

**THE UNIVERSITY TRIBUNAL
OF THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on February 18, 2015,

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

B E T W E E N:

THE UNIVERSITY OF TORONTO

– AND –

B [REDACTED] P [REDACTED]

REASONS FOR DECISION

Date of Hearing: Thursday, August 6, 2015

Members of the Panel:

Mr. Jeffrey S. Leon, Barrister and Solicitor, Chair

Dr. Chris Koenig-Woodyard, University of Toronto Mississauga, Faculty Panel Member

Mr. Shan Arora, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Dr. Kristi Gourlay, Manager and Academic Integrity Officer, Office of Student Academic Integrity, Faculty of Arts and Science

Mr. Michael Pelz, Teaching Assistant POL207Y: Politics in Europe, Department of Political Science

Ms. Virginia Fletcher, Law Clerk, Paliare Roland Rosenberg Rothstein LLP

In Attendance:

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, Office of the Governing Council

Not In Attendance:

Mr. B [REDACTED] P [REDACTED], The Student

Preliminary Matters

1. This matter came on before the University Tribunal on August 6, 2015 to consider charges under the University of Toronto *Code of Behavior on Academic Matters*, 1995 (the "**Code**"), pursuant to a Notice of Hearing dated June 18, 2015 scheduling the hearing for Thursday, August 6, 2015 at 1:45 p.m. Among other documents, appended to the Notice was the Charges against the Student (with particulars). The Charges alleged plagiarism and the use of concocted sources with respect to an assignment submitted in partial completion of the course requirements in POL207H1 – Politics in Europe (the "Course"), contrary to section B.I.1(d) and B.I.1(f) of the Code. The Student did not attend at the appointed time. The Panel waited approximately 30 minutes and the Student had still not appeared.
2. Discipline Counsel proposed that the hearing proceed in the Student's absence. In support, the affidavit of Virginia Fletcher sworn August 5, 2015 was filed as Exhibit "1". Ms. Fletcher was also in attendance at the hearing. The affidavit detailed various attempts made to contact the Student in connection with this matter, going back to February 18, 2015, when he was first served with the Charges. Prior to that on January 23, 2015, the Student had met with Professor John N.H. Britton, Dean's Designate for Academic Integrity. Following that meeting, Professor Britton had sent an e-mail to Mr. [REDACTED] on January 29, 2015 at the address in the Student's ROSI records. Subsequent to that meeting, there had been no further response from the Student.
3. In addition to attempts to contact the Student by e-mail regarding the hearing, material has been delivered to his last known address by courier (with a February 19,

2015 courier package accepted and signed for by "F [REDACTED]"). Further e-mails containing disclosure were sent to the Student. An attempt was made to deliver a courier package with the disclosure material, which was returned stating "Delivery POD: Wrong add". Further e-mail correspondence was sent to the Student regarding the scheduling of the hearing and other matters related to the hearing by e-mail with no bounceback. Attempts have been made to contact the Student by phone at both his home and cell number. In addition to attempts to contact the Student by e-mail at his UToronto address, attempts were also made to e-mail him at his Hotmail address.

4. The Panel concluded that the efforts made to contact the Student regarding the hearing have been more than reasonable. Students enrolled at the University are required to maintain current contact information in their ROSI records in accordance with University's policy on official correspondence with students. There was evidence that the Student had logged on after the Charges were sent to him but prior to the Disclosure and the Notice of Hearing being sent to him. On the basis of the e-mails sent, the fact that a courier package was accepted and signed for by an individual with the same last name as the Student and the other matters detailed in Ms. Fletcher's affidavit, the Panel was satisfied that the Student had been given reasonable notice of this hearing in accordance with the provisions of the Code and the *Statutory Powers Procedure Act*. As a result, the Panel ordered that the hearing proceed in the Student's absence.

The Charges

5. The Charges were as follows:

- (i) On or about November 10, 2014, you knowingly represented the ideas of another, or the expression of the ideas of another as your own work in an assignment entitled: The Scandinavian Model – Does it exist and how does it work? (“Paper”) that you submitted in partial completion of the course requirements in POL207H1– Politics in Europe (“Course”), contrary to section B.I.1(d) of the Code.
- (ii) On or about November 10, 2014, you knowingly submitted academic work containing a purported statement of fact or reference to a source which has been concocted in the Paper that you submitted in partial completion of the course requirements in the Course, contrary to section B.I.1(f) of the Code.
- (iii) In the alternative to paragraphs 1 and 2, on or about November 10, 2014, by submitting the Paper in the Course, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation and otherwise described in the Code to obtain academic credit or other academic advantage of any kind, contrary to B.I.3(b) of the Code.

