

**ONTARIO COLLEGE OF TEACHERS**

**DISCIPLINE COMMITTEE**

**REASONS FOR DECISIONS 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 Stephen George Martin.

The Discipline Committee held a hearing on September 23 and 24, 2002,

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**STEPHEN GEORGE MARTIN  
CERTIFICATE #186397**

**PRESENT:**

Members of the Panel

Nancy Hutcheson (Chair)

George Merrett

Solette N. Gelberg

The Honourable Lloyd Houlden, retired judge, Independent Counsel to the Panel

Sally Bryant, McCarthy Tétrault LLP, Counsel for the Ontario College of Teachers,  
assisted by Jennifer Robinson, Law Clerk

Josh Phillips, Green and Chercover, Counsel for the member

Stephen George Martin

A Notice of Hearing dated September 28, 2002 was served on Stephen George Martin ("Stephen Martin"), requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 15, 2001 to set a date for hearing, and specifying the charges. The hearing date was eventually set for September 23, 2002.

It is alleged that Stephen Martin is guilty of professional misconduct 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 *Education Act*, Revised Statutes of Ontario, 1990, Chapter E.2 and particularly section 264 (1) (c) thereof, and the Regulations made under that Act, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);
- (c) he performed an act or acts that, having regard to all the circumstances, would reasonably be regarded by members as being disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1 (18);
- (d) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19); and
- (e) he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of his 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.

The Notice of Hearing states that Stephen Martin is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On September 23 and 24, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Stephen Martin was guilty of professional misconduct.

**EVIDENCE:**

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that Stephen Martin is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1 (5), (14), (15), (18) and (19). It was also alleged that he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of his students of a nature or extent that demonstrates that the member's certificate should be made subject to terms, conditions or limitations.

Counsel presented evidence that Stephen Martin is a member of the Ontario College of Teachers. At all material times, the member was employed by the Bluewater District School Board at Georgian Bay Secondary School as a teacher.

An Agreed Statement of Facts was filed as Exhibit #2. That statement was dated September 23, 2002 and had been signed by Stephen Martin and by Sally Bryant, McCarthy Tétrault LLP, on behalf of the Ontario College of Teachers.

## **FINDINGS OF FACT:**

Based on the Agreed Statement of Facts, the panel finds the following facts:

- (1) Stephen Martin is a member of the Ontario College of Teachers. The member has been employed as an art teacher with the Bluewater District School Board and its predecessor since 1990. At all material times, he taught at Georgian Bay Secondary School.
- (2) In 1994 and 1995, the member suffered a groin injury and a traumatic fall, striking his left face, orbital area, shoulder, spine, left knee, foot and hand. As a consequence, he suffered whiplash, nerve damage, muscle entrapment, coccyx injury, contusion and inflammation. His symptoms from this trauma included extreme pain, headaches, slurred speech, difficulty breathing, diplopia, emotional and physical exhaustion, acute anxiety, and depression. This resulted in the member's total disability as a result of which he was unable to teach and was in receipt of long term disability benefits for approximately one year.
- (3) Since then, the member has suffered a laceration of the right cornea, which has resulted in severe pain and irritation, and a second fall resulted in further injury to his back-shoulder in November 2001. He has also developed arthritis.
- (4) Various medical reports outline the member's health problems in the period 1996-2002 (Exhibit #2).
- (5) The member received significant medical intervention from his family physician, medical specialists, naturopaths, physiotherapists, massage therapists and chiropractors. Treatment included medication, exercise programs, acupuncture,

- counseling, osteopathic treatment, massage, nutritional supplements and light therapy.
- (6) Notwithstanding these treatments, the member has continued to suffer from chronic pain and other symptoms, which have simply not responded to the myriad treatments he has received.
  - (7) Stephen Martin has engaged in occasional marijuana use to relieve muscle pain and tension, and depression. His family doctor and his naturopath support the member's use of marijuana for relief of his symptoms.
  - (8) On January 29, 2001, police executed a search warrant with respect to the member's car, home and person.
  - (9) The police attended at the member's home and conducted a search. A couple of marijuana cigarettes and a few grams of marijuana leaves, stalk and seed were found at the member's residence.
  - (10) The police next attended at Georgian Bay Secondary School. Stephen Martin was arrested. Although the member had about 30 minutes notice that the police were coming, on his arrest one partial marijuana cigarette was found in the front pocket of his jeans.
  - (11) The police searched Stephen Martin's car, which was parked in the school parking lot. Two ends of marijuana cigarettes were found on the floor of his car.
  - (12) In total, the member was found to be in possession of the equivalent of one teabag of marijuana.
  - (13) On January 29, 2001, the member was charged with possessing marijuana contrary to the *Controlled Drugs and Substances Act*.

- (14) The police made no allegation that the member was under the influence of or intended to use any drug while at work, nor that he did traffic or intended to traffic drugs nor that any students or members of the school community were involved.
- (15) On February 6, 2001, the Bluewater District School Board suspended the member for seven days without pay.
- (16) On July 23, 2002, the member made application to Health Canada for permission to use marijuana in connection with his ongoing disabilities.
- (17) In support of his application, the member provided reports from his family physician and his naturopath.
- (18) On or about July 31, 2001, Health Canada promulgated regulations to require the endorsement of a medical specialist, which had not been previously required for such application.
- (19) On June 28, 2002, the member's application relating to medical access to marijuana was refused by Health Canada, as the member had not provided a specialist's report in support of his application.
- (20) At trial, May 16, 2002, the member entered a plea of guilty to possession of marijuana in the amounts set out above contrary to the *Controlled Drugs and Substances Act*. The judge, noting that Stephen Martin's medical condition was the reason that he used marijuana, gave him a conditional discharge for a period of six months provided that he keep the peace and be of good behaviour.

## **DECISIONS AND ORDERS:**

The Committee accepts the seriousness of the facts, as set out in the Agreed Statement of Facts, that the member was found to be in possession of one partial marijuana cigarette in the front pocket of his jeans and two ends of marijuana cigarettes found on the floor of his car while both the member and his car were on school property. While the Committee does not condone the illegal use of marijuana or the possession of marijuana, the Committee accepts that the member's use of marijuana was exclusively for medicinal purposes and had no significant impact on the community and no negative impact on the member's ability to practice the profession of teaching.

The Committee believes the member was derelict in his duty to ensure that no residue of his personal, private use of marijuana for medicinal purposes was on his person or in his personal property while he attended at school.

The Committee does not accept the College's contention that the member is guilty of professional misconduct as outlined in Ontario Regulation 437/97, subsections 1 (5), (14), (15), (18) and (19). The Committee rejects the College's contention that the member displayed a lack of knowledge, skill, or judgement and/or a disregard for the welfare of his 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.

Accordingly, the Committee finds Stephen Martin not guilty of professional misconduct as alleged.

**DATED AT TORONTO, THIS 10<sup>th</sup> DAY OF OCTOBER, 2002  
BY ORDER OF THE DISCIPLINE COMMITTEE**

---

Nancy Hutcheson, **Chair**

---

George Merrett

---

Solette N. Gelberg