

**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  
A-Miron Kurczak, a member of the Ontario College of Teachers.

PANEL:                   Karen Mitchell, Chair  
                              Bernard J. Adam  
                              Nancy Hutcheson

BETWEEN:	)	
	)	
	)	David Leonard, McCarthy
	)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS	)	Teachers, assisted by Trevor
	)	Evans, Senior Law Clerk
- and -	)	
	)	
A-MIRON KURCZAK	)	A-Miron Kurczak was not
(CERTIFICATE #150939)	)	present, nor was he represented.
	)	
	)	Nancy J. Spies, Stockwoods,
	)	Independent Legal Counsel
	)	
	)	Heard: November 17, 2003

**REASONS FOR DECISION, DECISION AND ORDER(S)**

This matter came on for hearing before a panel of the Discipline Committee on  
November 17, 2003 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated July 10, 2003 was served on A-Miron Kurczak, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 17, 2003 to set a date for a hearing, and specifying the charges.

A-Miron Kurczak was not in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. (Exhibit 1)

### The Allegations

The Notice of Hearing includes allegations of professional misconduct against the Member. The allegations arose as a result of the Member's actions in two incidents in 1999.

The first incident arose on or about April 25, 1999 where the Member was involved in an incident at a greenhouse, resulting in the Member being charged with 5 criminal charges and subsequently being convicted of two of the charges, namely uttering threats and dangerous driving.

Secondly, the Member was involved in an incident on November 30, 1999 in a Grade 8 class at a school, where the Member used physical force against a 13-year-old male student, which resulted in the Member being charged with one count of assault.

**IT IS ALLEGED** that A-Miron Kurczak is guilty of professional misconduct as defined in sections 30(2) of 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 particularly section 264(1)(c) thereof and the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (d) he contravened laws, 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 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);
- (f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (g) he displayed a lack of knowledge, skill or judgment and/or a disregard for the welfare of students of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's certificate should be made subject to terms, conditions or limitations.

College Counsel indicated that the College would not be proceeding with the allegations in paragraph (g) above.

#### Publication Ban

On November 17, 2003, the Panel made an order that there be no publication of any information that may disclose the identity of the student involved in this matter.

### Member's Plea

The Member pleaded no contest to the allegations of professional misconduct in numbered paragraphs (a) through (f) in the *Notice of Hearing*, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (7), (14), (15), (16), (18) and (19). (Exhibit 3).

### Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced as Exhibit 2, an *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* that provides as follows:

1. A-Miron Kurczak ("the Member") is a retired Member of the Ontario College of Teachers. The Member has been a certified teacher since 1975 and taught full time until 1983. From 1983 to 1986, when he returned to university to study business administration, the Member did supply and occasional teaching. The Member returned again to supply and occasional teaching in 1999. Specifically, from November 19, 1999, the Member was employed by the Peel District School Board ("the Board") as an occasional teacher at Hillside Senior Public School ("the School"). The Member was also a volunteer teacher at Woodlands Senior Public School and Port Credit Secondary School, without incident.
2. On or about April 25, 1999, the Member was involved in an incident at a greenhouse, resulting in the laying of 5 criminal charges against the Member, including a charge of uttering threats and one of dangerous driving. The Member pleaded guilty and was convicted on the charges of uttering threats and dangerous driving; was sentenced to 90 days in jail; was subject to a weapons prohibition order and to other conditions, as are set out in the

transcript of the proceedings before His Honour Justice P. Mitchell, attached hereto at Tab "A" to this Agreed Statement.

