

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed October 12, 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:

UNIVERSITY OF TORONTO (the "University")

- AND -

L [REDACTED] Z [REDACTED] (the "Student")

REASONS FOR DECISION

Hearing Date: January 25, 2017

Panel Members:

Mr. Christopher Wirth, Barrister and Solicitor, Chair
Professor Pascal van Lieshout, University of Toronto, Department of Speech-Language Pathology, Faculty Panel Member
Mr. Andrey Lapin, Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel for the University, Paliare Roland Rosenberg Rothstein LLP

In Attendance:

Professor Eleanor Irwin, Dean's Designate, University of Toronto, Scarborough
Ms. Krista Osbourne, University of Toronto, Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

Ms. L [REDACTED] Z [REDACTED], the Student

Charges and Appearances

1. The Trial Division of the Tribunal heard this matter on January 25, 2017. The Student was charged with the following academic offences filed with the Provost on October 12, 2016:
 1. On or about March 28, 2016, you knowingly represented the ideas of another, or the expressions of the ideas of another as your own work in an essay titled "Alice vs. The Queen of Heart" ("Essay") that you submitted in partial completion of the course requirements in ENGB35 (2016) ("Course"), contrary to section B.I.1(d) of the Code.
 2. In the alternative, on or about March 28, 2016, 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 to obtain academic credit or other academic advantage of any kind, contrary to section B.I.3(b) of the Code.

The particulars for these charges are as follows:

- (a) At all material times you were a student registered at the University of Toronto Scarborough.
- (b) On or about March 28, 2016, you submitted the Essay in partial completion of the Course requirements.
- (c) You submitted the Essay:
 - (i) to obtain academic credit;
 - (ii) knowing that it contained verbatim or nearly verbatim text from another source, which you did not place in quotation marks or properly attribute to the original source of the text;
 - (iii) knowing that it contained ideas that were not your own and which you did not properly attribute to the source of the ideas;

- (iv) knowing that it contained ideas and the expression of ideas from two articles located on the Wikipedia website;
 - (v) with the intention that, when evaluating the Essay, the University of Toronto would rely on the Essay as containing your own ideas that were expressed in your own words.
2. The Student did not attend the hearing. After waiting 15 minutes for her, the hearing proceeded in her absence. Based upon the affidavit of service of Emily Home, sworn January 4, 2017 (Exhibit 1, Tab 4) and the affidavit of Robert A. Centa, affirmed January 11, 2017 (Exhibit 2), the Panel was satisfied that the Student had been served with the Charges and the Notice of Hearing in accordance with the University Tribunal's Rules of Practice and Procedures.

THE EVIDENCE

Enrollment at the University of Toronto, Scarborough

3. The Student was, at all material times, a registered student at the University of Toronto Scarborough and was enrolled in ENGB35 in the Winter 2016 term as per the Student's academic record dated January 5, 2017, a copy of which was found in Exhibit 1 at Tab 3.

ENGB35 (2016)

4. The Affidavit of Natalie Rose sworn December 1, 2016 (Exhibit "1", Tab 5) provided the following evidence:

"A. Background

1. *I was a Sessional Lecturer and Undergraduate Instructor at the University of Toronto Scarborough ("UTSC"), in the Department of English from September 2006 – April 2016. During that time, I taught ENGB35, "Children's Literature" eight times.*

2. *I hold degrees in English Literature from both Trinity College Dublin (Bachelor of Arts) and the University of Toronto (Ph.D). My main research interest is Victorian children's literature.*

B. *The Course*

3. *In the Winter 2016 academic term, I was the Instructor for ENGB35, "Children's Literature."*

4. *The syllabus for ENGB35 included a section entitled "Avoiding Plagiarism" which warned students that if they presented someone else's ideas as their own, they would be committing plagiarism, which is a serious academic offence. Specifically, the section stated that "whether you incorporate the material verbatim, you paraphrase it, or you rephrase it, you must give due credit to the original author." I have attached a copy of the Winter 2016 syllabus for ENGB35 to this affidavit as Exhibit A.*

5. *During class, I also verbally informed students about the University of Toronto Code of Behaviour on Academic Matters, including the provisions on plagiarism.*

6. *Students in ENGB35 were required to submit an essay worth 25% of their final grades. The essay required students to write 5-7 pages (double-spaced) about one of four assigned topics. Students were neither required nor advised to use secondary sources.*

7. *The essay topics were given to the students in the form of a handout entitled "ENGB35 Essay Instructions and Topics". This handout also had a section entitled "Avoiding Plagiarism", which instructed students to read the Code of Behaviour on Academic Matters prior to consulting any secondary sources, if they chose to use any secondary sources. The handout also specifically told students that "verbatim borrowings must be identified using quotation marks." I have attached a copy of the ENGB35 Essay Instructions and topics to this affidavit as Exhibit B.*

