

**THE UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty filed on May 9, 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 -

N [REDACTED] A [REDACTED]

REASONS FOR DECISION

Hearing Date: January 18, 2012

Members of the Panel:

Mr. John A. Keefe, Barrister and Solicitor, Chair

Professor Markus Bussmann, Faculty of Applied Science and Engineering, Faculty Panel Member

Ms. Gillian Reiss, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Barristers

In Attendance:

Ms. Betty-Ann Campbell, Law Clerk, Paliare Roland Barristers

Dr. Eleanor Irwin, Dean's Designate, University of Toronto Scarborough

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

Not in Attendance:

Ms. N [REDACTED] A [REDACTED], the Student

REASONS FOR DECISION

1. The Trial Division of the University Tribunal was convened on Wednesday, January 18, 2012, to consider charges under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 (the "Code") laid against N■■■ A■■ (the "Student").

SERVICE OF THE NOTICE OF HEARING

2. The Student was informed by letter dated May 9, 2011 from Professor Edith Hillan, Vice-Provost, Faculty & Academic life, that she had been charged with academic offences and was provided with particulars of those charges.

3. Betty-Ann Campbell, a Law Clerk with Paliare Roland attended the hearing and provided the Tribunal with an affidavit sworn on January 18, 2012. Various attempts were made by the University and its Counsel to schedule a hearing. An attempt was made to deliver the disclosure materials to the Student on May 26, 2011. Ms. Campbell called the number on Ms. A■■'s ROSI contact information. A female who identified herself as Ms. A■■'s sister stated that Ms. A■■ was out of the country until September 2011.

4. Various attempts were made to contact the Student by e-mail. The Student responded by e-mail advising that she was in Pakistan on a placement program and would not be returning to Toronto until the end of March 2012.

5. Ms. Campbell conducted various searches and concluded that the e-mail had been sent from an IP address in Scarborough, not Pakistan. Ms. Campbell then e-mailed the Student explaining what she had found and provided her with options for a hearing date. The Student did not respond.

6. On December 14, 2011, the Office of the Governing Council sent Ms. A■■ the Notice of Hearing, dated December 14, 2011, returnable January 18, 2012 at 5:30 p.m., by e-mail and courier.

7. Ms. A■■ was personally served with the Notice of Hearing at the residence in Scarborough on January 2, 2012. A copy of the process server's Affidavit of Service was attached to the affidavit of Betty-Ann Campbell.

8. The Tribunal concluded that the Student was provided with reasonable notice of the hearing and concluded that it would proceed with the hearing in her absence.

THE CHARGE

9. The charges against the Student are as follows:

1. On or about July 21, 2010, you knowingly represented as your own an idea or expression of an idea, and/or work of another in connection with a form of academic work, namely, an essay entitled "Dracula; a male dominated novel however, Mina and Lucy are a threat to his reality" ("Essay") that you submitted to fulfill the course requirements of ENGC22H3, contrary to Section B.I.1(d) of the *Code of Behaviour on Academic Matters*, 10056 ("Code").
2. In the alternative, on or about July 21, 2010, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in an Essay submitted to fulfill course requirements in ENGC22H3, contrary to Section B.I.3(b) of the Code.

10. The particulars of the Charges are as follows:

3. At all material times you were a student in ENGC22H3 taught by professor Sonja Nikkila during the summer of 2010.
4. You did not write portions of the Essay submitted in your name on or about July 21, 2010 in ENGC22H3, but rather copied significant portions of the Essay from various websites.
5. For the purposes of obtaining academic credit and/or other academic advantage, you knowingly committed plagiarism in the Essay.

THE BACKGROUND FACTS

11. Professor Sonja Nikkila testified at the hearing. She advised the Tribunal that the Student was enrolled in course ENGC22H3 "Victorian Novel after 1860" in Summer of 2010.

12. As part of the course requirements, the Student was required to submit an essay dealing with one of the course texts. The Student submitted an Essay on July 21, 2010 dealing with the

book “Dracula” written by Bram Stoker titled: “Dracula; a male dominated novel, however Mina and Lucy are a threat to his reality.”

