

**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 Kristian Kyle Coulombe, a member of the Ontario College of Teachers.

PANEL: Rosemary Fontaine, Chair
 Jacques Tremblay
 John Tucker

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
KRISTIAN KYLE COULOMBE)	)	Kristian Kyle Coulombe was not
(CERTIFICATE #285558)	)	present, nor was he represented
)	
)	
	)	Christopher Wirth
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: August 18, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on August 18, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated February 5, 2007 (Exhibit 1) was served on Kristian Kyle Coulombe (the “Member”), providing him with notice that the Discipline Committee of the Ontario College of Teachers would meet on February 12, 2007 to set a date for a hearing, and specifying the charges. The Member did not attend on February 12, 2007. The Discipline Committee set August 18, 2008 as the date for the hearing on the merits.

The Member did not appear at the hearing, nor was he represented by counsel. The College tendered as Exhibit 2 a letter dated July 28, 2008 from the Member to Trevor Evans of McCarthy Tétrault LLP. In this letter, the Member indicates that he does not wish to participate in the hearing and will not be appearing for the hearing as scheduled for August 18, 2008. The Member also indicates he wishes to proceed with a plea of “not guilty”.

THE ALLEGATIONS

The *Notice of Hearing* sets out the following allegations:

IT IS ALLEGED that Kristian Kyle Coulombe is guilty of professional misconduct as defined in sections 30(2) and 40 (1.1) 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, 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 a law, 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);
- (e) he contravened a law, the contravention of which has caused students under the Member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (f) 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);
- (g) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (h) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Kristian Kyle Coulombe (the "Member") is a member of the Ontario College of Teachers.
2. At all material times the Member was employed as a high school teacher by the Grand Erie District School Board (the "Board") and was assigned to [XXX].
3. During the 2002-2003 academic year, A was a [XXX].

4. Between the months of January and February 2003, the Member engaged in acts of inappropriate conduct towards A which included:

- (a) sexual assault;
- (b) invitation to sexual touching; and
- (c) sexual interference.

5. On or about 21 March 2005, the Member was charged with four counts of sexual assault and four counts of sexual exploitation in respect of A, contrary to the *Criminal Code* (Canada).

6. On or about 6 April 2006, and subsequently, further charges were laid against the Member including several additional counts of sexual assault, sexual exploitation and sexual interference in respect of approximately seven other female students of the Board, contrary to the *Criminal Code* (Canada).

7. On or about 21 December 2006, the Member was found guilty in the Superior Court of Justice of five counts each of sexual assault and sexual exploitation. The Member is to be sentenced on 7 February 2007.

8. As a result of the criminal charges laid against the Member, the Member was suspended with pay by the Board.

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. In addition, the Member, in his letter dated July 28, 2008 (Exhibit 2) indicated he wished to plead “not guilty”.

PUBLICATION BAN

The Committee recognizes and extends the publication ban imposed by the Superior Court of Justice of Ontario and the Court of Appeal of Ontario pursuant to Sections 486.4 (1) and 486.4 (2) of the *Criminal Code*. There shall be no publication of any information that would identify the witnesses or victims involved in this matter.

THE EVIDENCE

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

Registered Member Information

Kristian Kyle Coulombe is a member of the Ontario College of Teachers as shown on the *Registered Member Information*. (Exhibit 3)

Brief of Court Documents – Her Majesty the Queen v. Kristian Kyle Coulombe (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 dated April 12, 2006
- B. Transcript of Reasons for Judgment of the Honourable Mr. Justice J.R. Turnbull on December 21, 2006
- C. Transcript of Reasons for Sentence before the Honourable Mr. Justice J.R. Turnbull on February 21, 2007

- D. Certified copy of Order [XXX] dated February 21, 2007
- E. Certified copy of Order [XXX] dated February 21, 2007
- F. Certified copy of Prohibition Order Imposed at Sentencing dated February 7, 2007
- G. Endorsement of Court of Appeal for Ontario dated April 25, 2008 with Warning regarding Order restricting publication
- H. Certified copy of Order of Mr. Justice James Turnbull dated June 2, 2008.

The Member was charged with five counts of sexual assault against five different complainants, contrary to Section 271 of the *Criminal Code* (Canada). He was also charged with respect to the same complainants, with five counts of sexually touching a young person for a sexual purpose, while in a position of trust or authority or power, contrary to Section 153 (a) of the *Criminal Code* (Canada). After a trial, the Member was convicted on December 21, 2006 of five counts each of sexual assault and sexual exploitation.