8. *Prior to the essay's due date, I provided the students in ENGB35 with a handout entitled "Essay Guidelines." The handout provided, among other things, information on formatting and citations, including a section entitled "Avoiding Plagiarism." This was the third written warning against plagiarism that I provided to my students. I have attached a copy of the "Essay Guidelines" handout to this affidavit as Exhibit C.*
9. *The handout advised students that "if you paraphrase a secondary source, you must still acknowledge the original author. **This includes non-scholarly sources such as SparkNotes.com, Wikipedia, etc.**" (emphasis in original)*
10. *I also required students attach a signed statement to their essay submissions, affirming that they had correctly cited any secondary sources, if they chose to use secondary sources.*
11. *I required this signed statement in all of my classes to ensure students who didn't read my materials containing warnings about plagiarism or attend class to hear me speak about plagiarism were still required to turn their minds to their responsibilities regarding academic integrity, particularly plagiarism.*

C. The Essay

12. *On March 28, 2016, Ms. Z█ submitted her essay, which was entitled "Alice VS the Queen of Heart (sic)."*
13. *Ms. Z█ included her required signed statement with her submission, in which she affirmed that the ideas and language in the essay were her own or were properly cited. I have attached a copy of Ms. Z█'s signed statement in this affidavit as Exhibit D.*
14. *In her essay, Ms. Z█ misattributed several passages. Footnotes were given, but the references did not match the quotations. I have attached a copy of Ms. Z█'s essay with my annotations to this affidavit as Exhibit E.*

15. *In her essay, Ms. Z████ included numerous verbatim or nearly verbatim passages from Wikipedia articles relating to Alice in Wonderland without any attribution. I have attached printouts of the Wikipedia articles from which Ms. Z████ repeated verbatim material without citations to this affidavit as Exhibit F.*
 16. *When I became aware of the apparent plagiarism, I spoke with Ms. Z████ and requested that she email me so that we could meet to discuss her essay. She did not email me. I also emailed her in an attempt to arrange a meeting and received no reply.*
 17. *On May 10, 2016, I referred the offence to Professor Bolus-Reichart, the Chair of the English Department. I have attached a copy of the letter I wrote to Professor Bolus-Reichart to this affidavit as Exhibit G."*
5. In addition, Professor Eleanor Irwin ("Prof. Irwin") also testified in order to address the issue as to whether any of the passages which the Student had provided in her essay which appeared to have been taken verbatim or substantially verbatim from passages in Wikipedia articles relating to Alice in Wonderland, could also be found in the sourceworks identified in the footnotes in the Wikipedia articles and the footnotes provided by the Student in her essay.
 6. Introduced into evidence, through Prof. Irwin, was a complete set of the Wikipedia pages for "Alice's Adventures in Wonderland" as of January 25, 2017 (Exhibit "3"); a printout from www.storymuseum.org.uk as of January 25, 2017 (Exhibit "4"); and a printout entitled "Bedtime Story Classics – Alice in Wonderland Background (The Background History of Alice in Wonderland)" as of January 25, 2017.
 7. Based upon exhibits 3, 4 and 5 and her internet search, Prof. Irwin testified that with respect to footnotes #1, #2 and #4 in the Student's essay, those portions of her essay which had been taken verbatim or substantially verbatim from passages in the Wikipedia articles relating to Alice in Wonderland without any attribution were not found in the source materials identified in the footnotes in the Wikipedia articles or the Student's essay at that time.

8. Further, Prof. Irwin testified that given that with respect to footnote #1, it referred to being retrieved in April, 2010, and with respect to footnote #2, it referred to being retrieved in January, 2007, it would appear highly unlikely that the Student would have 6 years and 9 years earlier respectively, gone to those websites, downloaded material from them and saved them for use in an essay assignment which she would only be given 6 and 9 years later, respectively.
9. With respect to footnote #3 in the Student's essay, Prof. Irwin was unable to determine whether the source materials in the Wikipedia footnote might have also contained the same passages as in the Wikipedia articles.