The Evidence

6. Dr. Kristi Gourlay was called as a witness. Dr. Gourlay manages the Office of Academic Integrity at the University and was the Case Officer involved in this matter.
7. She identified the e-mail sent by Professor Britton, the Dean's Designate for

Academic integrity to the Student on January 29, 2015 in relation to a meeting held on January 23, 2015.

8. Paragraph 2 of that email documents the fact that the Student acknowledged that he had engaged in conduct that forms the basis of the Charges. The e-mail states:

At our meeting, you immediately acknowledged that you had committed the offences. You explained that you were experiencing some challenges related to managing your disabilities, and felt that this contributed to your poor time management and judgment. You spoke extensively of your disabilities, and felt that this contributed to your poor time management and judgment. You spoke extensively of your disabilities and how you were attempting to manage them, yet the only documentation you provided did not seem relevant to the fact that you committed these offences. You were unable to explain to me why these challenges had implications only for POL207Y and not other courses, ...

To be blunt, the paper you submitted for credit in POL207Y (20151) is almost entirely copied or loosely paraphrased from three sources, and time and effort would have been required to produce your paper so that it appeared to be a product of your own work and research. In essence, it appears that you were deliberately trying to mislead your reader. I am troubled also by your claim that you have not made your AS advisor aware of the current challenges you say you are facing or the changes in your treatment that you described to me. Similarly, I do not understand why you have not told your family physician, who you say is supervising your current treatment, about your ongoing challenges and inability to maintain integrity and honesty in all your academic work.

9. Dr. Gourlay conducted an analysis of the paper in relation to the original material identified through Turnitin. That analysis showed extensive plagiarism through the copying of significant sections from other sources. Of note was the fact that the Student changed selected words to synonyms or words with equivalent meaning. It was

suggested that this is an indication of a deliberate attempt to plagiarize and one way a student might attempt to avoid detection when a paper is submitted to Turnitin. In other instances, sentences are paraphrased rather than being directly copied. Dr. Gourlay also reviewed the problems that were identified in relation to sources in terms of incorrect, improper and incomplete citations.

10. Michael Pelz was also called as a witness. Mr. Pelz is an experienced Teaching Assistant who is a PhD student in the Department of Political Science. He served as a Teaching Assistant to Professor Mathias Albert, who was a visiting instructor from Germany and taught POL207Y1 during the relevant period. The Student was assigned to Mr. Pelz' tutorial although Mr. Pelz had never met the Student who had been granted an accommodation based on disability which allowed him not to attend tutorials.

11. Mr. Pelz identified the course syllabus record (Exhibit "2", Tab 3) and identified the paper submitted by the Student as being in relation to a first assignment, mainly "A 2000-word research essay: 15% (due to November 10, 2014). The syllabus also contained the following paragraphs:

Sources: *The essays should have at least 15 sources, at least 8 of which should be books. The bibliography is to be annotated: that is, a short summary [not more than three sentences describing the argument made in each of the books] of the argument of each book/article is to be included (not more than fifty words).* Note that in annotating your bibliography it does not suffice to copy the abstract from an article: indeed, to do so constitutes plagiarism.

Plagiarism: *Plagiarism is a serious academic offence and will be dealt with accordingly. For further clarification and information, please see the University of Toronto's policy on plagiarism at <http://www.writing.utoronto.ca/advice/using->*

sources/how-not-to-plagiarize. Students are strongly advised to keep rough and draft work and hard copies of their research paper and assignments before handing in to the instructors or the department. These should be kept until the marked assignments or paper has been returned.

12. Mr. Pelz explained that he had received an e-mail from the Student that was sent on November 10 at 2:16 AM requesting a 24-hour extension on the term paper for reasons related to the Student's disability. Mr. Pelz declined to grant that extension in the absence of proper medical documentation as he felt that would be unfair to give the Student more time than other students. The paper was due at 2:00 PM and was received at the Political Science Department office at 3:02 PM.

13. Mr. Pelz read the paper and then checked the Turnitin report. His comments on the paper were made before reviewing the Turnitin report. The similarity index on the Turnitin report was 36% with 17% relating to Wikipedia as a primary source. Mr. Pelz flagged the paper and brought it to the Professor's attention. Mr. Pelz reviewed the paper in his evidence and pointed out those parts that appeared to be plagiarized with "lightly altered wording" to prevent a direct match on Turnitin, which suggested that the Student was trying to make it appear that the work was his own. Mr. Pelz also reviewed the problems that were identified with sources which included incorrect, improper and incomplete citations.

