

**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 Robert Terrance Marson, a member of the Ontario College of Teachers.

PANEL: Rosemary Fontaine, Chair
 Mel Greif
 Jacques Tremblay

BETWEEN:)	
	)	David Leonard,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Trevor Evans,
	)	Senior Law Clerk
- and -)	
	)	Robert Terrance Marson
	)	was not present,
ROBERT TERRANCE MARSON	)	nor was his counsel
(CERTIFICATE #124919))	
)	
	)	Christopher Wirth,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: June 5, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on June 5, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

Two separate *Notices of Hearing*, both dated September 14, 2007 were served on Robert Terrance Marson, requesting attendance before the Discipline Committee of the Ontario College of Teachers on September 24, 2007 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for June 5, 2008.

Robert Terrance Marson was not in attendance at the hearing but had been represented by Michael Pretsell of Pretsell Cavanaugh, in negotiating the *Agreed Statement of Facts, Plea of No Contest and Joint Submission on Penalty*.

THE ALLEGATIONS

The allegations against Robert Terrance Marson in the first *Notice of Hearing, (Exhibit 1)* dated September 14, 2007, are as follows:

IT IS ALLEGED that Robert Terrance Marson is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the “Act”), in that:

- (a) he failed to strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honour, dignity and ethical standards of the teaching profession, contrary to Section 13 of the Regulation made under the *Teaching Profession Act* made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;
- (b) he failed to concern himself with the welfare of his pupils while they were under his care contrary to Section 14(f) of the Regulation made under the *Teaching Profession Act*, made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;
- (c) he failed to comply with Section 22.1(c) of the *Schools Administration Act*, R.S.O. 1960, Chapter 361 and amendments thereto;
- (d) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);

- (e) 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);
- (f) 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);
- (g) he 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);
- (h) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (i) he contravened Section 264.1 (c) of the Education Act; and
- (j) he contravened Sections 156, 157 and 176 of the *Criminal Code* (Canada).

The allegations against Robert Terrance Marson in the second *Notice of Hearing*, (*Exhibit 2*) dated September 14, 2007, are as follows:

IT IS ALLEGED that Robert Terrance Marson is guilty of professional misconduct as defined in section 30(2) of the *Ontario College of Teachers Act, 1996* (the "Act"), in that:

- (a) he failed to strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honour, dignity and ethical standards of the teaching profession, contrary to Section 13 of the Regulation made under the Teaching Profession Act made pursuant to Section 12 of the Teaching Profession Act, R.S.O. 1970, Chapter 361, as amended;
- (b) he failed to concern himself with the welfare of his pupils while they were under his care contrary to Section 14(f) of the Regulation made under the *Teaching Profession Act*, made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;
- (c) he failed to comply with Section 22.1(c) of the *Schools Administration Act*, R.S.O. 1960, Chapter 361 and amendments thereto;
- (d) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);

- (e) he abused a student or students physically, sexually, verbally, psychologically or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (f) 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);
- (g) 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);
- (h) 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);
- (i) he 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);
- (j) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (k) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the *Act*.
- (l) he contravened Section 264.1 (c) of the *Education Act*; and
- (m) he contravened Sections 151 (a), 156, 157, 176, 231(1), 245(1) and 271 of the *Criminal Code* (Canada).

The Committee recognized and extends the publication ban imposed by the Criminal Court pursuant to Section 486.4(1) of the Criminal Code with respect to any information that would identify the victims.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced an *Agreed Statement of Facts, Plea of No Contest and Submissions on Penalty* (ASF - Exhibit 2) which provides as follows:

