

IN THE MATTER OF *The Registered Teachers Act* and

Troy Ruzicka, Temporary Teaching Permit No. [REDACTED]

DECISION OF THE DISCIPLINE COMMITTEE FOR THE
SASKATCHEWAN PROFESSIONAL TEACHERS REGULATORY BOARD
(SPTRB)

Counsel: Brenda Hildebrandt, Q.C.
for the Professional Conduct Committee

Darcia G. Schirr, Q.C.
for the Discipline Committee

Hearing Date and Location: February 14, 2018
Regina, Saskatchewan

INTRODUCTION

1. By Notice of Hearing of Formal Complaint dated January 15, 2018, it is alleged that Troy Ruzicka is guilty of professional misconduct arising out of his conviction for the following offences under the *Criminal Code*:

1. Between the dates of July 18, 2015 and January 9, 2016 at or near [REDACTED] Saskatchewan, being in a position of trust or authority toward a young person, did for a sexual purpose, touch directly the body of that young person with a part of your body, namely your hands and penis, contrary to section 153(1)(a) of the *Criminal Code (Canada)*.
2. Between July 18, 2015 and January 9, 2016, at or near [REDACTED] Saskatchewan, did commit a sexual assault contrary to section 271 of the *Criminal Code (Canada)*.
3. Between the dates of the month of September 2014 and January 9, 2016, at [REDACTED] Saskatchewan, did by means of telecommunication communicate with a person who is or who you believed to be under the age of 18 years for the purpose of facilitating the commission of an offence under section 153.1(1)(A) with respect to that person, contrary to section 172.1(1)(A) of the *Criminal Code (Canada)*.
4. Between March 1, 2014 and December 31, 2014, at [REDACTED] Saskatchewan, did by means of telecommunication communicate with a person who is or who you believed to be under the age of 18 years, for the purpose of facilitating

the commission of an offence under section 163.1 with respect to that person, contrary to section 172.1(1)(A) of the *Criminal Code (Canada)*.

5. Between March 1, 2014 and December 31, 2014, at ██████████ Saskatchewan, did access child pornography, namely photographs of a child, contrary to section 163.1(4.1) of the *Criminal Code (Canada)*.
 6. Between January 1, 2017 and February 6, 2017 did commit sexual assault contrary to section 271 of the *Criminal Code (Canada)*.
 7. Between January 1, 2017 and February 6, 2017, at ██████████ Saskatchewan, did by means of telecommunication communicate with a person who is or who you believed to be under the age of 18 years for the purpose of facilitating the commission of an offence under section 163.1 with respect to that person, contrary to section 172.1(1)(A) of the *Criminal Code (Canada)*.
2. Mr. Ruzicka did not appear at the hearing nor was he represented by counsel.
 3. The Notice of Hearing was served on Mr. Ruzicka's counsel on January 16, 2018. In an email dated January 26, 2018, Matthew Schmeling, counsel for Mr. Ruzicka, advised "No representations will be made on Mr. Ruzicka's behalf".
 4. Section 39 of *The Registered Teachers Act*, (the "Act") gives the Discipline Committee the discretion to proceed in the absence of the teacher. The Discipline Committee was satisfied that Mr. Ruzicka was properly served through his counsel and that he chose not to attend or participate in the hearing. As such, the Discipline Committee ordered that the hearing would proceed in Mr. Ruzicka's absence.

FACTS

5. Counsel for the Professional Conduct Committee tendered the following documents into evidence:
 - (a) Notice of Hearing of Formal Complaint dated January 15, 2018 (P-1);
 - (b) Affidavit of Jacquie Messer-Lepage sworn January 22, 2018 (P-2). Ms. Messer-Lepage is the Chair of the Professional Conduct Committee.

- (c) Affidavit of Service sworn by Brenda Hildebrandt on February 14, 2018 (P-3);
- (d) Affidavit of Trevor Earl Smith sworn February 13, 2018 (P-4). Mr. Smith is the Registrar of the SPTRB.

6. Based on the material filed, these are the basic facts:

- (a) Troy Ruzicka has held a temporary teaching permit issued annually under the applicable legislation since 2012. For the school year 2016/2017, Mr. Ruzicka's temporary teaching permit was valid through to June 30, 2017.
- (b) The purpose of the permit was to permit Mr. Ruzicka to teach an auto body course for grades 10 through 12 at the [REDACTED] School.
- (c) On February 6, 2017, students brought forth concerns to the school administration regarding Mr. Ruzicka. The school reported the concerns to senior administration of the [REDACTED] School Division [REDACTED] and the [REDACTED] Police Service. The school division determined that effective February 8, 2017, Mr. Ruzicka would be assigned to home.
- (d) The police investigation resulted in a number of charges being laid against Mr. Ruzicka. Specifically, Mr. Ruzicka was charged with five counts of child luring, three counts of sexual exploitation, one count of aggravated sexual assault, one count of sexual assault, one count of transmission of child pornography and one count of accessing child pornography.
- (e) The school division terminated Mr. Ruzicka's permit effective March 16, 2017.
- (f) On September 11, 2017, Mr. Ruzicka appeared in [REDACTED] Provincial Court. Some of the charges were reduced and some were stayed. The end result is set out in a Warrant of Committal with Mr. Ruzicka pleading guilty to the following offences:

