

**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 Miguel Roland Quesnel, a member of the Ontario College of Teachers.

PANEL: Annilee Jarvis, 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 -)	
	)	Miguel Roland Quesnel
	)	was not present,
MIGUEL ROLAND QUESNEL	)	nor was he represented
(CERTIFICATE #199137))	
)	
	)	Scott Hutchison,
	)	Stockwoods LLP,
	)	Independent Legal Counsel
)	
	)	Heard: January 15, 2008

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on January 15, 2008 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing*, dated October 31, 2007, was served on Miguel Roland Quesnel, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on November 21, 2007 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for January 15, 2008. Miguel Roland Quesnel was not in attendance at the hearing.

THE ALLEGATIONS

The allegations against Miguel Roland Quesnel in the *Notice of Hearing*, (*Exhibit 1*) dated October 31, 2007, are as follows:

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

- (a) failed to maintain the standards of the profession, contrary to subsection 1(5) of Ontario Regulation 437/97;
- (b) failed to comply with the Act and the *Education Act*, R.S.O., 1990, Chapter E.2, or the regulations made under these Acts, contrary to subsections 1(14) and (15) of Ontario Regulation 437/97;
- (c) contravened a law and that contravention is relevant to his suitability to hold a Certificate of Qualification and Registration, contrary to subsection 1(16) of Ontario Regulation 437/97;
- (d) committed acts that having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to subsection 1(18) of Ontario Regulation 437/97; and
- (e) engaged in conduct unbecoming a member, contrary to subsection 1(19) of Ontario Regulation 437/97.

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, Guilty Plea and Joint Submission on Penalty (ASF – Exhibit 3)*.

The Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty provides as follows:

1. Miguel Roland Quesnel, (the “Member”) is a member of the Ontario College of Teachers, although his Certificate of Qualification has been suspended for non-payment of fees. Attached hereto and marked as **Exhibit “A”** is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. At all material times, the Member was employed by the Conseil scolaire public de district du Centre-Sud-Ouest (the “Board”) as a teacher.
3. From February to October of 2005, the Member was a high school teacher at [XXX] (the “School”) [XXX].
4. On February 19, 2005, the Member acted in an unprofessional and inappropriate manner in that he :
 - (a) while babysitting the [XXX] year-old daughter of Ms. A, a friend of his wife (the “child”), covered his penis with chocolate and inserted it into the mouth of the child; and

(b) dressed himself in feminine undergarments, and paraded and danced before the child.

5. The child was not a student.

6. On or about December 22, 2006, the Member pleaded guilty in the Ontario Court of Justice to a charge contained in Information No. 05-44516 that he did for a sexual purpose, touch a person under the age of 14 years directly with a part of his body to wit; his penis, contrary to Section 151(a) of the *Criminal Code* (Canada) and was found guilty of that charge. A certified copy of Information No. 05-44516 showing the charges against the Member contained in this paragraph and the disposition of those charges is attached as **Exhibit "B"**.

7. On or about December 22, 2006, the Member was sentenced in the Ontario Court of Justice by way of a conditional sentence to imprisonment for the term of 12 months to be served in the community (house arrest) followed by three years of probation. The Court also ordered that the Member:

- (a) reside where approved by his Probation Officer;
- (b) not be with persons under the age of 16 unless accompanied by a responsible adult, except in accordance with any Family Court Order;
- (c) attend and actively participate in any counselling as directed by probation;
- (d) present himself in full time attendance at any counselling sessions that may be arranged and/or approved by his Probation Officer;

- (e) not associate or communicate in any manner directly or indirectly with named persons, including the victim or members of her immediate family; and
- (f) [XXX].

8. The Court also imposed a Prohibition Order under Section 161 of the *Criminal Code* (Canada) and ordered that the [XXX].

9. A copy of the transcript in respect of the proceedings in the Ontario Court of Justice before Mister Justice J.A.T. Colvin on December 22, 2006, the Plea of Guilt, and the Reasons for Sentencing is attached and marked as **Exhibit “C”**.

10. The Member has not appealed either the conviction or the sentence which was imposed on him.

11. On or about July 25, 2007, the Honourable Mister Justice J.A.T. Colvin issued an Order with respect to certain documents and transcripts relating to the matter of *Her Majesty the Queen v. Miguel Quesnel* as set out in Information No. 05-44516, which documents and transcripts he ordered to be released to the Ontario College of Teachers. Mister Justice Colvin directed that the Order issued by the Ontario Court of Justice pursuant to Section 486(4) of the *Criminal Code of Canada* is to be maintained by the Ontario College of Teachers. A copy of the Order of Mister Justice Colvin is attached as **Exhibit “D”**.