1. Robert Terrance Marson (the “Member”) is a member of the Ontario College of Teachers. Attached hereto and marked as Exhibit “A” is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. Between the approximate dates of 1 September 1962 and 30 June 1997, the Member was employed by the Hastings County Board of Education and its successor, Hastings and Prince Edward District School Board (the “Board”) as an elementary teacher. During that time, the Member taught at various schools including [REDACTED] and [REDACTED], both of which are in [REDACTED].
3. Between the approximate dates of 1 September 1975 and 30 June 1978, Student No. 1 and Student No. 2 were male students [REDACTED] (the “School”).
4. At all material times, Student No. 1 was between the ages of [REDACTED] years and Student No. 2 was between the ages of [REDACTED] years.
5. Between the approximate dates of 1 September 1969 and 30 June 1971, Student No. 3 was a male student [REDACTED] at the School.
6. Between the approximate dates of 1 September 1973 and 30 June 1974, Student No. 4 was [REDACTED] at the School.
7. Between the approximate dates of 1 September 1975 and 30 June 1979, Student No. 5 was a male student [REDACTED] at the School.
8. On or about 23 January 2008, the Member was found guilty in the Ontario Court of Justice in Belleville of the following charges that he:
 - a. between the dates of 1 September 1975 and 30 June 1976, at the Township of [REDACTED], in the Province of Ontario, did indecently assault Student No. 1, a male person contrary to Section 156 of the *Criminal Code* (Canada);
 - b. between the dates of 7 September 1976 and 31 December 1977, at the City of [REDACTED], did indecently assault Student No. 2, a male person, contrary to Section 156 of the *Criminal Code* (Canada);

- c. between 1 September 1969 and 30 June 1971, at the [■], did commit an assault on Student No. 3 contrary to Section 231(1) of the *Criminal Code* (Canada);
- d. between the dates of 1 September 1973 and 30 June 1974, at the City of [■], did indecently assault Student No. 4, contrary to Section 156 of the *Criminal Code* (Canada); and
- e. between the dates of 1 September 1975 and 30 June 1979, at the City of [■], did indecently assault Student No. 5, contrary to Section 156 of the *Criminal Code* (Canada).

The Member had pleaded guilty to the above charges in respect of Students No. 1, No. 2 and No. 3.

9. Attached hereto and marked as **Exhibit “B”** is a copy of the transcript of the proceedings in the Ontario Court of Justice on 23 January 2008, before Mr. Justice S.J. Hunter. The information contained in that transcript is prohibited from publication pursuant to an order of the court under section 486.4(1) of the *Criminal Code* (Canada)

PLEA OF NO CONTEST

10. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 9 above (the “admitted facts”). The Member hereby acknowledges that the admitted facts referred to in paragraphs 8 and 9 above, constitute conduct which is unprofessional and pleads no contest to the allegations of professional misconduct against him being more particularly that:

- a. he failed to strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honour, dignity and ethical standards of the teaching profession, contrary to Section 13 of the Regulation made under the *Teaching Profession Act* made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;

- b. he failed to concern himself with the welfare of his pupils while they were under his care contrary to Section 14(f) of the Regulation made under the *Teaching Profession Act*, made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;
- c. he failed to comply with Section 22.1(c) of the *Schools Administration Act*, R.S.O. 1960, Chapter 361 and amendments thereto;
- d. he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- e. 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);
- f. 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);
- g. he 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);
- h. he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);
- i. he contravened Section 264.1 (c) of the Education Act; and
- j. he contravened Sections 156 and 231(1) of the *Criminal Code* (Canada).

11. By this document, the Member states that:

- a. he understands fully the nature of the allegations against him;
- b. he understands that by pleading no contest to the particulars set out herein, he is waiving his right to require the College to prove the case against him and the right to have a hearing into those allegations;

- c. he voluntarily decided to plead no contest; and
- d. he states that this plea of no contest was made voluntarily, unequivocally and without the advice of legal counsel.

12. The Member provides this plea of no contest pursuant to Rule 3.02 of the Rules of Procedure of the Discipline Committee under protection of the *Evidence Act*, R.S.O. 1990, c. E. 23, for the purpose of this proceeding under the *College of Teachers Act*, 1996, chapter 12, and for no other purpose. The Member's plea of no contest does not constitute an admission by the Member as to the facts or findings in any other civil, criminal, or administrative proceeding.

13. 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.

JOINT SUBMISSION ON PENALTY

14. 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 Discipline Committee:

- a. 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; and
- b. direct that there be publication of the findings and order of the Committee, in summary form, including the full name of the Member, in the official publication of the College.

15. By this document, the Member acknowledges his understanding that any agreement between the College and the Member with respect to the penalty proposed in this document does not bind the Discipline Committee.

