

**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
James Leo Ryckman, a member of the Ontario College of Teachers.

PANEL: Don Cattani, Chair
 Rosemary Fontaine
 Normand Fortin

| | | |
|-----------------------------|---|----------------------------------|
| BETWEEN: |) | David Leonard, |
| |) | McCarthy Tétrault, |
| |) | for Ontario College of Teachers, |
| ONTARIO COLLEGE OF TEACHERS |) | assisted by Trevor Evans, |
| |) | Senior Law Clerk |
| - and - |) | |
| |) | |
| JAMES LEO RYCKMAN |) | James Leo Ryckman was not |
| (CERTIFICATE # 120002) |) | present, nor was he represented |
| |) | |
| |) | Brian Gover, |
| |) | Stockwoods, |
| |) | Independent Legal Counsel |
| |) | |
| |) | Heard: October 5, 2004 |

REASONS FOR DECISION, DECISION AND ORDER (S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 5, 2004 at the Ontario College of Teachers (“the College”) at Toronto.

The Allegations

The allegations against James Leo Ryckman (“the Member”) in the *Notice of Hearing* (Exhibit 1) are as follows:

IT IS ALLEGED that James Leo Ryckman is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the *Ontario College of Teachers Act* (“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 or students physically, sexually, verbally, psychologically, and/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 specifically section 264 (1) (c) thereof or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);
- (d) he contravened laws, 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);
- (e) 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);
- (f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19);

- (g) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the Act.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. James Leo Ryckman (the "Member") is a member of the Ontario College of Teachers.
2. The Member had up until his retirement on 30 June 1997, been employed by the Windsor-Essex Catholic District School Board as a teacher.
3. At all material times, [REDACTED] and [REDACTED] were female persons, whose dates of birth are [REDACTED], and [REDACTED], respectively. Both [REDACTED] and [REDACTED] reside in the county of Essex.
4. Between 1997 and 28 January 2002, the Member sexually assaulted, sexually interfered with and sexually exploited [REDACTED]
5. Between October 1999 and January 2002, the Member sexually assaulted, sexually interfered with and sexually exploited [REDACTED]
6. On or about 28 January 2002, the Member was charged by the Ontario Provincial Police with one count each of sexual touching, of [REDACTED], one count each of sexual exploitation of [REDACTED] and [REDACTED], and one count each of sexual assault of [REDACTED] and [REDACTED]

7. Following the laying of charges on 28 January 2002, the Member was granted bail with certain conditions including that he remain within Essex County and not associate with any person under the age of 16 years unless that person was in the company of an adult person.
8. In or about January to March 2002, the Member breached the terms of his bail referred to in paragraph 7 above, and was further charged in respect to the breach or breaches of bail.
9. On or about 13 June 2002, the charges referred to in paragraphs 6 and 8 above, against the Member were consolidated into one Information. The member is charged, *inter alia*, that:
 - (a) between January 1999 and January 2002, at a town in Ontario, did for a sexual purpose touch [REDACTED], a person under the age of fourteen years, directly with a part of his body, to wit: his hand, contrary to section 151 of the *Criminal Code*;
 - (b) between January 1999 and January 2002, at a town in Ontario, being in a position of trust or authority towards [REDACTED], a young person, did for a sexual purpose, touch directly the body of [REDACTED] with a part of his body to wit: his hand, contrary to section 153 of the *Criminal Code*;
 - (c) between January 1999 and January 2002, at a town in Ontario, did commit a sexual assault on [REDACTED], contrary to section 271 of the *Criminal Code*;

- (d) between October 1999 and January 2002, at a town in Ontario, did for a sexual purpose, touch [REDACTED], a person under the age of fourteen years directly with a part of his body, to wit: his hand, contrary to section 151 of the *Criminal Code*;
- (e) between October 1999 and January 2002, at a town in Ontario, being in a position of trust or authority towards [REDACTED], a young person, did for sexual purpose touch directly the body of [REDACTED], a young person, with a part of his body, to wit: his hand, contrary to section 153 of the *Criminal Code*;
- (f) between October 1999 and January 2002, at a town in Ontario, did commit a sexual assault on [REDACTED] contrary to section 271 of the *Criminal Code*;
- (g) between 28 January 2002 and 17 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: remain within Essex County, failed without lawful excuse to comply with that condition contrary to section 145(3) of the *Criminal Code*;
- (h) between 28 January 2002 and 17 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: not to associate with any person under the age of sixteen years unless they are in the company of an adult person, failed without lawful excuse to comply with that condition contrary to section 145(3) of the *Criminal Code*;

