

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on April 21, 2009;

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 -

L ■ O ■

Hearing Date: August 27, 2009

Members of the Panel:

- Ms Rodica David, Q.C., Chair
- Professor Graeme Hirst, Faculty Panel Member
- Mr. Sybil J. Derrible, Student Panel Member

Appearances:

- Ms Lily Harmer, Assistant Discipline Counsel
- Ms L ■ O ■, the Student, in attendance

REASONS FOR DECISION

[1] The student is charged with plagiarizing various portions of an essay that she submitted for academic credit in POL208. She chose not to give evidence although she participated actively in the hearing.

[2] There are two elements to this offence:

1. The plagiarism itself; in other words, the representation of the work of another as one's own;
2. Doing so knowingly.

The Plagiarism

[3] The essay is contained at Tab 4 of Exhibit 3. There is no question that significant portions of the essay were copied precisely or substantially from outside sources. These passages were not in quotation marks; there were no footnotes. The evidence indicates that there is only one reference contained in her bibliography that relates to the copied material in her essay, namely the article by James Kurth contained at Tab 5 of Exhibit 3, but the essay itself did not cite this article as the source of the copied material. The sources of the other copied material were not referenced in her bibliography at all.

Was the Plagiarism done knowingly?

[4] The second preamble set out in Section B of *the Code* states that if the student ought reasonably to have known, then she did so knowingly. There is no direct evidence to indicate whether the student had actual knowledge that she was plagiarizing. However, the University has presented clear and convincing evidence that the student ought reasonably to have known that she was plagiarizing, which we infer from the following evidence:

1. The course outline at Exhibit 3, Tab 3 contains significant information about plagiarism in the official University document "A Warning about Plagiarism". According to Dr. Yaniszewski, this was provided to all students as part of the course.
2. Teaching assistant Mr. McKee testified that he conducted a full tutorial on the elements of writing, including the methods of avoidance of plagiarism and that plagiarism is prohibited by the University.
3. The student appeared to be aware of the use of quotation marks as she used them in some portions of her essay.

The Verdict

[5] The student is therefore guilty of the offence set out in Charge 1 of Exhibit 1 which states as follows:

1. On or about July 21, 2008, you knowingly represented as your own an idea or expression of an idea or work of another in connection with your essay entitled "Should the International community use military force to stop the genocide in Darfur even if the government of Sudan opposes any such action?", submitted for academic credit in POL208, contrary to Section B.I.1.(d) of the *Code*.

SANCTION

[6] The University seeks the following:

1. Zero in the course pursuant to Section C.II.(b) 1 (g);
2. Two-year suspension pursuant to Section C.II.(b) 1 (h);
3. Recording the sanction on the student's academic record for 3 years pursuant to Section C.II.(b) 2.
4. Report a notice of the decision and sanctions with the name of the student withheld pursuant to Section C.II.(b) 3.

[7] The student again chose not to give evidence on sanction. However, in her submissions, the student stated that she thought that the appropriate sanction is a zero in the paper and a two-year suspension.

[8] Ms. Harmer, counsel for the University, referred to the well-known and often-cited six factors originally established in the Appeal of Mr. C. (November 5, 1976). These are delineated in the case of Mr. S■■■■ B■■■■ at Tab 4 of the University's Brief of Authorities:

1. The character of the student:

We have little evidence of the student's character. Dr. Yaniszewski stated that the student was combative in the meeting with the Dean's representative. However, he conceded in cross-examination that she was not combative when she met with him. Her conduct before this Tribunal was in some respects uncooperative and disrespectful.

2. The likelihood of repetition:

No evidence was presented on this issue.

3. The nature of the offence:

The offence itself is serious; however the University did not convince us that the student had actual knowledge that she was committing an offence.

4. The extenuating circumstances:

The only evidence on this issue is contained in Exhibit 4, namely the notes of Dr. Yaniszewski and his testimony on his recollection of what the student told him when he met with her. As the student did not give evidence, there was no opportunity for the University to cross-examine the student on the veracity of these statements. However, she did advise that she did high school in Trinidad, that the system was very different there, and that she was out of school for a long time. She suggested to him that "her not approaching the instructor prior to submitting her essay was an error in retrospect and contributed to her mistakes in citation". However her attitude in this hearing did not indicate that she recognized the seriousness of the offence that she had committed. This is her first offence.

5. The detriment to the University:

Such conduct is always detrimental to the University, which prides itself on having an exemplary reputation.

6. General deterrence:

It is important that plagiarism be emphatically deterred by the imposition of a significant sanction.

[9] It appears that a two-year suspension is usually imposed for plagiarism. In the case of A ■■■ K ■■■■■, the Tribunal stated in its Reasons dated November 9, 2007 at paragraph 12:

In reviewing the history of decisions of this Tribunal in plagiarism cases, it appears in the more modern era, particularly as plagiarism has increasingly become the bread and butter of this Tribunal, the Tribunal through a number of cases has established virtually a threshold penalty for

those convicted of plagiarism – the two year suspension. A suspension may increase, depending on particular factors in particular cases, including the nature of the plagiarism, the response of the student to the allegations, the conduct of the students throughout the proceeding, whether the charges represented a first or repeated offence, the passage of time since the incident occurred and who contributed to any delay, the expression of remorse, a plea of guilty or not, any specific extenuating circumstances and other factors. But the consistent minimum penalty appears to be a two year suspension. The panel in this case is of the view that a two year suspension here is really the minimal period of suspension that could reasonably be imposed in this case.

[10] In our view the circumstances set out in paragraph 4 above warrant a slightly lesser sanction than is the usual case. We therefore have decided that the appropriate sanction is as follows:

1. Zero in the course pursuant to Section C.II.(b) 1 (g);
2. Eighteen-month suspension pursuant to Section C.II.(b) 1 (h);
3. Recording the sanction on the student's academic record for 3 years pursuant to Section C.II.(b) 2;
4. Report a notice of the decision and sanctions with the name of the student withheld pursuant to Section C.II.(b) 3.

I certify that this is the decision of the Panel

Nov 3 / 09
Date

Rodica David
Rodica David, Barrister and Solicitor (Chair)