

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on April 5, 2021,

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 -

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REASONS FOR DECISION

Hearing Date: June 21, 2021, via Zoom

Members of the Panel:

Mr. R.S.M. Woods, Chair
Dr. Ian Crandall, Faculty Panel Member
Ms. Madison Kerr, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Ms. Nadia Bruno, Special Projects Officer, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

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The Charge

1. On April 5, 2021, the University of Toronto (the “**University**”) laid the following charges (the “**Charges**”) against N■■■ A■■■ (the “**Student**”) under the *Code of Behaviour on Academic Matters, 1995* (the “**Code**”):

1. On or about March 1, 2020, you knowingly represented as your own an idea or expression of an idea, and/or the work of another in a mid-term essay that you submitted for academic credit in PHS100H1S (20201) (“**Course**”), contrary to section B.I.1(d) of the *Code*.

2. In the alternative to the above charge, 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 the mid-term essay that you submitted in the Course, contrary to section B.I.3(b) of the *Code*.

The Hearing

2. The Tribunal heard the Charges on June 21, 2021 by videoconference over Zoom due to the COVID-19 pandemic. The University was in attendance at the video hearing, but even after waiting 15 minutes the Student failed to appear.

Ability to Proceed in the Student’s Absence

3. As a result of the Student’s failure to attend the hearing, the Tribunal started the hearing by considering whether or not it could proceed in the Student’s absence.

4. Mr. Centa, on behalf of the University, submitted that the University Tribunal *Rules of Practice and Procedure* (the “**Rules**”) entitled the Tribunal to proceed, since the Student had been provided with adequate notice of the hearing. In support of that position, Mr. Centa provided the Tribunal with an affidavit of Samanthe Huang affirmed on May 31, 2021, an affidavit of Andrew Wagg affirmed June 4, 2021, an affidavit of Kasha Visutskie affirmed June 11, 2021, and an affidavit of Sharon Hawley affirmed June 8, 2021.

5. Ms. Hawley is Mr. Centa's assistant. Her affidavit included a letter dated April 5, 2021 which Ms. Huang emailed to the Student at the Student's email address in the Repository of Student Information ("ROSI") providing the Student with a copy of the Charges and copied to Ms. Hawley. Ms. Hawley also affirmed that she had sent an email to the Student on behalf of Mr. Centa on April 21, 2021, providing the Student with an electronic link which the Student could access to obtain a copy of the University's Disclosure Brief. The email was sent to the same email address as Ms. Huang's letter.

6. Ms. Huang is an Administrative Assistant in the Appeals, Discipline and Faculty Grievances group of the University's Office of the Governing Council. She confirmed that on May 31, 2021, she had emailed a Notice of Electronic Hearing (the "Notice") to the Student's email address in ROSI. The Notice specified that the Charges would be heard on Monday, June 21, 2021 at 5:15 p.m. EST, via Zoom and requested that the Student contact Ms. Huang to confirm their attendance at the hearing and their email contact information.

7. Mr. Wagg is an Incident Report Architect at Information Security, Information Technology Services at the University. His evidence was that on June 3, 2021, at Mr. Centa's request, he checked to determine the last time anyone had accessed the email account for the Student in ROSI. Mr. Wagg determined that the someone had accessed that account on November 17, 2020.

8. Ms. Visutskie is an Academic Integrity Specialist with the Student Academic Integrity team at the Faculty of Arts and Science of the University. She stated that on September 16, 2020 she had emailed the Student to inform them that the Department of Public Health Sciences had filed a report alleging that the Student had committed an academic offence under the Code and invited the Student to meet by video conference with the Dean's Designate for an Academic Integrity meeting on September 24, 2020. Ms. Visutskie indicated that the Student did not respond to that email, nor to further emails of September 19, 2020, October 21, 2020, November 19, 2020, December 2, 2020, and March 17, 2021.

9. Under Rule 9(c) of the Rules, service of charges, notices of hearing and disclosure, amongst other things, may be served on a student by emailing a copy of the document to the student's email address contained in ROSI. Based on the evidence before us, we were satisfied that the Student

had received proper and adequate notice of the Charges and this hearing and therefore we could proceed with the hearing in the Student's absence.