14. Virginia Fletcher was also called as a witness. Ms. Fletcher is a law clerk with the Paliare Roland firm. She did an analysis of the citations used in the paper. Her evidence confirmed the extent to which and how the citations were often incorrect, incomplete and improper and reflected the use of concocted sources. The problems

were extensive.

15. The Student did not attend the hearing to give evidence or to explain any relevant circumstances surrounding the paper. As a result, the Panel had no evidence with respect to whether the Student's disability was a relevant factor in these circumstances. As noted, when confronted by the Dean's Designate, the Student admitted that he had submitted a paper containing material taken from sources without appropriate acknowledgment and used citations that were false or misleading.

16. The Panel was also referred to the Student's University record which demonstrated that he was an experienced student and had taken approximately 15 courses where he was required to submit written assignments.

The Decision of the Tribunal

17. The Panel considered the evidence and the submissions of counsel. The Panel was satisfied on the evidence that the Student knew or reasonably ought to have known that he represented the ideas of another, or the expression of the ideas of another as his own work and thereby engaged in plagiarism. The Panel was also satisfied on the evidence that the Student knew or reasonably ought to have known that he had submitted a paper containing a purported statement of fact or reference to a source which had been concocted. On that basis, the Student was found guilty of Charges 1 and 2. Counsel withdrew Charge 3.

Sanction

18. Counsel for the University submitted that the appropriate penalty under these

circumstances was:

- (i) A mark of zero in the course POL207H1 in 2014 Fall/2015 Winter;
- (ii) A suspension of three years from August 6, 2015 for academic misconduct;
- (iii) A notation be recorded on the Student's academic record and transcript to the effect that he was sanctioned for academic misconduct for the earlier of four (4) years from August 6, 2015 or his graduation;
- (iv) This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed with the name of the Student withheld.

19. The Student had a prior conviction of charges of plagiarism and use of concocted references. He had pled guilty and received a final grade of zero in the course, a two-year suspension and the sanction was recorded on the Student's academic record for two years or the Student's graduation, whichever occurred earlier.

20. Under the circumstances, without evidence from the Student, the Panel had no basis to consider any relevant mitigating factors beyond his initial cooperation by attending at the meeting with the Dean's Designate. However, from that point on he was non-responsive. There was no evidence relating to the Student's character, or any extenuating relevant circumstances regarding his situation at the time of the commission of the offenses. The Panel also could not determine whether there is any reason not to suspect that there would be a repetition of the offenses.

21. The authorities filed by counsel support the proposition that a three-year suspension for the offenses of plagiarism and use of concocted sources, where there has been a previous finding of guilt in relation to similar conduct, is reasonable. This is particularly so where the conduct appears to be deliberate, the Student declines to participate in the discipline process and respond to communications and the Student does not demonstrate accountability or remorse.

22. While the Authorities must each be considered on their own facts, based on the Panel's review of the Authorities and counsel submissions, on the facts of the present case, a three-year suspension is both reasonable and appropriate.

23. This Tribunal has commented on numerous occasions on the seriousness of the offense of plagiarism and the use of concocted sources. This conduct goes to the heart of the academic integrity of the University community and is inconsistent with the relationship of trust between the University and its students. It is important under these circumstances for this Tribunal to continue to denounce and penalize such dishonest conduct and it is important to do so in a reasoned, principled and consistent manner. The sanctions requested by the University in this case meet those criteria. The sanctions represent adequate and appropriate recognition of the factors of general and specific deterrence and strike the appropriate balance consistent with the principles expressed in prior cases.

24. On that basis, the following order was made:

- (i) THAT the Student is guilty of one count of use of plagiarism and one count of concocted sources, contrary to sections B.I.1(d) and B.I.1(f), respectively of the *Code of Behaviour on Academic Matters*;
- (ii) THAT the Student receive a final grade of zero in the course POL207H1 in 2014 Fall/2015 Winter;
- (iii) THAT the Student be suspended from the University for a period of three years, commencing on August 6, 2015 and ending on August 5, 2018;
- (iv) THAT the sanction be recorded on the Student's academic record and transcript to the effect that he was sanctioned for academic misconduct, for a period of four years from the date of this Order or until his graduation from the University, whichever is earlier.
- (v) THAT this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld.

Dated at Toronto, this *1st* day of September, 2015

Mr. Jeffrey Leoh, Chair

*NOTE: A typographical error in relation to the second charge was corrected on July 29, 2016. The offence committed was concoction, which is set out in s. B.I.1(f) of the Code, and not in s. B.I.1(e) as originally stated.