

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 John David Elliott.

The Discipline Committee held a hearing on May 8, 2000

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

JOHN DAVID ELLIOTT
Registration #222453

PRESENT:

Members of the Panel
Karen Mitchell (Chair)
Larry Capstick
Sterling Campell

The Honourable Lloyd Houlden, Independent Counsel to the Panel

L. Thomas Forbes, Q.C., McCarthy Tétrault, Counsel for the Prosecution, assisted by Trevor Evans

John David Elliott was not present nor was he represented.

A Notice of Hearing, dated December 15, 1999 was served on John David Elliott, requesting attendance before the Discipline Committee of the Ontario College of Teachers in order to set a date for hearing, and specifying the charges. The hearing was ultimately scheduled for May 8, 2000.

It is alleged that John David Elliott 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 and the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2, and specifically section 264(1)(c) thereof or the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (c) he contravened laws and those contraventions are relevant to his suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (d) he committed acts that, having regard to all of 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).

On May 8, 2000, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether John David Elliott was guilty of professional misconduct.

John David Elliott 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 Committee.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit #1, alleging that John David Elliott 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), (14), (15), (16), (18) and (19).

Particulars of the alleged misconduct are set out in Exhibit #1 and they are to the effect that:

1. John David Elliott is a member of the Ontario College of Teachers.
2. Between October 1958 and 1960, John David Elliott was a teacher in training.
3. In 1997 and 1998, at all material times, John David Elliott was employed by the Grand Erie District School Board and its predecessor, the Brant City Board of Education, as a teacher.

4. On or between October 17, 1958 and October 17, 1960, John David Elliott committed indecent assaults on a male child 10 to 12 years old.
5. On or about March 16, 1998, John David Elliott invited a 13 year old male and a 14 year old male into his home, where he showed homosexual pornographic movies, masturbated himself and fondled the two boys.
6. In or about July or August 1997, John David Elliott invited another 14 year old male child into his home, grabbed the boy's crotch and tried to put his hands down into the underpants of that 14 year old child. John David Elliott then produced gel and condoms and invited the said 14 year old to participate in anal sex, removed his clothing and invited the said boy to perform oral sex on him.
7. On or about December 3, 1998, John David Elliott was convicted of one count of indecent assault, contrary to section 148 of the *Criminal Code of Canada*; one count of sexual touching of a person under 14 years of age, contrary to section 151 of the *Criminal Code of Canada*; and one count of sexual exploitation of a young person, contrary to section 153 of the *Criminal Code of Canada*.
8. On or about April 7, 1999, John David Elliott was sentenced to two months imprisonment consecutive on each of the three counts for a total of six months imprisonment and was ordered to serve a period of three years under a probation order following his release from prison.
9. On or about February 22, 1999, John David Elliott's employment with Grand Erie District School Board was terminated.

An Agreed Statement of Facts and Guilty Plea was filed as Exhibit #2. That statement had been signed by John David Elliott and C. Justin Griffin, Solicitor to John David Elliott.

Ken Bell, Superintendent of Schools, Grand Erie District School Board, testified that John David Elliott was suspended without pay on March 28, 1998, as his bail condition prevented him from performing his duties as a teacher.

Detective Mark Ireland, Brantford Police Service, testified that he was the investigating officer who interviewed two of the victims whose parents had contacted the police regarding John David Elliott. A search warrant was prepared and charges were subsequently laid.

FINDINGS OF FACT:

- (1) The Committee accepts the Agreed Statement of Facts and the Guilty Plea as attached (Exhibit #2).
- (2) John David Elliott was convicted of one count of indecent assault, contrary to section 148 of the *Criminal Code of Canada* (Exhibit #6); one count of sexual touching of a person under 14 years of age, contrary to section 151 of the *Criminal Code of Canada* (Exhibit #8); and one count of sexual exploitation of a young person, contrary to section 153 of the *Criminal Code of Canada* (Exhibit #7) and

was sentenced to a total of eight months incarceration, followed by a term of three years probation (Exhibit #10).

REASONS:

The Committee accepts the Agreed Statement of Facts and Guilty Plea (Exhibit #2), as well as the testimony of the two witnesses. The Committee noted with concern the comments through the Reasons for Sentence before the Honourable Justice K. Lenz on April 7, 1999 (Exhibit #10) that “Despite the obvious authority of the court to order such testing and to request such information pursuant to Section 721.(1) (3) and specifically Section 721. (4), there not being any regulation I am aware of passed provincially to curtail the court’s authority. The authority exists and as best I can see probation, and I do not mean here an individual probation officer, I mean probation services has simply refused to comply with the request for psychiatric profiling or phallometric testing.” The Committee was concerned with Justice K. Lenz’s comments that “this is a budget issue” rather than a decision made in the interest of child safety.

DECISIONS AND ORDERS:

Accordingly, the Committee finds John David Elliott guilty of professional misconduct under sections 1(5), (14), (15), (16) (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke John David Elliott’s Certificate of Qualification and Registration immediately.

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 and in any other manner or medium that the Committee considers appropriate in the particular case. The Committee also orders that, in any publication, whether that of the College or in any media, that the names of the children involved not be published.

**DATED AT TORONTO, THIS 8th DAY OF 2000, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE**

Karen Mitchell, **Chair**

Larry Capstick

Sterling Campbell