

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

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 Karla Faye Tessaro.

The Discipline Committee held a hearing on October 24 & 25, 2001,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**KARLA FAYE TESSARO
CERTIFICATE #107801**

PRESENT:

Members of the Panel

Marilyn Laframboise (Chair)

Sterling Campbell

Solette N. Gelberg

The Honourable Patrick Galligan, Independent Counsel to the Panel

Will McDowell and Catherine Hawara, McCarthy Tétrault, Counsel for the Ontario College of Teachers, assisted by Jennifer Robinson

Allyson Otten and Sarah Colman, Lerner and Associates, Counsel for the member

Karla Faye Tessaro

The decision is subject to a publication ban on the names of children and youth as a result of earlier proceedings before the Youth Court and under the jurisdiction of the *Young Offenders Act*.

An Amended Notice of Hearing, dated March 27, 2001, was served on Karla Faye Tessaro, requesting attendance before the Discipline Committee of the Ontario College of Teachers on April 9, 2001 to set a date for hearing, and specifying the charges. The hearing date was set for October 24, 2001.

It is alleged that Karla Faye Tessaro is guilty of professional misconduct in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) she failed to supervise adequately a person who is under her professional supervision contrary to Ontario Regulation 437/97, subsection 1(11);
- (c) she failed to comply with the Education Act, Revised Statutes of Ontario, 1990, chapter E.2 and particularly s.265(a) and (j) thereof, or the Regulations made under that Act and, in particular, Regulation 298, s. 11(1), contrary to Ontario Regulation 437/97, subsection 1(15);
- (d) she performed acts or omissions that, having regard to all the circumstances, would reasonably be regarded by members as being disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- (e) she engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and

- (f) she failed to comply with her duties under the *Child and Family Services Act* contrary to Ontario Regulation 437/97, subsection 1(27).

The Amended Notice of Hearing states that Karla Faye Tessaro is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On October 24, 2001, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Karla Faye Tessaro is guilty of professional misconduct.

The member presented a Motion requesting that only evidence up to and including February 16, 2000 be heard. Arguments were presented by both Counsel. The majority of the Committee ruled with the position of the member with the following exception: that the content of the alleged telephone call by the member to the Children's Aid Society on February 21 be admissible.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Amended Notice of Hearing alleging that Karla Faye Tessaro is guilty of professional misconduct in that her acts were contrary to the Professional Misconduct Regulation made under the *Ontario College of Teachers Act, 1996* and filed as Ontario Regulation 437/97 on December 4, 1997, in particular, subsections 1(5), (11), (15), (18), (19) and (27).

At all material times, Karla Faye Tessaro was employed by the Hamilton-Wentworth District School Board as a principal.

Caroline Schmid, a social worker for the Children's Aid Society (CAS) of Hamilton-Wentworth, was called as a witness by the College. She testified that her case notes indicate that on February 16, 2000 she received a telephone call from a female who remained anonymous. She testified that it was not unusual for schools to call to get information or guidance. She said that any person calling may remain anonymous, and that this was not unusual in a call from a school.

The social worker testified that the caller spoke of a telephone call received that morning from the mother of a six year-old girl in her school. The family had just returned from [REDACTED] and was living with another family. She testified that the child's mother had reported to the caller that when the mother was putting the child to bed, the child asked for gum and was insistent but the mother refused. When the father came home later, he looked in on the child. He found a fourteen year-old boy who lived in the home, in the doorway of the child's bedroom. The father had asked the child what happened. The child indicated that she wanted gum and she said something about sucking "blank's" cock. The social worker said that this was a situation that would be investigated by the CAS because of the disclosure by the child, the father's observations, and the mother's reference to a concern about the child lying. Caroline Schmid said that for a six-year-old to use these words was a trigger and she advised the caller that there needed to be follow-up. The social worker's case notes did not document this advice. She said that it was routine to give this direction and she said that if she had concerns about a referent

(sic) being hesitant to report, she would document it. The caller wished to contact the family and have the family call the CAS. The caller stated that she would call back by the end of the day and Caroline Schmid was confident that this would occur.

The social worker testified that she received a telephone call on February 21, 2000 from Karla Tessaro indicating that the mother had just called her and was very distraught. As a result, the Principal had sent the school social worker to the home. She then made a report to the CAS, providing all necessary identification, and indicating that the school social worker would be calling the Children's Aid Society.

Karla Faye Tessaro testified that in the course of her 34 years as an educator she had made hundreds and hundreds of calls to the CAS. On February 16, she called the CAS. She remembers giving her name and school to the receptionist before being put through to the intake worker, Caroline Schmid. She gave Caroline Schmid the information she had received from the mother. Karla Tessaro has a clear recollection that she was never asked for identification of either herself or the family involved. She said if she'd been asked, she would have complied. The only advice that she received from the CAS was to tell the mother that it was the mother's responsibility to not leave the child alone with the fourteen year-old boy. She testified that she was not asked to make a report during that conversation. She went on to describe the first conversation with the mother. The mother was concerned over her six year-old daughter's inappropriate behaviour at home and at school. The child was described as being mischievous at home. She was having problems at school, especially on the playground and the mother was concerned that her daughter might repeat, at school, inappropriate language that the child was

using at home. The mother said that since they did not have their own house in Canada, they were living with another family with two older boys. She said that the night before, the child was upset because she couldn't have any gum when she went to bed. When the dad came home, he went to the child's room and found a fourteen-year-old boy talking to her. Later, the child told her father that the boy would give her gum if she would suck his cock. The father told this to the mother the next morning, but neither of them questioned the child. The mother thought that the child was not telling the truth.

Karla Tessaro indicated to the mother that that was strange wording for a child to use. The mother responded that it was language the child may have had heard around the house. The Principal then advised the mother to find out if it was just bad language or if it was something more. When Karla Tessaro offered to talk to the child, the mother indicated that she wanted to talk to the father first and would try to contact him at work. Subsequently the Principal phoned the CAS. Immediately after that phone call, the mother called back, indicating that she had spoken with her husband and they had agreed to take the child out of the house that evening and talk to her. Karla Tessaro told the mother that the CAS worker had said that it was important to not leave the child alone or unsupervised with the boy. The Principal testified that she felt good about the conversation. The mother had said, "We'll take it from here". Karla Tessaro assumed that this was a concerned, caring mom who would follow up. The Principal stated that she had had no prior contact with the mother prior to the two telephone calls on February 16. Karla Tessaro did not know the father. Because of that, she testified that she followed up with conversations with Linda Lee, the school secretary, and [XXX], the child's teacher, in order to confirm her impressions about the mother.

Linda Lee reported to Karla Tessaro that the child's mother was reliable and cooperative and phoned the school when the child was going to be away. The child's teacher reported some problems in class and on the playground. The teacher told her that she communicated with the mother through the agenda and that the mother responded. The Principal said that after her phone calls with the mother, her call to the CAS and her conversations with the school secretary and the child's teacher, she believed that the mother would follow through if there were a problem.

The member testified that on February 21 she received a call from the child's mother. On this date, the mother was very distraught about the child. The Principal testified that while she had obtained no additional information from the child's mother, the mother was so distressed and that since this was such a contrast from the concerned, caring parent with whom she had spoken on February 16th, Karla Tessaro believed that something was very wrong with the child. Since the school social worker was in the school that morning, she immediately sent the school social worker out to the home, and then Karla Tessaro made a report to the Children's Aid Society.

Linda Lee testified on behalf of the member. The witness, an experienced school secretary, was working at [XXX] at the time of the incident. She stated that Karla Tessaro's reputation was of being one of the best principals in the system. She stated that the Principal's reputation as it related to CAS matters, was of being very conscientious, and that Karla Tessaro had, in fact, stressed to her staff their duty to report. Linda Lee brought her steno pad to the hearing. Her notes confirmed a phone

call from the child's mother. The secretary recalled that the mother had expressed concern about her daughter's bad language and her fear that the child might use it at school. She transferred the call to Karla Tessaro. She further testified that the Principal later asked her what type of parent she felt the mother was. The secretary stated that she told Karla Tessaro that she had no concerns about this parent who was reliable at reporting the child's absences and in picking up the child on time. She added that Karla Tessaro would ask her about parents with whom the Principal was not familiar.

FINDINGS OF FACT:

Section 37 (2) of the *Child and Family Services Act* defines when a child is in need of protection. Section 72 of the Act outlines the duty to report. Subsection 3 says that a professional who has reasonable grounds to suspect abuse shall report to a society. The College has not provided clear and convincing proof of reasonable grounds to suspect abuse. The panel is not persuaded that Karla Tessaro's actions, as established in the evidence, amount to professional misconduct. Karla Tessaro did not have reasonable grounds to suspect:

- (a) that the child was or may have been sexually molested or sexually exploited by the fourteen year-old boy;
- (b) that the parents would fail to protect their child; or
- (c) that there was a substantial risk that the child would be sexually molested or sexually exploited.

Karla Tessaro's conduct in this matter was reasonable given all of her actions and all of the information she was able to obtain on February 16, 2000.

DECISIONS AND ORDERS:

The Committee finds Karla Tessaro not guilty of the allegations as set out in the Amended Notice of Hearing.

**DATED AT TORONTO, THIS 7th DAY OF DECEMBER, 2001
BY ORDER OF THE DISCIPLINE COMMITTEE**

Marilyn Laframboise, **Chair**

Sterling Campbell

Solette N. Gelberg