- (i) on or about 14 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: not to associate with any person under the age of sixteen years unless they are in the company of an adult person, failed without lawful excuse to comply with that condition, contrary to section 145(3) of the *Criminal Code*; and
- (j) on or about 15 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: not to associate with any person under the age of sixteen years unless they are in the company of an adult person, failed without lawful excuse to comply with that condition, contrary to section 145(3) of the *Criminal Code*.

10. All of the charges referred to in paragraph 9 are presently outstanding before the courts.

Publication Ban

On October 5, 2004 the Discipline Committee made an order that there be no publication of any information that may disclose the identity of the victims involved in this matter.

Member's Plea

As the Member was not present, nor represented by Counsel, the Committee proceeded on the basis that the Member denied the allegations set out in the *Notice of Hearing*. The Chair, on behalf of the Member, entered a plea of not guilty to the allegations.

The College tendered an *Affidavit of Service* (Exhibit 2), which confirmed that the Notice of Hearing had been served on the Member on January 11, 2003. The Notice of Hearing required the Member to attend before the Discipline Committee on February 12, 2003 to set a date for hearing. As set out in the *Affidavit of Audley Trevor Evans* ("Evans"), Senior Law Clerk ("*Affidavit of Evans*"), Exhibit 3, the Member did not appear on February 12, 2003, or on a rescheduled date of June 9, 2004, when the hearing date was set for October 5, 2004.

As stated in the *Affidavit of Evans*, Evans, on behalf of the College, subsequently wrote to the Member on several occasions advising him of the date of hearing and advising him to contact him if he wished to be present at the hearing or if he wished to arrange to reschedule the hearing to a date suitable to the Member. Evans did not receive any communication from the Member in response to his correspondence.

The Committee finds that the College took adequate steps to ensure that the Member was aware of the hearing date. The Member did not respond or request an adjournment of the hearing date.

Accordingly the Committee was satisfied that the Member knew that the hearing would proceed on this date. The hearing was scheduled to commence at 9:30 a.m. The hearing commenced at 1:55 p.m. The Member had still not appeared and accordingly, the Committee proceeded in the Member's absence.

The Evidence

Counsel for the College entered into evidence the following additional documents:

Brief of Court Documents – Regina v. James L. Ryckman (Exhibit 4)

A *Brief of Court Documents (Court Docs)* with respect to the criminal proceedings against the Member was submitted as evidence. This brief consisted of the following documents:

- Tab A – Certified copy of Indictment R. v. James L. Ryckman dated May 9, 2003, showing plea of guilty to counts 8, 9, 10 and 11 and finding of guilt on counts 2, 3, 5, 6, 7 and 15, as well as details of sentencing;
- Tab B – Transcript of Reasons for Judgment of Mr. Justice R. Abbey dated May 25, 2004 – Superior Court of Justice;
- Tab C – Transcript of Reasons for Sentencing given by Mr. Justice R. Abbey on July 16, 2004 – Superior Court of Justice;
- Tab D – Court of Appeal for Ontario – Certificate of Non-Filing, dated October 1 2004, and Warning issued by Court of Appeal.

The *Court Docs* outline the following evidence:

The Member was indicted on 15 counts, pleaded guilty to 4 counts of breach of recognizance and after trial was convicted on 6 counts.

