

**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 Jeremy Allen Houston, a member of the Ontario College of Teachers.

PANEL:           Rosemary Fontaine, Chair  
                      Gabrielle Blais  
                      Dean Favero

BETWEEN:	)	
	)	
	)	Cedric Lamarche,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -	)	
	)	Jeremy Allen Houston was not
	)	present, nor was he represented
Jeremy Allen Houston	)	
(CERTIFICATE #210320)	)	
	)	Luisa Ritacca,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
	)	
	)	Heard: February 9, 2009

**REASONS FOR DECISION, DECISION AND ORDERS**

This matter came on for hearing before a panel of the Discipline Committee (“the Committee”) on February 9, 2009 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing* (Exhibit 1), dated January 5, 2009 was served on Jeremy Allen Houston, requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 28, 2009 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for February 9, 2009.

The Member did not appear, nor was he represented. Counsel for the College submitted an Affidavit of Audley Trevor Evans, Senior Law Clerk at McCarthy Tétrault, sworn February 2, 2009 (*Exhibit 2*) detailing communications he had with the Member, both by telephone and in writing with respect to the date of the hearing. Mr. Evans' Affidavit indicated that the Member had no intention of attending the hearing or being represented. The Member also stated to Mr. Evans that he was not going to be teaching in Ontario and did not intend to contest the proceedings. The Committee was satisfied that the Member was served with the *Notice of Hearing* and all disclosure documents and was aware of the time and date of the hearing (*Exhibit 2, Tabs A & B*). The Committee therefore proceeded to hear the matter in the absence of the Member.

## **THE ALLEGATIONS**

The allegations against Jeremy Allen Houston (“the Member”) in the *Notice of Hearing* are as follows:

**IT IS ALLEGED** that Jeremy Allen Houston is guilty of professional misconduct as defined in subsections 30(2) 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 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);

- (c) 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);
- (d) 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);
- (e) 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); and
- (f) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

**PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:**

1. Jeremy Allen Houston (the "Member") is a member of the Ontario College of Teachers. In or about 2005, the Member was a teacher in the Province of Saskatchewan.

2. On or about 25 January 2008, the Member was found guilty and convicted by the Court of Queen's Bench of Saskatchewan on the following charges:

- (a) that he on or about 6 August 2005, at or near Saskatoon, Saskatchewan, did access child pornography contrary to Section 163.1(4.1) of the *Criminal Code* (Canada); and
- (b) that he on or about 14 October 2005, at or near Saskatoon, Saskatchewan, did have in his possession child pornography contrary to Section 163.1(4) of the *Criminal Code* (Canada).

3. On or about 17 April 2008, the following sentence was imposed on the Member:

- (a) imprisonment for a term of 18 months to be served in the community subject to his compliance with conditions;
- (b) a probationary period of three (3) years to commence at the end of the conditional sentence;
- (c) an order that he is to [XXX]; and
- (d) an order that he is to [XXX].

4. The Member appealed the conviction and on 20 October 2008, the Court of Appeal for Saskatchewan upheld the conviction.

#### **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.

#### **THE EVIDENCE**

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

*Registered Member Information* (Exhibit 3)

Jeremy Allen Houston is a member of the Ontario College of Teachers as shown on the *Registered Member Information*.

*Brief of Court Documents – Her Majesty The Queen v. Jeremy Allen Houston* (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. Certificate of Conviction, Court of Queen's Bench for Saskatchewan dated April 17, 2008
- B. Transcript of Reasons for Judgment of the Honourable Justice Currie at Saskatoon, Saskatchewan dated January 25, 2008
- C. Transcript of Reasons for Sentencing dated April 17, 2008
- D. Reasons of the Court of Appeal for Saskatchewan dated October 21, 2008.

