

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and the Regulation (*Ontario Regulation 437/97*) thereunder;

AND IN THE MATTER OF a discipline proceeding against William Hodgson Marshall, a member of the Ontario College of Teachers.

PANEL: Irene Dembek, OCT, Chair
Christine Bellini, OCT
Mel Greif

BETWEEN:)	
	)	Caroline Zayid,
	)	McCarthy Tétrault LLP,
	)	for Ontario College of Teachers,
ONTARIO COLLEGE OF TEACHERS	)	assisted by Bev Hodsdon,
	)	Law Clerk
)	
- and -)	
	)	Andrew J. Bradie, on behalf of
	)	William Hodgson Marshall
)	
WILLIAM HODGSON MARSHALL)	
(CERTIFICATE #383504))	
	)	Julie Maciura,
	)	Steinecke Maciura LeBlanc,
	)	Independent Legal Counsel
)	
	)	Heard: June 4, 2013

DECISION, REASONS FOR DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on June 4, 2013 at the Ontario College of Teachers (the “College”) at Toronto.

A *Notice of Hearing* (Exhibit 1), dated March 28, 2012 was served on William Hodgson Marshall, requesting his attendance before the Discipline Committee of the Ontario College of Teachers on April 19, 2012 to set a date for a hearing, and specifying the charges. The hearing was subsequently set for June 4, 2013.

The Member was not in attendance but was represented by counsel.

THE ALLEGATIONS

The allegations against William Hodgson Marshall (the “Member”) in the *Notice of Hearing* are as follows:

IT IS ALLEGED that William Hodgson Marshall is guilty of professional misconduct as defined in sections 30(2) and 40(1.1) of the *Ontario College of Teachers Act* (the “Act”) in that:

- (a) he failed to strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honour, dignity and ethical standards of the teaching profession, contrary to Section 13 of Regulation 63/55 made under the Teaching Profession Act and as amended thereafter;
- (b) he failed to concern himself with the welfare of his pupils while they were under his care, contrary to Section 14(f) of Regulation 63/55 made under the Teaching Profession Act and as amended thereafter;
- (c) he failed to show consistent justice and consideration in all his relations with pupils, contrary to section 14(d) of Regulation 63/55 made under the Teaching Profession Act and as amended thereafter
- (d) he failed to comply with Section 22(1)(c) of the Schools Administration Act, R.S.O. 1960, Ch. 361 and amendments thereto and similar provisions of the Schools Administration Act S.O. 1954, c. 86 and R.S.O. 1970, c. 424;
- (e) he failed to comply with Section 229(1)(c) of the Education Act 1974 and amendments thereto including section 235(1)(c) of R.S.O. 1980, c. 129 and section 264(1)(c) of R.S.O 1990, c. E.2;

- (f) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (g) he contravened a law, the contravention of which is relevant to the Member's suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (h) he contravened a law, the contravention of which has caused students under the Member's professional supervision to be put at or remain at risk, contrary to Ontario Regulation 437/97, subsection 1(17);
- (i) he committed acts that having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);
- (j) he engaged in conduct unbecoming a member contrary, to Ontario Regulation 437/97, subsection 1(19);
- (k) he engaged in sexual abuse of a student or students of a nature defined in sections 1 and 40 (1.1) of the Act;
- (l) he contravened Section 264.1(c) of the Education Act.

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced an *Agreed Statement of Facts and Guilty Plea* (Exhibit 2), which provides as follows:

AGREED STATEMENT OF FACTS

1. William Hodgson Marshall (the "Member") is a Member of the Ontario College of Teachers. He has held an Ontario Teacher's Certificate since July 1948. Attached to Exhibit 2, Tab "A" is a copy of the Ontario College of Teachers Registered Member Information respecting the Member.
2. From in and around 1952 to 1954 and again from 1957 to 1958, the Member was a teacher at the [XXX] School, an [XXX] school, in Toronto.