On February 21, 2007, the Member was sentenced to four years imprisonment in a federal penitentiary. He was ordered to [XXX] and to [XXX]. (Exhibit 4, Tab E)

The Member appealed both the convictions and sentence and this appeal was heard on April 21, 2008 and denied by the Court of Appeal on April 25, 2008. (Exhibit 4, Tab G)

DECISION

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof 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 considered the allegations in this case to be very serious and assessed the evidence on that basis.

(ii) Decision

Having considered the evidence, 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 Kristian Kyle Coulombe committed acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14), 1(15), 1(16), 1(17), 1(18) and 1(19). Further, the Committee finds that the Member engaged in sexual abuse of a student of a nature defined in sections 1 and 40 (1.1) of the *Act*.

REASONS FOR DECISION

Rules 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* allow the Committee to accept as proof that an offence was committed by a person, where there is a finding of guilt and conviction in a Canadian court, provided that there is no evidence to the contrary and that no appeal has been granted.

In absence of evidence to the contrary, the Committee accepts the specific findings of fact contained in the *Brief of Court Documents* (Exhibit 4) that on or about December 21, 2006 the Member was found guilty of five counts of sexual assault against five different complainants, contrary to Section 271 of the *Criminal Code* (Canada) and found guilty of five counts of sexually touching a young person for a sexual purpose, while in a position of trust or authority or power, contrary to Section 153 (a) of the *Criminal Code* (Canada).

The Committee finds that the Member's convictions for sexual assault and sexual touching as outlined herein constitutes acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(7), 1(14) and 1(15) and that he engaged in sexual abuse of a student of a nature defined in sections 1 and 40 (1.1) of the *Act*.

The Member's criminal convictions demonstrate that his actions contravened laws. These contraventions are relevant to his suitability to hold a Certificate of Qualification and Registration and have caused a student to be put at risk, pursuant to Ontario Regulation 437/97, subsections 1(16) and 1(17).

The Member's conduct was disgraceful, dishonourable, unprofessional and unbecoming a member contrary to Ontario Regulation 437/97, 1(18) and 1 (19).

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 Certificate of Qualification and Registration of the Member, which Certificate the Member is to surrender immediately to the Registrar; 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, with the name of the Member in the official publication of the College, *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY DECISION

The assaults cover a four year period from 1999 to 2003, when the complainants were young, teenage girls between [XXX] years of age.

The Member was certified as a teacher in June 1998. (Exhibit 3). The Member was hired as replacement teacher in an elementary school in the second semester of the 1998-1999 school year. (Exhibit 4, Tab B, page 53). During that semester the Member engaged in sexual conversations and sexual assault of his [XXX].

The Member's predatory behaviour continued throughout his career. There was a pattern of grooming the victims which resulted in a breach of trust to the victims, their parents, the employer, and the Member's profession and to the community.

There was sexual intimacy between the Member and the victims while they were students and he was a teacher in their elementary or high school. The Member used the school as a recruiting ground to lure students who were young, trusting and emotionally susceptible into increasingly intense forms of sexual activity for his own gratification. The activities involved one or more students at a time. They consisted of oral sex performed on the Member by the victims, sexual intercourse, and attempted anal sex. These acts occurred in the school, in the classroom, in cars and in the Member's home.

There was a significant element of predatory behaviour in the conduct of the Member. He wore the mask of trust and authority to gain the confidence of these young victims. Without the mask, he would not have been in a position to commit these offences.

As a result of the criminal proceedings, the Member was incarcerated, ordered to [XXX], to [XXX], and to [XXX].

The entrustment of children to teachers is a sacred trust. Teachers must not breach that trust. The fact that the Member used his position of trust in order to create a long term pattern of abuse, control and sexual exploitation of his students requires that he receive the maximum penalty, revocation of his certificate of qualification and registration. The Member has brought the profession into disrepute and has lost the trust of the public.

Publication of the findings and order of the Committee, in summary, with the name of the Member, in *Professionally Speaking/Pour parler profession* provides both a specific deterrent to the Member and a general deterrent to the profession while advising and

serving the public interest. It also reassures the public that the College will not tolerate such behaviour and will ensure that this type of misconduct is dealt with appropriately.

In conclusion, the Committee is confident that the penalty serves the interests of the public and the profession. It allows the profession to send the message that no sexual contact with a student in any form or in any setting is acceptable and will result in harsh penalty in all instances.

Dated: August 20, 2008

Rosemary Fontaine
Chair, Discipline Panel

Jacques Tremblay
Member, Discipline Panel

John Tucker
Member, Discipline Panel