DECISION AS TO FINDING

Having examined the Exhibits filed, and based on the plea of no contest, the *Agreed Statement of Facts, Plea of No Contest and Submissions on Penalty*, and the submissions made by counsel for the College and Counsel for the Member, the Committee finds that the facts support a finding of professional misconduct as alleged in the *Notices of Hearing*.

In particular, the Committee finds that Robert Terrance Marson committed acts of professional misconduct, being more particularly that:

- a. he failed to strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honour, dignity and ethical standards of the teaching profession, contrary to Section 13 of the Regulation made under the *Teaching Profession Act* made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;
- b. he failed to concern himself with the welfare of his pupils while they were under his care contrary to Section 14(f) of the Regulation made under the *Teaching Profession Act*, made pursuant to Section 12 of the *Teaching Profession Act*, R.S.O. 1970, Chapter 361, as amended;
- c. he failed to comply with Section 22.1(c) of the *Schools Administration Act*, R.S.O. 1960, Chapter 361 and amendments thereto;
- d. he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- e. 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);

- f. 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);
- g. he committed acts that having regard to all of the circumstances would reasonably be regarded by members as disgraceful, dishonourable and unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- h. he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);
- i. he contravened Section 264.1 (c) of the Education Act; and
- j. he contravened Sections 156 and 231(1) of the *Criminal Code* (Canada).

REASONS FOR FINDING

On January 23, 2008, the Member pleaded guilty to indecent assault on Student 1 and indecent assault on Student 2 and pleaded guilty to common assault on Student 3. He pleaded not guilty to indecent assault on Student 4 but was found guilty. He pleaded not guilty to indecent assault on Student 5 but was found guilty. (Exhibit 3, Tab B). The victims in these five convictions [] at the time of the assaults. The Member has not appealed either the convictions or the sentence which was imposed on him.

The Member admitted the truth of the facts and exhibits referred to in paragraphs 1 to 9 of the Agreed Statement of Facts. Further, the Member acknowledged that the admitted facts referred to in paragraphs 8 and 9 of the Agreed Statement of Facts constitute conduct which is unprofessional and pleaded no contest to the allegations of professional

misconduct as alleged. (Exhibit 3) The Committee finds that the Member was guilty of professional misconduct by reason of his conduct and these criminal convictions.

The Member committed unacceptable and repetitive acts of assault and indecent assault on his students over a period of time dating from 1969 to 1979, while in a position of trust and authority. These acts are contrary to the Education Act, the Teaching Profession Act and the Ontario College of Teachers Act and the regulations thereunder as alleged.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke immediately the Certificate of Qualification and Registration of the Member, which Certificate the Member is to surrender immediately to the Registrar;
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 full name of the Member, in the official publication of the College, *Professionally Speaking/Pour parler profession.*

REASONS FOR PENALTY DECISION

The Member's teaching practices were designed to make possible his determined and ongoing behaviours to exploit his students. He solicited the assistance of students within the school to work with him in his classroom and at recess, after school and at his home

and [REDACTED] He gained their trust, groomed them, attacked them and assaulted them sexually and physically.

These activities occurred while the Member was a classroom teacher, a vice-principal and even after he retired when he served as a volunteer in a public school.

The Member displayed behaviours that are beyond any reasonable semblance of civil behaviour. In any society these types of behaviour are judged to be destructive, immoral and reprehensible. The fact that he abused his position of trust in order to create a long term pattern of abuse, control and sexual exploitation of his students, for his own sexual gratification, requires that he receive the maximum penalty, revocation of his certificate of qualification and registration. The Member, by his abuse of students, has brought the profession into disrepute and has lost the trust of the public.

The Member, by his actions, abused the power and trust vested in him in his role as a teacher. He caused emotional and psychological trauma and sexual harm to his students for his own gratification.

Publication of the findings and order of the Committee, in summary, along with the name of the Member, provides a specific deterrent to the Member by identifying him and the nature of his misconduct. Publication alerts the profession and informs the public that such behaviour will not be tolerated and will result in revocation.

For all of the above reasons, the Committee determined that revocation of the Member's certificate of qualification and registration, and publication of the findings and order of the Committee, with the name of the Member, in *Professionally Speaking/Pour parler profession* was appropriate.

Date: June 5, 2008

Rosemary Fontaine
Chair, Discipline Panel

Mel Greif
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel