

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

Members of the Panel:

Julie K. Hannaford, Co-Chair

Allison Guy, student member, School of Graduate Studies

Dennis Magill, faculty member, Faculty of Arts and Science

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

AND IN THE MATTER of the *University of Toronto Code of Behaviour on Academic Matters, 1995*;

AND IN THE MATTER of disciplinary charges against Mr. N.K.

Shaun Laubman and *Nicole Redgate*, Downtown Legal Services, for Mr. N.K.
Lily I. Harmer, Assistant Discipline Counsel, for the University of Toronto

Appearances:

Arti Dhand, Assistant Professor, Faculty of Arts and Science

Ian McDonald, Associate Dean, University of Toronto at Scarborough

Mr. N.K., accused

Namita Rajpal, student, University of Toronto

Bipin Vyas, Hindu Priest

Mrs. M.K., mother of the accused

Shantheni Ratnavel, undergraduate student, University of Toronto at Scarborough

Lenard Whiting, tutor, University of Toronto

BACKGROUND

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:30 p.m. on Monday, March 31, 2003, in the Council Chamber, Simcoe Hall, to consider the following charge laid against Mr. N.K. under the *Code of Behaviour on Academic Matters, 1995*, [the “Code”] by the Vice-President and Provost, Professor Shirley Neuman:

In the Matter of Disciplinary Charges Against Mr. N.K. (Case No. 02/03-2)

1. THAT on or about March 20, 2002, you committed plagiarism by knowingly representing as your own any idea or expression of an idea or work of another in a form of academic work that you submitted contrary to Section B.I.1(d) of the Code. In particular, you plagiarized sections of “The Beloved Goddess of Hindu Culture”, an essay that you submitted in course RLG205Y1Y.

[2] Mr. N.K. pled not guilty to the charge at the commencement of the hearing. The Tribunal then heard evidence from the University’s witnesses: Arti Dhand, the instructor of the course in question and Ian McDonald, the Dean’s designate for the University of Toronto at Scarborough (“UTSC”). Mr. N.K. then gave evidence, following which the Tribunal adjourned for the evening, as there were several further witnesses to be heard.

[3] The Tribunal reconvened on Tuesday, April 01, 2003 at 5:00 p.m. in the Council Chamber, Simcoe Hall. Several defense witnesses were called at this time including: Namita Rajpal, a friend and fellow student in RLG205Y1Y; Mr. Bipin Vyas, a Priest at the Hindu temple attended by Mr. N.K.; Mrs. N.K., the mother of the accused; Shantheni Ratnavel, a friend and fellow student at UTSC; and Mr. Lenard Whiting, Mr. N.K.’s instructor in a choral music course taken at UTSC. The Panel reached a decision on the verdict, which was communicated orally at the hearing on April 1, 2003.

[4] The University’s position was that on March 20, 2002, Mr. N.K. submitted a plagiarized essay for grading in the course RLG205Y1Y, a Hindu religion course offered at the St. George campus. The assignment was worth twenty-five percent of the final course grade and was the second of two research term papers. It was common ground that the paper entitled “The Beloved Devi Goddess of Hindu Culture” (Exhibit 2) was substantially the same as a paper found on the Internet entitled “The Power of the Feminine” by Frank Morales (Exhibit 3). Moreover, it was undisputed that the impugned paper, Exhibit 2, had Mr. N.K.’s name and student number on the front page. Finally, it was undisputed that no other paper was submitted for grading, with respect to the second research term paper, bearing Mr. N.K.’s name.

[5] The issue in dispute was whether or not Mr. N.K. created Exhibit 2 and submitted it for grading. The student submitted that he was not the author of Exhibit 2. He suggested that someone else might have created Exhibit 2 in an effort to discredit him. He explained that on or about March 18, 2002 his computer crashed and he irretrievably lost the paper that he had written. He determined that since it was his understanding that no extensions would be granted except for medical reasons, that there was no point in handing in a paper at all. Evidence was led that suggested that Mr. N.K. did not attend the class on March 20, 2002 when the papers were submitted to the instructor, Professor Dhand.

[6] After considering the evidence, the Panel convicted Mr. N.K. on the sole charge laid by the provost.

In the Matter of Disciplinary Charges Against Mr. N.K. (Case No. 02/03-2)

[7] The Panel then heard submissions on sanction from the parties. Discipline counsel submitted that the following sanctions would be appropriate: assignment of a grade of zero in the course RLG205Y1Y; suspension from the University for a period of two years; a record of the sanction to remain on the student's transcript for a period of three years; and, publication of the offence in the University papers with the student's name withheld.

[8] The student's representative submitted that the following sanctions would be fair in the circumstances: a zero on the essay in question (the effect of which be a failure in the course); a sixteen month suspension; and, a record of the sanction to remain on the student's transcript for a period of sixteen months.

**REASONS FOR SANCTION
(Delivered Orally)**

[9] The Panel was affected by the fact that a prior event had occurred. The Panel considered carefully the timing of the prior sanction which, we noted from Exhibit 9, was imposed in December of 2001, some eight to ten weeks prior to the commission of the offence that was at issue in this hearing.

[10] The Panel was not moved by any considerations with regard to Mr. N.K.'s level of study. It was submitted that because he was in his third year the sanctions ought to be different from what they would be if he were in his first year.

[11] The Panel was mindful of the considerations set out in [Case 1976-07-03], namely; the need for deterrence, maintenance of the integrity of the University and the integrity of the degree; the likelihood of a repetition of the offence; as well the nature of the offence.

[12] The Panel came to the conclusion that a grade of zero should be assigned for the course and not just for the paper. The Panel was mindful that this notation would remain on the student's transcript forever and that it is a significant penalty. It is a matter that would warrant further investigation and questioning by all but the most negligent of employers.

[13] The Panel was of the view that the imposition of a zero for the course is a serious penalty. For that reason the majority of the Panel was of the view that there should be a suspension imposed for a period of sixteen months immediately following the conclusion of courses this year. The notation of that suspension shall run concurrently with the suspension, namely for sixteen months. The Panel also recommends that there be a publication as requested by the University (to which the student did not object).

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[14] In summary, the Panel imposed the following sanctions:

1. A grade of zero in the course RLG205Y1Y;
2. A sixteen-month suspension to commence immediately following the conclusion of courses this year¹;
3. A sixteen month notation recording the suspension to run concurrently with the suspension; and,
4. That this case be reported to the Provost who may publish a notice of the decision of the Tribunal and the sanctions imposed in the University newspapers, with the name of the student withheld.

I certify that this is the decision of the Panel:

May 8, 2003

Date

Julie K. Hannaford

Julie K. Hannaford

Co-Chair

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¹ The Panel confirmed that it was their intent to permit Mr. N.K. to convocate, if he is otherwise eligible, at the November 2004 convocation.