10. While evidence that the Student had personally accessed the email account identified as the Student's email account in ROSI after Ms. Huang sent out the Charges and the Notice would have established that the Student had had actual notice of the Charges and this hearing, the Rules do not require the University to establish actual notice. To the contrary, the Rules allow the University to provide students with documents by emailing them to the student at their email address in ROSI. Students are responsible for monitoring their account in ROSI. They fail to do so at their own risk.

11. In this case, the Student was notified of the Charges on April 5, 2021 and of this hearing on May 31, 2021 by emails sent to her email account in ROSI. As such, under the Rules she had reasonable notice of both the Charges and this hearing. In all the circumstances of this case, three weeks is reasonable notice of the hearing under Rule 13 of the Rules. We were therefore entitled to proceed to hear and consider the University's evidence in the Student's absence under Rule 17 of the Rules.

Merits of the Charges

Evidence and Submissions

12. In support of its allegations against the Student, the University tendered an affidavit from Andrea Cortinois, an Assistant Professor in the University's Dalla Lana School of Public Health. Professor Cortinois was also in attendance at the hearing. Professor Cortinois' evidence was that in the Winter 2020 academic term he was the instructor for PHS100H1S – Grand Opportunities in Global Health (the "Course").

13. The syllabus for the Course included a section warning students that their written work would be scanned for plagiarism using Turnitin.com and included links to academic integrity resources that contained information on how to avoid plagiarism and how to cite sources in written work properly.

14. One of the assignments was a mid-term essay worth 20% of the final grade for the Course. The essay required students to write 1,500 words exploring a topic of their choice from those discussed during the first half of the Course.

15. On March 1, 2020, the Student submitted their mid-term essay (the “Essay”) which was entitled “Effects of urbanization process on mental health”. When Turnitin.com reviewed the Essay, it discovered that it contained numerous verbatim and nearly verbatim passages from a variety of sources, none of which were cited. In particular, much of the Essay appeared to have been copied verbatim from an article entitled “Impacts of urbanization process on mental health” (the “Turan/Besirli Article”) by Dr. M. Tayfun Turan and Dr. Ash Besirli published in the Anatolian Journal of Psychiatry in 2008.

16. Professor Cortinois met with the Student on March 13, 2020. Following that meeting, Professor Cortinois referred the case to the Student’s division for suspected plagiarism and told the Student, that pending resolution of the case the Student was not allowed to drop the Course. Notwithstanding that advice, the Student did drop the Course.

17. Counsel for the University submitted that in submitting the Essay the Student had knowingly represented as their own an idea or expression of an idea, and/or the work of another and therefore was guilty of the first charge. . Were we not to find the Student guilty of the first charge, then we should find them guilty of the second charge of knowingly engaging in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit. Counsel for the University further advised that if the Tribunal returned a finding of guilt on the first charge, the University would withdraw the alternative second charge, and therefore we would not need to consider that charge.

Decision on the Merits

18. The University has the burden of establishing on the balance of probabilities using clear and convincing evidence that the Student committed the academic offence with which he or she has been charged. In this case, and only dealing with the first of the two charges, that requires the University to establish that the Student knowingly represented as their own an idea or expression of an idea, and/or the work of another.

19. Based on the evidence before us, we are satisfied that the University has discharged its burden. Comparing the Essay to the Turan/Besirli Article, four of the eight paragraphs in the Essay are taken verbatim or near verbatim from the Turan/Besirli Article. Of those four paragraphs, the introduction is little more than the Turan/Besirli Article's abstract, while the third to fifth paragraphs in the Essay are taken almost word for word from the Turan/Besirli Article. The Essay contains no reference to the Turan Besirli Article.

20. Such a large-scale incorporation of another's work cannot be accidental. We find that the Student knowingly represented as their own the ideas and expressions of ideas in the Turan/Besirli Article and is therefore guilty of the first charge. Having made that finding, we need not consider the second of the Charges.

Sanction

Evidence and Submissions

21. Dealing with sanction, the University submitted a further affidavit from Ms. Visutskie, also affirmed June 11, 2021. In this second affidavit, Ms. Visutskie stated that based on the Discipline Case Reports of students who have committed offences under the Code, on November 15, 2019, the Student had committed an act of plagiarism in connection with an assignment submitted in BIO120H1F. The case report indicates that the Student had submitted an assignment that was largely based on a published paper not properly cited, and that many sentences were not properly paraphrased. The report indicated that the Department of Biology had resolved the case on November 29, 2019, by giving the Student a grade of zero for the assignment.

