

**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 Thomas Frederick Tollett, a member of the Ontario College of Teachers.

PANEL: Annilee Jarvis, OCT, Chair
 Robert Ryan, OCT
 Pauline Smart

BETWEEN:)	
)	
	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Daniela De Bartolo,
	)	Litigation Paraprofessional
)	
- and -)	
)	
	)	Thomas Frederick Tollett was not
	)	present, nor was he represented
Thomas Frederick Tollett)	
(CERTIFICATE #142734))	
)	
	)	Rebecca Durcan,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: October 27, 2010

REASONS FOR DECISION, DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (“the Committee”) on October 27, 2010 at the Ontario College of Teachers (“the College”) at Toronto.

A *Notice of Hearing* (Exhibit 1), dated September 30, 2010 was served on Thomas Frederick Tollett, requesting attendance before the Discipline Committee of the Ontario College of Teachers on October 13, 2010 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for October 27, 2010.

The Member did not appear, nor was he represented.

Counsel for the College submitted an Affidavit of Daniela De Bartolo, Litigation Professional at McCarthy Tétrault, sworn October 26, 2010 (*Exhibit 2*) outlining written communications she sent to the Member with respect to the date of the hearing and his ability to make submissions and participate in the hearing. No response was received from the Member. The Committee was satisfied that the Member was served with the *Notice of Hearing* and all disclosure documents and was aware of the time and date of the hearing (Exhibit 2, Tabs A, B, C, D, E). The Committee therefore proceeded to hear the matter in the absence of the Member.

THE ALLEGATIONS

The allegations against Thomas Frederick Tollett (“the Member”) in the *Notice of Hearing* are as follows:

IT IS ALLEGED that Thomas Frederick Tollett is guilty of professional misconduct as defined in subsections 30(2) of the *Ontario College of Teachers Act* (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 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, subsection 1(15);
- (c) he contravened a law, 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 contravened a law, the contravention of which has caused students under the member's professional supervision to be put at or to remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (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); and
- (f) he engaged in conduct unbecoming a Member, contrary to Ontario Regulation 437/97, subsection 1(19).

At the hearing on October 27, 2010, College counsel sought to withdraw the allegations of professional misconduct in paragraphs (a) and (d), namely that the Member breached Ontario Regulation 437/97, subsections 1(5) and 1(17). The Committee agrees that these allegations shall be withdrawn.

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. At all material times, Thomas Frederick Tollett ("the Member") was employed by the Kawartha Pine Ridge District School Board (the "Board") as an occasional teacher.

2. At all material times, R.W., B.K., and S.K. were adult persons residing in Port Hope. On or about 20 August 2009, the Member:

- (a) stabbed R.W. in the neck with a knife and struck him over the head with an ornamental waterfall;
- (b) struck B.K. over the head with a wooden paddle;
- (c) struck S.K. over the head with a wooden paddle.

3. On or about 14 December 2009, the Member pleaded guilty to the following charges, and was found guilty of those charges:

- (a) that he on or about 20 August 2009 at the Municipality of Port Hope in the said region of Northumberland or elsewhere in the Province of Ontario did attempt to murder R.W. by stabbing him in the neck with a knife contrary to Section 239(b) of the *Criminal Code* (Canada);
- (b) and further that he on or about 20 August 2009 at the Municipality of Port Hope in the said region of Northumberland County or elsewhere in the Province of Ontario did in committing an assault on B.K. use a weapon to wit; a wooden paddle, striking her over the head, contrary to Section 267(a) of the *Criminal Code* (Canada);
- (c) and further that he on or about 20 August 2009 at the Municipality of Port Hope in the said region of Northumberland County or elsewhere in the Province of Ontario did in committing an assault

on S.K. use of a weapon to wit; a wooden paddle, striking him in the head, contrary to Section 267(a) of the *Criminal Code* (Canada).

4. On or about 22 January 2010, the Member was sentenced to imprisonment for two years less one day, to be followed by three years probation.
5. The Member has not appealed the conviction or sentence.
6. The Member's employment was terminated by the Board on 16 September 2009.

MEMBER'S PLEA

As the Member was neither 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 EVIDENCE

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

Registered Member Information (Exhibit 3). Thomas Frederick Tollett is a member of the Ontario College of Teachers as shown on the *Registered Member Information*.

Brief of Court Documents – Her Majesty The Queen v. Thomas Frederick Tollett (Exhibit 4).

