

VICTORIAN INSTITUTE OF TEACHING

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 120

REGISTERED TEACHER: David RUNCIMAN

PANEL MEMBERS: Terry Hayes, Chairperson
Anne Farrelly, Registered Teacher
Paul Wilhelm, Registered Teacher

ATTENDANCE: The teacher attended the Formal Hearing and was self-represented

Ms Melinda Richards, Counsel Assisting, with Ms Jennifer Sheehan, Instructing Solicitor on behalf of the Victorian Institute of Teaching

DATE OF HEARING: 27 June 2012

DATE OF DECISION: 13 July 2012

FINDING AND DETERMINATION:

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006*, on 13 July 2012 the Panel found the teacher unfit to teach.

The teacher is currently an unregistered teacher.

REASONS

BACKGROUND

The teacher has been a registered teacher with the Victorian Institute of Teaching (the Institute) since 1 April 2009.

On Friday 28 March 2011, the Institute was advised that the teacher had been charged with indictable offences.

By correspondence received on 31 March 2011, the teacher advised that he no longer wished to be registered with the Institute, effective from 31 March 2011.

On 14 December 2011, the teacher appeared in the Melbourne Magistrates' Court and was found guilty of one count of 'traffick methylamphetamine'.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 31 January 2012 and the Committee decided to refer the matter to a Formal Hearing.

On 22 February 2012, the Committee decided to continue with the inquiry and referred the matter to a Formal Hearing.

A Notice of Formal Hearing dated 18 June 2012 was served upon the teacher by registered post on 20 June 2012.

THE ALLEGATIONS

The allegation of lack of fitness to teach as set out in the Notice of Formal Hearing is that:

1. Whilst registered as a teacher in Victoria, the teacher appeared in the Melbourne Magistrates' Court on 14 December 2011 charged with one count of the indictable offence of traffick methylamphetamine. The teacher was found guilty, without conviction, and ordered:
 - to attend the Reservoir Community Correctional Service, Ground Floor, 909 High Street, Reservoir Vic 3073 by 16/12/2011 by 4:00pm. The order commences on 14/12/2011 with the following conditions:
 - the offender is to perform 150 hours of unpaid community work over 12 months;
 - further order that conditions and alternative cum/con directions:
 - all core Community Based Order conditions to apply;
 - a forfeiture order was made by consent:
 - all drugs/instruments seized be forfeited and destroyed;
 - to pay \$250 to the Court fund.

2. The Magistrate noted on the Court Order that 'but for the plea of guilty I would have imposed a period of imprisonment the form to be determined following a plea'.
3. Three other charges of traffick methylamphetamine were struck out or withdrawn.

THE EVIDENCE

The teacher gave evidence under affirmation and submitted to cross examination.

The teacher informed the Panel that before training as a primary school teacher he had worked as a biologist and geneticist at La Trobe University. As well as an undergraduate degree and a Diploma of Education he has a PhD in Zoology and Molecular Biology.

The teacher said he enjoyed thinking about how children learnt and enjoyed his teaching round experiences in primary schools from low socio-economic areas. From 2007-2010 he had been employed as a contract teacher at the school, taking on a variety of roles including teaching a range of year levels and acting in coordinating roles in the various sub-schools. It was a school that dealt with a diverse range of students but there was little face to face contact with them.

The teacher said he had become disillusioned with teaching because he had not been offered an ongoing position at the school. As well he did not enjoy the experience of teaching in a distance education context compared to his enjoyment of primary teaching. In 2011 his contract was not renewed, a fact which he believed was unrelated to the charge.

The teacher said he then worked in a warehouse doing manual labour. He is currently employed at a call centre doing social and health research while completing 150 hours of community work by working one day a week in a welfare organisation's store.

