

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty filed on November 16, 2022,

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

- and -

N [REDACTED] K [REDACTED]

REASONS FOR DECISION

Hearing Date: February 1, 2023, via Zoom

Members of the Panel:

Ira Parghi, Chair

Professor Glen Jones, Faculty Panel Member

Matthaeus Ware, Student Panel Member

Appearances:

Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Lauren Rainsford, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Nusaiba Khan, Quasi-Judicial Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Not In Attendance:

The Student

I. Introduction

1. The Trial Division of the University Tribunal was convened via videoconference on February 1, 2023, to consider charges brought against N [REDACTED] K [REDACTED] (the “Student”) by the University of Toronto (“the University”) pursuant to the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) on November 16, 2022. The charges alleged that the Student, on or about July 15, 2019, did knowingly forge or in any other way alter or falsify an academic record, or did utter, circulate or make use of such forged, altered or falsified record, namely a degree certificate purportedly from the University of Toronto, which the Student provided to Hire Right, contrary to section B.i.3(a) of the Code.
2. The particulars for the charge were as follows:
 1. At all material times you were a student at the University of Toronto.
 2. On or about July 15, 2019, you provided Hire Right, a background screening company, with a degree certificate purportedly from the University of Toronto, which indicated that you had been conferred an “honours Bachelor of Science” degree on November 10, 2015 (the “Purported Degree Certificate”).
 3. You have not been conferred a degree by the University of Toronto. The Purported Degree Certificate was forged, altered or falsified.
 4. You knowingly forged, altered or falsified the Purported Degree Certificate, which was an academic record. You knowingly uttered, circulated or made use of the Purported Degree Certificate.
 5. You provided Hire Right with the Purported Degree Certificate knowing that it had been forged, altered or falsified.

II. Proceeding in absence of Student

3. The Student did not attend the hearing. Counsel for the University sought an order that the hearing proceed in the absence of the Student.
4. The Provost of the University and the Student filed a Joint Book of Documents, which was entered into evidence at the hearing. The Joint Book of Documents included an Agreed Statement of Facts

that was signed by the Student on January 25, 2023 (the “ASF”). In the ASF, the Student acknowledged that she received the notice of electronic hearing for this hearing and received reasonable notice of the hearing. The Student advised that she did not wish to attend the hearing or participate further in these proceedings and requested that the University Tribunal proceed in her absence. The Student advised that she understood that, in her absence, the University Tribunal may find that she had committed an act or acts of academic misconduct and may impose sanctions against her as set forth in the Code.

5. On the basis of this evidence, the Tribunal was satisfied that the hearing could proceed in the absence of the Student and issued an order accordingly.

III. Liability

6. In the ASF, the University and the Student agreed that each of the documents attached to the ASF could be admitted into evidence before the Tribunal for all purposes, including for the truth of the document’s contents, without further need to prove the document, and that, if a document indicates that it was sent or received by someone, that is *prima facie* proof that the document was sent and received as indicated.
7. The ASF indicates that the Student first registered as a student in the Faculty of Arts & Science at the University of Toronto at Scarborough in Fall of 2009. Since that time, she has earned 5.5 credits. After the 2013 Fall term, she served a 36-month academic suspension because of her low GPA. She did not return to her studies after completing that suspension.
8. In the ASF, the Student confirmed that she had received a copy of the affidavit of Samantha Smith, Assistant Director of the Office of Convocation. The Student further confirmed that she accepted the evidence of Ms. Smith as outlined in Ms. Smith’s affidavit, that she agreed with the facts as set out in Ms. Smith’s affidavit, and that she waived her right to cross-examine Ms. Smith on her affidavit.
9. The relevant facts set forth in Ms. Smith’s affidavit, with which the Student has indicated her agreement, may be summarized as follows:
 - a) As Assistant Director of the Office of Convocation, Ms. Smith manages a range of services including degree verifications for third parties.

