

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR JUDGEMENT AND ORDERS

IN THE MATTER OF THE ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:

AND IN THE MATTER OF discipline proceedings against Annie Mary Markson.

The Discipline Committee convened to hear submissions concerning penalty on May 16 and 17, 2001

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**ANNIE MARY MARKSON
CERTIFICATE #265866**

PRESENT:

Members of the Panel

Mark Lefebvre (Chair)
Sterling Campbell
Ernie Checkeris

The Honourable Lloyd Houlden, Independent Counsel to the Panel

L. Thomas Forbes, Q.C. McCarthy Tétrault, Counsel for the Ontario College of Teachers,
assisted by Trevor Evans, Senior Law Clerk

William Markle, Markle May Phibbs, Defense Counsel, assisted by Stephanie Carey

Annie Mary Markson was not present

Pursuant to section 32 (7) of the Ontario College of Teachers Act, the Committee orders that only two initials be used to identify the name of the student and his family in order to protect the identity of the student in this case.

The Committee, having found Annie Mary Markson guilty of professional misconduct under subsections 1(5), (14), (15), (18) and (19) of the Professional Misconduct Regulation on March 1, 2001, reconvened on May 16, 2001 to hear submissions on penalty by counsel for the member and counsel for the College.

College counsel called two witnesses. Professor Lana Stermac, Ph.D. was accepted as an expert witness by the Committee and gave opinion evidence with respect to the seriousness of the boundary transgressions and the impact of behaviour on the student. Dr. Stermac indicated to the Committee that her opinion was based on an examination of communications from College counsel and some of the hearing exhibits supplied to her by same. She stated that she did not know the testimony of the witnesses at the hearing, and did not examine the member.

Dr. Stermac stated that, in her opinion, her analysis of the evidence indicated a clear, unequivocal, violation within the teacher/student relationship in that there was a violation of appropriate boundaries. This opinion was based on the following activities described in the documents she reviewed, specifically: the fact that Annie Markson was aware of the student's interest in her; her acknowledgment of the need for appropriate

boundaries when speaking with the student's mother; and the personal meetings, e-mail and telephone communications between herself and the student.

According to Dr. Stermac, the fact that the student's mother, [XXX], told the member that [XXX] was at "a galloping hormones stage of life", and that her son had a crush on Annie Markson to which Annie Markson responded by advising [XXX] that she did not permit herself to be alone with [XXX], remarking that a teacher must never be alone with a student, indicated that the member was aware of appropriate boundary relationship issues, and that, in her opinion, the member failed to set appropriate boundaries to the relationship.

Dr. Stermac discussed the effect of boundary violations on a student. It was her opinion that such a violation affects a student's ability to function in further trust relationships within a school environment, and that once there was a boundary violation, a student might become more vulnerable to future violations.

Dr. Stermac noted in her report submitted to the Committee that,

"As noted throughout the professional literature on boundaries in professional relationships, it is the professional's responsibility to maintain these boundaries at all times and regardless of the circumstance."

The Committee also received opinion evidence from forensic psychiatrist, Dr. Peter Collins, M.C.A., M.D., F.R.C.P.(C) who was accepted as an expert in sexual conduct. Dr. Collins emphasized that he did not assess the member, therefore could not provide a

diagnosis. He was asked by counsel for the College to examine documents that included the written and e-mail communications between the member and [XXX], and to comment on the “grooming” process.

According to Dr. Collins, “grooming” is a technique used by preferential offenders but can also be displayed by opportunistic, situational or surrogate offenders. In his report distributed to the Committee for their consideration, Dr. Collins stated that,

“Grooming is inappropriate courtship behaviour in which the adult will be seductive in their approach to the child.”

It was the opinion of Dr. Collins that he was “left with no other reasonable explanation” based on the communications he examined between the member and [XXX], that the member’s behaviour was consistent with an adult grooming a child for a sexual purpose. According to Dr. Collins, Annie Markson’s actions and communications appeared to be for a sexual purpose and constituted a very serious boundary violation.

