

REPORT OF THE DISCIPLINE COMMITTEE

IN THE MATTER OF a charge of unprofessional
conduct against Robert Van Someren

The Discipline Committee of The Alberta Teachers' Association reports that charges of unprofessional conduct laid against Robert Van Someren of [REDACTED] were duly investigated in accordance with the *Teaching Profession Act* (RSA 1980, Chapter T-3) and the Discipline Bylaws of the said Association. The hearing was convened in Barnett House, 11010 142 Street, Edmonton, Alberta, Canada on Thursday, 1994 04 28 at 0900 hours. Discipline Committee members present were: [REDACTED]

[REDACTED] presented the case against the accused. The accused was present but not represented by counsel.

[REDACTED] requested an amendment to the second charge to insert the word "criminal" in the second line, before the word "offence". The defendant objected to the amendment on the basis that he did not have the 10 days notice as prescribed by Section 17(1) of the *Teaching Profession Act* and that the amendment was of such a substantive nature as to significantly alter the charge. The Committee denied the objection to the charge being amended on the grounds that the amendment was not substantive and that R Van Someren had received notice of the matter to be heard in accordance with Section 17(1) of the *Teaching Profession Act* in November of 1993. The Committee accepted the amendment.

R Van Someren requested an adjournment on the grounds of illness. The Committee requested further clarification of his medical condition and permission of the defendant to speak to the doctor that the defendant had seen the previous day. R Van Someren denied the request of the Committee on the basis of confidentiality. When the Committee attempted to proceed with the hearing, R Van Someren sought legal advice and then granted the Committee chair permission to speak to [REDACTED] of [REDACTED]. Based on the information obtained from [REDACTED] and other relevant information, the Committee denied the request for adjournment.

Upon the request of R Van Someren the Committee granted a recess in order that R Van Someren could receive professional advice. R Van Someren returned with a medical certificate from [REDACTED] and again requested an adjournment on the grounds of illness (Exhibit 3). Upon considering the request, the Committee accepted the medical information but decided to proceed since in the opinion of the Committee, R Van Someren was not too ill to continue.

R Van Someren objected to the composition of the Committee. R Van Someren stated that since [REDACTED] had been a member during a previous hearing involving R Van Someren, [REDACTED] would be biased and in conflict of interest. R Van Someren did not put forward any specific allegations relative to the other three Committee members.

R Van Someren objected to the jurisdiction of the Committee on the grounds that:

- (a) the Association had not complied with the six month time limit under Section 16(2) of the *Teaching Profession Act* for commencing proceedings against a former member;
- (b) the Association had not assisted and protected him under the *Teaching Profession Act*;
- (c) the discipline hearing should not proceed while other relevant investigations were in progress;
- (d) the Association had withheld relevant information from the defendant; and,
- (e) the charges were vague.

The prosecution had no objection to either the constitution of the Committee or the Committee's jurisdiction to hear the case.

Regarding the constitution of the Committee, the Committee ruled that objections regarding conflict of interest and bias were not demonstrated and that [REDACTED] participation in a prior hearing relating to R Van Someren did not impair [REDACTED] ability to sit as a member of the Committee and hear the case in a fair manner.

Regarding jurisdiction the Committee ruled that:

- (a) since discipline proceedings had commenced within the six month time limit, the discipline procedures had been followed;
- (b) inadequate evidence was presented by R Van Someren to substantiate arguments that procedures had not been followed;
- (c) other discipline proceedings or internal investigations of discipline proceedings do not interfere with the Committee's jurisdiction to hear this case; and,
- (d) the charges were not vague.

The proceeding rulings were given at the resumption of the hearing on the morning of 1994 04 29, subsequent to which R Van Someren submitted a statement from a [REDACTED] and requested an adjournment due to medical illness. (Exhibit 11) Following review of the material, the Committee concluded that there was no additional evidence that R Van Someren's medical situation made it impossible for him to proceed. The Committee suggested that if R Van Someren required time to occasionally stand during the hearing, he might do so. The request for adjournment was denied.

