

**DISCIPLINE COMMITTEE**  
**ONTARIO COLLEGE OF TEACHERS**  
**REASONS FOR DECISION, DECISION AND ORDERS**

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

**AND IN THE MATTER OF** discipline proceedings against Theodore Chukwugozie Nwaogu.

The Discipline Committee held a hearing on June 10, 2003

**BETWEEN:**

**ONTARIO COLLEGE OF TEACHERS**

**- and -**

**THEODORE CHUKWUGOZIE NWAOGU**  
**Certificate #206961**

**PRESENT:**

Members of the Panel

Nancy Hutcheson, Chair  
Diane Leblovic  
Bernard Adam

Nancy Spies of Stockwoods, Independent Legal Counsel to the Committee

Carole Jenkins, McCarthy Tétrault, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson, Law Clerk

Stephanie Carey, Markle, May, Phibbs, Counsel for Theodore Nwaogu

Theodore Nwaogu was present.

This matter came before a panel of the Discipline Committee for a hearing on June 10, 2003 at the Ontario College of Teachers at Toronto.

### The Allegations

The allegations against Theodore Nwaogu in the Notice of Hearing dated January 27, 2003, are as follows:

**IT IS ALLEGED** that Theodore Nwaogu is guilty of professional misconduct as defined in sections 30(2) and 40 (1.1), and/or is incompetent as defined in section 30(3) of 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 abused a student 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, subsections 1 (14) and (15);
- (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);
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);
- (f) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40(1.1) of the Act; and

- (g) he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of 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.

#### Position of the College and the Member

Counsel for the College advised the Discipline panel that the College was seeking an order from the Discipline panel granting the College leave to withdraw the allegations set out in the Notice of Hearing against Theodore Nwaogu. The Member consented to the withdrawal of the allegations.

The College set out the reasons for withdrawal of the Notice of Hearing, which included the fact that a criminal trial had been held in the matter and the Member was acquitted. The trial judge had serious concerns regarding the credibility of the student who brought forward the complaint. The student was unable to describe the alleged incident in depth and such details as she did remember contradicted the version which she had recounted to the school administration immediately after the alleged incident and which was described in their notes. Her evidence was inconsistent and unreliable, whereas the judge found the Member to be entirely credible, forthright in his statements, and supported by strong character evidence.

The College also indicated that the student is no longer in contact with the College and may therefore not be willing to proceed against the Member.

The Member denied the allegations set out in the Notice of Hearing.

Defence Counsel supported the withdrawal of allegations contained in the Notice of Hearing due to the lack of credibility of the student, even given that she made the allegations within minutes of the alleged incident.

#### Decision

The panel considered the submissions of College counsel and counsel for the Member. Upon the consent of the parties, the Discipline panel authorizes the Registrar to withdraw the allegations of professional misconduct and/or incompetence against Theodore Nwaogu set out in the Notice of Hearing dated January 27, 2003.

#### Reasons for Decision

Based on the submissions made by counsel, the Committee finds that, because of the Member's acquittal at trial, because of the lack of credibility of the student witness and her inconsistent testimony at trial, and because of the credibility of the Member, there is no evidence that the Member is guilty of Professional Misconduct. Therefore, the Committee authorizes the College to withdraw the allegations of professional misconduct and/or incompetence against Theodore Nwaogu set out in the Notice of Hearing dated January 27, 2003.

**DATED AT TORONTO, THIS 17TH DAY OF JUNE, 2003  
BY ORDER OF THE DISCIPLINE COMMITTEE.**

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Nancy Hutcheson, **Chair**

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Diane Leblovic

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Bernard J. Adam