

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 120 OF THE ACADEMIC APPEALS COMMITTEE

September 27th, 1988

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Tuesday, September 27th, 1988 at 9:30 a.m., in Room 23, Convocation Hall, at which the following were present:

Professor J. B. Dunlop (In the Chair)
Dean D. Perrier
Mr. D. Power
Professor F. A. Sherk
Mrs. J. Uyede

Ms. Irene Birrell, Secretary

In Attendance:

Ms. *H₂* appellant
Mr. *M_i*
Dean C. Morey, Faculty of Music
Ms. Beverly Harris,
Cassels, Brock & Blackwell

THE FOLLOWING ITEM IS REPORTED FOR INFORMATION

At a meeting on September 27th, 1988, the Academic Appeals Committee heard the appeal of *MS H₂* a full-time Bachelor of Music student in the performance program, from a decision of the Appeals Committee of the Faculty of Music dismissing her appeal against the mark awarded for one component of PMU 185Y - Applied Music. The appellant's grade for the course as a whole was 81% and this was the first occasion on which the Committee had ever been requested to grant relief in respect of a grade of A-. However, the aspect of the course that the appellant believed had been misjudged was the performance portion worth 40% of the final grade. On this, a jury had assessed her at 71% in a 40 minute program of songs. The appellant, an experienced professional performer of 20 years standing, was upset by this judgment which, she believed, was wholly inconsistent with the reviews she had achieved over the years, did not do justice to her performance on the particular occasion, and reflected badly on her talent as a performing artist.

The decision of the Committee is that the appeal should be dismissed.

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The appellant gave evidence on her own behalf and was assisted by her husband, who acted somewhat in the capacity of a witness and somewhat as counsel. He conducted the cross-examination of the Faculty's witnesses. The appellant testified that she had sung well on the day she was assessed and deserved a higher grade. Hers was one of the lower grades on the performance portion although her grade on the term work must have been one of the best to pull the average up to 81%. Her grades in other courses were also very high. She had the highest overall average in her year. This inconsistency, we were asked to find, was evidence of serious error by the jury.

The appellant stated that she had a "mature" voice, a description which gave the Committee some difficulty since there seemed to be no general agreement on its meaning. The appellant's point, however, was clear. Because her voice was different from those of classmates who were relative novices, it should be inferred that she had been judged by different criteria. It was further suggested that (a) the members of the jury had difficulty assessing her voice because it was unlike the novice voices they were used to assessing and (b) the grade awarded by the jury, since all three jurors subscribed to it, was produced through a discussion that resulted in a compromise that reflected no independent judgment or, alternatively, was dominated by one member with the result that there was no independent judgment on the part of the other two. The discrepancy between this assessment and previous jury assessments she had received (which had taken place when she had been an opera student more than ten years earlier) implied bias.

The jurors were all sopranos whereas the appellant was a mezzo soprano and the difference in technique was seen as a possible explanation for the unfavourable judgment.

The appellant established that no tape was made of any of the performances by students appearing before the jury and argued that this was an impediment to appealing the assessment. She argued that she had been denied "natural justice".

The Faculty's principal witnesses were the three jurors whose qualifications for judging voice performance were impressive. Their credentials included performance and teaching experience and extensive experience assessing voice performance in competitions and in examination settings. They categorically denied any bias or that different criteria had been applied to the appellant. They described how they had made initial independent assessments which they then translated into a grade after some discussion. Their written comments at the time of the performance were very similar to one another so that the mark agreed upon was consistent, they felt, with their independent judgments. They followed a Faculty guideline under which 70-74% represented a "good" performance. They all testified that the appellant's performance was good but not excellent.

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The discrepancy between the jury assessment and the term mark was, one witness suggested, explicable on the basis that the regular teacher would be used to the student's voice and possibly not as critical as an outsider. There was a discrepancy with all of her other grades as well (the 81% being her lowest). It occurred to the Committee that another possible explanation would be that even experienced singers do not necessarily give consistently superior performances, although the Committee's qualifications do not entitle us to do more than speculate. Whatever the reason, it does not appear to the Committee that one or the other judgment is necessarily wrong even though the usual difference between term mark and jury assessment was said to be only about 5%. In any event, the jury assessment supported by their evidence was convincing.

The Faculty position, supported by members of the jury, was that taping the performances at an appropriate technical level would require elaborate equipment and skilled operators under carefully controlled conditions. This would, the Committee agrees, constitute a considerable, unwarranted expense simply as a precaution in case of an appeal. Such appeals are rare.

In the end, the appellant's case was based on her own assessment of her performance and her resume. The suggestions of bias, lack of qualification and misjudgment were otherwise unsupported. The argument based on procedural unfairness was not persuasive. One can certainly understand that a professional singer and teacher with pride in her ability and accomplishments would be dismayed by a poor assessment. But a "good" assessment, even in the case of someone used to being rated "excellent", while it may appear as a misjudgment to the person assessed, is not intrinsically shocking and as far as the Committee is concerned does not raise any inference of error or bias.

Appeal dismissed.

Secretary
October 24th, 1988

Chairman