3. On November 30, 1999, while teaching a Grade 8 class at the School, the Member accused a 13-year-old male student (the "Student") of spitting spitballs. When the Student denied such conduct, the Member inspected the Student's pencil case and then emptied its contents onto the floor. When the Student requested that the Member retrieve his pencil case, the Member grabbed the Student by the neck and arm, forcibly removing the Student from the classroom, during the course of which the Student fell or was pushed by the Member against a chair or stool in the classroom. As a result of his physical removal from the classroom by the Member, the Student suffered some bruising to his neck and arm.
4. The Member was charged with one count of assault of the Student by Peel Regional Police. On September 11, 2001, the Member pleaded guilty to assault before Mr. Justice B. Duncan. A transcript of those proceedings is attached as Exhibit "B" hereto. The Member received an 18 months' probation and a conditional discharge; was ordered to perform 40 hours of community service work; was ordered not to associate with the student victim; not to attend at the School; to refrain from the possession or consumption of alcohol; to seek and maintain gainful employment or be enrolled in an educational training program; and not to apply for or accept any teaching position below the level of Grade 9.
5. On August 31, 2001 the Member's employment with the Board was terminated.
6. By this document, the Member accepts that the matters referred to in paragraphs 2, 3 and 4 above constitute professional misconduct and pleads no-contest to the allegations of professional misconduct against him, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (7),

(14), (15), (16), (18) and (19) as set out in the Notice of Hearing, attached hereto at Tab "C".

### Decision

Having examined the Exhibits filed, and based on the plea of no contest, the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that A-Miron Kurczak committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1 (5), 1 (7), 1 (14), 1 (15), 1 (16), 1 (18) and 1 (19).

### Penalty

Counsel for the College advised the Committee that a joint submission on penalty had been agreed upon. The *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty* provides as follows:

1. In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct, and jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this case would be that the Committee:
  - (a) require the Member to appear before the Committee by telephone at the offices of his solicitor, Joseph Sloniowski on November 17, 2003 immediately following the completion of the hearing into this matter to be reprimanded, and the fact of the reprimand be recorded on the Register;
  - (b) direct the Registrar to suspend the Certificate of Qualification and Registration held by the Member for a period of eighteen (18) months;

- (c) require the Member, prior to the Member's acceptance of any offer of employment as a teacher following the termination of the period of suspension referred to in paragraph (b) above, to receive instruction in a program approved by the Registrar of the College regarding discipline techniques and classroom management for dealing with difficult students. The College will consider programs suggested by the Member and will convey acceptability expeditiously. The assignment of such course of instruction is to be completed by the Member at the Member's own expense and proof of the Member's successful completion of such program is to be received by the Registrar of the College directly from the Member at least one (1) month prior to the Member's commencement of any teaching duties or teaching assignment; and
- (d) direct that the findings and order of the Committee, including the Member's name be published in the official publication of the College, *Professionally Speaking/Pour parler profession.*

#### Penalty Decision

The Committee accepts the joint submission on penalty as amended and accordingly directs the Registrar of the Ontario College of Teachers to suspend the certificate of qualification and registration held by the Member for a period of eighteen (18) months from the date hereof.

The Registrar is directed to impose the following specified term(s), condition(s) or limitation(s) on the Member's certificate:

that the Member receive instruction in a program approved by the Registrar of the College regarding discipline techniques and classroom management for dealing with difficult students. The assignment of such course of instruction is to

be completed by the Member at the Member's own expense. Proof of the Member's successful completion of such program is to be received by the Registrar of the College directly from the Member at least one (1) month prior to the Member's commencement of any teaching duties or teaching assignment, following the termination of the suspension.

The College will consider programs suggested by the Member and will convey acceptability expeditiously.

The Member was unable to attend via teleconference as jointly proposed due to exceptional circumstances, being that he was hospitalized. College counsel advised that, in the circumstances, the College would support that the reprimand be in writing and advised that the Member had also initially proposed that the reprimand be in writing. Therefore, the Committee orders that the Member be reprimanded in writing and directs that the fact of the reprimand be recorded on the Register.

The Committee finds that the penalty is reasonable and serves to protect the public interest in that:

- (a) the order meets the objective of general deterrence, in that it serves as a message to the profession to deter members of the profession from engaging in similar misconduct;
- (b) the order meets the objective of specific deterrence to the Member; and
- (c) the order will remediate the Member by the completion of an appropriate course of instruction.

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 summary in the official publication of the Ontario College of Teachers, *Professionally Speaking /Pour parler profession.*

Date: November 17, 2003

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Karen Mitchell  
Chair, Discipline Panel

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Bernard J. Adam  
Member, Discipline Panel

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Nancy Hutcheson  
Member, Discipline Panel