

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on January 5, 2009;

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

BETWEEN:

THE UNIVERSITY OF TORONTO

- and -

X [REDACTED] P [REDACTED] Z [REDACTED]

Members of the Panel:

- Ms. Kirby Chown, Chair
- Professor Paul Cooper, Faculty Panel Member
- Mr. Nikola Cunjak, Student Panel Member

Appearances:

- Mr. Robert Centa, Assistant Discipline Counsel
- Mr. X [REDACTED] Z [REDACTED], the Student, did not appear

Preliminary

- [1] The Trial Division of the University Tribunal was convened at 5:30 p.m. on May 4, 2009 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the Student by letter dated January 5, 2009 from Professor Edith Hillan, Vice-Provost, Academic.
- [2] The panel was made up of Ms. Kirby Chown, Chair; Professor Paul Cooper, a faculty member and Mr. Nikola Cunjak, a student member. Counsel for the University was Mr. Robert Centa. The Student was not represented and did not attend the hearing.

- [3] The hearing was called to order at 5:30 p.m. and then adjourned until 6:00 p.m. to allow the Student further time to appear. At 6:00 p.m. the hearing was reconvened, but the Student had still failed to appear. The University proposed to proceed in the Student's absence and the Tribunal heard submissions with respect to this issue.
- [4] Mr. Centa presented the panel with the affidavit of Ms. Betty-Ann Campbell, a law clerk from his firm, Paliare Roland. In addition, Mr. Centa called Ms. Campbell as a witness. Ms. Campbell testified that she had personally attended at the examination facility on McCaul Street in Toronto on March 20, 2009. The Student identified himself to her. She then personally served the Student with the Notice of Hearing, the Charges and the University's disclosure brief.
- [5] After considering the Affidavit of Ms. Campbell, her evidence and the submissions of counsel, the panel was satisfied that the provisions in the *Code* and in the *Statutory Powers Procedure Act* ("SPPA") had been met and ruled that the hearing would proceed in the Student's absence.
- [6] In arriving at its decision, the panel found that Student had received the Notice of Hearing, the Charges and the complete disclosure brief approximately six weeks before the hearing date and that this material provided the Student with reasonable notice of the charges, the hearing date and the seriousness of the said charges.

Hearing on the Facts

- [7] The charges are as follows:
 - i. On or about March 17, 2008, you knowingly represented as your own an idea or expression of an idea, and/or work of another in an essay that you submitted to fulfill the course requirements of AST251, contrary to Section B.I.1.(d) of the *Code*.
 - ii. In the alternative, on or about March 17, 2008, you 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 in connection with an essay you submitted for academic credit in AST251, contrary to Section B.I.3.(b) of the *Code*.
- [8] Particulars of the charges are as follows:
 - i. You were registered at the University of Toronto Mississauga and enrolled in AST251 ("Course") at all material times.
 - ii. On or about March 17, 2008, you submitted an assignment entitled "Life on Other Worlds: The Research Paper" to partially fulfill the Course requirements ("Essay").

- iii. The Essay contained unacknowledged passages taken verbatim or nearly verbatim from various sources including websites.
 - iv. For the purposes of obtaining academic credit or another academic advantage, you knowingly plagiarized your assignment.
 - v. Your conduct violated the *Code*.
- [9] The University called three witnesses: Ms. Marija Stankovic, Professor Slavek Rucinski and Ms. Kristi Gourlay.
- [10] Ms. Stankovic is a graduate student at the University of Toronto and was the Teaching Assistant (TA) in AST251 at the time of the events in question. It was her responsibility to mark the essays prepared by the students in AST251.
- [11] Ms. Stankovic testified that students were made aware of the requirements for the course which included the preparation of a research paper (“paper”) worth 25% of the final mark that was required to be submitted in hard copy and email on March 17, 2008. She also testified that the webpage for the course contained further information on the paper and, in particular, noted the fact that the papers would be checked for plagiarism and there would be “very serious consequences if plagiarism is detected”. As well, she drew the panel’s attention to a further posting on the website entitled “Critical Writing”, which was prepared by the previous professor of the course and updated by Professor Rucinski. This section of the website advised students to read and adhere to the guidelines “How Not to Plagiarize”.
- [12] The Student submitted a paper entitled “Life on Other Worlds” on March 17, 2008 in hard copy and via email to the TA. Ms. Stankovic reviewed the hard copy of the Student’s research paper and became alerted to some potential irregularities in the paper when she noted that a sentence from the first page was repeated on the third page of the paper. She entered this sentence into the Google search engine and found that it was a verbatim match to material on the internet. She reviewed the rest of the paper and Googled other passages, finding that they were similarly extracted verbatim, or virtually verbatim, from articles on the internet. She noted on the paper “Case for plagiarism!” and highlighted portions of the paper that were copied from the internet. She then provided the paper and copies of the primary sources, to Professor Rucinski. Although the Student noted some articles as references at the end of the paper, he did not acknowledge the portions that had been copied from the internet.
- [13] Professor Rucinski is a professor in the Department of Astronomy and Astrophysics and the professor for AST251. He advised the panel that he discussed plagiarism in class at the beginning of the course and directed the students to the relevant pages dealing with plagiarism on the course website.

