

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS AND ORDERS**

*IN THE MATTER OF THE ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:*

**AND IN THE MATTER OF** discipline proceedings against Nicholas Coccimiglio.

The Discipline Committee held a hearing on June 5, 2002,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**NICHOLAS COCCIMIGLIO  
CERTIFICATE #268799**

**PRESENT:**

Members of the Panel  
Mark Lefebvre (Chair)  
Sterling Campbell  
Diane Leblovic

The Honourable Robert Montgomery, retired judge, Independent Counsel to the Panel

David Leonard, McCarthy Tétrault, Counsel for the Ontario College of Teachers,  
assisted by Trevor Evans, Senior Law Clerk

The member did not attend, nor was he represented.

This decision is subject to a publication ban. On June 5, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the female victims involved in this matter.

A Notice of Hearing dated January 31, 2002 was served on Nicholas Coccimiglio, requesting attendance before the Discipline Committee of the Ontario College of Teachers on February 25, 2002 to set a date for hearing, and specifying the charges. The hearing date was eventually set for June 5, 2002.

It is alleged that Nicholas Coccimiglio is guilty of professional misconduct in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1 (5);
- (b) he failed to comply with the Act or the *Education Act*, Revised Statutes of Ontario, 1990, c.E2 and particularly, section 264(1)(c) thereof or the regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);
- (c) he contravened laws, the contravention of which is relevant to the member's suitability to hold a Certificate of Qualification and Registration contrary to Ontario Regulation 437/97, subsection 1 (16);
- (d) he performed acts or omissions 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).

The Notice of Hearing (Exhibit #1A) states that Nick Coccimiglio is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On June 5, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Nick Coccimiglio was guilty of professional misconduct.

The member was not in attendance at the hearing, nor was he represented by counsel. Proof of service of the Notice of Hearing was presented and accepted by the panel (Exhibit #1).

An Agreed Statement of Facts, signed by the member and College Counsel was presented as Exhibit #2 (attached).

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that Nick Coccimiglio is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1 (5), (14), (15), (16), (18) and (19).

Counsel presented the Affidavit of Service (Exhibit #1) which, along with the Notice of Hearing (Exhibit #1A), was sent by registered mail to the member's last known address.

An Agreed Statement of Facts was filed as Exhibit #2. That statement had been signed by L. Thomas Forbes, Q.C., Counsel for the Ontario College of Teachers and by Nicholas Coccimiglio. The Committee noted that the member's signature on the document was not witnessed. College Counsel presented to the panel Exhibit #3, an envelope from the member, which was sent to McCarthy Tetrault and had included the Agreed Statement of Facts.

Counsel presented evidence that Nick Coccimiglio is a member of the Ontario College of Teachers (Exhibit #4). At all material times, the member was employed by the Simcoe-Muskoka Catholic District School Board and the Peterborough Victoria Northumberland and Clarington Catholic District School Board as a probationary teacher.

#### **FINDINGS OF FACT:**

Based on the Agreed Statement of Facts, the panel finds the following facts:

- (1) Nick Coccimiglio is a member of the Ontario College of Teachers.
- (2) Between November 26, 1998 and August 1, 1999, the member was employed by the Simcoe-Muskoka Catholic District School Board.
- (3) The member was employed on November 26, 1998, by the Simcoe-Muskoka Catholic District School Board as a full time teacher at [XXX]. He was placed on an initial probationary period of one year, which was extended in March 1999, to end on April 25, 2000.

- (4) At all material times, Female Victim #1 was a member of the Ontario College of Teachers and was employed as a teacher by the Simcoe-Muskoka Catholic District School Board.
- (5) On or about April 16, 1999, the member was charged that on or about April 11, 1999, at the [XXX], Ontario, he did commit an assault on Female Victim #1, contrary to section 266 of the *Criminal Code of Canada*.
- (6) The trial of the member with respect to the charges and set out in paragraph 5 above, was scheduled to take place on November 16, 1999.
- (7) The member submitted his resignation to the Simcoe-Muskoka Catholic District School Board effective August 1, 1999.
- (8) On or about August 18, 1999, the Peterborough Victoria Northumberland and Clarington Catholic District School Board offered employment to the member commencing on September 1, 1999.
- (9) Between September 1, 1999, and December 15, 1999, the member was employed by the Peterborough Victoria Northumberland and Clarington Catholic District School Board as a probationary teacher.
- (10) The member was assigned to [XXX], at which Female Victim #2, who is a member of the Ontario College of Teachers, was also employed as a teacher by the Peterborough Victoria Northumberland and Clarington Catholic District School Board.
- (11) On or about November 16, 1999, the member pleaded guilty before the Ontario Court of Justice at [XXX], Ontario, to the charge of assault in respect of Female Victim #1 laid on April 16, 1999, and referred to in paragraph 5 above. He was give a conditional discharge with probation for eight months with all the

- statutory terms and including counselling and anger management. The Court ordered that he have no contact directly or indirectly with Female Victim #1 or members of her immediate family. The Court also imposed an Order for a period of five years prohibiting the member from having in his possession any firearm, ammunition, explosive substance or crossbow.
- (12) On or about November 25, 1999, the member was charged by the [XXX] Police Service in respect of incidents involving Female Victim #2 between November 5, 1999 and November 23, 1999.
- (13) As a result of an investigation by the Peterborough Victoria Northumberland and Clarington Catholic District School Board into those charges, it was found that the member had also been charged earlier in 1999, and had pleaded guilty, in respect of a similar offence against a teacher who was employed by the Simcoe-Muskoka Catholic District School Board, while the member was a probationary teacher with that Board, as set out in paragraphs 5 and 11 above. Consequently, the member was dismissed from his employment with the Peterborough Board effective December 14, 1999.
- (14) On or about April 27, 2001, the member pleaded guilty to a charge that between November 1, 1999 and November 23, 1999, at the town of [XXX] he did, without lawful authority, engage in conduct which caused Female Victim #2 to fear for her safety, contrary to section 264 of the *Criminal Code of Canada*. He was given a conditional sentence of six months, followed by probation for eighteen months with all the statutory terms, as well as counselling by Dr. Peter Barnett, or such other person as directed by the supervising probation officer. He was also prohibited from having any direct or indirect contact with Female Victim #2.

## **DECISIONS AND ORDERS:**

Based on the Agreed Statement of Facts, submissions made by Counsel and having examined the exhibits filed, the Committee finds Nicholas Coccimiglio guilty of professional misconduct under subsections 1 (5), (14), (15), (16), (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke Nicholas Coccimiglio's Certificates of Qualification and Registration immediately.

The Committee also directs that the member cannot apply for reinstatement for a period of five years from the date of this written decision.

### **Notice**

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 bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, 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 the official publication of the Ontario College of Teachers, *Professionally Speaking/Pour parler profession*.

The Committee also orders that in any publication, whether that of the College or in any media, that the names of the female victims not be published and that they may only be identified as Female Victim #1 and Female Victim #2.

**DATED AT TORONTO, THIS 6th DAY OF JUNE, 2002  
BY ORDER OF THE DISCIPLINE COMMITTEE**

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Mark Lefebvre, **Chair**

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Sterling Campbell

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Diane Leblovic