The teacher stated that the behaviour which led to the drug trafficking charge had occurred at a time (January – February 2011) when he was at a very low point in his life. He had recently separated from his wife of ten years and was attempting to pay the rent on a house of \$1560 a month plus bills. He was living off his credit card and taking drugs. Being unable to cope with this financial burden he took in as a boarder SG, a friend who he had known for about a year and whom he had met through mutual friends. He did so knowing SG to be a methamphetamine addict and dealer. The teacher added he now considered offering SG board to be one of the worst decisions of his life.

The teacher offered an explanation of how he came to be charged with trafficking because of his association with SG. He said when SG moved into the house SG was already the subject of police monitoring, including the use of phone intercepts of his mobile, because of suspected trafficking.

The teacher said he had driven SG to several of his deals and these actions were the basis of the charges made against him. He had also been requested by SG to be his proxy dealer on two occasions while SG travelled to Sydney. He had agreed, albeit reluctantly

because of his aversion to the use of methamphetamine. The police had intercepted several phone calls between himself and SG in which he had agreed to some transactions. However, he never completed any of them because his conscience got to him. The teacher said he also refused to provide an undercover police officer with methamphetamine which she had solicited.

The teacher stated that because it was SG's phone calls that were being intercepted he believed that the evidence implicating him was circumstantial, but 'it appears absence of evidence is not evidence of absence' and he was duly charged. The teacher also stated that he was advised to plead guilty rather than run the risk of receiving a prison sentence and that his pleading guilty to one charge also resulted in three other charges being dropped.

The teacher said that at the time of the offence he shared informal custody of his eleven year old son. Occasionally his son stayed with him, but never saw what was going on in SG's room where the latter's drugs stash and drug making equipment were stored. These were discovered when the police raided the house in February. He said SG had given him an assurance that he would not deal from the house. The teacher said that it was either accept that situation or not see his son. He had not considered the option of asking SG to leave.

The teacher said he had taken positive steps to get his life back on track. He now shared a house with two people in responsible employment. He no longer had contact with SG. He frequently saw his wife, with whom he still shares informal custody of their son, despite some amicable differences between them. He had his son stay over on weekends. He said he was open and honest with his son, who was very mature and very anti-drugs, about what had happened. The teacher said he played squash regularly and, while still heavily involved in the electronic music dance scene now 'loved the dancing and the music'.

The teacher said, most importantly, he had sought professional advice to help him cope with his depression and his drug use. He had attended three counselling sessions for depression with psychiatrist Stewart Norton and one session at the Buoyancy Foundation about his drug use. He said that counselling had been accompanied by a good deal of self talk and reflection. In the process the teacher said he had gone from being a pretty heavy drug user who had used drugs for self medication to a person who might smoke pot occasionally. The regular urine tests he had taken leading up to the court case had revealed only one positive sample of cannabis.

When questioned by the Panel as to how he might deal with stressful situations that might put him at risk in the future, the teacher said if the stress were severe he would seek professional counselling. If it were low level stress he would rely on the support and advice of friends.

The teacher said he had reflected at depth on his behaviour and the circumstances in which he had found himself. He had felt both shame and remorse about his behaviour and how it reflected on his character. He said that having gone through the legal process

and reflected on what occurred he believed himself 'perfectly fit to teach now'. He said he believed 'everyone learns from their experiences'.

The teacher stated that in any future school employment context he would be open and honest about his experiences. He would be frank with the principal about the charge and the conduct which led to it. He said if he found himself in a situation where he had to speak to students about his experiences he would do so forthrightly and with consideration for their levels of maturity. However, he added the messages to whatever level he spoke, be it upper primary or secondary, would be similar. They were: people make bad choices but it is possible to learn from one's own and other people's choices; and that 'drugs are not to be trifled with'.

The teacher, in response to questions from Counsel Assisting, referred to the three character references he provided to the Panel, two from teachers - one of whom was a friend, the other a colleague from the school - and a joint statement from neighbours. He informed the Panel that he had been as forthright and detailed in his disclosures to them as he had been to the Panel.

