

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

DECISION AND ORDERS

IN THE MATTER OF THE ONTARIO COLLEGE OF TEACHERS ACT ("the Act") and Ontario Regulation 437/97:

AND IN THE MATTER OF discipline proceedings against Denis Michel Gaumond,
the Discipline Committee held a hearing on June 23, 2003

BETWEEN:

THE ONTARIO COLLEGE OF TEACHERS

- and -

**DENIS MICHEL GAUMOND
CERTIFICATE # 184902**

PRESENT:

Members of the Panel

Pierrette Nadeau (Chair)

Paul Charron

Pauline Demers

Paul Levay, Independent Counsel to the Panel

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

Denis Michel Gaumond did not attend, nor was he represented.

A Notice of Hearing, dated February 5, 2003 (Exhibit 1), was served on Denis Gaumond on May 9, 2003 [sic], requesting attendance before the Discipline Committee of the Ontario College of Teachers on March 20, 2003 to set a date for the hearing. The date was set for June 23, 2003. The member sent an e-mail on June 11, 2003 indicating that he would not be attending the hearing (Exhibit 3). He did not request an adjournment.

On June 23, 2003, a panel of the Discipline Committee conducted a hearing into whether Denis Gaumond was guilty of professional misconduct. The panel prohibited the publication of any information that could identify the student involved. The student in question shall be identified only by two initials.

ALLEGATIONS

The Notice of Hearing alleged that Denis Michel Gaumond was guilty of professional misconduct or incompetence within the meaning of subsections 30(2) and 40(1.1) of the Act in that, contrary to Ontario Regulation 437/97:

- a) he failed to maintain the standards of the profession [subsection 1 (5)];
- b) he abused a student or students physically, sexually, verbally, psychologically, and/or emotionally [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 [subsections 1 (14) and 1 (15)];
- d) he contravened laws and that contravention is relevant to his suitability to hold a certificate of qualification and registration [subsection 1 (16)];

- e) he contravened a law, the contravention of which has caused a student who was under the member's professional supervision to be put at or to remain at risk [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 [subsection 1 (18)];
- g) he engaged in conduct unbecoming a member [subsection 1 (19)];
- 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 THE ALLEGATIONS

1. Denis Michel Gaumond is a member of the Ontario College of Teachers and therefore comes under the College's jurisdiction (Exhibit 4).
2. At all material times, the member was employed by the Conseil scolaire de district catholique du Centre-Est de l'Ontario as a teacher at [XXX] ("the school") in Ottawa.
3. At all material times, [XXX], whose date of birth is [XXX], 1981, was a student at the school.
4. During the 1996-1997 school year, [XXX] was a student in the member's [XXX] class and during the 1997-1998 school year, she was a student in [XXX] class. The member was also [XXX]'s [XXX] coach when [XXX] was in Grade [XXX].

5. In or around December 1998, when [XXX] was in Grade [XXX], the member photographed her at the school. During the photography session he requested that she touch his private parts, and he touched her breasts and buttocks.
6. Early in 1999, while they were at the school, the member showed [XXX] erotic photographs from a *Playboy* or similar magazine and suggested that she should pose for him in that manner. The member also gave [XXX] his telephone number and suggested that he take pictures of her at his home, at a park and at the home of one of her friends.
7. In or around March 1999, [XXX] was alone in the room next to the gymnasium of the school. The member entered the room and closed the door. The member then engaged in inappropriate sexual touching of the student. In particular, he put his hand under [XXX]'s underwear, touched her vagina and inserted his finger in her vagina. He then placed one of her hands on his penis.
8. In or around March of 1999, the member took [XXX] into the photography lab at the school, where he showed her several photographs of a woman posing bare-breasted. He suggested that [XXX] pose for him in that manner.
9. During the graduation ceremony at the school in June 1999, the member told [XXX] that she was very pretty and, as they were leaving the room, the member touched [XXX] briefly on her buttocks.
10. On or around December 3, 1999, the member was charged with sexual exploitation and sexual assault of [XXX] as follows:
 - a) between September 1, 1998 and November 3, 1999 at the City of Ottawa, being in a position of authority towards [XXX], a young person, did for a

sexual purpose touch directly with a part of his body, a part of the body of [XXX], contrary to section 153(1)(a) of the *Criminal Code of Canada*; and

- b) between September 1, 1998 and November 3, 1999 at the City of Ottawa did commit a sexual assault on [XXX], contrary to section 271 of the *Criminal Code of Canada*.
11. On or around February 6, 2002, the member was found guilty in respect of both of the charges referred to in paragraph 10 above.
 12. On or around November 13, 2002, the member was given a sentence of 18 months to be served in the community. He was also ordered to perform 100 hours of community service and to stay away from the victim and her family.
 13. The member has appealed that conviction. The appeal has not yet been heard.

MEMBER'S PLEA

The member strenuously denies the accusations against him (Exhibit 3, e-mail sent by the member to the College's counsel on June 11, 2003).

OVERVIEW OF THE CASE

Denis Michel Gaumond is a member of the College (Exhibit 4). At all material times, The member was employed by the Conseil scolaire de district catholique du Centre-Est de l'Ontario as a teacher at [XXX] ("the school ") in Ottawa. During the 1996-1997 school year, [XXX] was a student in the member's [XXX] class and during the 1997-1998 school year, she was a student in his [XXX]class. The member was also [XXX]'s [XXX] coach when she was in Grade [XXX]. Lastly, the member took photographs of [XXX] in his photography lab at the school.

