

**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 discipline proceedings against Christopher Mark Stanley, a member of the Ontario College of Teachers.

Heard: September 22 and 23, 2003

PANEL: Bernard J. Adam (Chair)
 Ernie Checkeris
 Rosemary Fontaine

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**MARK CHRISTOPHER STANLEY
(CERTIFICATE #426776)**

REASONS FOR DECISION, DECISION AND ORDER(S)

David Leonard, McCarthy Tétrault, for Ontario College of Teachers, assisted by Trevor Evans, Senior Law Clerk

William Markle, Markle, May Phibbs, assisted by Stephanie Carey, for Mark Christopher Stanley

Nancy Spies of Stockwoods, Independent Legal Counsel

Mark Christopher Stanley was present.

This matter came on for hearing before a panel of the Discipline Committee on September 22 and 23, 2003 at the Ontario College of Teachers at Toronto.

A Notice of Hearing, dated March 21, 2003 was served on Mark Christopher Stanley, requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 15, 2003 to set a date for a hearing, and specifying the charges.

Mark Christopher Stanley was in attendance at the hearing. Proof of service of the Notice of Hearing was presented and accepted by the panel. (Exhibit 1).

The Allegations

The allegations against Christopher Mark Stanley in the Notice of Hearing dated March 21, 2003 are as follows:

IT IS ALLEGED that Mark Christopher Stanley is guilty of professional misconduct as defined in sections 30(2) and 40 (1.1) of the Act 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 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 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 judgment 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.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. Mark Christopher Stanley (the "Member") is a member of the Ontario College of Teachers.
2. At all material times the Member was employed by the Peterborough Victoria Northumberland and Clarington Catholic District School Board ("the Board") and was a teacher at Holy Cross Catholic Secondary School ("the School") in Peterborough.
3. At all material times, [REDACTED] whose date of birth is [REDACTED], was a female student of the School.
4. During the 2000-2001 school year, the Member entered into an inappropriate relationship with [REDACTED], the particulars of which are as follows:
 - (a) the Member entered into a personal and inappropriate relationship with [REDACTED] which included but was not limited to his:
 - (i) visiting [REDACTED] at her place of employment on several occasions;
 - (ii) driving [REDACTED] from school to her place of employment on occasions;
 - (iii) discussing his impending marriage with [REDACTED] and his dissatisfaction with his partner;
 - (iv) going on shopping expeditions with [REDACTED] at the local mall;
 - (v) calling and speaking with [REDACTED] on the telephone about personal matters not related to school or [REDACTED]'s education;
 - (vi) exchanging personal e-mail communications with [REDACTED]
 - (b) the Member continued such relationship with [REDACTED], while knowing that

[] was infatuated with him and despite being advised of the inappropriateness of such behaviour by his employers.

5. Further, the Member acted inappropriately in that, after having stated to a Superintendent of the Board on 6 February 2002, that he would not have any further contact with any of his former students at the School, he contacted [] in order to interfere with an investigation into the allegations of misconduct against him.

Publication Ban

On September 22, 2003 the Discipline panel made an order that there be no publication of any information which may disclose the identity of the student(s) involved in this matter.

Member's Plea

Mark Christopher Stanley denied the allegations set out in the Notice of Hearing.

Overview

Mark Christopher Stanley is a member of the Ontario College of Teachers. During the school year 2000-2001 he was employed by the Peterborough Victoria Northumberland and Clarington Catholic District School Board (the "Board") and was a teacher at Holy Cross Catholic Secondary School (the "School") in Peterborough. During his employment at the School, the Member taught mathematics and science. The case concerned the Member's interaction with one of the female students at the School. [] was a 17-year old, female [] student at the material time. The Member did not teach [], but the issues concern alleged inappropriate interaction between the Member and [] as a result of the Member

visiting [redacted]'s place of employment and driving [redacted] from the School to her place of employment.

