

# THE ALBERTA TEACHERS' ASSOCIATION

## DECISION AND REASONS FROM THE REPORT OF THE HEARING COMMITTEE OF THE PROFESSIONAL CONDUCT COMMITTEE

### IN THE MATTER OF A CHARGE OF UNPROFESSIONAL CONDUCT AGAINST SHANE CAMERON MAZUTINEC

The hearing committee of the Professional Conduct Committee of the Alberta Teachers' Association reports that a charge of unprofessional conduct laid against Shane Cameron Mazutinec of Lethbridge, Alberta was duly investigated in accordance with the *Teaching Profession Act*. The hearing was held in Barnett House, 11010 142 Street NW, Edmonton, Alberta, Canada commencing on Tuesday, April 5, 2016 and concluding on Wednesday, April 6, 2016.

#### CHARGES AND PLEA

The following charge was read aloud by the secretary to the hearing committee:

1. Shane Cameron Mazutinec is charged with unprofessional conduct pursuant to the *Teaching Profession Act* in that he, while a member of the Alberta Teachers' Association, on or about 1996, engaged in a sexual relationship with a student, thereby failing to treat the student with dignity and respect and failing to maintain the honour and dignity of the teaching profession.

A plea of not guilty was entered on behalf of Mazutinec.

#### DECISION OF THE HEARING COMMITTEE

Charge 1—guilty

#### REASONS FOR DECISION

1. Mazutenic had sex with a female student of junior high age, in a closet, in his classroom. The profession expects that teachers will refrain from sexual and emotional exploitation of students. Mazutinec failed to do so and this was unprofessional.
2. Mazutenic cultivated a relationship with a demonstrably vulnerable student. He groomed this relationship with the student with the ultimate goal of sexually exploiting her and comfortable in his belief that any disclosure of same by her would likely be discredited. He exploited the power differential within the teacher-student relationship for his own gratification. The public and the profession expect teachers to refrain from exploiting students for their own gratification at all times.

3. It is solely the responsibility of the teacher to maintain appropriate teacher-student boundaries. Mazutinec failed to do so and this was unprofessional.
4. The committee balanced the more credible testimony of Witness A against Mazutinec's submission. It also considered the testimony of Witness B and Witness C. Witness B and Witness C's testimony was not related to Witness A's narrative, but was received by the committee as similar fact evidence of another incident. Similar fact evidence provides evidence that advances elements which support the charges. With similar fact evidence, the probative value must outweigh its prejudicial effect. The committee determined that the testimony of Witness B and Witness C, as similar fact evidence, had sufficient probative value to outweigh any prejudicial effect because it augmented the plausibility of Witness A's testimony.
5. Mazutinec failed to treat the student with dignity and respect when he exploited her isolation and her need to develop a caring relationship with an adult.
6. Mazutinec failed to maintain the honour and dignity of the profession when he had a sexual relationship with a student.

#### SUBMISSION ON PENALTY

The presenting officer submitted to the committee that an appropriate penalty would be a recommendation to the minister of education to cancel Mazutinec's certificate, that Mazutinec be declared permanently ineligible for membership in the Association, and that a \$10,000 fine be imposed. The presenting officer referred to three precedent previous cases with similar facts to support his penalty recommendation.

#### PENALTY

The hearing committee imposed the following penalty on Mazutinec:

1. A declaration of permanent ineligibility for membership in the Alberta Teachers' Association
2. A recommendation to the minister of education that Mazutinec's teaching certificate be cancelled and
3. A fine of \$10,000

#### REASONS FOR PENALTY

1. The public and the teaching profession will not tolerate a teacher who exploits or grooms a relationship with a student for sexual gratification. Therefore, the penalty of permanent ineligibility for membership and a recommendation for cancellation of certificate is appropriate because it protects students, the profession and the public from predatory behaviour such as that exhibited by Mazutinec.

2. Mazutinec had left his teaching position and did not intend to return to teaching, thus the ineligibility for membership in the Association and the recommendation for cancellation of certificate alone would not have a sufficiently significant impact. The committee determined that the maximum fine permitted under the *Teaching Profession Act* would address the repugnant behaviour and mete out the desired impact.
3. Teachers are in a position of power over students. Therefore it is a teacher's fiduciary obligation to protect students, not to exploit their vulnerability through the teacher-student relationship. Mazutinec's actions constituted egregious behaviour which breached trust and necessitates the most significant penalty.

Dated at the City of Edmonton in the Province of Alberta, Tuesday, April 19, 2016.