



National College for
Teaching & Leadership

Ms Samantha Burmis: Professional Conduct Panel outcome

**Panel decision and reasons on behalf of the
Secretary of State for Education**

September 2014

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Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Ms Samantha Maraia Virgo

(Otherwise known as Samantha Burmis and Samantha Maraia Burmis).

Teacher ref no: 0000995

Teacher date of birth: 18 April 1968

NCTL Case ref no: 10557

Date of Determination: 11 September 2014

Former employer: Swadelands School and Kent County Council

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 11 September 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Samantha Maraia Virgo.

The Panel members were Ms Ruth Winterson (Teacher Panellist– in the Chair), Mr Anthony James (Teacher Panellist) and Dr Geoffrey Penzer (Lay Panellist).

The Legal Adviser to the Panel was Ms Fiona Walker of Eversheds LLP Solicitors.

The Presenting Officer for the National College was Mr Andrew Hurst of 2 Hare Court.

Ms Samantha Maraia Virgo was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 14 May 2014.

It was alleged that Ms Samantha Maraia Virgo was guilty of having been convicted of a relevant offence, in that:

She was convicted of a relevant offence, namely that on 1 July 2013 at Maidstone Crown Court she was convicted of the offences of:

- (1). Conspiracy to commit an act with intent to pervert the course of justice contrary to Common Law, for which she was sentenced to 18 months' imprisonment on 2 August 2013;
- (2). Obtaining a pecuniary advantage by deception, contrary to section 16(1) of the Theft Act 1968, for which she was sentenced to 6 months' imprisonment (consecutive) on 2 August 2013.

The allegation has not been admitted.

C. Preliminary applications

There was an application by the NCTL for the hearing to proceed in the absence of Ms Virgo.

The Panel considered the application and determined to proceed in Ms Virgo's absence.

The Panel determined that the NCTL has complied with the service requirements of Regulation 19 of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations"). The Panel noted the evidence in the Hearing Bundle from the process server who hand delivered a copy of the Notice of Proceedings to Ms Virgo's address on 18 May 2014. The Panel also noted the e-mail exchanges between Nabarro's and Ms Virgo's probation officer and the probation officer's confirmation that, firstly, the address where the process server attended was indeed Ms Virgo's last known address, and, secondly, that the probation officer herself handed a copy of the Notice of Proceedings to Ms Virgo on 1 July 2014. The Panel therefore considers that the NCTL has made 3 attempts to serve the Notice of Proceedings — once by post to the last known address, once by personal delivery by a process server and also by having the proceedings handed to her personally by Ms Virgo's probation officer.

The Panel, in reaching its decision, took into account the fact that the address used by the NCTL is the last known address and is also the address which the probation service has. The Panel was therefore satisfied that the address is the correct and last known address.

The Panel was also satisfied that the teacher has been provided with the requisite length of notice of at least 8 weeks in accordance with paragraph 4.11 of the Procedures and that the Notice of Proceedings contained the necessary details set out in paragraph 4.12 of the Procedures. The Panel found that the teacher has deliberately waived her right to participate in the hearing. The Panel considered that Ms Virgo is aware of the hearing date and noted that she had provided a limited form of response to the Notice of Proceedings (page 144 of the Hearing bundle).

The Panel was aware from the communications from the probation officer (page 24 of the Hearing bundle), that Ms Virgo is no longer imprisoned and there was no evidence before the Panel that there are other reasons for Ms Virgo's non attendance at the hearing.

The Panel determined that there was no indication that an adjournment might result in Ms Virgo attending voluntarily. The Panel also noted that the allegations were serious matters and there was a public interest in the hearing taking place within a reasonable time of the events to which it relates.

D. Summary of evidence

Documents

In advance of the hearing, the Panel received a bundle of documents which included:

Section 1 – Chronology

Section 2 – Notice of Proceedings and Response; Service Documentation

Section 3 – NCTL Documents – Police Documentation and Other Documentation

Section 4 – Teacher Documents

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

Witnesses

The Panel was not asked to and did not hear any oral evidence.