1. **between the 18th day of July, 2015 and the 9th day of January, 2016 at or near [REDACTED] Saskatchewan did**

**BETWEEN THE DATES OF JULY 18, 2015 AND
JANUARY 9, 2016, BEING IN A POSITION OF TRUST**

OR AUTHORITY TOWARD _____ A YOUNG PERSON, DID FOR A SEXUAL PURPOSE, TOUCH DIRECTLY THE BODY OF _____ WITH A PART OF HIS BODY TO WIT: HIS HANDS AND PENIS, CONTRARY TO SECTION 153(1)(A) OF THE CRIMINAL CODE OF CANADA.

2. between the 18th day of July, 2015 and the 9th day of January, 2016 at or near _____ Saskatchewan did

COMMIT SEXUAL ASSAULT ON _____ CONTRARY TO SECTION 271 OF THE CRIMINAL CODE.

3. between the 1st day of September, 2014 and the 9th day of January, 2016 at or near _____ Saskatchewan did

BETWEEN THE DATES OF THE MONTH OF SEPTEMBER, 2014 AND JANUARY 9, 2016, AT _____ IN THE PROVINCE OF SASKATCHEWAN DID BY MEANS OF TELECOMMUNICATION COMMUNICATE WITH _____, A PERSON WHO IS OR WHO HE BELIEVES TO BE UNDER THE AGE OF 18 YEARS FOR THE PURPOSE OF FACILITATING THE COMMISSION OF AN OFFENCE UNDER SECTION 153.1(1)(A) WITH RESPECT TO THAT PERSON, CONTRARY TO SECTION 172.1(1)(A) OF THE CRIMINAL CODE.

4. between the 1st day of March, 2014 and the 31st day of December, 2014 at or near _____ Saskatchewan did

BETWEEN THE DATES OF MARCH 1ST, 2014 AND DECEMBER 31, 2014, DID AT _____ IN THE PROVINCE OF SASKATCHEWAN, DID BY MEANS OF TELECOMMUNICATION COMMUNICATE WITH _____ A PERSON WHO IS OR WHO HE BELIEVES TO BE UNDER THE AGE OF 18 YEARS, FOR THE PURPOSE OF FACILITATING THE COMMISSION OF AN OFFENCE UNDER SECTION 163.1 WITH RESPECT TO THAT PERSON, CONTRARY TO SECTION 172.1(1)(A) OF THE CRIMINAL CODE.

5. between the 1st day of March, 2014 and the 31st day of December, 2014 at or near _____ Saskatchewan did

BETWEEN THE DATES OF MARCH 1ST, 2014 AND DECEMBER 31 2014, AT _____ IN THE PROVINCE OF SASKATCHEWAN, DID ACCESS CHILD

PORNOGRAPHY, TO WIT: PHOTOGRAPHS OF _____ CONTRARY TO SECTION 163.1(4.1) OF THE CRIMINAL CODE.

6. between the 1st day of January, 2017 and the 6th day of February, 2017 at or near _____ Saskatchewan did

BETWEEN THE DATES OF JANUARY 1, 2017 AND FEBRUARY 6, 2017, DID COMMIT A SEXUAL ASSAULT ON _____, CONTRARY TO SECTION 271 OF THE CRIMINAL CODE.

7. between the 1st day of January, 2017 and the 6th day of February, 2017 at or near _____ Saskatchewan did

BETWEEN THE DATES OF JANUARY 1, 2017 AND FEBRUARY 6, 2017, DID AT _____ IN THE PROVINCE OF SASKATCHEWAN, BY MEANS OF TELECOMMUNICATION COMMUNICATE WITH _____, A PERSON WHO IS OR WHO HE BELIEVES TO BE UNDER THE AGE OF 18 YEARS FOR THE PURPOSE OF FACILITATING THE COMMISSION OF AN OFFENCE UNDER SECTION 163.1 WITH RESPECT TO THAT PERSON CONTRARY TO SECTION 172.1(1)(A) OF THE CRIMINAL CODE.