3. From in and around 1954 to 1956 the Member was an employee of the Windsor Essex Catholic District School Board and was a teacher at [XXX] School in Windsor, Ontario.

4. From in and around 1960 to 1961, 1973 to 1974 and 1980 the Member was an employee of the Sudbury Catholic District School Board and a teacher and Principal at [XXX] in Sudbury, Ontario.

5. From in and around 1985 to 1989, the Member was an employee of Windsor Essex Catholic District School Board and was Principal at the [XXX] School in Windsor, Ontario.

6. During the material times, the Member:

(a) indecently assaulted fifteen (15) Male Persons, Students #1 to #15 and one (1) Female Person;

(b) sexually assaulted one (1) Male Person, Student #16.

7. On June 8, 2011, the Member entered a guilty plea and was convicted of one (1) count of sexual assault and sixteen (16) counts of indecent assault before the Honourable Mr. Justice L. Dean. On June 9, 2011 the Member was sentenced by the Honourable Mr. Justice L. Dean to two (2) years imprisonment, to be served concurrently, and three (3) years' probation for each count.

8. The particulars of the Member's convictions are as follows:

(a) that between the 1st day of September in the year 1952 and the 31st day of December in the year 1952, at the Municipality of Metropolitan Toronto, did indecently

assault Student #1, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(b) that between the 1st day of October in the year 1974 and the 30th day of November in the year 1974, at the Municipality of Metropolitan Toronto, did indecently assault Student #2, a Male Person, contrary to Section 156 of the Criminal Code of Canada;

(c) that between the 1st day of September in the year 1953 and the 31st day of December in the year 1953, at the Municipality of Metropolitan Toronto, did indecently assault Student #3, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(d) that between the 1st day of January in the year 1953 and the 31st day of December in the year 1953, at the Municipality of Metropolitan Toronto, did indecently assault Student #4, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(e) that between the 1st day of January in the year 1960 and the 31st day of December in the year 1961, at the City of Sudbury, did indecently assault Student #5, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(f) that between the 1st day of January in the year 1969 and the 31st day of December in the year 1969 at the City of Sudbury, did indecently assault Student #6, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(g) that between the 1st day of January in the year 1963 and the 31st day of December in the year 1964 at the City of Sudbury, did indecently assault Student #7, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(h) that between the 1st day of January in the year 1969 and the 31st day of December in the year 1970 at the City of Sudbury, did indecently assault Student #8, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(i) that between the 1st day of January in the year 1969 and the 31st day of December in the year 1970 at the City of Sudbury, did indecently assault Student #9, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(j) that between the 1st day of January in the year 1973 and the 31st day of December in the year 1973 at the City of Sudbury, did indecently assault Student #10, a Male Person, contrary to Section 156 of the Criminal Code of Canada;

(k) that between the 1st day of January in the year 1954 and the 31st day of December in the year 1955 at the City of Windsor in the Southwest Region, did indecently assault Student #11, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(l) that between the 1st day of January in the year 1954 and the 31st day of December in the year 1956 at the city of Windsor in the Southwest Region, did indecently assault Student #12, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(m) that between the 1st day of January in the year 1954 and the 31st day of December in the year 1956 at the city of Windsor in the Southwest Region, did

indecently assault Student #13, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(n) that between the 1st day of January in the year 1955 and the 31st day of December in the year 1956 at the city of Windsor in the Southwest Region, did indecently assault Student #14, a Male Person, contrary to Section 148 of the Criminal Code of Canada;

(o) that between the 1st day of January in the year 1981 and the 31st day of December in the year 1985 at the city of Windsor in the Southwest Region, did indecently assault Student #15, a Male Person, contrary to Section 156 of the Criminal Code of Canada;

(p) that between the 1st day of September in the year 1985 and the 1st day of July in the year 1986 at the city of Windsor in the Southwest Region, did sexually assault Student #16, a Male Person, contrary to Section 246.1(1) of the Criminal Code of Canada;

(q) that between the 1st day of January in the year 1969 and the 1st day of January in the year 1970, in the City of Galt, did indecently assault, a Female Person, contrary to Section 149(1) of the Criminal Code of Canada.

