

**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
Sidney Leys, a member of the Ontario College of Teachers.

PANEL: Rosemary Fontaine, Chair
 Don Cattani
 Normand Fortin

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
)	
SIDNEY LEYS	)	Simon Blackstone,
(CERTIFICATE #247967)	)	Green & Chercover,
	)	for Sidney Leys
)	
	)	Christopher Wirth,
	)	Stockwoods,
	)	Independent Legal Counsel
)	
	)	Heard: October 4, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 4, 2004 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated April 30, 2004 was served on Sidney Leys, requesting attendance before the Discipline Committee of the Ontario College of Teachers on May 10, 2003 to set a date for a hearing, and specifying the charges. The hearing date was subsequently set for October 4, 2004.

Sidney Leys was in attendance at the hearing.

The Allegations

The allegations against Sidney Leys in the *Notice of Hearing*, dated April 30, 2004, are as follows:

IT WAS ALLEGED that Sidney Leys is guilty of professional misconduct as defined in section 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 particularly 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 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);
- (d) 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

- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

Publication Ban

On October 4, 2004, the Committee made an order that there be no publication of any information that may disclose the identity of the victims involved in this matter.

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 and Guilty Plea*.

The *Agreed Statement of Facts* provides as follows:

1. Sidney Leys (the "Member") is a Member of the Ontario College of Teachers. Attached hereto and marked as **Exhibit 2, Tab "A"** is a copy of the Ontario College of Teachers Registered Member Information of the Member.
2. The Member was employed by a school board in Ontario, and its predecessor as a teacher from approximately September 1981 to 26 June 2002.
3. Attached as **Exhibit 2, Tab "B"** is a copy of an Order which was imposed by the Ontario Court of Justice and continued by the Court of Appeal of Ontario, pursuant to Section 486(3) of the *Criminal Code* (Canada), directing that the identities of complainants and any information that could disclose the identities of those persons, are not to be

published in any document or broadcast in any way. The persons involved in this matter are therefore referred to herein by a number and described as follows:

- (a) Victim No. 1 is a female person whose approximate year of birth is 1984, and in respect of whom the Member was in a position of trust;
- (b) Victim No. 2 is a female person whose approximate year of birth is 1971, and in respect of whom the Member was in a position of trust;
- (c) Victim No. 3 is a female person whose approximate year of birth is 1969, and in respect of whom the Member was in a position of trust;
- (d) Victim No. 4 is a female person in respect of whom the Member was in a position of trust;
- (e) Victim No. 5 is a female person in respect of whom the Member was in a position of trust;
- (f) Victim No. 6 is a female person; and
- (g) Victim No. 7 is a male person who was a friend of Victim No. 2.

4. Between the approximate dates of 1 January 1986 and 31 December 1995, the Member sexually assaulted Victim No. 1.

5. Between the approximate dates of 1 January 1988 and 31 December 1995, the Member sexually touched Victim No. 2.

6. Between the approximate dates of 1 January 1987 and 31 December 1990, the Member physically assaulted Victim No. 2.

7. Between the approximate dates of 4 January 1983 and 31 December 1987, the Member sexually assaulted Victim No. 2.

8. Between the approximate dates of 4 January 1984 and 31 December 1994, the Member physically assaulted Victim No. 6.

9. Between the approximate dates of 1 January 1986 and 31 December 1990, the Member uttered threats to cause serious bodily injury to Victim No. 7.

10. On or about 21 March 2002, the Member pleaded guilty to charges that he:

(a) between 1 December 1978 and 31 December 1979, did indecently assault Victim No. 2, contrary to s.149(1) of the *Criminal Code* (Canada);

(b) between 30 May 1979 and 5 June 1979, did commit an act of gross indecency with Victim No. 2, contrary to s. 157 of the *Criminal Code* (Canada).

(c) between 1 May 1987 and 31 December 1990, did in committing an assault on Victim No. 2, cause bodily harm contrary to section 267(b) of the *Criminal Code* (Canada).

(d) between 1 December 1978 and 31 December 1979, did indecently assault Victim No. 3, contrary to s. 149(1) of the *Criminal Code* (Canada).

(e) between 1 January 1985 and 31 December 1985, did commit an assault on Victim No. 3, contrary to s. 245(a) of the *Criminal Code* (Canada).

- (f) between 1 December 1978 and 31 December 1979, did indecently assault Victim No. 4, contrary to s.149(1) of the *Criminal Code* (Canada).
- (g) between 1 December 1978 and 31 December 1979, did indecently assault Victim No. 5, contrary to s.149(1) of the *Criminal Code* (Canada).
- (h) between 1 January 1979 and 31 December 1979, did commit an assault on Victim No. 6, contrary to s. 245(1) of the *Criminal Code* (Canada); and
- (i) between 4 January 1984 and 13 July 1994, did in committing an assault on Victim No. 6, cause bodily harm to her, contrary to s. 267(b) of the *Criminal Code* (Canada).

11. Attached and marked as **Exhibit 2, Tab "C"** is a copy of the Indictment issued in the Superior Court of Justice on or about 2 November 2001.

12. Attached and marked as **Exhibit 2, Tab "D"** is a transcript of the proceedings before the Superior Court of Justice on 21 March 2002 at which time the Member pleaded guilty to the charges referred to above.

13. As a result of his conviction on the nine counts referred to in paragraph 10 above, a sentence of imprisonment of two years less a day was imposed on the Member on 11 June 2002, to be served in the community with certain conditions, including that he abstain from the purchase and consumption of alcohol or drugs, except in accordance with the medical prescription, and perform two hundred and forty hours of community service work within eighteen months. Following the completion of the sentence, the

Member was placed on probation for a period of two years. The Member was also ordered [XXX].

