

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on September 5, 2018

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] W [REDACTED] (the "Student")

Hearing Date(s): May 22, 2019

Members of the Panel:

Ms. Omo Akintan, Chair
Professor Blake Poland, Faculty Panel Member
Mr. Bradley Au, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Ms. Sonia Patel, Summer Student, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Appeals, Discipline and Faculty Grievances

Not in Attendance:

The Student

Charges and Appearances

1. The Trial Division of the Tribunal heard this matter on May 22, 2019. The Student was charged on September 5, 2018 as follows:

Charge 1: You knowingly represented as your own idea or expression of an idea, and/or the work of another film review on the movie Aliens (the "Film Review") contrary to section B.I.3(a) of the Code.

Charge 2: In the alternative, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in order to obtain academic credit or other advantage of any kind, contrary to section B.I.3(b) of the Code.

Service on Student

2. The first Notice of Hearing was served on the Student by email dated April 10, 2019 to the Student's ROSI¹ email address. On the same day, the Notice of Hearing was also served by courier to the address the Student provided to the University in ROSI.
3. Prior to the Notice of Hearing being served, Robert Centa, Assistant Discipline Counsel for the University contacted the Student by email, sent to his ROSI account, on September 6, 2018 advising that he would be prosecuting the charged filed against him by the University Provost and providing disclosure.
4. On the same day, the Student responded, from his ROSI account, indicating that he was forwarding the email to his lawyer.
5. Within a couple of hours, Mr. Centa received an email from a lawyer indicating that they had been retained by the Student. The lawyer indicated that they would review the disclosure and be in touch.
6. On March 5, 2019, Mr. Centa followed up with the Student's counsel.
7. On the same day, he received a response from the lawyer indicating that the firm no longer represents the Student.

¹ University's database known as the "Repository of Student Information"

8. On May 19, 2019, over a month following service of the Notice of Hearing, Mr. Centa wrote to Michael Wiseman, the University's Associate Director of Information Security, requesting the date the Student's ROSI account was last accessed and inquiring about whether emails to the address were being forwarded to another account.
9. On May 21, 2019, Mr. Wiseman responded that the last login was on May 20, 2019 at 4:01am and that, as of 10:30am on Tuesday, May 21, 2019, the account was not being forwarded.
10. The Student did not respond to the Notice of Hearing or contact Mr. Centa to discuss the hearing or the charges.
11. The Student did not attend the hearing on May 22, 2019.
12. The Panel was satisfied that valid and proper service was effected on the Student pursuant to the *Rules of Practice and Procedure* and that the Hearing could proceed in the absence of the Student.

Particulars of the Charges

13. The particulars related to the charges, as communicated to the Student, are as follows:
 - a) At all material times, you were a registered student in the University of Toronto Mississauga. In Fall 2016, you registered in the [An Introduction to Cinema Studies] Course, which was taught by Matthew Stoddard.
 - b) On or about November 11, 2016, you completed and submitted the Film Review through Turnitin.com. The Film Review was worth 20% of the final grade in the Course.
 - c) The Film Review was nearly identical to the film review submitted by P.H.Q., another student in Cinema Studies.

- d) The Film Review contained ideas, and/or the expression of ideas and/or the words of another that you did not cite appropriately.
- e) In the Film Review, you knowingly represented the work of other persons as your own, and you knowingly included ideas and expressions that were not your own, but were the ideas and expressions of other persons, which you did not acknowledge.
- f) You purchased the Film Review and did no meaningful academic work on it before you submitted the work of the actual author of the paper in your own name and without proper attribution.
- g) For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in the Film Review.

Facts

14. The University tendered evidence by way of the following affidavits:

- An Affidavit affirmed May 21, 2019 of Janice Patterson, Legal Assistant to Mr. Centa;
- An affidavit affirmed May 9, 2019 of Catherine Seguin, Associate Professor at the University;
- An affidavit affirmed March 21, 2019 of P.H.Q. a student at the University;
- An affidavit of service affirmed April 17, 2019 by Melissa Clark, Quasi-Judicial Administrative Assistant, Appeals, Discipline & Faculty Grievances at the University.

15. Professor Seguin's affidavit affirmed the following facts:

- At the relevant time, Professor Seguin was an Associate Professor at the University and also acted as the Dean's Designate for academic integrity. In that role, she was responsible for investigating and attempting to resolve academic offences in the Social Sciences Program at the University's Mississauga campus.

- In Fall 2016, the Student registered in the Course, An Introduction to Cinema Studies, which was taught by Prof. Matthew Stoddard.
- On or about November 11, 2016, the Student submitted a Film Review through Turnitin.com. The Film Review was worth 20% of the final grade in the Course.
- The Turnitin.com originality report indicated that the Film Review was 69% similar to the film review submitted by P.H.Q. another student in Cinema Studies.
- In Fall 2016, the Student was also enrolled in LIN102H5F – Introduction to General Linguistics: Words, Sentences, their Structure and Meaning ("Linguistics"), which was taught by Prof. Mercedeh Mohaghegh.
- The academic requirements for the Linguistics course included a tutorial assignment worth 4% of the final grade in the course.
- The Student was one of four students who were identified as having potentially committed an academic offence by receiving unauthorised assistance on the assignment.
- On November 23, 2017 the Student attended a Dean's meeting with Professor Seguin to discuss the two allegations of academic misconduct against him.
- Professor Seguin first addressed the allegations related to the Linguistics course. The Student acknowledged that the answers to the assignment he submitted were not his and that he had received them from people outside the University.
- With respect to that allegation, the Student admitted that he had committed an academic offence and signed an Academic Offence Admission Form acknowledging as such.