9. Attached to Exhibit 2, Tab "B" is a certified copy of the Police Information of the Toronto Police Service, the Greater Sudbury Police Service and the City of Windsor Police Service with respect to the charges.

10. Attached to Exhibit 2, Tab "C" is a copy of the transcript of the Proceedings at Guilty Plea dated June 8, 2011.

11. Attached to Exhibit 2, Tab “D” is a copy of the transcript of the Reasons for Sentence dated June 9, 2011.

12. Attached to Exhibit 2, Tab “E” is a certified copy of the Probation Order dated June 9, 2011.

GUILTY PLEA

13. By this document, the Member admits, for the purposes of this proceeding only, the truth of the facts and the exhibits referred to in paragraphs 1 to 12 above (the “Admitted Facts”).

14. The Member hereby acknowledges that the Admitted Facts referred to in paragraphs 6 to 8 above, constitute conduct which is professional misconduct, and admits the allegations of professional misconduct against him, being more particularly breaches of the Schools Administration Act, the Education Act, sections 13, 14(d) and (f) of Ontario Regulation 63/55 made under the Teaching Profession Act, and subsections 1(5), 1(16), 1(17), 1(18), and 1(19) of Ontario Regulation 437/97. The Member also admits that he engaged in sexual abuse of students of a nature defined in Sections 1 and 40(1.1) of the Act.

15. By this document the Member states that:

- (a) he understands fully the nature of the allegations against him;
- (b) he understands that by signing this document he is consenting to the evidence as set out in the Admitted Facts being presented to the Discipline Committee;

(c) he understands that by pleading guilty to the allegations, he is waiving the right to require the College to prove the case against him and the right to have a hearing;

(d) he understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to his name, may be published in the official publication of the College;

(e) he understands that any agreement between counsel for the College and himself with respect to penalty does not bind the Discipline Committee;

(f) he understands and acknowledges that he is executing this Agreement voluntarily, unequivocally, and with the advice of legal counsel;

16. In light of the admitted facts and circumstances, the Ontario College of Teachers and the Member submit that the Discipline Committee find the Member guilty of professional misconduct.

DECISION

Having considered the evidence, onus and standard of proof, and the submissions made by Counsel for the College and Counsel for the Member, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that William Hodgson Marshall committed acts of professional misconduct as alleged, being more particularly breaches of the *Schools Administration Act, the Education Act*, sections 13, 14(d) and (f) of *Ontario Regulation 63/55* made under the *Teaching Profession Act*, and subsections 1(5), 1(16), 1(17), 1(18), and 1(19) of *Ontario Regulation 437/97*. The Committee also finds that the Member engaged in sexual abuse of students of a nature defined in Sections 1 and 40(1.1) of the *Act*.

REASONS FOR DECISION

The Committee accepts the Member's admission of the truth of the facts and exhibits referred to in paragraphs 1 to 12 above (the "Admitted Facts"). The Member acknowledged that the Admitted Facts referred to in paragraphs 6 to 8 above, constitute conduct which is professional misconduct, and pleaded guilty to the allegations of professional misconduct against him, being more particularly breaches of the *Schools Administration Act*, the *Education Act*, sections 13, 14(d) and (f) of *Ontario Regulation 63/55* made under the *Teaching Profession Act*, and subsections 1(5), 1(16), 1(17), 1(18), and 1(19) of *Ontario Regulation 437/97*. The Member also admits that he engaged in sexual abuse of students of a nature defined in Sections 1 and 40(1.1) of the Act.

The Committee accepted the Member's guilty plea and accepts that the facts in the *Agreed Statement of Facts and Guilty Plea* (Exhibit 2) amount to professional misconduct as pleaded to by the Member.