DISCUSSION OF THE EVIDENCE

The Panel was impressed by the teacher's frankness in addressing, under cross examination, a range of issues associated with the charge and his conduct which led to it. The finding of guilt and its consequences seem to have acted as a timely catalyst in his life. On his own admission it has transformed a rather lax and laissez-faire approach to his conduct in his personal and social life, the dubious company he kept, and even the welfare of his young son, to a more reflective consideration of the consequences of his previous behaviour and lifestyle and a determination to take purposeful, corrective steps to change them.

The Panel was also impressed by the teacher's professed commitment to teaching and his desire to continue as a teacher, preferably of students from a low socio-economic background. Given that and his skills and qualifications there is no doubt that he offers great potential to the profession.

As well, the Panel noted positively that the teacher was prepared to put his experiences to good use in any future career as a teacher. He was open about the ways in which he would speak of his experiences and the consequences of drug taking to members of any school community, including students, in which he might find himself.

Uppermost in the Panel's concerns, however, were the seriousness of the offence of drug trafficking and the expectation on the Institute to address the implications of that with the utmost rigour. The Panel recognised that the teacher, to his credit, had voluntarily sought counselling to assist him to evince the necessary changes in his life and that he was convinced of the efficacy of that counselling. However the Panel believed it needed a more objective assessment of those changes that might be best addressed in a more systematic and structured counselling program.

FINDINGS

The facts of the allegation were not contested and the Panel found the allegation proved. The Panel did note, however, that the teacher's decision to plead guilty to the charge was one he regretted and, in retrospect, had he had the financial means he would have contested the charge.

The Panel also believed his contrition and remorse about his behaviour to be genuine and that his desire to set a good example for his thirteen year old son was a very positive element in his belief that he would not err again.

To that extent the Panel commends the very positive corrective actions he has taken to change or modify his behaviour and to get his life back on track.

Similarly the Panel found that the teacher showed considerable insight into the effect his behaviour might have, both on the profession itself and on the members of any immediate school community in which he might find himself.

However, as stated above, the primary concerns for the Panel were the seriousness of the offence, and its responsibility to ensure the protection of the public interest and the reputation of the profession. To that extent, the Panel believes a more rigorous and objective assessment is required, beyond the teacher's personal attestations of the changes he has evinced in his lifestyle and conduct, before it could conclude that he is currently fit to teach.

The Panel notes that the teacher is currently an unregistered teacher having let his registration lapse in April 2011. However, the teacher was registered at the time of the events in question, January and February 2011. Under Section 2.6.47 of the *Education and Teaching Reform Act*, the Panel is empowered to conduct an inquiry into the conduct or activities of a person who was a registered teacher, but has ceased to be a registered teacher.

The Panel determines that the teacher is presently unfit to teach.

DETERMINATION

If the teacher were to seek future registration as a teacher, he should seriously consider seeking a more objective assessment of his fitness to teach beyond his own subjective belief that he is so. That assessment should ideally take the form of a series of counselling sessions with a psychologist or psychiatrist experienced in working with the teaching profession and who has knowledge of the professional standards required of teachers. The Panel considers that it would be most useful if counselling sessions addressed the following questions:

- How his conduct breached the Victorian Teaching Profession Code of Ethics and Conduct?

- What strategies might he implement to ensure that he does not repeat the conduct which led to the criminal charge?
- How might he recognise personal stressors and the develop strategies to respond to them?
- How might he demonstrate an understanding of the importance of professional behaviour in maintaining the reputation of the profession and the trust that the community is entitled to expect of teachers?

The Panel notes that its expectation of a rigorous objective assessment of his fitness to teach is an expectation any registration body, panel or committee might have of the teacher should he choose to apply for registration in order to resume his teaching career.



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TERRY HAYES, CHAIRPERSON



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per:
ANNE FARRELLY, REGISTERED TEACHER



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per:
PAUL WILHELM, PANEL MEMBER