

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 David Elliott McClure.

The Discipline Committee held a hearing on February 5, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**DAVID ELLIOTT MCCLURE
CERTIFICATE #123615**

PRESENT:

Members of the Panel

Solette N. Gelberg (Chair)

Sterling Campbell

Guill Archambault

The Honourable Patrick T. Galligan, retired judge, Independent Counsel to the Panel

L. Thomas Forbes, Q.C., McCarthy Tétrault LLP, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Anthony G. Bryant, assisted by Margaret Bojanowska, Counsel for the member

The member did not attend.

This decision is subject to a publication ban. On February 5, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the students or complainants involved in this matter.

A Notice of Hearing dated December 21, 2001 was served on David Elliott McClure, requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 14, 2002 to set a date for hearing, and specifying the charges. The hearing date was set for February 5, 2002.

It is alleged that David Elliott McClure 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 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, subsection 1(14) and (15);
- (d) he contravened a law or laws and that contravention is relevant to his suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (e) he contravened a law or laws and that contravention has caused or may cause a student who is under his professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);

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

The Notice of Hearing states that David Elliott McClure is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On February 5, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether David Elliott McClure was guilty of professional misconduct.

The member was not in attendance at the hearing, but was represented by counsel.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing, alleging that David Elliott McClure 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), (7), (14), (15), (16), (17), (18) and (19).

Counsel presented evidence that David Elliott McClure is a member of the Ontario College of Teachers. At all material times, the member was employed, as a teacher, by the Toronto Board of Education, the Etobicoke Board of Education and the North York Board of Education.

A letter, signed by counsel for David Elliott McClure and dated January 16, 2002, was entered as Exhibit #1, consenting to immediate revocation of his Certificate of Qualification and Registration.

Other evidence included a certified copy of the Indictment from the Ontario Court, General Division (Exhibit #2), Evidence Given by [REDACTED] (Exhibit #3), the member's Registry Status with the Ontario College of Teachers (Exhibit #4) and a newspaper article from the Globe and Mail regarding this matter (Exhibit #5).

Evidence was given of a finding of guilt regarding the following charges:

1. Indecent assault against [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
2. An act of buggery with [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
3. Indecently assaulting a male person, [REDACTED] contrary to the *Criminal Code of Canada*,
4. An act of gross indecency with [REDACTED] contrary to the *Criminal Code of Canada*,
5. An act of buggery with [REDACTED] contrary to the *Criminal Code of Canada*,
6. Indecently assaulting [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
7. an act of gross indecency with [REDACTED], contrary to the *Criminal Code of Canada*,

8. indecently assaulting [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
9. an act of gross indecency with [REDACTED], contrary to the *Criminal Code of Canada*,
10. indecently assaulted [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
and
11. indecently assaulting [REDACTED], a male person, contrary to the *Criminal Code of Canada*.

Paul Addie, Superintendent of Human Resources, Toronto District School Board, testified that the member retired on pension in June, 1984 and that the charges against him first came to the board's attention in 1998, although the incidents occurred as early as 1964. He stated that a review of the board's records did not indicate any knowledge of the member's activities. He confirmed that [REDACTED], who currently has a civil law suit against the Toronto Board of Education and others, was a student of David McClure's while in grades [REDACTED] in 1964 to 1966.

Detective Chris Buck, Toronto Police Service, testified that he was the investigating officer and as a result of the investigation, the member was charged with 16 different counts and was found guilty of 11 counts contrary to the *Criminal Code of Canada* including:

1. Indecent assault against [REDACTED], a male person, contrary to the *Criminal Code of Canada*.
2. An act of buggery with [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
3. indecently assaulting a male person, [REDACTED] contrary to the *Criminal Code of Canada*,
4. an act of gross indecency with [REDACTED] contrary to the *Criminal Code of Canada*,

5. an act of buggery with [REDACTED] contrary to the *Criminal Code of Canada*,
6. indecently assaulting [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
7. an act of gross indecency with [REDACTED], contrary to the *Criminal Code of Canada*,
8. indecently assaulting [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
9. an act of gross indecency with [REDACTED], contrary to the *Criminal Code of Canada*,
10. indecently assaulted [REDACTED], a male person, contrary to the *Criminal Code of Canada*,
and
11. indecently assaulting [REDACTED], a male person, contrary to the *Criminal Code of Canada*.

Detective Buck informed the panel that the member was denied bail and remains in custody pending sentence as the Crown is seeking to have him designated as a dangerous offender. He further testified that all of the male witnesses involved in the charges were, at some time, students of David Elliott McClure and they ranged in age from Kindergarten and Grade 1 to Grade 7 and Grade 8. He said, as an example, that the member's involvement with [REDACTED] was representative of, and covered the spectrum of, his involvement with other boys. He stated that in some cases the involvement was similar and in some, it was less intrusive. Detective Buck testified that at trial, one of the witnesses was still in his early teens, while the remainder of witnesses ranged in age from their 30s to mid-40s. Detective Buck testified that the member befriended the parents of many of these boys, developing a trust, which made it difficult for the younger boys to tell their parents what had happened. These incidents occurred in the school, during the school day and during extra-curricular activities as well as at the member's apartment, where he had many of the boys stay overnight from time to time. Detective Buck further testified that, at the criminal trial, it was apparent that all the

victims had suffered various degrees of traumatization through these incidents, particularly [REDACTED]

FINDINGS OF FACT:

The panel finds the following facts:

1. David Elliott McClure was found guilty of six counts of committing indecent acts, two counts of buggery and three counts of gross indecency, regarding six male students, contrary to the *Criminal Code of Canada* (Exhibit #2).
2. David Elliott McClure is currently in custody, pending sentencing.
3. The Crown has made application to have the member named a dangerous offender.

DECISIONS AND ORDERS:

The Committee finds that David Elliott McClure's assault against these students was widespread, betrayed an important position of trust, and is reprehensible. Accordingly, the Committee finds the member guilty of professional misconduct under subsections 1 (5), (7), (14), (15), (16), (17), (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke David Elliott McClure's Certificates of Qualification and Registration immediately.

Notice

It is important to the College's role in the governance of the profession to provide evidence to members that the College is active in self-regulation and is vigilant to breaches of its bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, and is, in the opinion of the panel, a practice that has significant general deterrent value.

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 the official publication of the Ontario College of Teachers.

**DATED AT TORONTO, THIS 13th DAY OF MARCH, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE**

Solette N. Gelberg, **Chair**

Sterling Campbell

Guill Archambault