On June 8, 2011, the Member entered a guilty plea and was convicted of one (1) count of sexual assault and sixteen (16) counts of indecent assault before the Honourable Mr. Justice L. Dean. On June 9, 2011 the Member was sentenced by the Honourable Mr. Justice L. Dean to two (2) years imprisonment, to be served concurrently, and three (3) years' probation for each count. These offences occurred while the Member, a priest, was both a teacher and principal.

The law of evidence and Rules 13.03 and 13.04 of the Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee of the Ontario College of Teachers allow the Committee to accept a certificate of conviction as proof that an

offence was committed by a person, where there is a finding of guilt and conviction in a Canadian court, provided that there is no evidence to the contrary and that no appeal has been granted. The Member has not appealed the convictions or the sentence.

The Member's actions and his sixteen (16) convictions of indecent assault and a conviction of sexual assault constitute acts of professional misconduct as alleged.

JOINT SUBMISSION ON PENALTY

Through a Joint Submission on Penalty document (Exhibit 5), College Counsel and the Member jointly submitted that the appropriate penalty to be imposed by the Committee in this matter would be that the Registrar of the Ontario College of Teachers be directed to revoke the Certificate and Qualification and Registration of the Member, with publication of the findings and Order of the Committee, with the name of the Member, in summary in the official publication of the College, *Professionally Speaking/Pour parler profession*.

PENALTY DECISION

The Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke the Certificate of Qualification and Registration of the Member; and
2. There shall be publication of the findings and order of the Committee, in summary form, with the name of the Member in the official publication of the College *Professionally Speaking/Pour parler profession*.

REASONS FOR PENALTY

This Member was found guilty of one (1) count of sexual assault and sixteen (16) counts of indecent assault. These offences occurred over many years and in many jurisdictions while the Member was a priest and employed as a teacher and principal. These assaults commenced in 1952 and continued until 1986. They spanned almost the Member's entire career as a priest, teacher and principal. Court documents, including victim impact statements, reveal that the Member engaged in a long series of incidents of sexual touching of his students. These assaults occurred in many locations, including in the rectory, in schools, school showers, in dormitories, in the Member's office and at his cottage and at recreational locations. Students were assaulted in their homes while parents were present in other parts of the house, and some assaults occurred where other adults were present. In some cases the students, who were between the ages of [XXX] and [XXX], were subjected to these assaults on a regular basis over long periods of time. The Member often used physical force and confinement and the administration of alcohol to minors to effect his predations. These assaults were also associated with threats to the students. He warned students that if they told anyone he would fail them or have them removed from the school. (Exhibit 2, Tab C).

When student victims revealed the Member's behaviour to their principal, they were told they were either lying and/or hallucinating. Parents were told by the same administrator, who was also a priest and principal, that they should stop their children from spreading "vicious rumours". The parents were warned that their children were causing harm by

their complaints. The many examples of sexual touching and assaults, together paint a horrific picture of ethical failure and immorality. The behaviour can only be characterized as reprehensible, debauched and entirely shameful. (Exhibit 2, Tab C).

The victim impact statements, of which there are many, demonstrate the devastation on their personal lives and families, and continuing harm on their emotional and psychological well-being, all caused by the Member's actions. For many of the victims, it destroyed their faith in their church and educational institutions. (Exhibit 2, Tab C).

The Member has brought shame and disrepute to the profession through his abuse of power and sexual exploitation of students. In these circumstances, there is no other recourse but revocation and publication with name.

Revocation serves as both a specific and general deterrent, protects children and restores public confidence in the profession. Publication with name serves the public interest by informing the community that the profession acts decisively when matters of this nature are brought to its attention. Publication with name also serves to inform other members of the profession that the College will denounce such behaviour with the most rigorous penalty.

The Committee is satisfied that the penalty is appropriate in the circumstances and serves and protects the public interest.

Dated: June 4, 2013

Irene Dembek, OCT
Chair, Discipline Panel

Christine Bellini, OCT
Member, Discipline Panel

Mel Greif
Member, Discipline Panel