13. Professor Nikkila testified that at the beginning of the course the students were provided a course outline that included the structure and expectations. The course outline stated:

About Plagiarism: Plagiarism is presenting the word and ideas of someone else as your own, and it is an offence very strongly disciplined by the university. The work you submit in your assignment must be original, and any quotations, paraphrases, or ideas that you use from other sources besides your own brain must be properly cited in MLA format. See the University’s *Code of Behaviour on Academic Matters (...)* for more on this.

14. Professor Nikkila also posted on the course website a handout titled *Essay Tips, Tricks, and Expectations*. This handout set out in great detail Professor Nikkila’s expectations with respect to content and format of essays for this course. There was a separate portion of this handout titled “Quotation and Citation”. This portion of the handout went into some detail concerning the proper use of quotations and citations. It contained the following specific comment:

Don’t use websites. Sure, as with any hard-and-fast rule, there are definite exceptions. But let’s keep things simple; just don’t. It’s a shoddy way of doing research, to type “Alice identity quest” into Google and see what comes up – also, you’re begging for a plagiarism hearing.

15. Upon reading the Student’s essay, Professor Nikkila suspected that the words in the essay were lifted from the Internet. She did her own investigation and discovered that much of the essay had been lifted from various websites including Sparknotes.com, Blurtit.com and Multilingualarchive.com. The Tribunal examined some of the words and phrases in the essay and compared these to the words contained in the websites. The Tribunal easily concluded that many of the words and phrases in the essay were lifted directly from the websites.

16. After considering all the evidence, the Tribunal concluded that the Charges had been made out and it made a finding of guilt on Count 1. Count 2 was then withdrawn by the University.

THE PENALTY

17. The University submitted that the appropriate penalty, in the circumstances, was a grade of zero in the course, a five year suspension and a notation on the Student's transcript for the period of seven years with publication of a notice of the decision of the Tribunal and the sanction imposed with the name of the Student withheld.

18. As part of the penalty portion of the hearing, the Tribunal was provided with further evidence from Professor Irwin, the Dean's Designate.

19. Professor Irwin outlined for the Tribunal the history of previous academic penalties imposed on the Student for plagiarism. The offence in question before the Tribunal was the Student's fourth offence for plagiarism involving materials sourced from the Internet.

20. In May 2008, the Student admitted that she had plagiarised an essay in 2007 Fall session in course ENGB05. This course was taught by Professor Carson of the University of Toronto Scarborough. He wrote a letter to the University advising that the paper submitted by the Student incorporated an on-line essay more or less verbatim beginning in the middle of the first paragraph through to the bottom of third page. After meeting with the Student, the Professor advised the University that he was told by the Student that she had a fight with her father and, instead of applying for a petition, she panicked and made a grievous error of judgment in using an on-line essay as the basis of her essay. Professor Carson advised the University that he found her account wholly convincing and her remorse genuine and considerable.

21. On May 21, 2008, Professor Irwin met with the Student to deal with this charge. The Student admitted that she had plagiarised the essay. Based on the Student's admission, in relation to ENGB05, Professor Irwin applied a penalty of zero for the assignment which was worth 35% and the further reduction equal to the value of the assignment. This resulted in the overall reduction in the value of the course by 70%. A notation on the Student's transcript was made for the period of one year from January 1, 2008.

22. Professor Irwin noted in her letter to the Student dated May 27, 2008 that the Student had admitted to a second offence at the time the May 21, 2008 session was held.

Second Offence

23. On May 1, 2008, the University was notified that the Student had submitted an essay in ENGB51HS that consisted almost entirely of materials that matched sources found on the Internet. Specifically, large parts of the essay were taken from SparkNotes and 123helpme.com. In fact, parts of the essay were copied and pasted directly into the essay. The essay was worth 30% in the course

24. On May 27, 2008, Professor Irwin wrote a separate letter to the Student indicating that she had met with her on Wednesday, May 21, 2008. Professor Irwin stated that the Student wished to have the second offence in ENGB51 investigated and dealt with at the same time. The Student admitted that she had plagiarized the essay and said that she understood that this was an academic offence.

25. On the basis of the Student's admission of the second offence, Professor Irwin applied a penalty of zero to the course and suspended the Student from the University for a period of four months from May 1, 2008. She also made a notation on the Student's academic record and transcript for period of two years from May 1, 2008.

Third Offence

26. On May 29, 2008, that is, after the meeting on May 21, 2008 which dealt with the first two offences, the University was notified that in ENGB17 in the Spring 2008 term, the Student had submitted an essay in which almost half of the essay had been directly lifted from an Internet source.

