

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 180 OF THE ACADEMIC APPEALS COMMITTEE

August 17th, 1994

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Wednesday, August 17th, 1994 at 9:30 a.m. in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent at which the following were present:

Ms Joan Fax, Acting Chairman
Professor Barry Brown
Ms Patti Cross
Professor John Mayhall
Professor Eric Mendelsohn

In attendance:

Mr. G.A., the appellant
Mr. Chris Lang, Downtown Legal Services, counsel for the appellant
Professor Michael Donnelly, Associate Dean, on behalf of the Faculty

Mr. G.A. has appealed to the Academic Appeals Committee of the Governing Council a decision of the Academic Appeals Board of the Faculty of Arts and Science heard on January 26, 1994, which denied an appeal from the decision of the Committee on Standing refusing Mr. G.A. late withdrawal without academic penalty from SPA423Y (92W).

The issue on this appeal is whether or not Mr. G.A. withdrew from SPA423Y before the deadline established by the Faculty of Arts and Science in the 1992-93 academic year.

The undisputed evidence was that Mr. G.A. used the Student Telephone System to successfully withdraw from three courses on three separate occasions during January and February, 1993; namely, POL100Y on January 12; MAT132Y on February 5; and ECO100Y on February 9. Mr. G.A. did not claim that the Student Telephone System malfunctioned. Rather the essence of his case was that he also intended to withdraw from SPA423Y on February 9, 1993, but through inadvertence he failed to confirm the withdrawal. The evidence establishes that Mr. G.A. was experienced in using the Student Telephone System both on the occasions noted and on previous occasions. The only explanation offered by Mr. G.A. as to why the withdrawal of SPA423Y did not occur was that "I was in a rush".

Mr. G.A.'s evidence was that he first realized that he had not withdrawn from SPA423Y on March 1. On that day he attended the Registrar's Office at Erindale College to enquire about summer courses. He asked for a listing of his courses and learned that he remained enrolled in the Spanish Translation course. Later that day he attended the course on the St. George campus

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and attended again on March 8. His explanation for attending these classes was to collect assignments previously submitted. Also on March 1, 1993 he signed a petition requesting a withdrawal from SPA423Y stating in his petition that he had not attended classes since the drop deadline. This statement is in conflict with his evidence before the Committee.

It was submitted on behalf of Mr. G.A. that the evidence established that he had made a good faith effort to withdraw. In support of this, it was pointed out that Mr. G.A. had been counseled to withdraw from the course in view of his poor performance, that he was aware of the deadline and successfully withdrew from three other courses in which he was also performing poorly, that he filed a petition for late withdrawal as soon as he became aware that he remained enrolled in the course and prior to receiving back his assignments. Much was made of the fact that Mr. G.A. had confirmed his withdrawal in the other courses from which he successfully withdrew, but failed to do so in the case of SPA423Y with the result that he was unaware that he had not withdrawn from the Spanish course. However, the activity report which was filed as an Exhibit does not reflect any attempt to drop this course. The voice prompts on the Student Telephone System are clear and unambiguous and there is no claim that the system malfunctioned. While we accept that Mr. G.A. genuinely believes that he attempted to withdraw from the Spanish Translation course on February 9, the evidence does not support this. Had Mr. G.A. attempted to drop this course, a record would have been created on the Student Telephone System reflecting this whether or not he listed the courses to confirm his program. There is no such record. Accordingly, we find that Mr. G.A. did not withdraw from this course before the deadline.

Mr. G.A.'s representative submitted that the issue on appeal was whether or not Mr. G.A. formed the intent to withdraw from the course before the deadline and later reasonably believed that he had done so. The Committee rejects the argument based on intent and reasonable belief. The responsibility of ensuring that enrolment procedures are followed is quite properly the responsibility of the student. This is particularly so in the case of a student whose academic performance is sufficiently precarious that serious academic consequences may flow from a failure to be attentive and vigilant. The Faculty of Arts and Science has established clear rules and procedures for adding and dropping courses. In the absence of compelling circumstances, for example, clear and convincing evidence of a system failure, which is not the case here, it is entitled to rely on proper evidence which establishes the fact of a withdrawal. In this case, the evidence is established by Mr. G.A.'s activity report on the Student Telephone System. If a Faculty were required to be governed by a student's intent rather than by his or her action, registration in courses would be subject to great uncertainty. This is clearly unacceptable. Mr. G.A. did not in this case take the appropriate action and unfortunately the consequences which flow from this are his responsibility.

It was also submitted on behalf of Mr. G.A. that mere error did not merit a consequence of suspension. The Committee rejects this argument. Clearly, the suspension is not solely based on Mr. G.A.'s poor performance in SPA423Y. Rather, it results from his inadequate academic performance more generally. For all these reasons, the appeal is denied.

Secretary

Joan Lax
Acting Chairman

August 17th, 1994