The specific issues for the Discipline panel to consider were whether or not the Member engaged in inappropriate communication with [redacted], both orally, electronically and by telephone, and whether, on one occasion the Member had a sexual relationship with [redacted]

The Evidence

The College called two witnesses, [redacted], and [redacted], another female student at the School. The Defence called two witnesses, Sarah Rogers ("Rogers"), a teacher at Holy Cross Secondary School and Michael Nolan, Principal of the School. The Member also testified before the Panel.

Evidence of [redacted]

During examination-in-chief, [redacted] testified that she was a student at Holy Cross Secondary School from 1998 to 2002. She met Mark Stanley in the spring of 2001 when she was 17 years old in [redacted] during the 2000-2001 school year. She indicated she was not a student of the Member and she first met him in the lobby of the school while talking to another student.

She testified that she worked part time at a [redacted] after school and on weekends during school and more frequently during the summer at [redacted], in [redacted] (the "Mall"), which was on the same road as the School.

She subsequently testified that she met the Member in the Mall on numerous occasions after school and on weekends where they would talk in the food court. She also stated that on one occasion he had driven her to work from school. She indicated that she saw him at the Mall more frequently during the summer, perhaps twice a week.

She also testified that she received phone calls from the Member on her private line, which she had given to him, at his request. She also indicated that they exchanged e-mails, the nature of which was "the same as a friend". She said the e-mails were more frequent than the phone calls. She indicated that she had deleted all the e-mails.

She next testified that the last day of school in June 2001 before exams she and the Member drove to the Warsaw Caves in the Member's car where they walked and talked most of the day.

She testified that she had flowers delivered to her at the Mall in the summer of 2001. Her name was on the envelope with a blank card. She said they were from the Member because she recognized his handwriting.

She testified that during the same summer she had arranged by telephone to meet the Member at the Mall on a day when she was not working at the Mall. The Member then drove her to a motel, where they talked for hours, kissed and ended up having sex. She indicated that the Member had a tattoo of a broken heart on his chest, above his nipple.

Under cross-examination, [REDACTED] said she knew the Member had a son called [REDACTED] who

was approximately 5 years old. She admitted to having a crush on the Member and did not object to going to the motel with the Member.

When asked what the Member's e-mail address was she indicated it was crayfish2001@hotmail.com.

During the fall of 2001, when the Member was no longer at the School, rumours began to circulate about a possible personal relationship between [REDACTED] and the Member. She talked to Rogers, a teacher who she confided in about the rumours and denied that there was any relationship. When asked if she confided to Rogers that she might be pregnant, she denied having said that.

When asked if she had communicated through the chat line "ICQ" with [REDACTED] she said she had no memory of this. She indicated [REDACTED] was not a friend of hers and did not discuss Mark Stanley with [REDACTED]

When [REDACTED] met with the principal of the School, Michael Nolan, she told him that she had met Mark Stanley "by chance" and denied that there was any relationship with the Member. She also denied to a College investigator that there was any intimate relationship with the Member.

When asked why it was not until July 2003 that she had indicated that she had gone to a motel with the Member she said she could not explain why.

Evidence of [REDACTED]

[REDACTED] was a student at Holy Cross Secondary School during the 2000-2001 and 2001-2002 school years. The Member, Mark Stanley taught [REDACTED] grade 11 [REDACTED] in the first

semester in the 2000-2001 school year.

[] testified that she knew [] but that they were not friends and did “not hang out”. She said she had seen [] and the Member once at the Mall in the summer between her grade 11 and grade 12 year (summer of 2001). She thought she may have seen them leave together through the main doors of the Mall.

She indicated that she was a member of the housekeeping staff at the [] during the summer of 2001. In late July the Member and his family were guests at the Inn on the weekend of the Member’s wedding. The Member’s fiancée took a photograph of [] and the Member.

[] said the Member telephoned her at the end of the summer. She told him she had heard that he was involved with [], that she told him she was shocked and that he was immature. He asked her what she had heard and she indicated she had heard “everything” and hung up. She said she never spoke to him again.