- b) On July 15, 2019, the Office of Convocation received an online email request from Hire Right, a background screening solution provider, to verify a degree for the following graduate:

Given Name: N [REDACTED]

Surname: K [REDACTED]

Month and day of birth: November, 02

Year of graduation: 2015

Title Credential: Bachelor

Title: Bachelor of Arts

Graduate Extra Information: Major in Health studies

- c) Ms. Smith's office reviewed the University's records and confirmed that no degree had been granted to the person identified in the request. She advised Hire Right of this on July 16, 2019.
- d) On July 17, 2019, Hire Right emailed Ms. Smith, advising that the Student had provided Hire Right with a copy of what the Student had described as her degree certificate issued by the University. Hire Right attached to the email an image of the document that the Student had provided to Hire Right. The document purported to be a degree issued by the University on November 10, 2015. It indicated that the Student had fulfilled the requirements for an "honours Bachelor of Science degree".
- e) Ms. Smith conducted an additional search that did not find any evidence that a degree had been granted by the University to a student with the name of the Student. Ms. Smith advised Hire Right of this. She advised Hire Right that this suggested that the document provided to Hire Right was not a valid diploma. She advised Hire Right that they should not hesitate to contact her if there was additional information that they could provide regarding the Student. She did not receive a response.
- f) The University's records show that a student with the name of the Student was enrolled at the University from Fall 2009 to Fall 2013, after which they were on an academic suspension for 36 months due to their low GPA.
- g) Ms. Smith searched the University's records and confirmed that there is only one student with the name of the Student.

- h) In reviewing the image of the purported degree certificate that the Student had provided to Hire Right, Ms. Smith observed that she was not aware that any of the four University officials whose signatures appeared on the purported degree certificate served in their purported positions as at the date the purported degree certificate was issued. For example, the purported degree certificate contained a signature identified as that of “Robert Westfall,” President of the University. However, as of November 10, 2015, the date on which the purported degree certificate was issued, the President of the University was Meric Gertler. There were similar discrepancies in respect of the three other University officials whose signatures appeared on the purported degree certificate.
10. In the ASF, the Student admitted the following:
- a) that she had submitted the image of a University of Toronto degree certificate, which indicated that she had graduated from the University of Toronto on November 10, 2015 with an “honours Bachelor of Science” (“the Purported Degree Certificate”), to Hire Right as part of an application for employment;
 - b) that she has not graduated from the University of Toronto and the Purported Degree Certificate, which is an academic record, was forged, altered or falsified; and
 - c) that she knowingly forged or in any other way altered or falsified an academic record or uttered circulated or made use of such forged, altered or falsified record, namely the Purported Degree Certificate, contrary to section B.i.3(a) of the Code.
11. In the ASF, the Student acknowledged that she was signing the ASF freely and voluntarily, knowing of the potential consequences she faced, and did so with the advice of counsel or having waived the right to obtain counsel.
12. The onus on the University was to establish on a balance of probabilities, through clear and convincing evidence, that the Student had committed an academic offence.
13. As noted above, the Student was charged with one count of knowingly forging or in any other way altering or falsifying an academic record, or uttering, circulating or making use of such forged, altered or falsified record, namely a degree certificate purportedly from the University of Toronto, which the Student provided to Hire Right, contrary to section B.i.3(a) of the Code.
14. Upon review of the ASF, including the Student’s admissions contained in the ASF and the documents attached to the ASF; and review of the affidavit of Ms. Smith, the relevant facts of

which the Student agreed to, and the documents attached to the affidavit of Ms. Smith; and upon hearing the submissions of counsel for the University, the Tribunal was satisfied on the balance of probabilities that the Student knowingly forged or in any other way altered or falsified an academic record or uttered, circulated or made use of such forged, altered or falsified record, namely the Purported Degree Certificate, contrary to section B.i.3(a) of the Code. The Tribunal, therefore, accepted the Student's guilty plea in respect of the offence under section B.i.3(a) of the Code.

IV. Penalty

15. The Joint Book of Documents filed by the Provost of the University and the Student included a Joint Submission on Penalty that was signed by the Student on January 25, 2023 (the "JSP"). The JSP stated as follows:

The Provost and the Student submit that, in all the circumstances of the case, the University Tribunal should impose the following sanctions on the Student:

- (a) the Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and
- (b) the Student be immediately suspended from the University of Toronto for a period of up to 5 years from the date of the Tribunal's order or until Governing Council makes its decision on expulsion, whichever comes first, and a corresponding notation will be placed on her academic record and transcript.

13. The JSP also indicated that the parties agree that it is appropriate for this case to be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University of Toronto newspapers, with the name of the Student withheld.

14. The JSP contained an acknowledgement from the Student that the Provost had advised the Student of her right to obtain legal counsel and that the Student had obtained that advice or waived the right to do so; and that the Student had signed the JSP freely and voluntarily, knowing of the potential consequences she faced.