- [14] Professor Rucinski testified that he received the Student's original paper from the TA and reported this matter to the chairperson of the department on April 15th, describing it as a case of plagiarism.
- [15] The panel was provided with a Book of Documents that included the hard copy of the Student's research paper together with Ms. Stankovic's notations and, as well, copies of the internet sources from which the Student had allegedly plagiarized. The panel was invited to compare the internet documents to the Student's essay as counsel for the University led Ms. Stankovic through the evidence.
- [16] Ms. Gourlay, who is the manger of the Office of Student Academic Integrity for Arts and Science, was called. She had reviewed the electronic copy of the Student's research paper. She carried out a very thorough review of the paper as against internet sources. Once again, in the Book of Documents, the panel was invited to follow along with her annotations on the electronic copy of the Student's essay and to compare it to the provided internet sources from which the Student had allegedly plagiarized.

Decision of the Tribunal

- [17] After considering the submissions of counsel, reviewing the documentation and after deliberation, the panel was satisfied that counsel for the University had proved the case on clear and compelling evidence and found the Student guilty of the offence set out at charge #1.
- [18] The panel noted that the extent of plagiarized material in the Student's paper was significant and comprised virtually all of the submitted paper. The panel also noted that although the Student included at the end of his paper a section entitled "References and Resources" which listed a number of books and internet sites he had apparently consulted, he failed to list the sites from which he actually took the material in question. This represents a very flagrant and serious case of plagiarism.
- [19] On being advised of the Tribunal's decision, discipline counsel withdrew charge #2.

Penalty Phase

- [20] Counsel for the University recalled Ms. Kristi Gourlay to introduce the ROSI transcript of the Student and invited the panel to consider it as part of the penalty phase.
- [21] The University submitted that the appropriate penalty in the circumstances would be as follows:
- i. That the Student receive a final grade of 0 in AST251;
 - ii. That the Student be suspended for a period of two years from May 4, 2009 to May 3, 2011;

- iii. That a notation appear on the transcript of the Student that the Student had committed an academic offence for a period of three years from May 4, 2009 to May 3, 2012; and
- iv. That the decision be reported to the Provost to be published with the name of the Student withheld.

[22] Counsel for the University provided the panel with a Book of Authorities, which contained several decisions of the University Tribunal in similar cases. The panel paid particular attention to the criteria for sanction first proposed by Mr. Justice Sopinka in the matter of the appeal of Mr. C. (November 5, 1976). Mr. Sopinka, as he then was, indicated that a panel should consider the following six criteria when deciding on an appropriate sanction:

- a) the character of the person charged;
- b) the likelihood of a repetition of the offence;
- c) the nature of the offence committed;
- d) any extenuating circumstances surrounding the commission of the offence;
- e) the detriment to the University occasioned by the offence;
- f) the need to deter others from committing a similar offence

[23] As the Student did not attend the hearing, this panel was not able to consider relevant factors which might influence the sanction to be applied, including his character, any extenuating circumstances and the likelihood of a repetition of offence.

[24] The panel took into account the following factors:

- i. the Student had been convicted of one serious count of plagiarism;
- ii. the Student had shown no remorse or any acceptance of responsibility for this matter and had declined to attend the hearing;
- iii. the Student had no prior academic offences;
- iv. the detriment to the University occasioned by the offence; and
- v. the need to deter others from committing a similar offence

[25] The panel was strongly of the view that plagiarism is a serious offence that goes to the very heart of the academic integrity of the University and its students.

- [26] The panel also notes, as stated in the case of re: *University of Toronto and A.K.* (November 9, 2007), that a number of cases has established a threshold minimum penalty for those convicted of plagiarism of a two-year suspension.
- [27] The panel agrees that a two-year suspension should be the threshold for a first time offence of plagiarism and judges that it is the appropriate sanction for this case.
- [28] The panel is of the view that this case is very similar in all respects to the case of re: *Ms. O.K.* (June, 2006). Comparing the nature of the offence, the fact that there were no prior offences committed by the Student and the fact that the Student did not appear at the hearing, we felt that the University's submission re penalty should be varied in one respect; namely, that a notation should be on the Student's transcript for a period of two years rather than three years.
- [29] Accordingly, we determine the sanction in this case as follows:
- i. the Student receive a final grade of 0 in AST251;
 - ii. the Student be suspended for a period of two years from May 4, 2009 to May 3, 2011;
 - iii. that a notation appear on the transcript of the Student for a period of two years from May 4, 2009 to May 3, 2011 that the Student has committed an academic offence; and
 - iv. the decision be reported to the Provost to be published with the name of the Student withheld.

Dated this 10th day of September, 2009


Kirby Chown, Associate Chair