

**UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL – TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty filed on July 3, 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:

THE UNIVERSITY OF TORONTO

- AND -

J ■■■ K ■■

Date of Hearing: November 27, 2012

Members of the panel:

Mr. William McDowell, Chair

Professor Pascal van Lieshout, Faculty of Medicine, Faculty Panel Member

Mr. Peter Qiang, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel for the University of Toronto, Paliare Roland Barristers

Mr. John Britton, Dean's Designate, Faculty of Arts and Science

Professor Lilach Gilady, Instructor POL208Y: Introduction to International Relations

Ms. Rebecca Sanders, Head Teaching Assistant POL208: Introduction to International Relations

Mr. James McKee, Teaching Assistant POL208Y: Introduction to International Relations

Mr. Matthew Walls, Teaching Assistant ANT200Y: Introduction to Archaeology

Mr. Michael Nicholson, Associate Registrar, University College

In Attendance:

Mr. J ■■■ K ■■, the Student

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

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

[1] The student J [REDACTED] K [REDACTED] appeared before the Tribunal for a hearing on five admitted counts of academic misconduct. The student admitted that he had committed misconduct in the following particulars in the Amended Notice of Hearing:

1. On or about October 25, 2011, you knowingly represented the ideas of another person as your own work, or knowingly represented the expression of the ideas of another person as your own work, in an assignment entitled "Question 2" submitted in the University of Toronto course POL208Y1 ("POL208 Assignment 1")), contrary to section B.I.1(d) of the *Code*.
2. On or about February 14, 2012, you knowingly represented the ideas of another person as your own work, or knowingly represented the expression of the ideas of another person as your own work, in an assignment entitled "Essay Prompt II" submitted in the University of Toronto course POL208Y1 ("POL208 Assignment 2")), contrary to section B.I.1(d) of the *Code*.
3. On or about January 17, 2012, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document or evidence, namely, correspondence which you submitted to the University of Toronto in support of your request for academic accommodation or relief in the form of a deferred exam in POL208Y1, contrary to Section B.I.1(a) of the *Code*.
4. On or about January 17, 2012, you knowingly falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document or evidence, namely, correspondence

which you submitted to the University of Toronto in support of your request for academic accommodation or relief in the form of a deferred exam in ANT200Y1, contrary to Section B.I.1(1) of the *Code*.

- [2] The procedure followed at the hearing was somewhat unusual. Mr. K■■ had just flown in from Korea shortly before the commencement of the hearing. Counsel for the University had not had the opportunity of attempting to achieve an Agreed Statement of Facts. Consequently, although Mr. K■■ made admissions with respect to the five charges, this matter came before us in the absence of an Agreed Statement of Facts. Ms. Harmer submitted to us that we should hear witnesses briefly on these matters. We permitted her to lead in her examination of these witnesses, and Ms. Harmer was able to do so quite efficiently.

Background

- [3] In the winter of 2011, Mr. K■■ was enrolled in MAT223H1S. The final exam was held on April 19, 2011. Mr. K■■ did not write this examination. Instead, he filed a petition dated April 27, 2011 in which he represented that he had suffered food poisoning by reason of consumption of Chinese food and too much energy drink. We were provided with a medical certificate executed by a physician practising at the medical practice on Bloor Street, Dr. Hinal Sheth. Dr. Sheth executed the relevant form (on which Mr. K■■ had ticked the box as follows:

I have provided accurate and complete information on this form
and with my petition. I have also read, understood and will abide
by the petition instructions that were attached to this form/on the

petition's website:

<http://www.artsci.utoronto.ca/current/undergraduate/petitions.>)

- [4] His petition was granted and accordingly he was to write a deferred examination. The deferred examination was set for August 18, 2011. Mr. K■■ did not do the examination on that date, but filed a further petition dated August 25, 2011. His accompanying letter dated August 26, 2011 claimed that, "I was not able to take the exam due to a serious illness". That description was somewhat inapt in that his letter continued as follows:

I got hit by a bottle (glass) right in my left forehead a week ago. I was sent to the St. Michael's Hospital. After the event, whenever I concentrate or work on something really hard, serious pain appears on my head.