E. Decision and reasons

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

Summary of Evidence

In 1995, Samantha Maraia Virgo was convicted in the Harrow Crown Court of three offences, namely, obtaining property by deception under the Theft Act 1968 S15; attempt/obtaining copies by deception under the Theft Act 1968 S.15; and conspire/obtaining property by deception under the Theft Act 1968 S15. She was sentenced to 24 months' imprisonment. In 2001, Samantha Angela Burmis (aka Samantha Maraia Virgo) applied for a teaching position at Aylesford School and, in doing so, answered "no" on the application form to the question "Have you ever been convicted of a criminal offence?". Ms Burmis, as she then was known, worked at the school until she was formally dismissed in February 2005. In July 2005, she applied for a teaching role at Homewood School and, again, answered "no" on the application form to the question "Have you ever been convicted of a criminal offence". She was then employed for a short period on a temporary basis and the school dispensed with her services on account of issues regarding CRB checks and references. In October 2005, Ms Burmis applied for a teaching role at Swadelands School which she later left and subsequently brought a claim for wrongful dismissal. In 2008, there was an investigation by the Kent Police following a complaint by Ms Burmis into fingerprint records. It transpired that Ms Burmis was in fact the same individual who had been convicted in 1995. However, she then sought to claim that the fingerprints were not in fact hers and she sought to provide further prints but asked her daughter to do so in her place. Her attempts were discovered and she was convicted again in August 2013 of the offences which form the allegation in this case.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Ms Virgo proven, for these reasons:

1. It was alleged that Ms Samantha Maraia Virgo was guilty of having been convicted of a relevant offence, in that:

She was convicted of a relevant offence, namely that on 1 July 2013 at Maidstone Crown Court she was convicted of the offences of:

(1). Conspiracy to commit an act with intent to pervert the course of justice contrary to Common Law, for which she was sentenced to 18 months' imprisonment on 2 August 2013;

(2). Obtaining a pecuniary advantage by deception, contrary to section 16(1) of the Theft Act 1968, for which she was sentenced to 6 months' imprisonment (consecutive) on 2 August 2013.

The Panel have considered the Certificate of Conviction dated 12 March 2014 pertaining to the convictions of 1 July 2013 in the name of Samantha Burmis. The Panel noted in the evidence arising from the criminal proceedings (at page 48 and pages 53-56 of the Hearing bundle) that she has used several aliases and different names, including Samantha Angela Blackwood, Samantha Marcia Blackwood, Samantha Maria Blackwood, Samantha Burmis, Samantha Angela Burmis, Samantha Thompson, Samantha Angela Virgo and Samantha Maraia Virgo. The fingerprint evidence established that Samantha Burmis was the same individual as Samantha Virgo (the Panel referred to pages 125-126 of the Hearing bundle and the police statements and also the Case Summary from the criminal proceedings on page 53). The Panel therefore is satisfied that Samantha Burmis is the same individual as Samantha Maraia Virgo, who is the subject of these Proceedings.

The Panel accepts the conviction as having proved the facts of the case and the Panel therefore find the allegation to be proved.

Findings as to conviction of a relevant offence

Having found Ms Virgo guilty of having been convicted of relevant offences involving serious dishonesty, in that:

Ms Virgo was convicted on 1 July 2013 at Maidstone Crown Court of the offences of:

- (1). Conspiracy to commit an act with intent to pervert the course of justice contrary to Common Law, for which she was sentenced to 18 months' imprisonment on 2 August 2013;
- (2). Obtaining a pecuniary advantage by deception, contrary to section 16(1) of the Theft Act 1968, for which she was sentenced to 6 months' imprisonment (consecutive) on 2 August 2013.

The Panel is satisfied that the conduct of Ms Virgo in relation to the facts it has found proved, involved a breach of the Teachers' Standards. We consider that by reference to Part Two of the Standards, Ms Virgo is in breach of the following Standard:

Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by not undermining fundamental British values including the rule of law.

The Panel noted that the serious dishonesty involved in committing the offences could have had an impact on the safety or security of pupils and members of the public.

The Panel has also taken account of how the teaching profession is viewed by others. The Panel considered that Ms Virgo's behaviour in committing the offences could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The Panel has noted that Ms Virgo's behaviour ultimately led to her receiving a sentence of imprisonment which is indicative of the seriousness of the offences committed.

This is a case involving offences of serious dishonesty which the Guidance states is likely to be considered a relevant offence.

The Panel has noted that no evidence of mitigating circumstances has been put forward by Ms Virgo.