- (g) Mr. Ruzicka was sentenced on November 20, 2017 by His Honour Judge Wieggers of the _____ Provincial Court. Mr. Ruzicka was sentenced to a term of imprisonment for five years. The court also imposed a firearms prohibition, registration on the sex offender register for a period of 20 years and an eight year prohibition order pursuant to section 161 of the *Criminal Code*. The relevant provisions of section 161(1) of the *Criminal Code* are as follows:

161(1) When an offender is convicted, or is discharged on the conditions prescribed in a probation order under section 730, of an offence referred to in subsection (1.1) in respect of a person who is under the age of 16 years, the court that sentences the offender or directs that the accused be discharged, as the case may be, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, shall consider making and may make, subject to the conditions or exemptions that the court directs, an order prohibiting the offender from

- (a) attending a public park or public swimming area where persons under the age of 16 years are present**

or can reasonably be expected to be present, or a daycare centre, schoolground, playground or community centre;

(a.1) being within two kilometres, or any other distance specified in the order, of any dwelling-house where the victim identified in the order ordinarily resides or of any other place specified in the order;

(b) seeking, obtaining or continuing any employment, whether or not the employment is remunerated, or becoming or being a volunteer in a capacity, that involves being in a position of trust or authority towards persons under the age of 16 years;

(c) having any contact - including communicating by any means - with a person who is under the age of 16 years, unless the offender does so under the supervision of a person whom the court considers appropriate; or

(d) using the Internet or other digital network, unless the offender does so in accordance with conditions set by the court.

LEGISLATION

7. The Notice of Hearing alleges that Mr. Ruzicka is guilty of professional misconduct contrary to the Act and the Regulatory Bylaws. These are the relevant provisions of section 33 of the Act:

33 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, constitutes professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of students or other members of the public;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act or the bylaws;

...

8. Section 2.01 of the Regulatory Bylaws further sets out examples of professional misconduct and these provisions are relevant:

2.01 Without restricting the generality of section 33 of the Act, the following conduct on the part of a teacher is misconduct:

a. conduct which is harmful to the best interest of pupils or affects the ability of a teacher to teach;

b. any intentional act or omission designed to humiliate or cause distress or loss of dignity to any person in school or out of school which may include verbal or non-verbal behavior;

...

d. sexually abusive conduct that violates a person's sexual integrity, whether consensual or not which includes sexual exploitation;

e. an act or omission that, in the circumstances, would reasonably be regarded by the profession as disgraceful, dishonourable or unprofessional;

f. being in violation of a law if the violation is relevant to the teacher's suitability to hold a certificate of qualification or if the violation would reasonably be regarded as placing one or more pupils in danger;

9. Mr. Ruzicka was not a registered teacher. Section 22 of the Act provides for the issuance of temporary teaching permits "if an employer is unable to recruit a qualified teacher for which a teacher's certificate is otherwise required . . ."

10. Section 5.06(4) of the Regulatory Bylaws is as follows:

5.06(4) The Saskatchewan Professional Teachers Regulatory Board may issue temporary teaching permits subject to the conditions set out in Schedule D.

(a) Persons issued temporary teaching permits shall:

(i) carry out the general functions and duties of teachers as set out in section 231 of *The Education Act, 1995* as may be amended from time to time;

(ii) be subject to the same standards of conduct as registered teachers; and

(iii) be subject to the same disciplinary procedures pertaining to registered teachers.

11. Counsel for the Professional Conduct Committee argued that where the legislation uses the term "teacher" or "registered teacher", it is appropriate to read those terms as

including those persons who hold temporary teaching permits. The Discipline Committee agrees with that interpretation.

12. Exhibit "A" to the Affidavit of Jacquie Messer-Lepage is the report of the Professional Conduct Committee dated January 4, 2018. The report cites a passage from the School Division's employer notice to the SPTRB and that employer notice summarizes Mr. Ruzicka's gross misconduct:

In conclusion the evidence and disclosure from the three [REDACTED] students supports the allegations that Mr. Ruzicka was engaged in gross misconduct of inappropriate sexual relationships with students and in violation of Administrative procedures 401, 351 and 193. These inappropriate relationships ranged from 'friending' students on a social media platform and communicating online with them about content that is pornographic in nature and using deception to enter into relationships with students. Mr. Ruzicka also had a sexual relationship with a student that included extreme practices and possible violent elements. The credibility of the student has been confirmed through text messaging and photos from the student's phone and verbal confirmation with the student's mother. The evidence from this investigation demonstrates that Mr. Ruzicka has crossed a significant ethical line regarding the student/teacher relationship. As a teacher Mr. Ruzicka is in a position of trust and power. He used his position to access and manipulate relationship (sic) that have led to acts that have jeopardized the safety and security of the children in his care.