- [5] A medical certificate which was ostensibly executed by a physician at BP Health Clinics, 845 Adelaide Street West, Suite 800, Toronto stated that Mr. K■■ was suffering from the following: "possible post-concussive syndrome secondary to head trauma". The problem was described as acute. Mr. K■■ was said to have suffered the injury on August 16, 2011. The attending physician, Jasdeep Gill, whose CPSO registration number was included on the form, offered the opinion:

Concussions may limit ability to focus, concentrate with s[ymptoms] of HA and irritability in some cases.

- [6] Mr. K [REDACTED] in his petition also requested permission to enrol in the Fall and Winter session. Again, his petition was granted.
- [7] In the Fall of 2011/Winter 2012 academic session, Mr. K [REDACTED] was enrolled in POL208Y and in ANT200Y1Y (courses in political studies and anthropology respectively).
- [8] On October 25, 2011, Mr. K [REDACTED] was to submit an assignment in the political studies course worth 20% of the grade. On November 29, 2011 he was to write a mid-term test in the political studies course.
- [9] On December 5, 2011, he had a first mid-term assignment due in anthropology.
- [10] Again, matters went awry. On December 6, 2011, Mr. K [REDACTED] emailed his instructor in POL208Y to say that he had missed the mid-term test. This prompted some interaction with Professor Lilach Gilady, who taught the course with the assistance of several teaching assistants. Professor Gilady requested the production of medical notes. She also sought copies of the first term paper which she believed Mr. K [REDACTED] had completed in order to consider whether or not his marks could be re-weighted (in other words whether it was possible to assign him a grade without him having to take the mid-term test). After several prompts, Mr. K [REDACTED] replied to Professor Gilady as follows:

First of all I attached a screen shot of my following email to let the instructor know how I missed the term test.

Second of all, Im still looking for my essay. I had too much material to handle this semester, huge burden of papers. I will drop it off at your file when I find it.

If fail to do so, I will contact you as soon as possible.

Thrid of all,

I got better a bit after a sleep with the medication I was assigned to take. Therefore, I thought it would be fine to take rest rather than visiting the hospital. I decided not to go to the hospital because it would cost too much and even waiting would be really long to endure the pain (thought taking a rest at home would be way better to releif the pain). (I was not an emergency patient.)

- [11] On January 17, 2012 Mr. K [REDACTED] wrote to Rebecca Sanders, the Head Teaching Assistant in the Political Studies course. In his email, he explained why he had missed the make-up test on January 19, 2012. He claimed "an extreme circumstance". His explanation continued,

First of all, I had an accident hit on my forehead with a glass bottle about a month ago. ... I was moved to the St. Michael's Hospital right away and had an MRI going on. At that time, they said there's no other problem. Just the minor injury (few stitches) however there might be a problem afterwards.

I had no other pain afterwards, so thought I was fully recovered.

However, last night at first, I thought I was having a minor pain which I can endure with the Advil. H owever it got worse and

worse (even vomitted) so visited my family doctor at 11' o clock in the morning today.

He said it's a tension headache which could be recovered soon but if it doesn't

he told me to visit big hospital.

Now it's even worse so planning to go to the St. Michael's Hospital to get a CT of my head.

- [12] Ms. Sanders expressed her sympathy. She advised that there would not be a further make-up exam, but that instead it would likely be necessary to re-weight Mr. K█'s assignments. She requested that Mr. K█ submit a medical certificate.
- [13] In the meantime, Mr. K█ had also missed the mid-term examination in ANT200 which was offered on December 5th. Mr. K█ wrote to Matthew Walls, the Head Teaching Assistant for the anthropology course. The text of his email is identical to that set out above.
- [14] On January 18th, Mr. K█ submitted two medical certificates to Mr. Walls. The first was a form completed by a Ms. Choo of Susies Acupuncture and Herb Medical Centre on Bloor Street in Toronto. The form requested the physician's registration certificate number with the College of Physicians and Surgeons of Ontario. Ms. Choo filled out a registration number which appears to be from some other regulatory body. The form deposes that Mr. K█ had suffered from flu, chest conjection [sic] and headache all over. Ms. Choo has described the condition as acute as at December 3rd to the 6th 2011. Mr.

