

**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 Piero
Cirilli, a member of the Ontario College of Teachers.

PANEL: Bernard J. Adam, Chair
 Rosemary Fontaine
 Diane Leblovic

BETWEEN:)	
)	
)	David Leonard, McCarthy
)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS)	Teachers, assisted by Trevor
)	Evans, Senior Law Clerk
- and -)	
)	
PIERO CIRILLI)	Piero Cirilli was not present,
(CERTIFICATE #242909))	nor was he represented.
)	
)	Nancy J. Spies, Stockwoods,
)	Independent Legal Counsel
)	
)	Heard: October 20, 2003

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee on October 20, 2003 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated July 4, 2003 was served on Piero Cirilli, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 17, 2003 to set a date for a hearing, and specifying the charges.

Piero Cirilli was not in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. (Exhibit 1)

The Allegations

The allegations in the Notice of Hearing include allegations of both professional misconduct and incompetence against the Member. The allegations arose as a result of the Member sexually assaulting a fifteen-year-old male student in the student's home, while the Member was there for the purpose of private tutoring.

IT IS ALLEGED that Piero Cirilli, is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the Act, and/or is incompetent as defined in section 30(3) of 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 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);
- (g) he engaged in sexual abuse of a student or students of a nature defined in Sections 1 and 40(1.1) of the Act; and
- (h) 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.

At the hearing of this matter, College Counsel withdrew the allegations in section 30(3) of the Act in that the Member 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.

Publication Ban

October 20, 2003, the Panel made an order that there be no publication of any information that may disclose the identity of the student involved in this matter.

Member's Plea

The Member pleads guilty to the allegations in numbered paragraphs (a) through (h) in the *Notice of Hearing* by way of a guilty plea in the *Agreed Statement of Facts and Guilty Plea*. (Exhibit 4).

Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced an *Agreed Statement of Facts and Guilty Plea*, dated August 21, 2003 that provides as follows:

1. Piero Cirilli, (the "Member") was at all material times a member of the Ontario College of Teachers. Attached hereto at Tab "A" is a copy of the Ontario College of Teachers Registry Status Information re the Member.
2. At all material times the Member was employed by the York Catholic District School Board as a teacher at a secondary school (the "School").
3. During the 2000-2001 school year, a [XXX] year-old male student (the "Student") was [XXX] at the School. In addition, the Member had been employed as [XXX] since approximately December 1999.
4. On or about 20 December 2000 the Member, while at the home of the Student for the [XXX], began to massage the Student's shoulders. The Student was immediately uncomfortable, stood up and went downstairs at which time he was followed by the Member. The Member then approached the Student from behind and sexually assaulted the Student by fondling his penis and attempting to perform fellatio on the Student.
5. On or about 29 November 2001, the Member pleaded guilty to a charge that on 20 December 2000, at the [XXX], in the Regional Municipality of York, being in a position of trust or authority towards the Student, a young person, did for a sexual purpose touch directly the body of the Student, a young person, with a part of his body, contrary to Section 153(1)(a) of the *Criminal Code of Canada*, and was found guilty of that charge. A certified copy of Information No. 00-07092, which shows the details of the above charge as well as the details of the sentence imposed on the Member is attached hereto at Tab "B."

6. On or about 23 July 2002, the court imposed a conditional sentence of fourteen months on the Member, following which he was to be placed on probation for a period of two years during which he was ordered, *inter alia*, not to:
 - (a) associate or communicate directly or indirectly with the Student or any members of the Student's immediate family or attend at or within one-half mile of any direction of the Student's home;
 - (b) teach or tutor any person under the age of eighteen years;
 - (c) seek, obtain or continue any employment which would involve trust or authority towards a person under eighteen years of age;
 - (d) volunteer in any capacity which would involve trust or authority towards a person under eighteen years of age;
 - (e) be alone in the presence of anyone under the age of eighteen years of age, except his own children, without another adult being present;
 - (f) own, possess or carry any firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substances;
7. Copies of the transcripts of the proceedings on finding of guilt and sentencing respectively are attached at Tabs "C" and "D."
8. The court also ordered that the Member be prohibited from possessing any weapon for a period of five years in accordance with section 110 of the *Criminal Code of Canada*. Further, the Member was ordered by the court to [XXX]. Attached hereto at Tabs "E" and "F" are copies of the conditional sentence order and probation order.
9. The Member has not appealed either the conviction or sentence referred to in the preceding paragraphs.

10. The Member was suspended by the Board on or about 21 December 2000, and retired from the Board on or about 16 November 2001.

By this document, the Member, Piero Cirilli, accepts that the matters referred to in paragraphs 4 and 5 above constitute professional misconduct and pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), 1(7), 1(14), 1(15), 1(16), 1(18), and 1(19). Further, the Member pleads guilty to engaging in sexual abuse of a student of a nature defined in sections 1 and 40(1.1) of the *Ontario College of Teachers Act*. In addition, the Member accepts that by engaging in the matters referred to in paragraph 4 above, 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 he is unfit to carry out his professional responsibilities.

In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member ask that the Discipline Committee find the Member guilty of professional misconduct and direct the Registrar of the Ontario College of Teachers to immediately revoke the Member's Certificate of Qualification and Registration, which the Member is to immediately surrender to the Registrar of the Ontario College of Teachers. Further, the Ontario College of Teachers and the Member, ask that the decision of the Discipline Committee, and its findings, be published in the official publication of the Ontario College of Teachers.

Decision

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts and Guilty Plea* and the submissions made by counsel, the Committee accepts the guilty plea and finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Piero Cirilli 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); and he engaged in sexual abuse of a student or students of a nature defined in Sections 1 and 40(1.1) of the Act; and 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 unfit to carry out his professional responsibilities.

The Committee accepts the withdrawal of section 30(3) of the Ontario College of Teachers Act by College Counsel.

Penalty Decision

The Committee agrees with College Counsel that the conduct of the Member was an egregious breach of trust for a classroom teacher, and was aggravated by the trust the parents put in him to [XXX]. The Committee finds this conduct reprehensible.

The Committee accordingly directs the Registrar of the Ontario College of Teachers to revoke the certificate of qualification and registration of Piero Cirilli, which certificate the Member is to immediately surrender to the Registrar.

The Panel accepts the joint submission on penalty as it serves to protect the public interest.

The Panel is of the view that it is important to the College's role in the governance of the profession to provide evidence to members that the College is active in self-regulation and is vigilant to breaches of its regulations, bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's Discipline Committee, and is, in the opinion of the Panel, a practice that has significant general deterrent value.

Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the Member, be published in summary in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession*.

Date: November 7, 2003

Bernard J. Adam
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Diane Leblovic
Member, Discipline Panel