The defendant refused to enter a plea to the two charges. A plea of "not guilty" was entered by the Committee on behalf of the defendant to the following charges:

1. Mr Robert Van Someren, a member of The Alberta Teachers' Association at the time of the offence, is charged with unprofessional conduct contrary to the discipline Bylaws of The Alberta Teachers' Association in that he did not act in a manner which maintains the honor and dignity of the profession when he on or about the 18th day

of May, AD 1992 at or near [Redacted], in the Province of Alberta did make liquor available for consumption to two [Age Redacted] old students from the school in which he was a teacher namely [Names Redacted]

2. Mr Robert Van Someren, a member of The Alberta Teachers' Association at the time of the criminal offence, is charged with unprofessional conduct contrary to the Discipline Bylaws of The Alberta Teachers' Association in that he did not act in a manner which maintains the honor and dignity of the profession in that on the 12th day of July, AD 1993 he was convicted of the following summary offence under the Criminal Code of Canada, namely that he on or about the 18th day of May, AD 1992, at or near [Location redacted] in the Province of Alberta, did commit a sexual assault on [Name Redacted], contrary to the provisions of the Criminal Code.

R Van Someren raised numerous objections. The Committee stated that it had already ruled on several of these objections. R Van Someren was instructed that some of the objections could be raised in argument during the innocence or guilt phase after the evidence was heard. The Committee heard and ruled on two objections.

On the matter of a request by R Van Someren that the Committee order the release of documents, the Committee ruled that the information provided to R Van Someren was adequate for the preparation of his defence.

Respecting R Van Someren's request that each charge be heard at a separate hearing, the Committee noted that legal scrutiny in the past had not required this. The Committee ruled that it would hear the charges together.

Following the prosecuting officer's opening statement and submission of proof of membership, the prosecuting officer called [Redacted] first witness. R Van Someren indicated at that point that he wished to consult a lawyer. He further advised that he was ill. He, then, announced that he was leaving the hearing. The Committee informed R Van Someren that the hearing would proceed. R Van Someren left the hearing and did not return.

WITNESSES

The prosecution called the following witnesses with regard to guilt/innocence: [Names Redacted]

EVIDENCE ADDUCED AND EXHIBITS FILED INDICATE THAT:

1. At the time of the alleged offenses, R Van Someren was employed by the [School DivisionRedacted]. He was an active member of The Alberta Teachers' Association. (Exhibit 12)
2. At the time of the alleged offenses, R Van Someren was a teacher at [School Redacted]
3. [Names Redacted] testified that they were students attending [School Redacted] during the 1991/92 school year. At the time of the alleged offenses they were students of R Van Someren.
4. On 1992 05 18, [Names Redacted] were visiting [Location Redacted] and staying at the cabin of a friend.

[Redacted]

[Redacted]

