ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

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 SF.

The Discipline Committee held a hearing on November 12, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

SF
CERTIFICATE #[XXX]

REASONS FOR DECISION, DECISION AND ORDER

PRESENT:

Members of the Panel
Nancy Hutcheson (Chair)
Bernard Adam
Janet Cornwall

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

Jane Langford, McCarthy Tétrault LLP, Counsel for the Ontario College of Teachers, assisted by Trevor Evans, Senior Law Clerk

SF

The Committee ordered that a non-publication order in this proceeding under section 486(3) of the *Criminal Code of Canada* shall continue as ordered by Justice R. Kealey at the member's criminal trial. The victims shall be identified only as Adult Female A and Male Child B and further, that the member's name shall be identified in any publication by two initials only and his geographic region will be referred to as East Region of Ontario.

A Notice of Hearing dated July 12, 2002 was served on SF , requesting attendance before the Discipline Committee of the Ontario College of Teachers on August 20, 2002 to set a date for hearing, and specifying the charges. The hearing date was set for November 12, 2002.

It is alleged that SF 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 Act or the *Education Act*, Revised Statutes of Ontario, 1990, c.E2 and particularly section 264(1)(c) thereof or the regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);

(c) 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);

(d) he performed acts or omissions 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); and

(e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1 (19).

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

On November 12, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether SF 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 SF 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), (16), (18) and (19).

Counsel presented evidence that SF is a member of the Ontario College of Teachers (Exhibit #1, Tab A).

An Agreed Statement of Facts was filed as Exhibit #1. That statement was dated October 31, 2002 and had been signed by Jane Langford of McCarthy Tétrault LLP on behalf of the Ontario College of Teachers and by SF on his own behalf. This statement included the following:

1. SF is a member of the Ontario College of Teachers.

2. The member has never been employed as a teacher.

3. The persons referred to as A and B are respectively an adult female person, and a male child, who was born in [XXX]. The identities of persons A and B or any information which could disclose their identities is prohibited pursuant to s.486(3) of the *Criminal Code of Canada*, as ordered by the Superior Court of Justice on March 30, 1998, and reaffirmed by the Court of Appeal for Ontario on May 9, 2002.

4. On or about December 17, 1999, the member was convicted of five counts of assault against A, two counts of sexual assault against A, and two counts of assault against B as follows:

   (a) that on December 25, 1984, at the [XXX] in the East Region of the Province of Ontario, the member unlawfully did assault A and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*;

   (b) that on or about May 27, 1985, at [XXX], the member unlawfully did assault A and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*;

   (c) that between May 31, 1985 and July 1, 1985, at [XXX], the member unlawfully did assault A and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*;

   (d) that between May 31, 1985 and August 1, 1985, at [XXX], the member unlawfully did assault A and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*;

(e) that on or about September 6, 1987, at [XXX], the member unlawfully did assault A and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*;

(f) that between October 31, 1985 and December 1, 1985, at [XXX], the member unlawfully did commit a sexual assault upon A and did thereby commit an offence contrary to section 246.1(i) of the *Criminal Code of Canada*;

(g) that on or about March 7, 1992, at [XXX], the member unlawfully did commit a sexual assault on A and did thereby commit an offence contrary to section 271(1) of *the Criminal Code of Canada*;

(h) that between May 31, 1993 and August 1, 1993, at [XXX], the member unlawfully did assault B and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*; and

(i) that on or about April 25, 1995, at [XXX], the member unlawfully did assault B and did thereby commit an offence contrary to section 266 of the *Criminal Code of Canada*.

Submissions on penalty were made by both parties. The College stated that SF was not lightly convicted in criminal court, that the jury, which convicted him, had a heavy threshold of proof to meet and that the panel was bound by those convictions. The College also stated that although the charges in question pertained to SF's out of school conduct, this conduct strongly reflected on the member's suitability to be a teacher, especially given that he was convicted of assaults of violence, two of which were assaults against a child.

SF submitted that there are two sides to every story and that the evidence against him from the criminal trial was inflammatory. He stated that these charges were made during a bitter custody dispute, several years after the incidents in question. The member further stated that he served his sentence without incident, that he has a second son to whom he is a great father and that he is not out of control, drug-addicted or abusive. He stated that he has attended (Exhibit #2), and continues to attend, counselling. He also attended at an anger management course for six weeks (Exhibit #3). He has completed computer training and has been employed in this field since July, 2001. The member repeatedly denied the occurrence of the incidents for which he was convicted, and as such, stated that he could not show remorse.

FINDINGS OF FACT:

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

1. SF is a member of the Ontario College of Teachers.
2. The member has never been employed as a teacher.
3. The persons referred to as A and B are respectively an adult female person and a male child, who was born in [XXX].
4. On or about December 17, 1999, the member was convicted of five counts of assault against A, two counts of sexual assault against A, and two counts of assault against B.
5. As a result of his conviction on nine counts, a sentence of imprisonment of two years less a day was imposed on the member on June 2, 2000. The court ordered that the member serve the sentence of imprisonment in the community with

certain conditions, including that he abstain from the purchase or consumption of drugs other than in accordance with a medical prescription, and that he attend and comply with a treatment program as indicated by his supervisor for anger management and other personal problems.

6. The member appealed the decision of the court to the Court of Appeal for Ontario.
7. The appeal was heard on May 9, 2002, at which time the appeal was dismissed.
8. Although the member considered the evidence against him from the criminal trial to be inflammatory, the Committee accepts that the member did commit these acts.
9. These are acts of violence that strongly impact on his suitability to be a teacher.
10. Two of the assaults committed by the member were committed against a child.

DECISION AND ORDERS:

Accordingly, the Committee finds SF, guilty of professional misconduct under subsections 1 (5), (14), (15), (16), (18), and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke the member's certificate of qualification and registration immediately. The member can make application for reinstatement after a one-year period, having met the following conditions:

1. that the member submit proof of the successful completion of a current anger management course approved by the Registrar;
2. that the member submit to a current criminal records check; and

3. that the member submit to a psychological report, from a practitioner satisfactory to the Registrar, attesting to the member's ability to control his anger.

The College is vigilant to breaches of its bylaws and rules of conduct. The behaviour for which the member was convicted serves to undermine any confidence the public may have in this person if he should ever want to teach. His conduct calls into question his integrity, his honesty and his suitability to be a teacher. This violent behaviour will not be condoned and the penalty commensurate with the offence is revocation.

DATED AT TORONTO, THIS 22nd DAY OF NOVEMBER, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

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Nancy Hutcheson, **Chair**

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Bernard Adam

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Janet Cornwall