



FILE: 1999/00-09
APPEAL
(Trial decision: 1999/00-02)

October 30, 2000

Via Registered Mail

Personal and Confidential

Mr. H.

████████████████████
Scarborough, ON
██████████

Dear Mr. H.:

I am writing to communicate formally the decision of the Discipline Appeals Board, which met on June 15, 2000 to consider your appeal of the November 16, 1999 decision of a panel of the Trial Division of the University Tribunal.

The panel of the University Tribunal had considered the following charges against you.

On or about April 10, 1998, you did knowingly represent as your own any idea or expression of an idea or work of another in any academic examination or term test or in connection with any other form of academic work, i.e. to commit plagiarism.

Pursuant to section B of the *Code of Behaviour on Academic Matters*, you are deemed to have committed the offence knowingly if you ought reasonably to have known that you did represent as your own any idea or expression of an idea or work of another in connection with any form of academic work.

The particulars of the charges were as follows:

1. In the winter of 1998, you were a student in VPAB77S at Scarborough College.
2. On or about April 10, 1998, you submitted three video assignments entitled *Index*, *Simulacrum* and *Killing Time*.
3. The scenes from *Index* are plagiarized from a video work entitled *Finger* by the British artists Stephanie Smith and Edward Stewart; scenes from *Killing Time* are plagiarized from one part of the Smith/Stewart diptych *Sustain*; and scenes from

Simulacrum are plagiarized from Smith/Stewart videos *Breathing Space* and *Dead Red*.

The Tribunal panel found you guilty of these charge and imposed the following sanctions.

- assignment of a grade of zero for the course VPAB77S;
- that a notation of the sanction imposed by the Tribunal be recorded on the student's academic record and transcript for 12 months; and
- that the case be reported to the Provost, on the understanding that the Provost may publish notice of this decision in the University newspapers, with your name withheld.

The Provost appealed the sanction imposed by the Tribunal on the following grounds:

1. The sanction imposed was inadequate in light of the seriousness of the academic offence found to have been committed by the respondent.
2. The sanction is inconsistent with the sanctions imposed by the Tribunal in other cases.
3. the sanction does not take into account the need for deterrence as a factor.
4. The sanction imposed is inadequate in light of the student's refusal to acknowledge the offence, or to show any remorse whatsoever.
5. The Tribunal's failure to impose a suspension is inconsistent with the Provost's guidelines on sanctions, offences and suggested penalties for students in Appendix "C" of the *Code of Behaviour on Academic Matters*, and in particular is inconsistent with suggested guideline number 2 recommending suspension from the University for at least two years where work is submitted which forms a major fraction of the course in whole from another person.
6. The Tribunal failed to provide reasons concerning the sanctions imposed.

At its hearing held on June 15, 2000, and following submissions from both parties, the Discipline Appeals Board of the University Tribunal reached the following decision with respect to your appeal:

We are prepared to allow the appeal of the University with respect to penalty insofar as we are of the view that the decision [of the University Tribunal] should be varied with respect to the imposition of a suspension. In our view, a suspension should be imposed for nine (9) months running from the date of the original hearing, November 16, 1999. We do not vary the time for the period of notation on the transcript.

Generally, we are of the view that considerable deference should be given to Tribunal decisions both with respect to liability and to sanction. However, we are also mindful and agree with the guidance given to us in the Mr. C decision [see 1976/77-03], that we should be ensuring that there is some consistency in the imposition of sanctions in University Tribunals and we are, of course, aware that

each case should be decided on its individual merits. It is regrettable that the Tribunal gave no reason or reasons for departing so significantly from the sanctions which had been given in prior cases relating to plagiarism.

With respect to the imposition of suspensions, there was no case cited to us where no suspension was given in a case of plagiarism, and we can see no reason in this case to so depart.

Plagiarism is an extremely serious act which undermines the integrity of the academic enterprise and for that reason we are of the view that there should be an imposition of suspension for nine months beginning right from the date of the hearing.

With respect to the period of notation, as I indicated, we are not prepared to interfere with that. In our view it is not so far outside the submission of both parties made at the original hearing.

Yours sincerely,

Margaret McKone

Ms Margaret McKone
University Tribunal

Copies: J. Minor, Chair, Discipline Appeals Board
D. Cook, Vice-Provost
S. Hirji, Downtown Legal Services
L. Harmer, Discipline Counsel
R. Powers, Associate Dean, Scarborough College