

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

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

AND IN THE MATTER OF discipline proceedings against DCM.

The Discipline Committee held a hearing on January 18, 1999,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

DCM

PRESENT:

Members of the Panel

Donna Marie Kennedy(Chair)

Diane Leblovic

Larry Capstick

The Honourable Patrick Galligan Independent Counsel to the Panel

Mr. L. Thomas Forbes, Q.C. and Mr. Chris Sach-Anderson, Counsel for the Prosecution

Mr. Dean Paquette, Defense Counsel, and DCM were present.

A Notice of Hearing, dated September 10, 1998, was served on DCM requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 19, 1998 for a date to be set for hearing, and specifying the charges. The date for hearing was set for January 18, 1999. It is alleged that DCM is guilty of professional misconduct in that he contravened Regulation 437/97, Sub-sections 1(5), 1(7), 1(15), 1(16), 1(17), 1(18), 1(19). The Agreed Statement of Facts states that DCM is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit 2).

On January 18, 1999, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether DCM was guilty of professional misconduct.

DCM was in attendance at the hearing and was represented by counsel. Proof of service of the Notice of Hearing was presented and accepted by the panel.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing (Exhibit 1), alleging that DCM 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, sections 1(5), 1(7), 1(15), 1(16), 1(17), 1(18), 1(19). Particulars of the alleged misconduct are set out in the Notice of Hearing (Exhibit 1) and they are to the effect that DCM sexually assaulted a [XXX] year old female student.

Counsel presented evidence that DCM is a member of the Ontario College of Teachers, (Exhibit 2). At all material times, DCM was employed by the Toronto Board of Education, now the Toronto District School Board, as a teacher.

An Agreed Statement of Facts was filed as Exhibit 2. That statement had been signed by DCM and Mr. L. Thomas Forbes, Q.C.

FINDINGS OF FACT:

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

- (1) DCM is a member of the Ontario College of Teachers.
- (2) On April 7, 1998, DCM submitted an application to withdraw his membership of the Ontario College of Teachers.
- (3) DCM was employed by the Toronto District School Board, formerly the Toronto Board of Education from May 1966 to September 30, 1997. DCM, up until the time of this retirement, had teaching responsibilities for secondary school students at [XXX] and [XXX] Schools and laterly at [XXX].
- (4) On September 12, 1997 DCM was arrested and charged with sexual exploitation and sexual assault.

On March 6, 1998 the court made a finding of guilt against DCM on the charge of sexual assault on “[XXX]” DCM was sentenced to a conditional discharge and a term of probation of twenty-four months and the charge of sexual exploitation was withdrawn.

At all material times and particularly at the time of the offence to which DCM pleaded guilty, “[XXX]” was a student at [XXX], [XXX].

On September 23, 1997 DCM tendered a letter of retirement to the Toronto Board of Education effective September 30, 1997, which was accepted by the Toronto Board of Education, now the Toronto District School Board.

The Ontario College of Teachers submits that the above mentioned facts and circumstance constitute professional misconduct and ask that the Discipline Committee revoke the certificate of qualification and registration of DCM.

DCM submits and requests that he be permitted to resign as a member of the Ontario College of Teachers.

DCM was found guilty of sexual assault under the Criminal Code of Canada (Exhibit 2) and sentenced to conditional discharge and a term of probation for twenty-four months (Exhibit 2).

The Panel accepts that DCM had an inappropriate relationship with a [XXX] year old female student, in that he engaged in sexual touching. This activity resulted in a conviction of guilt on the charge of sexual assault.

DECISIONS AND ORDERS:

Based on the findings and evidence given, and having examined the Exhibits filed, the Panel finds DCM guilty of professional misconduct under sections 1(5), 1(7), 1(15), 1(16), 1(17), 1(18), 1(19), of the Professional Misconduct Regulation, as alleged, and orders that DCM's resignation be accepted by the Registrar with conditions. The conditions are:

- (1) THAT DCM never reapply for reinstatement with the Ontario College of Teachers.
- (2) THAT in the event DCM fails to comply with the conditions of this order, his name will be published in Professionally Speaking.

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 be published in the official publication of the Ontario College of Teachers. After considering all of the facts and circumstances of this particular case, the Panel exercised its discretion not to publish the name of the Member at this time in the official publication of the Ontario College of Teachers.

**DATED AT TORONTO, THIS 19th DAY OF JANUARY, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE**

Donna Marie Kennedy, **Chair**

Diane Leblovic

Larry Capstick