

“No Evidence” Student Grievance Case Protects University Acting in Good Faith

Introduction

The Court of Appeal for British Columbia recently released its decision in *Maughan v. University of British Columbia et al*, 2009 BCCA 447, on appeal from the Supreme Court of British Columbia.

The issue before the court was whether individual professors, and a university (“UBC”) as employer, had discriminated against a student (“Maughan”) on the basis of her religion or had acted negligently toward her.

Facts

Maughan was an Anglican Christian pursuing a Masters of Arts degree in English at UBC, during which time she alleged several incidents of discrimination had occurred.

The first incident involved an email sent to the English graduate student listserv in which a student jokingly suggested Christians should be stoned. The second involved Maughan’s experience in a seminar course, where she asserted an anti-religious bias motivated the course’s professor to treat her poorly. The professor had agreed to schedule a course event on a Sunday, refused to grant Maughan an extension on her final paper, provided negative comments on that paper, and awarded her an unsatisfactory grade, all of which Maughan attributed to the professor’s opposition to her religious beliefs.

Maughan, disturbed by her experience with the professor and disappointed with her grade, then attempted to pursue redress through the avenues available to her within UBC, including an appeal to the Senate Committee, which ultimately ruled against her. She subsequently commenced an action against the course professor, UBC and other professors whom she alleged facilitated or ignored the discrimination she experienced.

Decision

The Court of Appeal for British Columbia emphatically rejected Maughan’s claims. The court held that Maughan presented no evidence to demonstrate that her treatment by the professors was based on her religion. Similarly, Maughan failed to show that they were acting in bad faith, which is a requirement under the *University Act (BC)* to establish liability in this sort of relationship.

The main factor driving the court’s decision is the pure poverty of Maughan’s claim. Nonetheless, there are several important lessons arising from this decision of which parties to the educational process should be aware. In particular, the fact that such a weak claim enjoyed the attention of two courts - requiring UBC to respond with legal counsel at every turn - shows how attentive judges are to student grievances, especially where the claimant is in advance studies. However, the relatively high legal threshold of bad faith protects universities from liability when professors and administrators fulfil their duties without malice.

Additionally, the legitimacy and strength of UBC’s Senate Committee, which the court refers to approvingly as a “quasi-judicial” body, ostensibly contributed, in UBC’s favour, to the court’s ultimate determination. This confirms the need for educational institutions to maintain and preserve such bodies to reduce the likelihood of student grievances ever reaching, or succeeding in, the courts. If you would like more information on this case, please feel free to contact any of the lawyers in Boughton’s Education Law group:

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