15. When a JSP is filed, as here, the Tribunal is not bound to follow it when determining the sanction in the case before it. However, the case law is clear that a JSP should be disregarded by the Tribunal only where giving effect to the sanction would be contrary to the public interest or would bring the administration of justice into disrepute (see, e.g., *University of Toronto* and *Y.W.* (Case No. 1155,

July 26, 2021), *University of Toronto and P.H.Q.* (Case No. 982, May 8, 2019), and *S.F. and The University of Toronto*, (Case No. 690, October 20, 2014)).

16. In the circumstances of this case, for the reasons outlined below, the Tribunal had no concern that proceeding in accordance with the JSP would be contrary to the public interest or bring the administration of justice into disrepute.

17. The Tribunal considered the principles and factors relevant to sanction as articulated in *University of Toronto and Mr. C.* (Case No. 1976/77-3, November 5, 1976). The Tribunal determined that these factors supported the imposition of the JSP. In this regard, the Tribunal observed the following:
 - a. *The nature of the offence:* The offence of forgery is very serious in nature. Past Tribunal decisions have consistently emphasized this. For example, in *University of Toronto and J.R.* (Case No. 1018, November 26, 2019), the Tribunal described forging a degree certificate as “an extremely serious offence”. In *University of Toronto and Y.X.* (Case No. 866, November 4, 2016), the Tribunal characterized forgery as “an offence of the utmost seriousness”.

 - b. *The detriment to the University occasioned by the offence.* The harm caused to the University by the offence of forgery is extremely significant. In *J.R., supra*, the Tribunal observed that forged certificates “damage the University’s reputation, undermine the trust prospective employers and other academic institutions have in the University and its students, and harm students who have earned their degrees by forcing them to compete for positions against students who have not earned the qualifications they claim to hold.”

 - c. *The need to deter others from committing a similar offence.* There is a strong need to deter others from committing a similar offence, for many of the reasons noted above. This type of offence poses a grave threat to the integrity of the University, is profoundly unfair to other students, and jeopardizes the University’s reputation. As the Tribunal held in *University of Toronto and A.P.* (Case No. 913, January 15 and 16, 2018), the cases “emphasize the importance of general deterrence”; the Tribunal “must send a strong message to other students about the consequences of being found guilty of these offences.”

- d. *The character of the Student, the likelihood of a repetition of the offence, and extenuating circumstances.* The Tribunal noted that while the Student had no prior offences, she had engaged in deliberate dishonesty by forging a University degree certificate and using the forged degree certificate. The Student had not participated in the proceeding, and there was no evidence before the Tribunal about the Student's character, any extenuating circumstances, or whether the Student had expressed remorse or taken responsibility for her actions.
18. The Tribunal was satisfied that these various factors were appropriately reflected in the JSP.
19. In support of the expulsion recommendation contained in the JSP, the Tribunal was directed by counsel for the University to an extensive number of prior decisions of the Tribunal in which students who had forged degree certificates or other documents were recommended for expulsion by the Tribunal. These included *University of Toronto and X.L.* (Case No. 1115, August 20, 2021); *University of Toronto and K.D.* (Case No. 1017, November 26, 2019); *University of Toronto and L.D.* (Case No. 977, November 22, 2018); *J.R., supra*; and *A.P., supra*. In all but one of these cases, the student had no prior academic offences, as was the case here.
20. The Tribunal determined that the JSP proposed here fell within the well-defined range of penalties established by the jurisprudence for cases like this one.
21. The Tribunal also determined that, in all of the circumstances, the appropriate penalty was the one submitted by the parties in the JSP.

V. Order

22. At the conclusion of the hearing, the Tribunal made the following order:

THAT the hearing may proceed in the absence of the Student;

THAT the Student is guilty of one count of forging or in any other way altering or falsifying an academic record, and/or uttering, circulating or making use of such forged, altered or falsified record, contrary to section B.i.3(a) of the *Code of Behaviour on Academic Matters*;

THAT the following sanctions shall be imposed on the Student:

- i. the Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University; and
- ii. the Student be immediately suspended from the University of Toronto for a period of up to 5 years from the date of the Tribunal's order or until Governing Council makes its decision on expulsion, whichever comes first, and a corresponding notation will be placed on her academic record and transcript.

THAT this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the Student's name withheld.

Dated at Toronto, this 15th day of April, 2023.

A handwritten signature in blue ink that reads "Ira Parghi". The signature is written in a cursive, flowing style.

Ira Parghi, Chair
On behalf of the Panel