

THE UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

IN THE MATTER OF charges of academic dishonesty filed on February 10, 2011,

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 –

A T.

REASONS FOR DECISION

Hearing Date: March 24, 2011

Members of the Panel:

Mr. John Keefe, Barrister and Solicitor, Chair

Dr. Chris Koenig-Woodyard, Department of English, Faculty Panel Member

Ms. Emily Holland, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Barristers

Ms. Allison Worone, Legal Case Worker, Downtown Legal Services

In Attendance:

Mr. A T , the Student

Dr. Martha Harris, Academic Integrity Officer, Office of Academic Integrity, Faculty of Arts and Science

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

PRELIMINARY

1. The Trial Division of the University Tribunal was convened on March 24, 2011, to consider charges under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 (the "Code") laid against the Student by letter dated February 10, 2011.
2. The Student and the University entered into an Agreed Statement of Facts ("ASF") copies of which is attached to these reasons as Appendix "A".

THE CHARGE

3. The charges against the Student were as follows:
 1. On or about October 26, 2010, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in an essay that you submitted for academic credit in POL214Y1Y – Canadian Government and Politics (the "course"), contrary to section B.I.1(d) of the Code.
 2. On or about October 26, 2010, you knowingly submitted an academic work containing a purported statement of fact or reference to a source which was concocted in an essay that you submitted for academic credit in POL214Y1Y – Canadian Government and Politics (the "Course"), contrary to section B.I.1(f) of the Code.
 3. In the alternative, 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 the Course, contrary to section B.I.1(b) of the Code.

THE FACTS

4. Discipline Counsel provided an overview of the Agreed Statement of Facts ("ASF"). The Student confirmed his agreement and understanding of the ASF. The Student entered a guilty plea to Charges 1 and 3. The University withdrew Charge 2 and further agreed that if the Tribunal entered a finding of guilt on Charge 1 or Charge 3, the University would withdraw the remaining Charge.
5. The basic background facts are that the Student submitted an essay, in POL 214-Canadian Government and Politics that was not his own work. In fact, the essay had been purchased by the Student from an Internet custom essay writing service. The Student paid

between \$100.00 and \$150.00 to have this service write the essay for him. He did no meaningful academic work on the essay. The fact that the essay was purchased was uncovered by the Teaching Assistant. The paper was submitted to Turnitin.com. It reflected a similarity index of 13%. There were also some incorrect references and unusual statements in the essay. Upon further investigation, specifically a metadata analysis, it was apparent that the essay was originally done by someone else.

6. The Student met with the Professor and the Teaching Assistant to discuss the teaching Assistant's concerns. The Student did not admit to any wrong doing. The matter was sent on for further action.

7. On January 13, 2011, the Student met with the Dean's Designate. The Student was not initially forthcoming as to the source of the essay. With respect to some of the incorrect references, he commented that he was working on three other essays at the time and may have included inaccurate citations. In response to a question as to whether anyone had helped him with the essay, the Student said "no". In response to a direct question as to whether he had purchased the essay, the Student denied purchasing the essay.

8. Upon being confronted with the metadata fields that showed the original author being listed as "Brian", the Student finally admitted that he had purchased the essay.

9. At the time of the offence, the Student was in the Fall session of his fourth year of study. He had several courses remaining to complete before graduating. At the time of the hearing, he was still enrolled in several courses at the University.

DECISION OF THE TRIBUNAL ON CHARGES

10. Based on the facts set out in the Agreed Statement of Facts and the documents contained in the Joint Book of Documents, the Tribunal accepted the Student's guilty plea on Charge 1. The University then proceeded to withdraw Charges 2 and 3.

SANCTION/PENALTY

11. Discipline Counsel provided the Tribunal with an Agreed Statement of Facts on Penalty. The Agreed Statement of Facts on Penalty is attached as Appendix "B". The Student confirmed his agreement with and understanding of the Agreed Statements of Facts on Penalty.

12. In the Agreed Statement of Facts on Penalty the Student acknowledges that he had committed plagiarism on an assignment in April 2009 in PHY 205. At the time of that offence, the Dean's Designate imposed a sanction of zero on the assignment and a further reduction in his final grade of 20 marks. There was an annotation placed on his transcript from March 25, 2009 until March 24, 2011.

13. Discipline Counsel advised the Tribunal that he was seeking the following penalty:

1. a grade of zero in the course;
2. a recommendation to the President of the University that he recommend expulsion from the University; and
3. suspension commencing on May 1, 2011 for up to five years, together with a notation on his transcript for that period pending final determination of the recommendation of expulsion.

14. Counsel for the student advised the Tribunal that the Student was seeking the following penalty:

1. a grade of zero in the course;
2. a five year suspension from the University effective May 1, 2011; and
3. a notation on the Student's transcript for a period of five years from May 1, 2011.