Prior to trial, the Member pleaded guilty to the following:

1. Between 28 January 2002 and 17 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: remain within Essex County, failed without lawful excuse to comply with that condition contrary to section 145(3) of the *Criminal Code*;
2. Between 28 January 2002 and 17 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: not to associate with any person under the age of sixteen years unless they are in the company of an adult person, failed without lawful excuse to comply with that condition contrary to section 145(3) of the *Criminal Code*;
3. On or about 14 March 2002, a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: not to associate with any person under the age of sixteen years unless they are

in the company of an adult person, failed without lawful excuse to comply with that condition, contrary to section 145(3) of the *Criminal Code*; and

4. On or about 15 March 2002, at a town in Ontario, having been charged with a criminal offence and being at large on a recognizance entered into before a justice and being bound to comply with a condition of that recognizance directed by a justice, namely: not to associate with any person under the age of sixteen years unless they are in the company of an adult person, failed without lawful excuse to comply with that condition, contrary to section 145(3) of the *Criminal Code*.

Evidence Re: [REDACTED]

After trial on May 25, 2004 the Member was found guilty of the following:

1. Between January 1999 and January 2002, at a town in Ontario, being in a position of trust or authority towards [REDACTED], a young person, did for a sexual purpose, touch directly the body of [REDACTED] with a part of his body to wit: his hand, contrary to section 153 of the *Criminal Code*.

2. Between January 1999 and January 2002, at a town in Ontario, did commit a sexual assault on [REDACTED], contrary to section 271 of the *Criminal Code*.

Between 1999 and 2002, the Member became a daily visitor at [REDACTED]'s home. The Member and [REDACTED], who was [REDACTED]'s mother, started out in a business relationship, which progressed

to beyond friendship to talk of marriage. Over time the Member began to increase his role in his relationship with [REDACTED]'s children and began to occupy a parental role. According to [REDACTED], the Member's sexual conduct towards her started at some point after July 1998. The Member began by massaging her shoulders in the living room and in her bedroom, and then progressed to the Member rubbing her stomach, her vaginal area and breasts.

The Member routinely came into [REDACTED]'s bedroom to assist her with her homework or to say good night at bedtime. On these occasions, he would close and lock the bedroom door, have her lie on the bed, pull her pants or pyjamas down to her thighs and, as he sat on the edge of the bed, massage her breasts and vaginal area. He did so, according to [REDACTED], on average two or three times a week.

The Member explained to [REDACTED] the reasons for what he was doing. He told her that she had cancerous lesions, especially in her vaginal area and that his rubbing the area would eliminate them.

[REDACTED] wanted to become a model. The Member encouraged [REDACTED] in her ambition to become a model and offered to help her by speaking about arranging photo shoots for her and introducing her to influential people. He used this knowledge to deceive [REDACTED] for his own sexual gratification. He convinced [REDACTED] that by massaging her to orgasm and then taking a pill, which he provided to her, would improve her physical development for modelling purposes.

Evidence Re: [REDACTED]

After trial on May 25, 2004 the Member was found guilty of the following:

1. Between October 1999 and January 2002, at a town in Ontario, being in a position of trust or authority towards [REDACTED], a young person, did for sexual purpose touch directly the body of [REDACTED], a young person, with a part of his body, to wit: his hand, contrary to section 153 of the *Criminal Code*.
2. Between October 1999 and January 2002, a town in Ontario, did commit a sexual assault on [REDACTED] contrary to section 271 of the *Criminal Code*.

[REDACTED], who was a troubled 13-year old, came to reside at the home of [REDACTED] in October 1999.

According to [REDACTED], the member presented himself as a doctor, wearing scrubs and carrying a medical bag. He removed her clothes, examined her vaginal area and breasts and told her that she had cancerous lesions and an inverted nipple. [REDACTED] testified that during the period from October 1999 to February 2000, while she resided at [REDACTED]'s residence, sexual assaults by the Member occurred twice a day, five days a week. They took place in her bedroom when the Member came in to help with homework and also when he came in to say good night. The Member would rub her shoulders, her stomach, her legs, her breasts and vaginal area.

After the Member had been charged with the counts involving [REDACTED] and [REDACTED], and after his release on a recognizance which included a term that he not associate with any person under 16 years old unless in the company of another adult, the Member failed to comply with these terms and was found guilty of breach of recognizance.

In addition to having been convicted of the above with respect to [REDACTED] and [REDACTED], the Member was also convicted of sexual assault a female adult, [REDACTED], contrary to section 271 of the *Criminal Code*.