14. Attached and marked as **Exhibit 2, Tab "E"** is a copy of the transcript of the proceedings on sentence before the Honourable Justice J. Donohue on 11 June 2002.

15. Attached as **Exhibit 2, Tabs "F", "G", "H", and "I"** respectively are the Certificate of Conviction, Conditional Sentence Order, Prohibition Order imposed at sentencing, and Probation Order on the Member.

16. The Member did not appeal the decision of the Court of Appeal. However, an appeal was brought by the Crown with respect to the terms of the conditional sentence, referred to in paragraph 13 above. On 30 January 2003, the Court of Appeal ordered that the Member serve a custodial sentence for a period of twenty-eight months, less six months credit for the time of the conditional sentence already served. Attached and marked as **Exhibit 2, Tab "J"** is a copy of the Reasons of the Court of Appeal for Ontario issued 30 January 2003.

17. Attached and marked as **Exhibit 2, Tab "K"** is the Order of the Court of Appeal for Ontario dated 30 January 2003, with respect to the varying of the sentence imposed on the Member.

18. Attached hereto and marked as **Exhibit 2, Tab "L"** is a copy of the curriculum vitae of the Member.

19. On 30 May 2002, the Member was interviewed by Dr. William J. Komer, psychiatrist of London, Ontario who prepared a report to the Member's solicitor in respect of the criminal matter herein. Attached and marked as **Exhibit 2, Tab "M"** is a copy of the report of Dr. Komer dated 11 June 2002. It was the opinion of Dr. Komer that the Member did not have any major mental illness. He did, however, have a history of alcohol abuse, a severe back injury and problems with anger management and relationships, which appear to have been significant problems around the time of the offences. Dr. Komer also stated that in his opinion the Member did not have any underlying personality disorder and there is no indication of any sexual deviancy or pedophilia. Dr. Komer noted that the Member appeared to have significantly changed his life around in a positive direction and become a productive and a contributing member of society. He appeared to be genuinely remorseful for his actions. Lastly, Dr. Komer stated that, as of the time of preparing his report, the Member was not a significant threat to the safety of the public.

20. Attached and marked as **Exhibit 2, Tab "N"** is a series of three letters prepared in support of the Member in September 2003.

By this document, the Member Sidney Leys, accepts that the matters referred to in paragraphs 4, 5, 6, 7, 8, 9, 10 and 13 above constitute conduct which is disgraceful, dishonourable and unprofessional and pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), (14), (15), (16), (18) and (19) as set out in the Notice of Hearing which is attached hereto and marked as **Exhibit 2, Tab "O"**.

By this document, the Member states that:

- (a) he understands fully the nature of the allegations that have been made against him;
- (b) he understands that by pleading guilty to the allegations, he is waiving the right to require the College to prove the case against him and the right to have a hearing; and
- (c) he voluntarily decided to plead guilty.

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, being more particularly breaches of Ontario Regulation 437, subsections 1(5), (14), (15), (16), (18) and (19).

Member's Plea

The Member, Sidney Leys, accepts that the matters referred to in paragraphs 4, 5, 6, 7, 8, 9, 10 and 13 above constitute conduct which is disgraceful, dishonourable and unprofessional and pleads guilty to the allegations of professional misconduct against him being, being more particularly breaches of Ontario Regulation 437/97 subsections 1(5), (14), (15), (16), (18) and (19) as set out in the *Notice of Hearing*.

Joint Submission as to Resolution and Penalty

1. In light of the guilty plea and 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, being more particularly breaches of Ontario Regulation 437, subsections 1(5), (14), (15), (16), (18) and (19).

2. The Ontario College of Teachers and the Member jointly submit that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that the Committee direct the Registrar of the Ontario College of Teachers to immediately revoke the certificate of qualification and registration of the Member, which certificate the Member agrees to immediately surrender to the Registrar of the Ontario College of Teachers.

3. At the hearing, both counsel agreed that it would be appropriate that the Member not apply for reinstatement for a period of five years.

4. The Ontario College of Teachers and the Member jointly submit that, given the circumstances of this matter and the publication ban imposed by the court, it would be appropriate that the findings and Order of the Committee, be published in summary, in the official publication of the College, *Professionally Speaking/Pour parler profession*, with the name of the Member being withheld and not published.

Decision as to Finding

Having examined the Exhibits filed, and based on the guilty plea, the *Agreed Statement of Facts and Guilty Plea*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Sidney Leys committed acts of professional misconduct as alleged, more

particularly breaches of Ontario Regulation 437/97, subsections 1(5), (14), (15), (16), (18) and 19.

Decision as to Penalty

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, which the Member is to surrender immediately to the Registrar.
2. Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, orders that the findings and order of the Committee be published in summary, in the official publication of the College, *Professionally Speaking/Pour parler profession*. The name of the Member is to be withheld, as well as any information that might identify the victims.
3. Pursuant to section 30(7) of the Ontario College of Teachers Act, the Committee orders that the member may not apply for reinstatement for a period of at least five years following the date of this order.

Reasons for Decision and Order

The penalty must meet the objective of general deterrence to the members of the profession and the objective of specific deterrence to the Member. The Member pleaded guilty and was convicted of 9 counts under the *Criminal Code* (Canada), consisting of 4 counts of indecent assault, 1 count of gross indecency, 2 counts of assault and 2 counts of assault causing bodily harm. Accordingly, the Committee was satisfied that revocation

of the Member's certificate of qualification and registration is the appropriate penalty and serves the public interest.

Date: October 4, 2004

Rosemary Fontaine
Chair, Discipline Panel

Don Cattani
Member, Discipline Panel

Normand Fortin
Member, Discipline Panel