15. The real debate that was the subject matter of the Hearing was whether expulsion was appropriate.

16. The Student attended the hearing and testified with respect to his personal background and the circumstance of this case and his prior offence. With respect to the prior offence, his evidence was that it was a technical offence involving taking a paragraph for an essay from a website and failing to reference it properly. He testified that he did not fully understand the proper way to make citations on essays. At the time of his meeting with the Dean's Designate, the Dean's Designate told him that, if he committed another offence, the penalty would be more serious.

17. The Student was challenged by Discipline Counsel on cross-examination with respect to his version of the events concerning his prior offence, but no evidence was called by the

University to challenge the Student's statements with respect to the background facts. Accordingly, the Tribunal was not really in a position to reject the Student's version of the seriousness of the first offence. Overall, we would have to characterize the prior offence as not being the most serious in nature. This is consistent with the sanction imposed by the Dean's Designate.

18. The Student also described his personal background. He is a foreign student, 22 years of age from Pakistan. His parents live in Pakistan. His mother is a housewife. His father is a businessman/farmer. He started at the University of Toronto in August 2007. He lives alone in Canada. He has no family in Canada and he indicated that, if he completed all of the courses he is currently taking, he would be eligible to graduate in August 2011. He advised the Tribunal that his family is aware of the offence and is understandably upset. He is one of four children. Two of his older sisters graduated from the University of Toronto and have returned to Pakistan. He described to the Tribunal that there was considerable pressure from his family to finish his course load quickly so that he could graduate and return and work in the family business. He also described the pressure from his family to graduate from a foreign university of the calibre of the University of Toronto. He stated that he understood the seriousness of the offence.

19. With respect to the incident in question, he told the Tribunal that he was under considerable pressure because of his heavy course load and the pressure to complete all of the requirements for his degree, so he took the easy way out and decided to purchase one essay from a custom essay writing service he accessed on the Internet. Ultimately, he acknowledged that he had to stop lying. He stated that he felt terrible about what had happened. He told the panel that he hoped to return to the University of Toronto, if that was possible, in order to complete his degree.

GENERAL PRINCIPLES OF SENTENCING

20. The decision in the matter of the appeal of Mr. C (File: 1976/77-3; November 5, 1976) is the benchmark decision often referred to in other cases. This case sets out the following sentencing criteria:

- (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; and
- (f) the need to deter others from committing a similar offence.

21. These sentencing principles have been adopted in numerous cases by the University Tribunal. The Tribunal believes that, in addition to these basic principles, there should be some measure of uniformity or proportionality in the sentencing process so that there should be similar sentences imposed for offences committed in similar circumstances. Penalties imposed on students at the University should preserve and ensure fairness by avoiding disproportionate sentences so that there are not wide swings or inconsistencies between like offences and like offenders, recognizing that there is never a like offence or a like offender. Having said that, there should not be rigid rules or formulas applied in the sentencing process.

**CHARACTER OF THE PERSON CHARGED /
LIKELIHOOD OF A REPETITION OF THE OFFENCE / EXTENUATING CIRCUMSTANCES**

22. The Student is not a first time offender. He has previously come into contact with the University's disciplinary process, having been disciplined for plagiarism on an earlier occasion in his academic career at the University. While the first offence was not the most serious in nature, nonetheless it was an academic offence for plagiarism in violation of the University's Code and it brought the Student into direct contact with the University's disciplinary system.

23. In the case before the Tribunal, the Student initially attempted to deceive his Professor and the Dean's Designate by concocting explanations for discrepancies in the essay and, although he did ultimately acknowledge that he had purchased the essay, he did so only in the face of overwhelming evidence. He did ultimately acknowledge his guilt. Further, he cooperated with the University in the discipline process by entering into an Agreed Statement of Facts and an Agreed Statement of Facts on Penalty. He attended and testified at the Hearing. He provided the Tribunal with an explanation of his personal circumstances. He did exhibit genuine remorse. However, the Tribunal was left with some uncertainty as to whether there was a

likelihood of a repetition of the offence by this offender in light of the fact that this offence was committed not long after the first offence and while the Student's earlier offence was still noted on his transcript.

24. There were no unusual events occurring in his life that caused him to cheat. The explanations offered by the Student as to why he purchased the essay were not terribly compelling. There were no real extenuating or mitigating circumstances. Although he was under considerable pressure to complete his work, these pressures are no different than those experienced by other students at the University. Instead of dealing with these pressures by approaching the professors or seeking extensions, the Student took the easy way out and purchased the essay from a commercial essay writing service accessed on the Internet. This was a deliberate act, not an accidental or momentary lapse of judgment. In fact, the student noted at the hearing that he began the process of arranging for the purchase of the essay two weeks before the assignment was due and he submitted instructions to the essay writing service for the assignment. This demonstrates considerable planning. This was not a spontaneous error of judgment. It was a deliberate act.