The *Brief of Court Documents* with respect to the criminal proceedings against the Member submitted into evidence consisted of:

1. Certified copy of Indictment dated August 21, 2009
2. Transcript of Crown Facts before Justice J.R. Morgan at Cobourg on December 14, 2009

3. Transcript of Reasons for Judgment before Justice J.R. Morgan at Cobourg on January 22, 2010
4. Probation Order dated January 22, 2010
5. Prohibition Order Imposed at Sentencing dated January 22, 2010.

The evidence presented in the Court Documents confirms that on December 14, 2009, the Member pleaded guilty to one count of attempted murder and two counts of assault with a weapon and was found guilty of those charges. He was sentenced on January 10, 2010 to 2 years less one day in provincial jail to be followed by 3 years probation which includes anger management treatment and counselling. The Member has not appealed the conviction or sentence.

DECISION

Having considered the evidence and onus and standard of proof, and the 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 Thomas Frederick Tollett committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(15), 1(16), 1(18) and 1(19).

REASONS FOR DECISION

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.

It is uncontested that on or about December 14, 2009, the Member was found guilty and convicted of one count of attempted murder and two counts of assault with a weapon contrary to Section 239(b) and Section 267(a) of the *Criminal Code* (Canada). Further, the Member was sentenced to imprisonment for two years less a day, followed by three years probation.

The Committee finds that the Member's convictions for attempted murder and assault with a weapon as outlined herein constitute acts of professional misconduct, being more particularly breaches of Ontario Regulation 437/97, subsection 1(15).

These convictions are relevant to the Member's suitability to hold a Certificate of Qualification and Registration pursuant to Ontario Regulation 437/97, subsection 1(16).

The Member's conduct was disgraceful and dishonourable and unbecoming a member contrary to Ontario Regulation 437/97, 1(18) and 1 (19).

The Member was an acquaintance of R.W. Previously, the Member would drive past R.W.'s house, remain in his car and they would exchange greetings. On this occasion, the Member walked to R.W.'s home and engaged in small talk. The Member then asked R.W. for a drink of water. Once inside R.W.'s home, the Member suddenly and unprovoked picked up a ceramic tea light holder and attacked R.W. by striking him with it in the head. R.W. fell to the floor. The Member punched R.W. and wrestled with him and when R.W. screamed for help, the Member pulled a steak knife out of his pants pocket and stabbed R.W. in the throat (Exhibit 4, Tab 2).

Further, the Member followed R.W. to a neighbour's home and continued the attack. When the elderly neighbour, B.K., attempted to call 911, the Member grabbed the phone, struck her with it and slapped her glasses off her face. The Member then grabbed a twenty-four inch paddle that hung on the kitchen wall and struck her over the head. The neighbour's husband, S.K., entered the room and the Member turned the attack on him by striking him in the head with the wooden paddle with enough force to break it. The Member then jabbed the broken paddle toward B.K. in an attempt to stab her (Exhibit 4, Tab 2).

The Committee noted that the attempted murder appeared to be premeditated as the Member was carrying a steak knife in his pocket when he arrived at R.W.'s home. The Committee accepted the Crown Facts that these attacks were unprovoked (Exhibit 4, Tab 2).

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

REASONS FOR PENALTY DECISION

The Member's actions were brutal, unprovoked and extremely serious. The gravity of the Member's offence, the persistence that he demonstrated, the number of victims, the location of the offences are aggravating features. The Member breached the trust of a relationship with an acquaintance who offered a kindness. These attacks occurred in a small community. The Member, once released from incarceration, his family, the victims and their families may continue to reside in this community where incidental contact will occur. It will be difficult to regain the trust that has been lost, for all involved.

Given the Member's actions, he cannot be placed in a position of trust or authority. His unpredictable behaviour could endanger the safety of students and staff as well as the public at large. Therefore revocation of the Member's certificate of qualification and registration is the only recourse to protect the public. The crimes for which the Member was convicted are extremely serious and ones which discredit and disqualify him in the eyes of the public and the profession.

The Member's actions were criminal. Publication of the findings and order of the Committee, in summary, along with the name of the Member, in *Professionally Speaking/Pour parler profession* advises the profession of the nature of the Member's misconduct and the consequences for such grievous behaviour. Publication, with the Member's name, is appropriate to demonstrate that the Member's conduct is unacceptable in the eyes of the profession and the public. Publication with the Member's name also provides protection to the public by way of alerting them to the details of these events.

In conclusion, the Committee is confident that the penalty order serves the interests of the public and the profession.

Dated: October 27, 2010

Annilee Jarvis, OCT, Chair
Chair, Discipline Panel

Robert Ryan, OCT
Member, Discipline Panel

Pauline Smart
Member, Discipline Panel