The Panel has found the seriousness of the offending behaviour that led to the conviction to be relevant to Ms Virgo's ongoing suitability to teach. The Panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the Panel's findings in respect of a conviction of a relevant offence, it is necessary for the Panel to go on to consider whether it would be appropriate to recommend the imposition of a Prohibition Order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a Prohibition Order should be made, the Panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition Orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The Panel has considered the particular public interest considerations set out in the Teacher Misconduct – Prohibition of Teachers Advice and having done so has found a number of them to be relevant in this case, namely the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the Panel's findings against Ms Virgo, which involved finding she had been convicted of offences involving serious dishonesty which involved breach of the Teachers' Standards, there is a strong public interest consideration in respect of the protection of pupils given the findings of serious dishonesty. Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Virgo were not treated with the utmost seriousness when regulating the conduct of the profession.

The Panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Ms Virgo was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the Panel considered carefully whether or not it would be proportionate to impose a Prohibition Order taking into account the effect that this would have on Ms Virgo.

In carrying out the balancing exercise the Panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Ms Virgo. The Panel took further account of the Guidance, which suggests that a Prohibition Order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards
- misconduct seriously affecting the education and/or well being of pupils, and particularly where there is a continuing risk
- actions or behaviours that undermine fundamental British values, democracy and the rule of law
- a deep-seated attitude that leads to harmful behaviour
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up
- the commission of a serious criminal offence, including those that resulted in a conviction or caution

Even though there were behaviours that would point to a Prohibition Order being appropriate, the Panel went on to consider whether or not there were any mitigating factors to militate against a Prohibition Order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The Panel were not of the view that there were any mitigating factors and the Panel considered the fact that Ms Virgo did not have a previous good record and had been subject to disciplinary proceedings and a Prohibition Order by the General Teaching Council. Ms Virgo had also been convicted of other criminal offences in 1995. There was no evidence that the teacher's actions were not deliberate and there was no evidence to suggest that the teacher was acting under duress, and in fact the Panel found her actions to be calculated and motivated by personal gain.

The Panel is of the view that Prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Ms Virgo. The nature of the criminal offences which involved serious dishonesty, the fact that one of the offences included Ms Virgo involving her daughter and the repeating of serious criminal behaviour were significant factors in forming that opinion. Accordingly, the Panel makes a

recommendation to the Secretary of State that a Prohibition Order should be imposed with immediate effect.

The Panel went on to consider whether or not it would be appropriate for them to decide to recommend that a review period of the order should be considered. The Panel were mindful that the Teacher Misconduct – Prohibition of Teachers Advice advises that a Prohibition Order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the Prohibition Order reviewed after a specified period of time that may not be less than two years.

The Teacher Misconduct – Prohibition of Teachers Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes serious dishonesty. The Panel has found that Ms Virgo has been responsible for the behaviour leading to the criminal conviction of the offences and those offences clearly involved serious dishonesty on the part of Ms Virgo. Ms Virgo has proffered no explanation or given any insight into her behaviour leading to the conviction for the offences.

The Panel was unanimous that the findings indicate a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the Prohibition Order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

I have given careful consideration to the findings and recommendations of the panel in this case.

Ms Virgo has been convicted of two offences, conspiracy to commit an act with intent to pervert the course of justice and obtaining a pecuniary advantage by deception. She received a custodial sentence of 18 months.

The panel have found the allegations proven and judged that they amount to conviction of relevant offences.

The offences have involved serious dishonesty and the panel have found no evidence of mitigation. There is nothing to suggest that Ms Virgo's actions were not deliberate or that she was acting under duress.

In the circumstances I agree with the panel's recommendation that a prohibition order is appropriate and proportionate in the public interest.

The Panel has found that Ms Virgo has been responsible for the behaviour leading to the criminal conviction of the offences and those offences clearly involved serious dishonesty

on the part of Ms Virgo. Ms Virgo has proffered no explanation or given any insight into her behaviour leading to the conviction for the offences. I therefore agree that the order should be without opportunity for her to apply to have it set aside.

This means that Ms Samantha Maraia Virgo is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against her, I have decided that Ms Samantha Maraia Virgo shall not be entitled to apply for restoration of her eligibility to teach.

This Order takes effect from the date on which it is served on the Teacher.

Ms Samantha Maraia Virgo has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this Order.

NAME OF DECISION MAKER: Paul Heathcote

A handwritten signature in black ink, appearing to read 'P Heathcote', with a large, sweeping flourish extending to the right.

Date: 12 September 2014

This decision is taken by the decision maker named above on behalf of the Secretary of State.