

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on April 2, 2012

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

AND IN THE MATTER OF the *University of Toronto Act, 1971,* S.O. 1971, c. 56 as amended S.O. 1978, c. 88

B E T W E E N:

UNIVERSITY OF TORONTO (the "University")

- and -

S [REDACTED] A [REDACTED] M [REDACTED] (the "Student")

Hearing Date: August 23, 2012

Panel Members:

Ms. Roslyn M. Tsao, Barrister and Solicitor, Chair

Professor Ato Quayson, Centre for Diaspora and Transnational Studies, Faculty Panel Member

Mr. Blake Chapman, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel for the University, Paliare Roland Barristers

Ms. Mary Phan, Legal Case Worker for the Student, Downtown Legal Services

In Attendance:

Mr. S [REDACTED] A [REDACTED] M [REDACTED] the Student

Dr. Kristi Gourlay, Manager of Office of Academic Integrity, Faculty of Arts and Science

Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

Reasons for Decision
Delivered by Ms. Roslyn M. Tsao

1. The Trial division of the Tribunal heard this matter on August 23, 2012. The Student was charged on April 2, 2012 of the following:
 - (a) On or about December 1, 2011, the Student knowingly represented the ideas, or the expressions of the ideas, of another as his own work in an essay paper submitted in the University of Toronto course ENV430H1F (the "Course"), contrary to section B.I.1(d) of the Code.
 - (b) On or about December 1, 2011, the Student knowingly submitted an essay containing purported references to sources that had been concocted to obtain academic credit in the Course, contrary to section B.I.1(f) of the Code.
 - (c) In the alternative, by submitting the essay in the Course, the Student knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind, contrary to section B.I.3(b) of the Code.
2. The Student attended at the Hearing and entered a plea of guilty to the above two charges. As a result, the University withdrew the alternative charge of cheating, contrary to section B.I.3(b) of the Code.

Facts of the Case

3. The University and the Student submitted the following agreed facts in the Agreed Statement of Facts (Exhibit 1) regarding the offence:
 - (a) The Student was in his 4th year of study at the University and was registered in the Course in the 2011 Fall term.
 - (b) The Course syllabus, which was received by the Student, advises of the University's policies and protocols regarding the avoidance of plagiarism.

- (c) On or about December 1, 2011, the Student submitted a research essay (the "Essay") worth 40% of the final grade of the Course.
- (d) A review of the Essay, when submitted by the Student for grading, were found by the Instructor to contain several passages that contained verbatim or nearly verbatim passages from sources which were not placed in quotation marks or properly attributed to their original sources.
- (e) The Student admits that he knowingly:
 - (i) included verbatim and nearly verbatim excerpts from various secondary sources;
 - (ii) failed to attribute those excerpts appropriately using quotation marks or other appropriate referencing methods;
 - (iii) submitted academic work containing references to sources that he concocted, and that he concocted those references intending to disguise his plagiarism; and
 - (iv) did not [add] meaningful or original academic work.

Decision of the Tribunal

- 4. Based on the foregoing admitted facts, the Tribunal accepts the plea of guilty from the Student.

Penalty

- 5. The Student and University submitted the following Joint Submission Regarding Penalty ("JSP"):
 - (a) The Student will receive final grade of zero in the Course;
 - (b) The Student shall be suspended from the University from the date of this Decision until August 23, 2017 (5 years); and

- (c) the sanction shall be recorded on the Student's academic record and transcript until **the later** of either a period of August 23, 2018 (6 years) or his graduation from the University.

- 6. There were additional agreed facts for the purposes of penalty set out in an Agreed Statement of Facts and Joint Submission on Penalty (Exhibit 4). The panel is compelled to summarize these additional facts and the impact of same on our decision regarding penalty. The Student acknowledged:
 - (a) In August, 2009, the Student admitted to submitting a plagiarised paper in a course wherein the instructor had already warned him about plagiarism on two prior occasions. The Dean's Designate imposed sanctions consisting of a final grade of zero in the course and an annotation on his transcript for two years after the assignment was submitted (March 31, 2009).

 - (b) On November 10, 2011, the Student admitted to submitting a plagiarized paper in a course and the Student received the following sanctions, as imposed by the Dean's Designate:
 - (i) A final grade of zero in the course; and

 - (ii) An eight (8) month suspension starting after he completed the current term (emphasis added).

- 7. Accordingly, the Student had been sanctioned for plagiarism only a month before he committed the within offence. In addition, he was only able to complete the within Course during the Fall 2011 term only because the Dean's Designate had suspended the commencement of the 8 month suspension, presumably to save the Student from losing the rest of his then current term.


- 8. The panel was also not provided with any mitigating factors for the Student's benefit other than the guilty plea.

9. The panel advised counsel for the University and the Student that it was disinclined to accept the joint submission in this matter for the following reasons and invited further submissions:
 - (a) The panel was troubled by the prior findings of guilt for the same offence and, in particular, the second disposition of a plagiarism offence quite literally on the eve of the commission of the within offence.
 - (b) The Student was able to complete 4 other courses (2.0 credits) during the Fall 2011 term (with the result that the Student only requires 3.0 credits to graduate instead of 5.0) when he might not have if the Dean's Designate had not kindly deferred the commencement of suspension until after the term (in hindsight, such a deferral would likely not have been granted).
 - (c) Without a JSP, the panel would be inclined to consider expulsion in the circumstances.
10. After hearing further submissions, the panel **reluctantly** accepts the JSP at the urging of both the University and the Student. In particular, both parties cited the Court of Appeal decision of *Tsicos*¹, a criminal case, which endorses the principle that a joint submission ought not to be rejected unless the requested penalty "would be contrary to the public interest or bring the administration of justice into disrepute".
11. Per *Tsicos*, it was stressed that there is high threshold for rejecting a joint submission given the "need...to foster confidence by an accused, who gives up his right to a trial, that a joint sentencing submission obtained in return for a plea of guilty will be respected by the sentencing judge and, at least not disregarded without sufficient cause."
12. Counsel for the Student noted that the notation on the Student's transcript was to be for the "**later of**" 6 years or graduation instead of the more usual "**earlier of**".

¹ *R. v. Tsicos* (2006), Docket C455531 (O.C.A.)

13. We note that we considered revising the period of the notation to be permanent or for a period after graduation in lieu of expulsion but, as counsel for University noted, the "tinkering" with the terms of a JSP would be difficult to reconcile with the test in *Tsico*: that the requested JSP terms would bring the administration of justice in disrepute if only minor "tinkering" were required to correct the situation.
14. Accordingly, the panel orders penalty in accordance with the JSP.
15. By agreement, the Tribunal shall report this decision to the Provost for publication of a Notice of this decision and the sanction in the University newspaper, with the Student's name withheld.
16. An Order with the penalty was signed by the Panel at the hearing.

Dated at Toronto, this 11th day of September, 2012.



ROSLYN M. TSAO
Co-Chair