22. Counsel for the University asked us to impose a final grade of zero in the Course, a three-year suspension from the University from the date of the order, and a notation of the sanction on the Student's academic record and transcript for a period of four years from the date of the order. Counsel submitted that such a sanction was within the typical range of sanction granted for a second plagiarism offence in circumstances such as the ones before the Tribunal.

Decision

23. Sitting as a member of the Appellate Division of this Tribunal some 46 years ago, in *University of Toronto v Mr. C.* (Case No. 1976/1977-3, November 5, 1976) at para 12 former Supreme Court of Canada Justice Sopinka set out the principles and factors to be considered when imposing sanctions on students guilty of academic offences:

What then are the principles that this Tribunal should follow in dealing with an appeal from sentence? First, in my opinion, punishment is not intended to be retribution to get even, as it were, with the student for what he has done. It must serve a useful function. The classical components of enlightened punishment are reformation, deterrence, and protection of the public. In applying these criteria, a tribunal should consider all of the following:

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

24. Considering each of the above factors, the sanction the University seeks is appropriate. In particular:

- (a) **Character:** because the Student chose not to attend the hearing, we have no evidence before us of the Student's character, although we note that the Student committed a similar offence just a few months before the one before us;
- (b) **Likelihood of Repetition:** given the evidence about the Student's prior offence, there is a real risk of the same offence being repeated absent a significant sanction;
- (c) **Nature of Offence:** plagiarism is a very serious offence. It strikes at heart of the University's core values of honesty and integrity. It has the potential to affect other students adversely by allowing cheaters to obtain grades higher than they actually merit by presenting the work of others as their own. It harms the reputation of the University as a whole. The Code itself makes all this very clear. As such, those who plagiarise the works of others merit serious sanctions;

- (d) ***Extenuating Circumstances***: there is no evidence of any extenuating circumstances in this case;
- (e) ***Detriment to the University***: as noted above, plagiarism strikes at the heart of the University's core values of honesty and integrity. It cannot be tolerated;
- (f) ***Deterrence***: to discourage others from committing similar offences, plagiarism merits serious sanctions.

25. The range of sanctions proposed by the University is within the typical range of sanctions given to students found guilty of a second plagiarism offence. In such cases, the Tribunal usually makes an order that the student receive a final grade of zero in the course in which the student handed in the plagiarised material, a three-year suspension and a four-year notation on the student's academic record. Such an order prevents the student from benefiting from their actions and removes them from the institution for a significant period of time, while at the same time allowing them the possibility of eventually returning to the University rather than preventing them from ever doing so. As such, it limits the possibility of repetition and deters both the individual offender and others from similar conduct, while at the same time allowing offenders the chance to do things differently in the future.

26. Among cases in which the Tribunal has imposed a similar sanction are *University of Toronto v Y.Y.* (January 13, 2021, Case No. 1055) where, like here, the plagiarising student did not participate in the hearing and had a prior record of academic offences, the second of which he had received only months committing the offence before the Tribunal. Others include *University of Toronto v W.L.J.* (January 19, 2016, Case No. 815) and *University of Toronto v. R.W.* (May 17, 2017, Case No. 896); *University of Toronto v B.S.* (January 17, 2014, Case No. 697 (Sanctions))

Order

27. For the reasons set out above, the Tribunal therefore orders that:

- (a) the hearing may proceed in the Student's absence;
- (b) the Student be found guilty of one count of the academic offence of plagiarism contrary to section B.I.1(d) of the Code;
- (c) the Student be given a final grade of zero in the Course;
- (d) the Student be suspended from the University for a period of three years from the date of the Tribunal's order;
- (e) the sanction be noted on the Student's academic record and transcript for a period of four years from the date of this order;
- (f) the case be reported to the Provost for publication of a notice of the Tribunal's decision and the sanctions imposed, with the Student's name withheld.

Dated: September 21, 2021

Original signed by: _____

Mr. Seumas Woods, Chair

On behalf of the Panel