GUILTY PLEA

12. By this document, the Member admits the truth of the facts and exhibits referred to in paragraphs 1 to 11 above (the “admitted facts”).

13. The Member hereby acknowledges that the admitted facts and exhibits referred to in paragraphs 4 to 10 above, constitute conduct which is unprofessional and pleads guilty to the allegations of professional misconduct against him being more particularly breaches of Ontario Regulation 437/97 1(5), 1(14), 1(15), 1(16), 1(18) and 1(19).

14. By this document the Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he understands that by pleading guilty to the allegations, he is waiving the right to require the College to prove the case against him, and the right to have a hearing;
- (c) he voluntarily decided to plead guilty; and
- (d) he understands and acknowledges that he is executing this agreement voluntarily, unequivocally and without the benefit of legal counsel.

15. 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

16. 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 Committee:

- (a) directs the Registrar of the Ontario College of Teachers to immediately revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to immediately surrender to the Registrar of the Ontario College of Teachers; and
- (b) directs that there be publication of the findings and Order of the Committee in summary form in the official publication of the College, *Professionally Speaking/Pour parler profession*. The Member's full name will be published in *Professionally Speaking/Pour parler profession*.

17. 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

Having examined the Exhibits filed, and based on Member's guilty plea and the *Agreed Statement of Facts, Guilty Plea and Joint Submission on Penalty*, and the submissions made by counsel, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Miguel Roland Quesnel committed acts of professional misconduct, being more particularly breaches of Ontario Regulation

437/97 subsections 1(5), 1(14), 1(15), 1(16), 1(18) and 1(19) of the *Act* as set out in the *Notice of Hearing*.

REASONS FOR DECISION

The Member acknowledged that the Agreed Facts described in paragraphs 4 to 10 of the *Agreed Statement of Facts, Guilty Plea, and Joint Submission on Penalty* (ASF - Exhibit 1) constitute professional misconduct and pleaded guilty to these allegations of professional misconduct. The Committee accepted the Member's guilty plea and the *Agreed Statement of Facts, Guilty, and Joint Submission on Penalty*.

Rules 13.05 and 13.06 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* allow the Committee to accept as proof that an offence was committed by a person, where there is a finding of guilt and conviction in a Canadian court, provided that there is no evidence to the contrary and that no appeal has been granted.

The Committee accepts the specific findings of fact contained in Exhibit 3 that:

On or about December 22, 2006, the Member pleaded guilty to and was convicted of sexual interference of a person under the age of 14 years, contrary to S.151 (a) of the *Criminal Code* (Canada).

On or about December 22, 2006, the Member was sentenced to twelve months incarceration in the community (house arrest) followed by probation for three years. He was ordered to [XXX]e and to [XXX]. He was prohibited from being in the presence of

persons under the age of 16 unless accompanied by an adult. The Member was ordered to attend and actively participate in any counselling program directed by his Probation Officer.

The Member has not appealed either the conviction or the sentence which was imposed on him.

The Committee accepts as proof, the findings of fact by Mr. Justice J.A.T. Colvin, resulting in the criminal conviction of the Member.

The Committee finds that the Member's conviction of sexual interference as outlined herein constitutes acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1(16), 1(18) and 1(19).

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member, which Certificate the Member is to surrender immediately to the Registrar; and
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 Member's

full name, in the official publication of the College, *Professionally Speaking/Pour parler profession.*

REASONS FOR PENALTY DECISION

The Member was convicted of sexual interference of a minor. He was ordered to [XXX] and to [XXX]. As well, the Member is prohibited from being around persons under the age of 16.

The Member has breached the trust of the public and the profession. Teachers are assumed to be responsible and trustworthy. A parent entrusted her child to the Member's care. The Member used this opportunity to abuse the child, resulting in a criminal conviction. Therefore the Committee determined that revocation is the necessary penalty. Revocation will ensure that the Member no longer has access to opportunities that place him in a position of trust and authority within the community. Parents and the general public need to be reassured that members who behave in such a manner will not be tolerated by the profession.

The Member's action was criminal. The Committee ordered publication with the Member's name in order to protect the public and to inform the public of the terms and conditions of the Member's conviction.

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 to his peers the nature of his misconduct. It acts as a general deterrent to the profession as it demonstrates that such behaviour will be treated harshly. Finally, publication serves the public interest by reassuring and informing the community that the profession acts decisively when matters of this nature are brought to its attention.

Date: January 15, 2008

Annilee Jarvis
Chair, Discipline Panel

Mel Greif
Member, Discipline Panel

Jacques Tremblay
Member, Discipline Panel