

UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL
TRIAL DIVISION

Members of the Panel:

Kirby Chown, Co-Chair

Michael Kohler, student, OISE/UT

Anne Marie Salapatek, Faculty of Medicine

IN THE MATTER of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

AND IN THE MATTER of the University of Toronto Code of Behaviour on Academic Matters, 1995;

AND IN THE MATTER of disciplinary charges against P.M.

Salim Hirji, for the Student

Lily I. Harmer, for the University of Toronto

In attendance:

P.M.

BACKGROUND

[1] A hearing of the Trial Division of the University Tribunal was convened at 5:00 p.m. on Thursday, March 28, 2002, in the Falconer Room, Simcoe Hall, to consider two charges under the *Code of Behaviour on Academic Matters, 1995*, laid against P.M. by letter dated July 13, 2001 from the Vice-President and Provost, Professor Adel Sedra. At the commencement of the hearing Ms. Harmer advised that the University was not proceeding on charge 2, leaving the following charge to be heard by the Tribunal:

1. On or about April 18, 2001, you did knowingly have another person personate you at an academic examination contrary to Section B.I.1(c) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section B of the *Code* you are deemed to have acted knowingly if you ought reasonably to have known that you had another person personate you at an academic examination. In particular, you had a student personate you at the final examination of APS105S held on Wednesday, April 18, 2001, at 2:00 p.m.

In the matter of disciplinary charges against P.M.

[2] An Agreed Statement of Facts dated March 28, 2002 and signed by Mr. M. and Ms. Harmer was admitted into evidence. The Agreed Statement of Facts provided the following details:

1. P.M. ("M.") has been a student of the University of Toronto since the fall of 1999.
2. In the winter session of 2001, M. was enrolled in APS105 Computer Fundamentals. M. had been enrolled in this course during two previous terms, being the fall of 1999 and the winter of 2000, but had received a failing grade of "F" in each of these sessions.
3. M. was scheduled to write a final examination in APS105 at 2:00 p.m. on April 18, 2001. The final examination was worth fifty percent (50%) of the final mark)[*sic*].
4. M. did not write the final examination. Instead, K.J. impersonated M. at the final examination.
5. M. acknowledges that he is guilty of knowingly having another person impersonate him at an academic examination contrary to Section B(I)(1)(c) of the *Code of Behaviour in [sic] Academic Matters, 1995*, as set out in charge 1.

[3] Mr. M. pled guilty to the charge. After consideration, the Panel accepted the guilty plea.

[4] A Joint Submission with Respect to Sanction dated March 28, 2002 and signed by Mr. M. and Ms. Harmer was presented to the Panel for consideration. The Joint Submission recommended the following sanctions:

1. A mark of zero in APS105;
2. Suspension from the University for a period of five (5) years from the date of the decision;
3. This sanction shall be recorded on the student's academic record and transcript for five (5) years from the date of this decision; and
4. This case should be reported to the Provost to publish a notice of the decision of the Tribunal and the sanction or sanctions imposed in the University newspapers, with the name of the student withheld.

[5] The Joint submission set out the following mitigating factors in this case:

1. The student acknowledged his guilt when first confronted with the allegations;
2. The student expressed remorse to the Dean when first confronted with the allegations;

In the matter of disciplinary charges against P.M.

3. The student is a transplanted individual who has not been able to adjust fully to Canadian society in general, and to the university culture in particular;
4. The Student comes from a culture that is dominated by family control, in which personal decisions and educational decisions are made only with permission of the parents or elders. In this case, the student felt intense pressure to complete his studies, and believed that the consequences of failure would be severe;
5. At the time of the offence, the student had a limited support network of friends. He did not have the benefit of close peers to assist him in dealing with his academic problems when they first arose; and
6. The student understands the need for a significant sanction. The student has shown respect for the discipline process throughout, and accepts that the sanction submitted is appropriate.

[6] The panel, during the course of the submissions, received further information. Mr. M. is currently twenty-six years old and came to Canada from Sri Lanka. He completed two years of high school before entering the Faculty of Applied Science and Engineering. The particular course in question, APS105, was described as a “core course”. It was the Panel’s understanding that it was a requirement that students pass this course. Failure to do so after three attempts would result in the denial of readmission to the Faculty.

[7] Mr. M., through counsel and directly, advised the Panel of the strong family pressures he felt to succeed, as well as the direction he took about the importance of passing this course from his brother and his parents. He felt isolated within the university system and although living with a host family, was not particularly close to them.