The Discipline Committee panel must determine whether the member acted inappropriately towards [XXX] and whether he committed sexual acts.

EVIDENCE

Counsel for the College presented evidence that Denis Gaumond is a member of the College (Exhibit 4).

A Notice of Hearing, dated February 5, 2003, was served on Denis Michel Gaumond on May 9, 2003 (Exhibit 2).

The member strenuously denies the accusations against him (Exhibit 3, e-mail sent by the member to the College's counsel on June 11, 2003).

Counsel for the College presented a doctor's note explaining the absence of [XXX] to the hearing (Exhibit 5).

Sergeant Julie Vaillant was summoned to appear for the College. During the examination-in-chief, the sergeant stated that she had been working for the Ottawa Police for 16 years. At the time when the complaint was filed and the investigation began, she was responsible for cases of sexual abuse.

In November 1999, the sergeant was assigned to [XXX]'s case because [XXX] wanted a francophone investigating officer. On November 3, 1999, she began the preliminary questioning at the police station. The questioning had to be broken off because [XXX] was too emotional and upset to continue. The questioning resumed on November 5,

1999. At that time, [XXX] told the sergeant that the member had photographed her in sexual poses. She also stated that he had sexually assaulted her in the room next to the gymnasium, during the graduation ceremony and during a photography session.

The following evidence was submitted:

- a) record of the trial of Denis Gaumond, Volume 1 (Exhibit 6);
- b) briefcase and photographs (Exhibit 5 from the criminal trial – Exhibit 7);
- c) photograph of a woman (Exhibit 24 from the criminal trial – Exhibit 8);
- d) photographs of [XXX] (Exhibit 10 from the criminal trial – Exhibit 9);
- e) photographs of [XXX] (Exhibit 20 from the criminal trial – Exhibit 10);
- f) video of the second examination of [XXX] which was recorded during the preliminary investigation at the police station, November 5, 1999 (Exhibit 11);
- g) order from Judge Rutherford giving permission for the evidence referred to in items b), c), d), e) and f) to be allowed at the hearing on June 23, 2003, on condition that it be returned to the Ontario Court by June 27, 2003 (Exhibit 12);
- h) Judge Mercier's Reasons for Judgement, delivered during the criminal trial, dated February 6, 2002 (Exhibit 13);
- i) Judge Mercier's Reasons for Sentence, delivered during the criminal trial, dated November 13, 2002 (Exhibit 14).

The sergeant testified that she obtained two search warrants, one for the member's residence and the other for his photography lab at the school. During the search, she found a white briefcase containing photographs, pictures cut out of *Playboy* magazine and blown-up photographs of [XXX] and other people.

As a result of these discoveries, the member was charged with exploitation and sexual assault, and convicted in the criminal trial against him. He was given a sentence of 18 months to be served in the community and 100 hours of community service. The

sergeant also mentioned that the member is in the process of appealing the decision. The appeal has not yet been heard.

The panel watched 20 minutes of the videotaped examination (Exhibit 11), during which the plaintiff testified that the member inserted his finger in her vagina and placed one of her hands on his penis.

Counsel for the College drew the Panel's attention to pages 16-18 of the trial record (Exhibit 6), in which it is alleged that the member touched [XXX] during a photography session. Pages 20-22 indicate that he showed erotic images to [XXX] Counsel then turned to pages 12-14, which describe the incident that occurred in the room next to the gymnasium. Lastly, counsel referred to pages 18-20 of the trial record, which report that the member touched [XXX]'s buttocks during the graduation ceremony.

FINDINGS OF FACT

The Committee finds the following:

1. Denis Michel Gaumond photographed [XXX]
2. The member touched [XXX] sexually during photography sessions and during the graduation ceremony.
3. The member sexually assaulted [XXX] when they were together in the room next to the gymnasium of the school.

DECISION AND ORDERS

The Committee finds Denis Michel Gaumond guilty of professional misconduct under subsections 30 (2) and 40 (1.1) of the Act and subsections 1 (5), (7), (14), (15), (16), (17), (18) and (19) of Regulation 437/97.

The Committee directs the Registrar to revoke Mr. Gaumond's Certificates of Registration and Qualification immediately and orders the member to return his Certificates of Qualification and Registration to the Registrar.

The Committee also orders that the findings of the hearing, as well as the name of the member, be published in the College's official publication, *Professionally Speaking / Pour parler profession*.

REASONS

Although the member's decision to take photographs of [XXX] in suggestive poses attests to a lack of judgement, that does not in itself constitute professional misconduct warranting revocation.

However, his sexual touching of [XXX] during the photography sessions and the graduation ceremony constitutes professional misconduct that is liable to penalties.

The sexual assault committed by Denis Michel Gaumond is a disgraceful and dishonourable act that is utterly unacceptable for a member of the teaching profession.

Because of its gravity, this conduct warrants the revocation of the Certificates of Qualification and Registration.

**ISSUED AT TORONTO, THIS DAY OF JULY, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE**

Pierrette Nadeau, Chair

Paul Charron

Pauline Demers