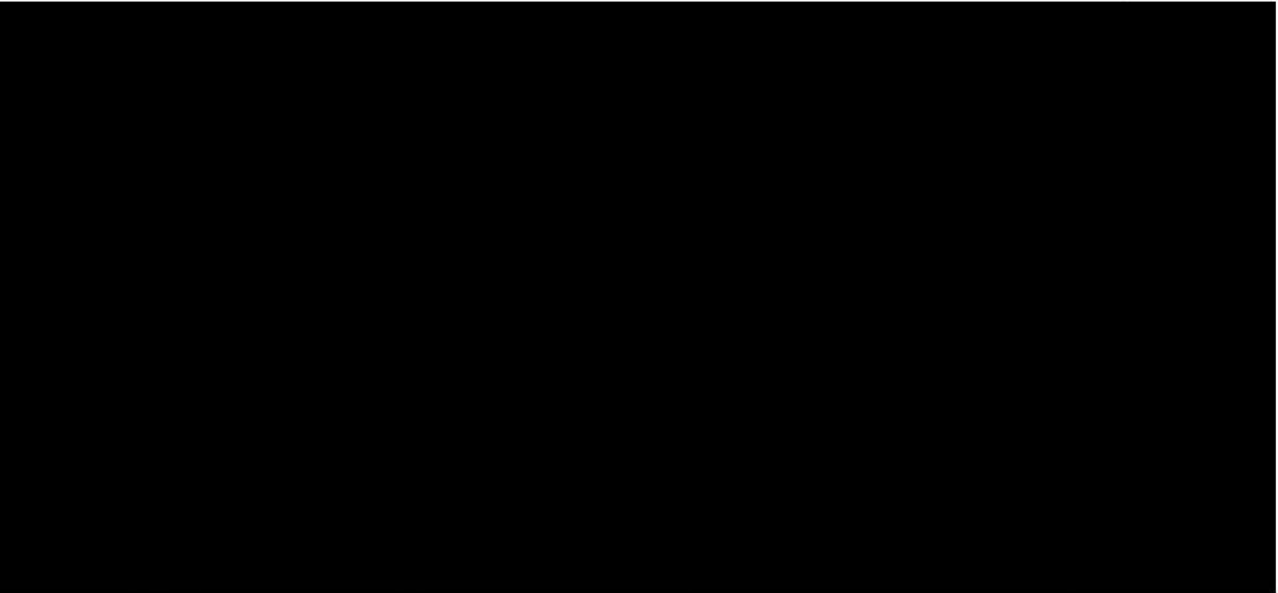
[Redacted]

[Redacted]

[Redacted].

[Redacted]

[Redacted]



17. On 1993 07 12, R Van Someren was convicted of committing a sexual assault on [REDACTED] contrary to the Criminal Code of Canada. (Exhibit 13)

18. R Van Someren appealed the conviction. The appeal of the conviction was dismissed on 1994 01 11. (Exhibit 14)

DECISION OF THE DISCIPLINE COMMITTEE

Charge 1 - Guilty

Charge 2 - Guilty

REASONS FOR DECISION

Charge 1

1. R Van Someren made liquor available for consumption by students who were minors.
2. Providing liquor to students under such circumstances is unprofessional conduct. It does not maintain the honor and dignity of the profession.

Charge 2

1. R Van Someren committed a sexual assault on a student.
2. By committing a sexual assault on a student, R Van Someren was unprofessional and did not act in a manner which maintains the honor and dignity of the profession.

RECOMMENDED PENALTY

The Discipline Committee recommends to Provincial Executive Council the following penalty:

Charge 1: That the defendant receive a severe reprimand and a \$2,000.00 fine.

Charge 2: That the defendant be declared ineligible for membership in The Alberta Teachers' Association and that a recommendation be made to the Minister of Education that R Van Someren's teaching certificate be cancelled.

REASONS FOR RECOMMENDED PENALTY

1. The defendant displayed a lack of judgement in permitting students who were minors to consume alcohol in his trailer.
2. The defendant showed a lack of sound judgement and responsibility in engaging in sexual activities with a student.
3. The defendant showed a lack of sound judgement and responsibility in his activities with young people with whom he had a relationship of trust and authority.
4. Teachers who engage in such deplorable activities create far reaching and negative impacts on the teaching profession.
5. Society has the right to expect that teachers will not engage in sexual activities or provide alcohol to students. The defendant had previously been found guilty by the Committee of similar offences. The repetition of these unprofessional acts by the defendant is repugnant, reprehensible and does not maintain the honor and dignity of the profession.
6. Students, parents, colleagues and the community have the right to expect that teachers will act in a manner which establishes and maintains the trust relationship between teachers and students. R Van Someren betrayed this trust.

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DATED at the City of Edmonton, in the Province of Alberta, Saturday, April 30, 1994.

THE DISCIPLINE COMMITTEE
THE ALBERTA TEACHERS' ASSOCIATION