- Professor Seguin imposed a sanction of a mark of 0 for the assignment in question, a further reduction of 4 marks from the final grade in the course, and a 12-month annotation of the academic offence on the student's transcript.
- When asked about the Film Review that is the subject of this hearing, the Student denied misconduct. He indicated that he went to the Writing Centre and that they identified some grammatical errors which he then corrected.
- When the similarities between his review and P.H.Q.'s review were pointed out to him the Student denied knowing P.H.Q. and suggested that P.H.Q. could have obtained a copy of his review when he printed it at the library.
- When provided the opportunity to reconsider his story given that P.H.Q. had already admitted that she purchased her review, the Student recanted his previous explanation and stated that he also purchased his review from an on-line source because he was afraid of getting a low mark. The Student admitted that he was guilty of committing an academic offence in relation to the Film Review and signed an Academic Integrity Student Form stating as such.

Finding of Guilt

16. Based on Prof. Seguin's evidence, the Panel found the Student guilty of Charge 1.
17. The University has withdrawn the alternative Charge 2.

Penalty

18. The University sought the following penalty:
 - that the Student be immediately suspended for a period of up to five years;
 - that the Tribunal recommend to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and

- that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld.
19. In determining penalty, the Panel is directed to consider the Mr. C factors (Case No. 1976/77-3, November 5, 1976): to achieve the goals of reformation, deterrence and protection of the public. The Tribunal is required to consider these factors and determine what weight to give to each factor based on the facts of the case.
 20. In the *Mr. C* case, *supra* and in subsequent cases dealing with plagiarism the Tribunal has made clear the seriousness of these offences. A review of relevant Tribunal cases clearly demonstrates a consensus that purchasing and submitting purchased work for academic credit is among the most egregious offences a student can commit. The reason this is so is aptly stated in the CH&K case (*Case No. 596; 597; 598 November 23, 2011, confirmed on appeal to the Discipline Appeals Board*), as follows:

First, in taking these steps, there is a clear evidence of intention, deliberation and knowing deception, both in the planning, managing and completion of the offence, all of which occurs over a period of time, as in this case. As well, the act of paying for the services of another in this context, introduces a commercial element into the relationship of a student with the university, a factor very distant from the core values of an academic institution, where individual effort, intellectual thought and hard work are the hallmarks.
 21. In that decision the Tribunal goes on to point out the particular insidiousness of this form of plagiarism in that it is particularly difficult to detect. The Tribunal concluded, and the Panel agrees, that "there is every reason therefore that, once detected, these offences must be dealt with at the serious end of the sanction spectrum."

22. Given the seriousness of the misconduct in this case, the Panel starts its penalty analysis from the presumption that, barring mitigating factors, expulsion should be the likely result in this case.
23. A review of the cases indicate that prior offences are typically considered an aggravating factor that tips the scale in favor of expulsion in cases of this nature.
24. This case is unusual in that there is another offence but it is not a "first" or "prior" offence in the typical sense. Given that both the Student's offences were committed, discovered and the Student questioned about them at about the same time, the other offence is more accurately characterised as a concurrent offence.
25. In the typical first or prior offence case, the Student has been through some aspect of the academic discipline process which includes being counselled about the seriousness of academic misconduct. Given that, it is entirely reasonable to consider a subsequent offence egregious and as a factor that goes to the student's rehabilitation potential and overall integrity.
26. A student who has engaged in a concurrent offence has not had the benefit of the counselling that would cause one to seriously question the student's rehabilitation potential following a subsequent offence.
27. At the same time, the commission of two academic misconduct offences in quick succession is nonetheless an aggravating factor that speaks to the student's character. On the facts of this case, the Student's failure to participate in the proceeding means that there is no counteracting evidence of good character and no evidence of remorse.
28. Similarly, the fact the Student denied the allegations, concocted tales to try to explain away the similarities in the film reviews and only admitted to purchasing the paper when he was told that the other student had admitted to purchasing her paper is another significant aggravating factor in an assessment of penalty in this case.

29. In the absence of participation by the Student, the Panel is unable to properly assess individual rehabilitation.
30. Considering all relevant factors and the facts of this case, the Panel finds that the goal of general deterrence is paramount in this case.
31. Given the seriousness of the offence and the aggravating factors identified, the Panel finds that imposing a five (5) year suspension and recommending expulsion to be the most appropriate penalty in this case.
32. For the reasons stated, the Tribunal orders that:
 1. The Student shall receive a final grade of zero in the course CIN101H5F;
 2. The Student be suspended from the University of Toronto for five years from the date of this Order;
 3. A recommendation be made to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and
 4. 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, with the name of the Student withheld.
33. An Order with the above relief was signed by the Panel effective May 22, 2019.

Dated at Toronto, this 23 day of August, 2019



Omo Akintan, Co-Chair, On Behalf of the Panel