1. The evidence presented in the Court Documents confirms that on or about January 25, 2008, the Member was found guilty and convicted by the Court of Queen's Bench of Saskatchewan on the following charges:

- (a) that he on or about August 6, 2005, at or near Saskatoon, Saskatchewan, did access child pornography contrary to Section 163.1(4.1) of the *Criminal Code* (Canada); and
- (b) that he on or about October 14, 2005, at or near Saskatoon, Saskatchewan, did have in his possession child pornography contrary to Section 163.1(4) of the *Criminal Code* (Canada). (Exhibit 4, Tab A)

2. Further, on or about 17 April 2008, the following sentence was imposed on the Member:

- (a) imprisonment for a term of 18 months to be served in the community subject to his compliance with conditions;
- (b) a probationary period of three (3) years to commence at the end of the conditional sentence;

(c) an order that he is to [XXX]; and

(d) an order that he is to [XXX]. (Exhibit 4, Tab C)

3. The Member appealed the conviction and on October 20, 2008, the Court of Appeal for Saskatchewan dismissed the appeal and upheld the conviction. (Exhibit 4, Tab D)

## **DECISION**

### **(i) Onus and Standard of Proof**

The College bears the onus of proving the allegations in accordance with the standard of proof with which the Committee is familiar as 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 viewed the allegations in this case to be very serious.

### **(ii) Decision**

Having considered the evidence and 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 Jeremy Allen Houston committed acts of professional misconduct as alleged, more particularly breaches of

Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(16), 1(17), 1(18-disgraceful) and 1(19).

## **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.

It is uncontested that on or about January 25, 2008, the Member was found guilty and convicted of accessing and possession of child pornography contrary to Section 163.1(4.1) and Section 163.1(4) of the *Criminal Code* (Canada).

The Member was sentenced to imprisonment for a term of 18 months to be served in the community subject to his compliance with conditions; given a probationary period of three (3) years to commence at the end of the conditional sentence; ordered to [XXX]; and ordered to [XXX]. (Exhibit 4, Tab C, p. 425)

The Member appealed the convictions and his appeal was dismissed.

These convictions are relevant to the Member's suitability to hold a Certificate of Qualification and Registration and have caused students to be put at risk pursuant to Ontario Regulation 437/97, subsection 1(16) and 1(17). The Committee noted that while there was no evidence that these incidents took place at school, the Member's actions in

accessing and possession of child pornography demonstrate a complete disregard for children's welfare, thereby putting his students at risk.

The Committee finds that the Member's conviction for accessing and possession of child pornography as outlined herein constitute acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14) and 1(15).

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

#### **PENALTY SUBMISSIONS**

Counsel for the College submitted that the appropriate penalty be as follows:

1. revocation of the Member's certificate of qualification and registration; and
2. publication of the findings of the Discipline Committee, with the name of the Member, in *Professionally Speaking/Pour parler profession*.

#### **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 Member's certificate of qualification and registration; 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 Member's conviction for accessing child pornography is based on his having accessed one item, a story entitled *I Have Afternoon Delight With Eight-Year Old Polish Girl*, which was posted on the North American Man Girl Love Association Web site. The Member's conviction for possession of child pornography is based on his having possession of six images. (Exhibit 4, Tab B, p. 2 and p.416, Tab C). While the Member accessed and possessed small quantities of child pornography, his actions remain reprehensible. Anyone who accesses and possesses any amount of child pornography perpetuates the abuse of children and must be dealt with severely.

The penalty must meet the objective of general deterrence to the members of the profession as well as the objective of specific deterrence to the Member.

The Member has brought the profession into disrepute. The fact that he engaged in accessing and possession of child pornography requires that he receive the maximum penalty, revocation of his certificate of qualification and registration.

The Member's actions were criminal. Publication of the findings and order of the Committee, in summary, along with the name of the Member, in *Professionally Speaking/Pour parler profession* advises the profession of the nature of the Member's misconduct and the consequences for such behaviour. Publication, with name, acts as a general deterrent and informs the profession that such behaviour will not be tolerated and will result in the harshest penalty, revocation.

Publication serves the public interest by reassuring and informing the community that the profession acts decisively when matters of this nature are brought to its attention.

In conclusion, the Committee is confident that the penalty serves the interests of the public and the profession.

Dated: February 9, 2009

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Rosemary Fontaine  
Chair, Discipline Panel

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Gabrielle Blais  
Member, Discipline Panel

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Dean Favero  
Member, Discipline Panel