27. On September 10, 2008, Professor Irwin met with the Student to deal with the third offence in ENGB17. The Student concocted an explanation that she handed in the wrong version of the essay. After further inquiry this story fell apart and the Student ultimately admitted that she plagiarized this essay.

28. The last two offences were in relation to essays in ENGB51 submitted on April 3, 2008 and ENGB17 submitted on March 26, 2008. Both of these two essays were plagiarized while the hearing with respect of the first offence was pending. In these circumstances, Professor Irwin decided that, rather than submit the matter to the Vice Provost, she would deal with it at her level. She applied a penalty of zero in the course, and she suspended the Student from the

University for the period of twelve months. This meant that the Student could not register until the Fall of 2009.

29. The offence in question occurred in the summer of 2010, that is, in the year following the period of the Student's suspension.

30. Clearly, the Student did not learn her lesson.

GUIDELINES ON PENALTY

31. The Factors to be considered when determining penalty are well established:

- (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 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.

32. The Tribunal, in determining the appropriate penalty, should consider various factors in order to find a fit sentence for this offender, for this offence in this community. In doing so, fairness, balance and proportion must be balanced.

33. There should be some measure of uniformity or proportionality so that there should be similar sentences imposed for offences committed in similar circumstances. The sentencing should preserve and ensure fairness by avoiding disproportionate sentences among similar sentencing processes so that there are not wide swings or inconsistencies between like offences and like offenders, recognizing that there is never a like offence or like offender.

34. There should be a range of sentences for offences such as plagiarism with sentences within that range moving up or down within that range depending on aggravating or mitigating circumstances.

35. Applying these general principles to this case, the Tribunal considered the following factors. The Student was not in attendance at the hearing. The Tribunal concluded that the Student had attempted to evade service. The Student did not cooperate with the University with respect to these charges. Neither the Student nor other witnesses were called on behalf of the Student to provide any evidence of mitigating circumstances or character evidence. There was no evidence before the Tribunal concerning the Student's personal or family background, or the Student's activities or her academic intentions.

36. After examining the prior offences of the Student, the Tribunal concluded that the Student was well aware of the seriousness of the offence of plagiarism. She had been disciplined on three prior occasions and had received two prior suspensions including a suspension of one year.

37. The circumstances of this particular offence appeared at first to the Tribunal to be of a less serious nature than some of the prior offences in that she had not lifted the entire essay from the Internet. However, in this case, the Student made obvious changes to the words taken from the Internet, which the Tribunal concluded was circumstantial evidence that she did so in order to conceal her plagiarism.

38. The academic offence of plagiarism is a serious breach of the University's standards of ethical behaviour. It undermines the relationship of trust between the University and the students. This is particularly serious given the access to the Internet and the wide source of information available on the Internet. Plagiarism associated with the Internet has become a serious problem in the University environment. As stated in the decision of the *University of Toronto and S.B.* of November 14, 2007 (Case 488), the principles of general deterrence must be considered:

It hardly needs to be said that the credibility and academic mission of the University, and the degrees which it awards to its students, can be greatly harmed by the commission of offences such as plagiarism and concoction.

39. Every offence and every offender is unique. In this case, it is clear to the Tribunal that the Student appreciated the seriousness of the offence and yet went ahead and committed the offence. She does not seem to have any remorse. She did not cooperate with the University in

this process and she attempted to evade service. There is no indication that she intends to pursue her academic career.

40. In the circumstances, the Tribunal concluded that the five year suspension proposed by the University was appropriate. In doing so, the Tribunal does not wish to indicate that in every case of multiple counts of plagiarism, a five years suspension is appropriate. The individual circumstances of the offence and the offender must be considered in every case.

41. Overall, the Tribunal concluded that the penalty suggested by the University was reasonable and appropriate in the circumstances.

ORDER

42. Accordingly, the Tribunal has determined that the penalty in the circumstances is as follows:

- (a) impose a final grade of zero in the course ENGC22H3;
- (b) suspend the Student from the University commencing January 19, 2012, for a period of five years, ending in January 1, 2017;
- (c) impose a notation on her academic record and transcript from the date of the Order until January 1, 2019; and
- (d) Report this case to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the student withheld.

Dated February 17, 2012



John A. Keefe, Co-Chair