13. The Discipline Committee has no hesitation in finding that Mr. Ruzicka engaged in professional misconduct and that he breached the provisions of section 2.01 of the Regulatory Bylaws set out herein. By any measure, Mr. Ruzicka's conduct is disgraceful and dishonourable.

SANCTION

14. Having found Mr. Ruzicka guilty of professional misconduct, the next task for the Discipline Committee is the imposition of an appropriate sanction.
15. As Mr. Ruzicka has been convicted of offences under the *Criminal Code*, these proceedings trigger section 42 of the Act. Section 42 is as follows:

42 The discipline committee may make any order pursuant to section 40 if:

- (a) the registered teacher has been convicted of an offence pursuant to the *Criminal Code*, the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada);**
- (b) a report of the professional conduct committee is made to the discipline committee respecting the conviction mentioned in clause (a);**
- (c) the discipline committee has given the registered teacher mentioned in clause (a) an opportunity to be heard; and**
- (d) the discipline committee finds that the conduct of the registered teacher giving rise to the conviction is professional misconduct.**

- 16. All components of section 42 have been met in this case.
- 17. The sanctions set out in section 40 include cancellation of a teacher's certificate, suspension of a certificate, practice conditions, etcetera.
- 18. The Professional Conduct Committee recommends that the Discipline Committee order that Mr. Ruzicka shall be prohibited from holding a temporary teaching permit or any certificate described in the Act and Regulatory Bylaws now and in the future. This recommendation is made pursuant to section 40(1)(f) of the Act:

40(1) If the discipline committee finds a registered teacher guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:

- (f) any other order that the discipline committee considers just.**

- 19. The Discipline Committee accepts that recommendation. In *Ontario College of Teachers v Maheux*, 2013 ONOCT 99, the Discipline Committee dealt with a teacher who was convicted in the criminal courts of sexually assaulting a student. The Discipline Committee revoked the teacher's certificate stating:

Removing this Member from the teaching profession protects students and restores public confidence in the profession. Any penalty short of revocation for such an egregious act would bring the College into disrepute.

20. Section 40(2) also allows the Discipline Committee to make orders providing for payment of a fine and/or costs of the investigation and hearing. In response to a question from the Discipline Committee, legal counsel for the Professional Conduct Committee advised that costs were not being sought.
21. In past decisions of this Discipline Committee, the Discipline Committee has stated that “in professional misconduct cases and barring exceptional circumstances, costs should be ordered”.
22. The Discipline Committee sees this case as one presenting exceptional circumstances. Mr. Ruzicka will never be issued a temporary teaching permit or a teacher’s certificate. If costs were imposed and not paid by the deadline date, the remedy under the Act is that the teacher’s certificate (or permit) be suspended. Mr. Ruzicka will never have a teacher’s certificate or permit to suspend if costs were ordered and not paid. In this case, an order for costs would be futile. But for the unique circumstances of this case, the Discipline Committee would have imposed a costs order.
23. Finally and although the Professional Conduct Committee did not recommend this, the Discipline Committee considered imposing a fine in the amount of \$5,000.00. The Act gives the Discipline Committee the discretion to impose a fine in an amount not exceeding \$5,000.00. Like a costs order, failure to pay the fine results in suspension of the teacher’s certificate/permit until payment is made. For the reasons set out above on costs, the Discipline Committee will not order that Mr. Ruzicka pay a fine.

ORDER


24. The Discipline Committee therefore makes the following order:
 - (a) Pursuant to section 40(1)(f) of the Act, Troy Ruzicka shall be prohibited from holding a temporary teaching permit or any certificate described in the Act and Regulatory Bylaws.
 - (b) Pursuant to section 40(5) of the Act and upon expiry of the appeal period, the Discipline Committee directs the Chief Operating Officer of the SPTRB to notify the following of this decision and order against Mr. Ruzicka:

- (i) All "employers" as that term is defined in the Act;
- (ii) The Saskatchewan Teachers Federation;
- (iii) The Registrars of teacher registration bodies in other jurisdictions.

Dated at Saskatoon, Saskatchewan, this 26th day of MARCH, 2018.


Robin Bellamy, Chair

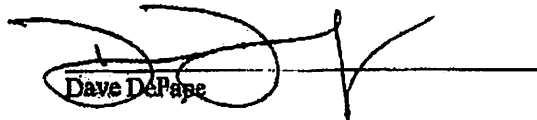
Dated at Saskatoon, Saskatchewan, this 26th day of March, 2018.


Sandy Antonini

Dated at Prince Albert, Saskatchewan, this 26 day of March, 2018.


Darcy Sander

Dated at Moose Jaw, Saskatchewan, this 26th day of March, 2018.


Dave DePape

Dated at Regina, Saskatchewan, this 26th day of March, 2018.


Dean Miczjanko