K■■ also attached the medical certificate of Dr. Timur Khamidbayev. Dr. Khamidbayev worked at the Lakefront Clinic on Queens Quay. The physician completed the University of Toronto Student Medical Certificate form describing Mr. K■■'s problem as a tension headache which was "sub acute". He described that the problem had come on January 16, 2012. It included,

Recurrent episodes of tension headache possibly related to head injury. NSAIDs for pain.

[15] He offered the further opinion that,

This student missed classes on January 17th due to headache.

Return to regular class schedule on January 18, 2012.

[16] The instructors in the politics course were by mid-January suspicious of Mr. K■■. Ms. Sanders emailed James McKee, another Teaching Assistant, in POL208 to request information about the student. Mr. McKee responded that he had had suspicions about Mr. K■■ for some time. In his evidence before the Tribunal he explained that Mr. K■■ never said anything in class. He had submitted a paper in which he was asked to analyze a speech given by President Obama. The paper was very good and Mr. K■■ had received a mark of 83 which was the top mark in the section. He had submitted another good paper later in the term. This one entitled, "Essay Prompt II" which recounted a fictional exchange concerning the role of national governments in the economy.

[17] On February 7, 2012 Mr. K■■ was requested to attend a Dean's meeting concerning a suspicion that he and another student had collaborated to cheat during an examination held in PSY100H, a psychology course. In that case, a concern had been raised that a group of Korean students had been writing in unusually large letters to permit one another to cheat.

[18] Professors Sam Solecki, who was acting as the Dean's Designate for Academic Integrity and had charge of this meeting, sought examinations for Mr. K■■. Mr. K■■ claimed not to know the other students who were observed communicating with him. Professor Solecki concluded that he could not prove academic misconduct and the matter ended there. What is significant is that Mr. K■■ was warned by email on February 3, 2012 as follows:

While I hope you have learned from this experience, this letter is a warning to you that all future academic work must be conducted in accordance with the rules and regulations of the University, with which you are expected to be familiar. Any further offence will be treated more severely.

[19] One might quibble with Professor Solecki in that he had expressly decided that he could not prove the commission of any offence. That said, Mr. K■■ carried on in a most dishonest way in his relations with the University, beginning with his email to Professor Gilady on February 5th.

[20] He had suffered a serious flu. However, in a subsequent email, Mr. K ■ reverted to his explanation that his difficulties flowed from his earlier head injury. Professor Gilady made the sensible observation that “in your initial email you said the doctor referred you to the hospital. No one can just walk into a hospital and get a CT. If you were referred to a hospital you should have been given a referral. This is the document we need in order to confirm your story ...”.

[21] On February 16, 2012 Professor Chazan of the Department of Anthropology wrote:

I am writing to you with regard to your participation in Anthropology 200. I am formally requesting that you please provide by the end of the week documentation about your original head injury, visit to the hospital and MRI, as well as documentation of referral for a CT.

[22] Mr. K ■ responded that there was no referral. It had been suggested to him that he visit the hospital as an emergency patient “if my symptom gets way worse”. “He said there would be no other requirement to take a CT of my head injury as an emergency patient.” Of course, the head injury in question had been suffered the previous August.

[23] In the meantime, Mr. K ■ had been required to submit more written work, and had once again done so dishonestly.

[24] He submitted a second assignment in POL 208 entitled Essay Prompt II. This was to reconstruct a discussion which had taken place at the Davost Economic Forum on the premise that the only recording of the discussion among two academics concerning the global economic role of the United States in times of crisis had been destroyed. Mr. K ■

turned in a paper which contained a lively discussion written (as required) in the voices of the two scholars as well as Mr. K■.

