpack which was partially open. The backpack

was found to contain a carton of eggs with several of the eggs missing. The Member asked [REDACTED] if he had thrown eggs at his house but [REDACTED] maintained that he had not.

14. A group of approximately twelve persons, including youngsters, who lived in the neighbourhood of the Member gathered around the Member and [REDACTED]. The Member then left the immediate vicinity of the parking lot so as to find a garbage can in which to dispose of the eggs. He did not ask [REDACTED] to accompany him.

15. The Member proceeded around the side of the [REDACTED] store and eventually found a garbage can where he threw away the eggs. When he returned to the scene, he heard the sound of a scuffle and saw [REDACTED] on the ground with a crowd of onlookers dispersing. [REDACTED] had apparently been assaulted by someone who threw an egg or eggs at him. [REDACTED] had also been grabbed by the hair and was told to stay away from the area. Further, [REDACTED] was struck in the face by one or more of the persons who were present. [REDACTED] sustained injuries to his neck and face area. A photograph of [REDACTED] showing the injuries to his neck and face is attached as **Exhibit "B"**.

16. The Member has no personal knowledge of that assault but was subsequently informed as to what took place. The Member was not involved in the assault of [REDACTED] and was not present when [REDACTED] was assaulted.

17. After the other persons had left the parking lot, the Member inquired of [REDACTED] whether [REDACTED] required any assistance. Further, the Member asked [REDACTED] if he wished the Member to take him home or to call the police, but those suggestions were rejected by

[] who told the Member that he wanted to be left alone and did not wish any assistance.

18. The Member then returned to his residence without having sought any assistance for [] or having attempted to communicate with []'s parents.

19. [] then walked to his home which is at least [] kilometre away from the [] parking lot.

20. The incident was reported to the Hamilton Police and no charges were laid against any person.

21. Following an investigation by the Board, the Member was transferred to another school.

22. [] has had recurrent problems as a result of the assault, and has been seen by a physician. He has also been having difficulty in school.

GUILTY PLEA

23. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 22 above (the "Admitted Facts"). The Member hereby acknowledges that his actions as described in paragraph 18 of the Admitted Facts constitute conduct that is unprofessional and unbecoming a member. In particular the Member recognizes that after he became aware of the assaults on [], he ought, prior to returning to his residence, to have taken steps to notify the appropriate authorities

and/or []'s parents as to what had taken place and of []'s condition, despite [] having declined any assistance from the Member. The Member also acknowledges that he failed to maintain the standards of the profession. Accordingly, the Member pleads guilty to allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97 s.1 (5) (14) (15) (18 - unprofessional) and (19).

24. The Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he understands that by pleading guilty to the allegations, he is waiving the right to require the College to prove the case against him and the right to have a hearing;
- (c) he voluntarily decided to plead guilty; and
- (d) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally and with the advice of legal counsel.

25. In light of the Admitted Facts, facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

JOINT SUBMISSION ON PENALTY

26. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee:

- (a) direct the Member to immediately appear before the Committee to be admonished, and the fact of the admonishment to be recorded on the Register of the Ontario College of Teachers; and

- (b) direct that there be publication of the findings and Order of the Committee, without the name of the Member, in summary form in the official publication of the College, *Professionally Speaking/Pour parler profession*.

27. By this document, the Member acknowledges his understanding that any agreement between the College and the Member with respect to the penalty proposed in this document does not bind the Discipline Committee.

DECISION

Having examined the Exhibits filed, and based on the plea of guilt, the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Danny Donato Ciarmoli committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5) 1(14) 1(15) 1(18 - unprofessional) and 1(19), as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member pleaded guilty and acknowledged that his actions as described in paragraph 18 of (the “Admitted Facts”) of the *Agreed Statement of Facts, Guilty Plea, and Joint Submission on Penalty* (ASF - Exhibit 2) constitute conduct that is unprofessional and unbecoming a Member. The Committee accepted the Member’s guilty plea and the *Agreed Statement of Facts, Guilty Plea, and Joint Submission on Penalty*.

Teachers are expected to maintain the standards of the profession at all times, thereby ensuring the welfare of students whether within or outside the school setting. The Member acknowledged that despite the fact that the student had declined his offer of assistance, he failed to take steps to notify the appropriate authorities and/or the student's parents as to what had taken place and of the student's condition. The Member failed to maintain the standards of the profession and did not comply with the Education Act by this disregard for the welfare of the student.

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

1. The Member is required to appear before the Committee immediately following the completion of the hearing in this matter, to be admonished, and the fact of the admonishment is to be recorded on the Register of the Ontario College of Teachers; and
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, without the name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession.*

REASONS FOR PENALTY DECISION

The admonishment acts as a specific deterrent to the Member and reminds him of his responsibility to maintain the highest standards of the profession and not to engage in conduct unbecoming a member.

Both parties submitted that the name of the Member should not be published. The Committee agreed. In this case, publication of the findings in summary without the name of the Member serves as a general deterrent to the profession and protects the public interest.

Date: October 4, 2007

Annilee Jarvis
Chair, Discipline Panel

Dean Favero
Member, Discipline Panel

John Tucker
Member, Discipline Panel