Decision

(i) Onus and Standard of Proof

The College bears the onus of proving the allegations in accordance with the standard of proof with which the Committee is familiar as set out in *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977) 15 O.R. (2d) 477. The standard of proof applied by the Committee, in accordance with the *Bernstein* decision, was a balance of probabilities with the qualification that the proof must be clear and convincing and based upon cogent evidence accepted by the Committee. The Committee also recognized that the more serious the allegations to be proved, the more cogent must be the evidence. The Committee considered the allegations in this case to be very serious.

(ii) Decision

Having considered the evidence and onus and standard of proof, and submissions made by Counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that James Leo Ryckman committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1(14), 1(15), 1 (16), 1(18) and 1(19).

Reasons for Decision

It is uncontested that the Member was convicted under section 153 of the *Criminal Code* (Canada) that being in a position of trust, did for sexual purpose touch the bodies of young persons. He was also convicted under section 271 of the *Criminal Code* (Canada) of 3 counts of sexual assault. He was also convicted of 145(3) of the *Criminal Code* (Canada) for breach of recognizance. The Member was sentenced to a term of incarceration of 5 years. Therefore the Committee finds that the Member is in breach of Ontario Regulation 437/97, subsection 1(16).

Rule 13.05 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* states as follows:

13.05(1) Proof that a person has, in proceedings before a court in Canada, been convicted or discharged of an offence following a finding of guilt is proof, in the absence of

evidence to the contrary, that the offence was committed by the person, if no appeal of the conviction or discharge was taken and the time for an appeal has expired.

The Member has not appealed the conviction or sentence within the prescribed time limits. (*Court Docs*, Tab D – Certificate of Non-Filing)

Having no evidence to the contrary, the Committee accepts the proof of prior conviction as described in the *Court Docs* (Exhibit 4) and as detailed above.

The Committee finds that the Member breached the standards of the profession and accordingly breached section 264 (1) (c) of the *Education Act* and Ontario Regulation 437/7, subsections 1(5), 1(14) and 1(15) by his conviction of sexual abuse and sexual assault on two minors.

The Committee also finds that the Member's conduct is contrary to Ontario Regulation 437/97, subsection and 1(18) and 1(19) in that the Member engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable and unprofessional and conduct unbecoming a member.

Penalty

Counsel for the College submitted that the appropriate penalty be as follows:

1. revocation of the Member's certificate of qualification and registration;

2. imposition of a five year time limit within which the Member may not apply for reinstatement; and
3. publication of the findings of the Committee, with the name of the Member in *Professionally Speaking/Pour parler profession*.

Penalty Decision

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Member's certificate of qualification and registration, which the Member is to surrender immediately to the Registrar.
2. Pursuant to section 30(7) of the Ontario College of Teachers Act, the Committee orders that the Member may not apply for reinstatement for a period of at least five years following the date of this order.
3. 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, including the Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession*.

Reasons for Penalty Decision

While in a position of trust, the Member played upon the vulnerability of [] and [] and manipulated them for his own sexual gratification. The Member willfully deceived these young girls. For example he told them that by massaging their vaginal areas, they would be relieved of their cancerous lesions. He claimed to be a doctor while he assaulted them. The Member ingratiated himself into the life of []'s mother, and then systematically sexually preyed on [] and [] with deception.

These young girls were vulnerable to begin with and the Member's sexual conduct towards them undermined their fundamental human values, including their self-worth. The victim impact statements described how the Member's criminal actions have had an emotionally devastating effect upon [], [] and their families. Both [] and [] spoke of depression, the need to escape memories, ongoing feelings of insecurity, and inability to trust people. (*Court Docs*, Tab C)

The Committee notes that the Member, at the time of sentencing, was 66 years of age. In imposing a 5 year time period for which the Member could apply for reinstatement, the Committee is satisfied that the Member will not again be in a position of trust or authority in the publicly funded school system in Ontario.

The penalty must meet the objective of general deterrence to the members of the profession and the objective of specific deterrence to the Member. Accordingly, the

Committee is satisfied that revocation of the Member's certificate of qualification and registration is the appropriate penalty and is in the public interest.

Date: October 20, 2004

Don Cattani
Chair, Discipline Panel

Rosemary Fontaine
Member, Discipline Panel

Normand Fortin
Member, Discipline Panel