[25] His instructors again expressed concern that the paper appeared to be written in a way which suggested that Mr. K■ was not the author.

[26] Mr. K■, in his evidence before us, initially took the position that he had provided ideas to a “consultant” who had incorporated them and helped him with his language. He fairly readily agreed, however, that in fact very little of the content of the paper had been his own.

[27] These matters were raised with him in the Dean’s meeting held by the designate Professor John Britton on April 13, 2012, to discuss allegations in respect of three courses, MAT223, POL208 and ANT200. In that meeting, Mr. K■ acknowledged that he had purchased two assignments for submissions in POL208. These were the assignments entitled Question 2, submitted October 25, 2011, and the February 14, 2012 assignment discussed immediately above.

[28] Mr. K■ also admitted during the course of the meeting that the medical excuses which he had provided in relation to his head injury were false to the extent that he was still relying on them in 2012. It will be recalled that Mr. K■ had claimed in a January 17, 2012 email to Matthew Walls his ENT200 tutor and to Rebecca Sanders, the head TA in POL208, that he had suffered a head injury “a month ago”. Mr. Walls received a medical certificate in relation to the head injury on January 18, 2012 and at another unknown date he had furnished another note in relation to his head injury. There was some imprecision in the evidence of just what information Mr. K■ had provided in relation to his head

injury and on what date. We are satisfied that by 2012 the head injury was simply not an issue, and that Mr. K [REDACTED] had so acknowledged.

[29] Mr. K [REDACTED] had tried to write his first paper himself. He found it difficult. He went to a tutor who made all the changes. Given the extent of involvement of the “tutor” Mr. K [REDACTED] appears to have determined that it was simpler to pay the tutor \$32.00 per hour to put his ideas expressed in Korean into English. He admitted that the tutor had simply written the second paper in its entirety.

[30] Purchasing academic work for submissions as one’s own is the most serious misconduct that a student can commit. We need not elaborate extensively on this point having regard to the admissions which had been made by Mr. K [REDACTED] in this case.

[31] We were referred to the case of the *University of Toronto and S [REDACTED] C [REDACTED] N [REDACTED] H [REDACTED] and M [REDACTED] K [REDACTED]* (October 24, 2011, Ronald G. Slaght Q.C., Chair). That panel set out factors which would have a bearing on penalty. At paragraph 136 Mr. Slaght proposed the following test:

Under what circumstances was the essay purchased and submitted.

What degree of intent and deliberation was involved. What recognition that the conduct was grave and wrong can be seen in the student. Was anyone else involved. Were there influences that can legitimately influence the penalty. What were the subsequent events – did the student admit guilt or attempt to continue the fraud. Is there anything particularly egregious or saving about the

case or are there other facts that may ameliorate what is otherwise conduct to be condemned.

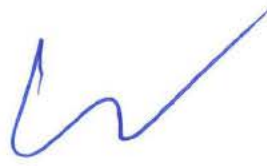
[32] Further, in the facts of that case, Mr. Slaght stated at paragraph 146 the following:

In our judgment, sentencing in purchased essay cases, and certainly in this one, must consider two of the *Chelin* sentencing principles to be paramount over all the others. These are the detriment to the University occasioned by the offence of purchasing essays, and the need to deter others from committing a similar offence. These offences strike deeply at the roots of the institution, and must be deterred with an emphasis on these objective elements of the sentencing matrix.

[33] We see no material difference from the circumstances in that case and the facts which have been admitted or proved in the present one. Accordingly, this panel imposes the following sanction:

- a) Mr. K■■ shall receive a grade of 0 in each of POL208Y, ANT200Y1Y and MAT223;
- b) This panel recommends that the President in turn recommend to the Governing Council of the University that Mr. K■■ be expelled;
- c) Mr. K■■ shall be suspended for a period of five years from the University effective from the date of November 27, 2012.

DATED at Toronto this 24 day of June, 2013.

A handwritten signature in blue ink, consisting of a stylized 'W' followed by a checkmark-like flourish.

William C. McDowell, Chair