REASONS FOR DECISION (Delivered Orally)

[8] The Panel took the above facts into account and was prepared to accept the Joint Submission. The Panel considered the offence of knowingly having another person personate a student on an academic examination to be one of the most serious offences under the *Code of Behaviour on Academic Matters, 1995*.

[9] In this case, the facts put this matter at the extreme edge of an already serious offence. It involved a final examination of a core course in a professional faculty. The Faculty made it a requirement for students to pass this core course in order to gain their professional degree. The Panel paid particular attention to the fact that it was in such a course that another individual took the examination for Mr. M. and that therefore Mr. M.’s work did not come forward for evaluation.

[10] The Panel noted that the preamble to the *Code of Behaviour on Academic Matters, 1995*, sets out very clearly the central core of the philosophy of the University. It speaks strongly to

In the matter of disciplinary charges against P.M.

core values at the University and to the teaching and learning relationship. The preamble speaks to integrity, honesty, and fairness not only on the individual level, but also to the wider university community:

...Honesty and fairness must inform [the teaching and learning relationship]....

...the University has a responsibility to ensure that academic achievement is not obscured or undermined by cheating or misrepresentation, that the evaluative process meets the highest standards of fairness and honesty, and that malevolent or even mischievous disruption is not allowed to threaten the educational process.

..

[11] In light of the offence to which the Panel found Mr. M. guilty, and in light of the importance of maintaining honesty, integrity and fairness in the university community, the Panel considered the Joint Submission with Respect to Sanction and measured that proposed penalty against the factors relevant to sanction outlined in [Case 1976/77-01]. In that case, a helpful albeit early decision of the appellate level of the University Tribunal, factors were set out which should be taken into account in sentencing. The Panel agreed with and applied these factors as set out below.

[12] The first sentencing factor is the character of the person charged. In this case there was information on the one hand that was disturbing to the Panel; a deliberate and premeditated attempt to cheat. On the other hand, the Panel noted that Mr. M. confessed to his guilt promptly. The Panel found this to be a significant admission as he accepted very early on his responsibility for the offence he has committed. The Panel noted, as well, that Mr. M. expressed remorse to the Panel directly at the time of the hearing.

[13] The second sentencing factor is the likelihood of a repetition of the offense. Counsel advised that this was Mr. M.'s first offence. Mr. M. told the Panel of the importance to him of obtaining an education and the effect that this sanction will have on him personally and on his family. The Panel was hopeful that there will be no repetition of such an offence in the future.

[14] The third sentencing factor is the nature of the offence committed. The Panel found this to be an extremely serious offence. There was a deliberate and premeditated attempt to circumvent the evaluation process of the University that constituted a very serious breach of trust between this individual student and his faculty. His actions attacked the integrity of the evaluation process for all students within the university community who have worked honestly for their evaluations.

[15] The fourth sentencing factor relates to extenuating circumstances. The Panel took Mr. M.'s individual circumstances at the time into account, particularly with respect to his family background and the particular individual pressures that he felt.

[16] The fifth sentencing factor pertains to the detriment to the University occasioned by the offence. The Panel wished to emphasize that this offence is a violation of the basic trust that must and should exist between the student, individually, and his or her professor; between

In the matter of disciplinary charges against P.M.

students and the faculty; and between the whole student body and the University community. Such violation cannot be permitted or tolerated in any fashion at a great university like the University of Toronto.

[17] The final sentencing factor is the need to deter others from committing a similar offence. The Panel hoped that it would be obvious to all students that obtaining a mark by having another student write an examination is not in any way acceptable. The Panel further hoped that severe sanctions attached to an offence of this nature will add to the deterrence and make it very clear that this kind of behaviour is not tolerated and when found will be punished strongly.

[18] The Panel was referred to a number of cases involving impersonation that have been decided over the last twenty years by this Tribunal. The Panel recognized that in many of the cases there is simply not enough factual information for the Panel to come to a conclusion as to why particular decisions were reached. Accordingly, the Panel placed more emphasis on recent cases where the Panel had greater information to enable it to understand the particular facts. The Panel wished to ensure that a consistent message is sent for this type of offence; that it will be punished with a range of sanctions that are appropriate and consistent. The Panel felt that this was very important, not only for the individual student to feel fairly treated, but also the university community as a whole.

[19] Accordingly, taking all of these factors into consideration, the Panel imposed the following sanctions:

1. A mark of zero in APS105;
2. Suspension from the University for a period of five years from the date of this decision;
3. This sanction shall be recorded on the student's academic record and transcript for five years from the date of this decision;
4. The case shall be reported to the Provost to publish a notice of the decision of the Tribunal and the sanctions imposed with the name of the student withheld.

April 9, 2002

I certify that this is the decision of the Panel

Kirby Chown

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