In cross-examination, [] testified that she began chatting on “ICQ” with [] in December 2000 and continued chatting throughout the summer of 2001 and into the fall. She heard rumours that Mark Stanley and [] were dating. She asked [] about the relationship and [] implied there was a sexual relationship. She testified she had not seen any evidence in the school or in the community of any relationship between [] and the Member.

When asked if the Member might have been phoning her to make arrangements to send her a copy of the photograph his fiancée had taken, she said “maybe but I didn’t

give him a chance to find out if he called about the photo”.

Evidence of Sarah Rogers

Rogers was qualified as a teacher in 1993. She was a teacher with the Board for 10 or 11 years. She was in her 6th year as a teacher at Holy Cross Secondary School. She taught French, [REDACTED] and Parenting. She also coached various activities at the school.

Rogers testified that she had met [REDACTED] in her grade 9 [REDACTED] or [REDACTED] class. [REDACTED] began to seek advice from Ms Rogers on a regular basis, beginning in grade 9 and continuing until [REDACTED] graduated in grade 12. She believed she had the trust and confidence of [REDACTED]

In January of 2002, [REDACTED] approached her concerned that she might be pregnant. At that time she also asked Rogers if she had heard rumours about herself and the Member. [REDACTED] vehemently denied any relationship with the Member. [REDACTED] asked Rogers to contact her father and tell him there was no substance to the rumours of a relationship with the Member and subsequently asked if she had indeed contacted her father on her behalf.

Evidence of Michael Nolan

Michael Nolan had been a teacher for 28 years, 16 as a principal. He was principal of Holy Cross Secondary for 5 ½ years and was principal of the School at the time that rumours of an inappropriate relationship between the Member and [REDACTED] arose, which he investigated.

He met with [REDACTED] and her father and was assured by [REDACTED] that there was no sexual relationship between herself and the Member.

Evidence of the Member

The Member was born May 28, 1975. He received his B.Ed. from Queen's University in 1999 and began teaching part time in 1999. He began teaching math and science at Holy Cross Secondary School in September 2000. He also coached junior boys basketball and junior girls soccer.

He said he had a son that was born on [REDACTED], who would have been 4 years old in 2001. He indicated that he took his son to daycare on Lansdowne Street, past the Mall.

He confirmed that he first met [REDACTED] in the gym at the school and they shot basketballs together at one end of the gym with other students present. He admitted giving her a ride to work at the Mall on that occasion and on one other occasion while leaving the school parking lot. He also admitted that he had seen [REDACTED] at the Mall on two occasions, one when he was with his son in the food court and once when she was in the [REDACTED].

The Member also admitted that between the beginning of June and the end of June 2001 he spoke with [REDACTED] in the school hallways where she sought advice on non-academic issues in a general way. They talked about her future career, future, basketball and she sought advice on personal relationships. He indicated that he tried to give her general good advice and that she shouldn't let guys treat her in demeaning ways.

The Member denied that he had gone to the Warsaw Caves with [REDACTED], that he had gone to a motel with [REDACTED], that he had had sex with [REDACTED], that he had exchanged e-mails and that he had telephoned her on a number of occasions.

The Member testified that [REDACTED] had telephoned him at the beginning of July. She seemed upset that he was leaving Peterborough, that she thought there was a more personal relationship with him. He began to think that she had a crush on him and he decided to approach the matter delicately and apologized for not letting her know that he was leaving town. She called again 5 days later, still upset and irate because she felt there was more of a relationship than he did. He indicated that the call was inappropriate and that she should not call him again. He indicated that he did not provide his phone number to [REDACTED]

He indicated that he was married on July 21, 2001, left Peterborough on July 23, 2001 and did not return from his honeymoon in Spain until August 16, 2001. He moved to Kingston on August 17th or 18th.