THE NATURE OF THE OFFENCE COMMITTED

25. Plagiarism is a serious breach of the University's Code of Behaviour. In this case, the Student purchased a custom written essay from an essay writing services access on the Internet and submitted it as his own work. This has to be viewed as being at the most serious end of the spectrum of plagiarism. This type of offence is increasing in seriousness because of dramatic changes in technology and the ability of students to access materials such as this on the Internet. Technology is available to detect plagiarism, but it is very difficult to uncover assignments custom written specifically for a student. The commercial nature of these essay services has the potential to undermine seriously the grading process at the University. It also adds to the unseemly nature of this offence.

26. Appendix "C" to the University's Code sets out the Provost's guidelines on sanctions, offences and suggested penalties for students. These offences and sanctions are ranked in order of seriousness and are set out as follows:

Sanctions

4. One or more of the sanctions in section C.I. (b) may be imposed by the Dean where a student or former student admits to the commission of an offence.
5. One or more of the sanctions in section C.II.(b) may be imposed by the Tribunal upon conviction of any student or former student of any offence.

Relation of Offences and Sanctions

The particular circumstances of each case will, of course, have to be taken into account, but the following are suggested guidelines:

1. For offences on term work, term tests or final exams, the sanction recommended is not less than twice the value of the exam, work or test.
2. For submitting work, where it forms a major fraction of the course, in whole from another person, the sanction recommended shall be suspension from the University for at least two years.
3. Where a student has been previously convicted under the Code and commits another offence, the recommended sanction shall be from suspension for two years to expulsion from the University.
4. For offences related to damaging or missing library materials, computer equipment, or other facilities the recommended sanctions shall be monetary fine and/or denial of privileges to use the facility involved.
5. For submitting purchased work, the sanction recommended shall be expulsion from the University. The minimum sanction shall be suspension from the University for a period of time and zero as the final grade where the offence occurred.
6. For personating, or having an individual personate on a test or a examination, the recommended sanction shall be expulsion from the University.

27. Item 5 of the guidelines is most relevant to this case. It suggests that for submitting purchased work, the sanction recommended is expulsion from the University.

28. Discipline Counsel also provided us with several cases where the University Tribunal was called upon to consider the appropriate penalty in cases of purchased essays. While there are some variations in the penalties imposed, it is fair to say that expulsion is considered to be appropriate in cases involving purchased work, particularly if there is a prior offence.

29. Simply put, the University takes the position that purchasing work for submission for academic credit is at the highest end of the scale in terms of academic dishonesty.

DETERRENCE AND DETRIMENT TO THE UNIVERSITY OCCASIONED BY THE OFFENCE.

30. It is clear that plagiarism, particularly plagiarism connected to the Internet and purchasing essays from commercial enterprises operating on the Internet, is at the highest end of the scale in terms of seriousness. It is very hard to detect purchased essays. In this case, the University was able to discover that it was obtained from an essay writing service because of properties embedded in metadata in the paper. Technology is available to clean that metadata and, as such, it is very hard to detect this type of offence. Purchased essays provide a convenient way for students to short circuit their expected workload. This is an industry that is based on deceit. This threatens the fabric of the university grading system. It creates an uneven playing field and creates unfairness to the students who play by the rules and do not have the means to purchase their way to a degree. It also encourages the proliferation of this kind of commercial enterprise. The University is very vulnerable to this kind of commercial activity.

31. There is an overwhelming need to impose sanctions that, not only reflect the seriousness of the offence, but also provide general deterrence. Although it is difficult to assess whether imposing a penalty of expulsion (which is the most severe sanction possible) will actually deter others, it is one of the only ways that the University can demonstrate its view of the seriousness of this kind of offence.

CONCLUSION

32. Although a five year suspension from the University would be a significant deterrent, we believe that, in this case, in order to balance the various factors and impose a penalty that recognizes the seriousness of the offence, we believe that the appropriate penalty in the circumstances is expulsion.

33. Accordingly, we make the following order:

- (i) that the President of the University request that the Governing Council expel the Student from the University of Toronto;
- (ii) if this recommendation is accepted, there should be a permanent notation of the expulsion recorded on the Student's academic record;

- (iii) pending the decision of the Governing Council, the Student be suspended from the University for a period of five years from May 1, 2011 with a corresponding notation on the Student's academic record and transcript for that same period;
- (iv) that a grade of zero be assigned to the Student in course POL 214; and
- (v) that the decision of the Tribunal and the sanctions imposed be reported to the Provost for publication throughout the University with the Student's name withheld.

Dated May 20, 2011



John A. Keefe, Co-Chair