

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO
TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty made on December 5, 2013,

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 ■ H ■ C ■

Hearing Date: February 4, 2014

Panel:

Mr. William McDowell, Barrister and Solicitor, Chair
Professor Kathi Wilson, Department of Geography, Faculty Panel Member
Mr. Michael Dick, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel for the University, Paliare Roland Barristers
Dr. Camille Bégin, Professor of HISC1443: Edible History: History of Global Foodways

In Attendance:

Ms. Sinéad Cutt, Administrative Assistant, Appeals, Discipline and Faculty Grievances
Professor Wayne Dowler, Dean's Designate, University of Toronto Scarborough

Not in Attendance:

Mr. J ■ H ■ C ■, the Student

Introduction

1. On February 4, 2014 the Tribunal convened in order to consider charges which alleged that Mr. J ■ H ■ (■ C ■ had committed the academic offences, particularized as follows:

1. On or about November 23, 2012, you knowingly represented the ideas of another, or the expressions of the ideas of another as your own work in the essay titled "The History and Cultural Significance of Sushi" ("Essay"), which you submitted in partial completion of the course requirements in HISC1443 ("Course"), contrary to section B.1.1 (d) of the Code.
2. In the alternative, by submitting the Essay, 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, contrary to section B.I.3(b) of the Code.

2. Mr. C ■ did not appear at the specified time of 9:45 a.m. The Tribunal recessed until 10:00 a.m. We were satisfied that we had jurisdiction to proceed and that we should do so, having regard to the Affidavit of Service of Ms. Sinéad Cutt which demonstrated that proper service by email to the student's registered University of Toronto email (ROSI) account had been made.

3. We found that Mr. C ■ had committed the offence in Count 1, that is that he had knowingly represented the ideas of another in relation to the Essay submitted to fulfill the requirements in the course HISC1443, contrary to s. B.I.1(d) of the Code of Academic Offences. Upon being informed of the Tribunal's finding, the University withdrew Count 2.

Discussion

4. We heard the evidence of Dr. Camille Bégin, who taught HISC1443, entitled Edible History: History of Global Foodways (the "Course"). As part of the Course requirements, Mr. C [REDACTED] and the other students were to complete a research paper ("the Essay") which was due November 22, 2012. The Essay was described in the Course requirements. It was to "centre on one dish and explore how the recipe of this dish relates to the topics explored in the course". Students were required to "use at least three secondary sources (two books and one peer-review journal article)". Significantly, Dr. Bégin required that both the paper be turned in hard copy in lecture and on Turnitin.com, a widely used online service as an initial screen to detect academic dishonesty, on the same day.

5. Mr. C [REDACTED] submitted a paper entitled The History and Cultural Significance of Sushi. When Dr. Bégin received the "Turnitin Originality Report" she noted that the report disclosed a 17% match related to an April 22, 2009 article from <http://leda.law.harvard.edu/leda/data/766/feng06.html>. The article indicated a "global similarity index" of 31%. Dr. Bégin then searched and found the article, "Detail of Sushi: History and Regulations" by Cindy Hsin-I Feng. Ms. Feng was at the time of the article's acceptance in November 2011 at the Graduate School of Applied Professional Psychology at Rutgers University in New Jersey.

6. Counsel for the University very helpfully provided us with a highlighted version of the Essay which made plain the extent to which Mr. C [REDACTED] had appropriated not only the Feng article, but also Ms. Feng's synopsis of other works, including the work of a

Harvard anthropologist Theodore Bestor. We have included a part of the Essay containing the appropriated Feng passages as highlighted by counsel:

In ... Tsukiji: The Fish Market at the Centre of the World ... icon of Japanese culture and ... icon of Globalization. A Bluefin caught off the coast of Massachusetts, flown to ... Japan, then resold to a chef in Brookline Boston. The tuna trade is a ... example of globalization of a regional industry that is facing ... challenges such as international ..., environmental ..., shifting markets, and diffusion and redefinition of culinary culture as tastes for sushi proliferate worldwide. Tsukiji is the largest seafood market in the world, buying and selling Tokyo's supply of seafood ... New York to Los Angeles ... will always ... Tokyo. At the Tsukiji market in Tokyo ... same batch of fine fish will likely to be purchased by exporters ... will supply seafood to premier sushi chefs at ... of the world.