In October 2001, once he had developed his wedding photos, the Member came across the photo of himself and [REDACTED] and phoned her to make arrangements to send it to her. When he called her, [REDACTED] did not give him an opportunity to say why he had called but began a tirade about rumours she had heard of an inappropriate relationship with him and [REDACTED]

The only other time the Member was questioned about any inappropriate relationship was in February 2002 from his former Superintendent, Deirdre Thomas. He denied to her that there was any intimate relationship with [REDACTED]. He indicated he was suspended from his duties at St. Peter Catholic School in Kingston, with pay, a few days later.

The Member admitted that he had called [REDACTED] on one occasion, following the phone

call from Deirdre Thomas to ask [redacted] what was going on. [redacted] responded that she had heard rumours, that she didn't start them and that she did not think it was a big deal.

The Member also admitted that he had a tattoo of a broken heart on his chest and that on occasion he would not have his shirt on at the school while playing "shirts and skins" basketball after school with the older boys.

In cross-examination he was asked his e-mail address which he provided. It was not the same as that provided by [redacted]. He said he had no knowledge of the e-mail address given by [redacted].

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 panel is familiar 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 panel, 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 panel. The panel also recognized that the more serious the allegation to be proved, the more cogent must be the evidence.

In this case, the panel considered the allegations and their possible consequences to be very serious.

(ii) Decision

The panel, on the basis of its findings, is satisfied that the case has not been made that

Mark Christopher Stanley is guilty of professional misconduct or incompetence as charged.

The Committee finds Mark Christopher Stanley not guilty of the allegations as set out in the Notice of Hearing.

The panel is not only satisfied that the College did not meet the *Bernstein* burden of proof, but having considered the evidence, has concluded that there was no inappropriate relationship, nor any sexual relationship between the Member and the student.

Pursuant to section 30(8) of the Ontario College of Teachers Act, the Committee orders that the finding that the allegations of professional misconduct and incompetence are unfounded be published in the official publication of the College, *Professionally Speaking/pour parler profession*, but only at the request of Mark Christopher Stanley, the Member against whom the allegations were made.

Reasons for Decision

The panel had serious concerns when assessing the credibility of [REDACTED]. The panel found it significant that [REDACTED] did not remember details regarding e-mails and telephone conversations with the Member or what was discussed at the Warsaw Caves. She indicated to the panel that there was no kissing at the Warsaw Caves but had earlier indicated to [REDACTED] that there had been.

The panel found it difficult to believe that it would be possible for a math and science teacher to be absent from school with a student for most of the day and not be

queried about it by anyone at the school, as alleged by [REDACTED] with respect to going to the Warsaw Caves.

The student could not name the motel or its location. She indicated she had had sex with the Member but could not remember if he was circumcised. She indicated that the motel incident occurred late in the summer of 2001 when the Member indicated he was on his honeymoon in Spain.

In prior discussions, [REDACTED] told Rogers there was not an intimate relationship with the Member and indicated that she would not have spoken of such a personal matter to her. On the other hand, Rogers testified that [REDACTED] had been confiding in her about personal relationships since she was in grade 9.

[REDACTED] indicated that she had told her father, a police officer, that there was no relationship with the Member.

She told a school monitor that there was a personal relationship with the Member.

She told the Principal, Mr. Nolan that there was no personal relationship with the Member.

[REDACTED] indicated that [REDACTED] had told her there was a personal relationship with the Member.

[REDACTED] told the College investigator that nothing untoward had happened with the Member.

The first time [REDACTED] mentioned to anyone about the motel incident was to College

counsel in July of 2003. This was almost two years after the incident supposedly occurred.

Based on these inconsistencies the Committee does not find [] to be a credible witness. She was a most reluctant witness and spent much of her testimony saying "I don't remember".

On the other hand, the panel found the Member to be forthright and consistent in his testimony. Where there were inconsistencies between the evidence of [] and the Member, for the reasons set out above, the panel preferred the evidence of the Member. Accordingly, the panel finds that there was no inappropriate relationship nor any sexual relationship between the Member and the student.

**DATED AT TORONTO, THIS 26TH DAY OF SEPTEMBER, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE.**

Bernard J. Adam, Chair

Ernie Checkeris

Rosemary Fontaine