

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on January 7, 2016,

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 [REDACTED] E [REDACTED]

Date of Hearing: Monday, March 28, 2016

Members of the panel:

Mr. John A. Keefe, Barrister and Solicitor, Chair

Professor Graeme Hirst, Faculty Panel Member

Mr. Sean McGowan, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland, Barristers

Mr. J [REDACTED] E [REDACTED], the Student

Professor David Pond, Course Instructor

In Attendance:

Ms. Krista Osborne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Lucy Gaspini, Manager, Academic Integrity & Affairs, Office of the Dean, U of T Mississauga

NOTICE OF HEARING

- [1] The Trial Division of the University Tribunal was convened on Monday, March 28, 2016 to consider charges brought by the University of Toronto (the “University”) against Mr. J■■■ E■■■, (the “Student”), under the University of Toronto Code of Behaviour on Academic Matters, 1995 (the “Code”).

THE CHARGES

- [2] The charges against the Student in the Notice of Hearing dated February 18, 2016 are set out below:

1. On or about December 1, 2014, you knowingly represented as your own an idea or expression of an idea or work of another in an essay that you submitted in POL214Y5 (the “Course”), contrary to section B.I.1(d) of the Code.
2. In the alternative, on or about December 1, 2014, you knowingly obtained unauthorized assistance in connection with an essay that you submitted in the Course, contrary to section B.I.1(b) of the Code.
3. In the further alternative, on or about December 1, 2014, 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 that you submitted in the Course, contrary to section B.I.3(b) of the Code.
4. On or about February 23, 2015, you knowingly represented as your own an idea or expression of an idea or work of another in an essay that you submitted in the Course, contrary to section B.I.1(d) of the Code.
5. In the alternative, on or about February 23, 2015, you knowingly obtained unauthorized assistance in connection with an essay that you submitted in the Course, contrary to section B.I.1(b) of the Code.

6. In the further alternative, on or about February 23, 2015, 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 that you submitted in the Course, contrary to section B.I.3(b) of the Code.

THE PLEA

- [3] The Student appeared in person at the hearing and indicated that he wished to plead guilty to Charges 1 and 4. University Counsel indicated that upon those pleas being accepted by the Tribunal, the remaining charges would be withdrawn.
- [4] As there was no prior indication that the Student intended to plead guilty, there was no Agreed Statement of Facts so the University called Professor Pond to provide a brief summary of the evidence concerning the charges. At the conclusion of Professor Pond's evidence, the Student agreed that the facts as described by Professor Pond were substantially correct.
- [5] The Tribunal deliberated and concluded that it was prepared to accept the plea of guilty on Charges 1 and 4. University Counsel withdrew the remaining counts.
- [6] The remainder of the hearing dealt with the appropriate penalty upon which there was no agreement between the University and the Student.

THE FACTS

- [7] The Student was registered at the University of Toronto, Mississauga in the Fall 2014 and Winter 2015 term.
- [8] The Student was registered in POL214Y5 ("the Course") taught by Professor Pond. As part of the Course requirement, the Student was required to submit two separate essays.

The First Essay

- [9] The first essay was due on December 1, 2014 which was worth 15% of the final grade.
- [10] After the essay was submitted, the teaching assistant noted that there appeared to be instances of plagiarism from internet sources. As part of the normal requirements, the Student is required to submit the essay to Turnitin.com ("Turnitin"). The Student submitted two versions of the essay to Turnitin on December 1, 2014. There was some suggestion by the teaching assistant that the Student submitted two versions of the same document to Turnitin in order to circumvent or otherwise interfere with the Turnitin process, but the Tribunal concluded that there is no basis for such a conclusion.
- [11] It was readily apparent that significant portions of the essay were lifted verbatim from internet sources. In some cases there was reference to the internet source without proper quotations or footnoting and in other cases there were quotations for large excerpts taken from these internet sources without complete reference to the source.
- [12] The Tribunal had little trouble finding the Student guilty on Count 1. The Student's guilty plea was accepted on Charge 1.
- [13] Professor Pond testified that the Student met with him on January 26, 2016 to discuss the first essay. At that meeting the Student was told that the essay would be submitted to the Chair of the department for further action.

The Second Essay

- [14] The Student was required to submit a second essay in the Course which was worth 25 % of the final grade in the Course on February 23, 2015. We note that, at this time, the allegations of plagiarism concerning the first essay had been raised, but not finally disposed of.