UNIVERSITY'S SUBMISSIONS

10. In closing argument, counsel for the University submitted that the evidence clearly established that the 4 passages in question were taken verbatim or nearly verbatim from Wikipedia articles relating to Alice in Wonderland without any attribution and that 2 of the 4 passages had not been identified in the essay in quotations and therefore were not properly cited either.
11. With respect to the first passage and the first footnote in the Student's essay, it was argued that it clearly was taken from the Wikipedia articles and given that the source material referred to in the Wikipedia footnotes did not presently contain this material, and given that the Wikipedia footnote and the Student's footnote identified the material as having been retrieved in April, 2010, 6 years prior to the Student being assigned the essay, it was highly probable that the material even if existed at the time, was never accessed by the Student.
12. With respect to the second Wikipedia passage and the Student's second footnote, it was argued that it also appeared to have been clearly taken verbatim or nearly verbatim from the Wikipedia articles, and as of January 25, 2017, was not in the source materials identified in the Wikipedia footnotes. Given this and given that the footnote from both Wikipedia and the Student identify the materials as having been retrieved in January, 2007, some 9 years prior to the student being assigned the essay, it was highly probable that the Student took the passages verbatim or nearly verbatim from the Wikipedia

articles relating to Alice in Wonderland without any attribution and did not retrieve them from the source materials some 9 years earlier. It was also highly probable that they did not contain those references in any event.

13. With respect to the fourth passage, it was argued that it clearly was taken verbatim or substantially verbatim from the Wikipedia articles relating to Alice in Wonderland without any attribution and, as well, Prof. Irwin was able to confirm that it did not come from the source material in the Wikipedia footnote as the passage in question did not exist in it either.
14. In the University's submission, given that all 4 of the passages from the Student's essay had clearly come from the Wikipedia articles, and given the fact that 3 out of the 4 passages and footnotes did not come from the source documents referred to in the Wikipedia footnotes, it was a reasonable inference on the balance of probabilities to conclude that passage #3 and footnote #3 with respect to it, was also clearly taken from the Wikipedia articles and was not taken by the Student from any source material referred to in the Wikipedia footnote.
15. Accordingly, in the University's submission, on the balance of probabilities, the totality of the evidence demonstrated that all 4 passages in the essay had been plagiarized from the Wikipedia articles relating to Alice in Wonderland without any attribution and, as well, in two cases without being placed in quotations.
16. Accordingly, the University asked the Panel to find the Student guilty on Charge 1 and advised that if the Panel did so, it would withdraw Charge 2.

Standard of Proof

17. The onus is on the University to establish based upon clear and convincing evidence on a balance of probabilities that the academic offence charge has been committed.

Decision of the Tribunal

18. Based on the evidence and the Panel's review of the plagiarized source material, the Student was found guilty of plagiarism contrary to section B.I.1(d) of the Code, namely Charge 1 as set out above.

19. The University then withdrew Charge 2.

Reasons for Findings

20. Based upon the evidence, the Panel was satisfied that the University had established that the 4 passages in question had been taken verbatim or substantially verbatim from the Wikipedia articles relating to Alice in Wonderland without any attribution and that with respect to footnotes #1, #2 and #4, that the passages in question also were not in the Wikipedia referenced source materials. With respect to footnote #3, given the totality of the evidence including the findings that the passages have been taken verbatim or substantially verbatim from Wikipedia and that footnotes #1, #2 and #4 did not come from any source materials, the Panel was prepared to draw the inference that footnote #3 also did not come from any referenced source materials. Accordingly, based upon the totality of the evidence presented, the Student was found to have committed the offence of plagiarism.

Penalty

21. The University did not lead any additional evidence with respect to penalty and submitted that the following penalty should be imposed:

- (a) a final grade of zero in ENGB35 (2016);
- (b) a two year suspension from the University to commence on the day the Tribunal makes its order; and
- (c) a notation of the sanction on her academic record and transcript for three years from the date the Tribunal makes its Order; and
- (d) that the Tribunal report this case to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with the name of the Student withheld.

22. In the University's submission, given that this was a first offence, the foregoing penalty accorded with other decisions of this Tribunal in similar circumstances.

23. After deliberations, the Tribunal ordered as follows:
- (a) **THAT** the Student is guilty of one count of plagiarism contrary to section B.I.1(d) of the *Code of Behaviour on Academic Matters*;
 - (b) **THAT** the Student receive a final grade of zero in ENGB35 (2016);
 - (c) **THAT** the Student be suspended from the University for a period of two years, commencing on January 25, 2017;
 - (d) **THAT** the sanction be recorded on the Student's academic record and transcript to the effect that she was sanctioned for academic misconduct for a period of three years, commencing on January 25, 2017; and
 - (e) **THAT** this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University Newspapers, with the name of the Student withheld.
24. An Order was signed at the hearing by the Panel to this effect.

Reasons for Penalty

25. The Panel was satisfied that given that this was a first offence, this penalty was appropriate given the *Mr. C* factors (Case No. 1976/77-3, November 5, 1976), and was in accordance with other decisions of this Tribunal in similar circumstances.

Dated at Toronto, this 15th day of February, 2017



Christopher Wirth, Chair