Evidently, Mr. C [REDACTED] plagiarized the Feng passages extensively and dishonestly.

7. Counsel carefully led Dr. Bégin through an examination of other parts of the Essay which contained other instances of appropriation from the Feng article. Focussing on this evidence and the highlighted passage included above, we were satisfied, particularly in the absence of any explanation from Mr. C [REDACTED] that he had indeed committed the offence specified in Count 1.

Penalty

8. During the course of the evidence on the merits, a member of the Panel asked why this matter had not been dealt with at the departmental level through a meeting between Mr. C [REDACTED] and the Dean or his designate. We were advised that Mr. C [REDACTED] had been invited to such a meeting, but had not appeared. Mr. Centa candidly acknowledged that had the student had done so, he doubted the matter would have gone further. In all likelihood (in the absence of any adequate explanation) Mr. C [REDACTED] would have faced the penalty of a mark of zero on the course and a transcript notation for period of time.

9. Counsel submitted that the proper penalty in this instance required not only a final grade of zero in the Course, but also a period of suspension from the University for two years, as well as a notation on his academic record and transcript until the day of graduation from the University.

10. We are satisfied that this does amount to a proper sanction. We considered whether Mr. C [REDACTED] should receive an increased penalty by reason of his failure to attend the meeting with the Dean. The University took the position in this case, as it has in other cases, that it is important for students who have committed academic offences to demonstrate insight and remorse in order to try to rehabilitate or repair the academic relationship between the student and the University. Where the student has failed to appear at any stage, let alone take responsibility, it is difficult for the Tribunal to impose a more lenient penalty.

11. Beyond that, Mr. Centa referred us to the criteria first established by the late Mr. John Sopinka, Q.C. (later the Honourable Mr. Justice Sopinka) in the matter of the appeal of Mr. C (November 5, 1976). Mr. Sopinka held that the Tribunal should consider the following six criteria when deciding on an appropriate sanction:

1. The character of the person charged;
2. The likelihood of a repetition of the offence;
3. The nature of the offence committed;
4. Any extenuating circumstances surrounding the commission of the offence;
5. The detriment to the University occasioned by the offence;
6. The need to deter others from committing a similar offence.

12. We are unable to form any view with respect to criteria (1), (2) and (4). As to the other factors, we are satisfied in relation to (5), that there is detriment to the University occasioned by the offence. As to (6), the Tribunal sees a wearying number of prosecutions similar to the present one coming before it, and in our view it is important to deter others so inclined. There was simply no evidence in relation to mitigation before us, except for the University's concession that this was the first offence committed by Mr. C [REDACTED].

13. We are satisfied that a two-year suspension should form part of the penalty. Mr. Centa referred us to *The University of Toronto and Ms. K* (Case 428, June 2006). In that case, Mr. Slaght wrote of the student that she had,

"Failed to respond at all to the notice of the charges and to the various indications that she could intervene helpfully in the proceedings at any point along the way if she were only to engage in the process ... We believe that when considering the appropriateness of the penalty in this case, it is fair and relevant to take into account that the Student had chosen not to engage in the disciplinary process and as a consequence a matter that might have been disposed of at an earlier stage has come before the Tribunal."

In that case, the Panel saw fit to impose a suspension of two years.

Disposition

14. The Tribunal recommends as follows:

1. that the following sanctions shall be imposed on Mr. C█:
 - (a) he shall receive a final grade of zero in HISC14H3F;
 - (b) he shall be suspended from the University from the date of this order until February 4, 2016; and
2. a notation shall be placed on his academic record and transcript until the day he graduates from the University of Toronto;

3. that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the student withheld.

Dated at Toronto, this 20th day of March, 2014.



William C. McDowell, Chair