The member was not present during the course of the penalty submission phase of this proceeding and did not give evidence on her own behalf.

Counsel for the member called Dr. Basil C. Orchard, forensic psychiatrist, who gave opinion evidence regarding his examination of the member.

Dr. Orchard undertook an analysis of the member at the request of Defense counsel after the hearing on charges of professional misconduct was brought before the Discipline Committee. Dr. Orchard did not write a report concerning his interview with the member and was not able to submit any documentation to the Committee for consideration. Dr. Orchard did refer to notes during his testimony that the Committee concluded were made at the time of his interview with the member.

According to Dr. Orchard, he examined the member on April 18, 2001 for approximately three and one-half hours. Part of this examination time was spent reviewing the materials provided by counsel for the member. According to Dr. Orchard, his assessment consisted of taking a history that included the following components: family, educational, vocational, and sexual. Dr. Orchard also conducted a personality assessment, which he explained as a “face to face” assessment that examined a person’s background and the way she/he dealt with things.

Dr. Orchard stated that he thought the member was “well above average in range of intelligence” and was forthright during his examination. According to Dr. Orchard, the member had wonderful family relationships, excelled in academics and was well liked by her peers. Dr. Orchard stated “everything worked out beautifully for her”. When asked to explain the violation of teacher/student boundaries with the member’s history as he saw it, Dr. Orchard explained that the member felt that “nothing could go wrong because she didn’t do anything wrong.”

According to Dr. Orchard, Annie Markson reportedly described [XXX] as “active, interesting and intelligent.” He felt that the member had no deviant sexual urges, but began to “let it slip” when she gave [XXX] her home and cellphone telephone numbers to receive directions when, according to Dr. Orchard, she required help with [XXX]. It was Dr. Orchard’s opinion that the member could be a much better teacher with a “moderated approach” which he described as a “spontaneous” approach, with an alertness to anything that would be misleading.

Dr. Orchard agreed with counsel for the College that a caring, knowledgeable teacher would consider a parent approaching him or her to inform him or her that their child had a crush on them and was in a “galloping hormone stage”, as a “wake up call” and that any elementary teacher would be negligent not to.

When asked to classify the boundary violation between the member and [XXX], Dr. Orchard described it as “a clear boundary violation” which he described in examination-in-chief as “pretty mild” and in cross-examination as in the “low/serious level”. In his opinion, Dr. Orchard felt that the member did realize that her relationship with [XXX] “was more than a friendly relationship and some jokes.” Dr. Orchard reported that the member had expressed remorse for “having somehow let this go as far as this went,” and for the affect on [XXX] because “he was most vulnerable. He was young.”

In considering penalty, the Committee considered the testimony of witnesses presented by counsel for the member and counsel for the College, the reports filed as exhibits, and the transcripts and cases submitted to the Committee.

Having determined that Annie Mary Markson is guilty of professional misconduct in that, through her communication with [XXX]:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she 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) she 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
- (d) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19),

the Committee directs the Registrar to revoke Annie Mary Markson's Certificate of Qualification immediately. An Application for Reinstatement will not be accepted prior to one year from the signature date of the Written Reasons for the Judgement and Orders. The Committee further suggests that the member undergo a psychiatric assessment at the member's expense, by Dr. Peter Collins, or his designate, as agreed to by the Registrar, prior to any Application for Reinstatement. Any subsequent treatment that is deemed necessary as a result of this assessment should be successfully completed and that report attached to any Application for the member's reinstatement.

Pursuant to section 35(3) of the *Ontario College of Teachers Act, 1996* the Committee orders that the findings of the Committee as well as the name of the member be published in the official publication of the Ontario College of Teachers.

**DATED AT TORONTO, THIS 16TH DAY OF JULY, 2001
BY ORDER OF THE DISCIPLINE COMMITTEE**

Mark Lefebvre, Chair

Sterling Campbell

Ernie Checkeris