- [15] The second essay was similar to the first essay. The Student lifted verbatim text from online sources and did not provide any attribution to these sources in many cases and improper attribution in other cases.
- [16] The plagiarism was noted by the same teaching assistant and the matter ultimately came before the Tribunal.
- [17] The Tribunal had little trouble finding the Student guilty on Charge 4. The Student's guilty plea was accepted on Charge 4.
- [18] University Counsel then withdrew the remaining charges.

THE PENALTY PHASE

- [19] The University sought the following penalty:
- (a) A mark of zero in course POL214Y5;
 - (b) A suspension of three years;
 - (c) A notation on the Student's academic record and transcript for a period of four years and,
 - (d) that the case be reported to the Provost for publication of the notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.
- [20] We note that penalties requested were to run concurrently for both charges. In other words, they were treated as a single offence.
- [21] The Student was present at the hearing and advised the panel that he had not been enrolled in the Fall 2015 – Winter 2016 term. He offered some excuse for his conduct indicating that, prior to the second essay being submitted, his father advised him that he would not be paying for any further University attendance.

- [22] This was the Student's first year of full time attendance at the University, although he was taking second year courses. There was some confusion as to whether the student received credit for his first year from his studies at a Nigerian University or from Humber College. His transcript indicated that the credit was from Humber College.
- [23] The Factors to be considered when determining penalty are well established:
- (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 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.
- [24] The Tribunal, in determining the appropriate penalty, should consider various factors in order to find a fit sentence for this offender and for this offence in this community. In doing so, fairness and proportionality must be balanced.
- [25] There should be some measure of uniformity or proportionality so that similar penalties are imposed for offences committed in similar circumstances. The sentencing should preserve and ensure fairness by avoiding disproportionate sentences among similar sentencing processes so that there are not wide swings or inconsistencies between like offences and like offenders, recognizing that there is never a like offence or like offender.
- [26] University Counsel submitted that, based on prior cases determined by the Tribunal, the normal penalty for a first offence of plagiarism was in the range of three years. In reviewing the cases submitted, it would appear that the range of penalties for a first offence of plagiarism was two to three years.
- [27] Applying the sentencing principles to this case, the Tribunal considered the following factors. The Student attended the hearing. There were no prior offences on the Student's

academic record. The plagiarism was extensive in both essays, but there was some independent thought in the essays and there was some attempt to reference the sources of the information. However, there was no consistency in the use of quotation marks referencing the source of the work that was being lifted from the internet. In some cases, the Student put quotation marks around the words that were being lifted and in other cases he referred to the source without quotation marks. Overall, although the plagiarism was extensive, this is not the worst case of plagiarism we have ever seen. The main aggravating factor is that the Student met with the Professor on January 26, 2015 after submitting the first essay, so he was clearly on notice that the conduct in question was wrong. Shortly thereafter, on February 23, 2015 the Student submitted the second essay containing the same or similar types of plagiarism as the first essay.

- [28] There were little, if any, mitigating factors that the Tribunal could rely upon from the Student's testimony of the personal circumstances at the time of the incident. The Student did express an interest in continuing his academic career in the future, and he had not been attending at the University during the 2015-2016 academic year.
- [29] The real issue for the Tribunal was whether this case was on the high or low end of the range of the penalties for a first offender on a charge of plagiarism.
- [30] Overall, the Tribunal concluded that the suspension should be for a period of two years and five months commencing from the date of the hearing, March 28, 2016. This would mean that the suspension would run until August 27, 2018. The Student would not be able to enroll until the Fall of 2018. The Tribunal concluded that this was the appropriate penalty that met all of the requirements of the sentencing principles and provided some measure of fairness to the Student while recognizing the important principles described in many earlier decisions of the Tribunal.

ORDER

- [31] Accordingly, the Tribunal has determined that the appropriate penalty in the circumstances is as follows:

- (a) A final grade of zero in the course POL214Y5;
- (b) A suspension of the Student from the University commencing March 28, 2016, until August 27, 2018;
- (c) A notation on the Student's academic record and transcript from March 28, 2016 until March 27, 2020; and
- (d) That this case be reported to the Provost for publication of the notice of decision of the Tribunal and the sanctions imposed with the name of the Student withheld.

Dated at Toronto, this 20th day of April, 2016.



John A. Keefe, Chair