

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

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In the Matter of the Dismissal of  
Professor Roberto Coronado                      IN-Madison

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DECISION

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Statement of Case

This matter is before the Board of Regents upon the recommendation of Chancellor John D. Wiley that Professor Roberto Coronado be dismissed from his tenured faculty position in the UW-Madison Department of Physiology. On March 28, 2005, Professor Coronado was convicted of three felonies involving sexual assault of a child. On April 7, 2005, Richard L. Moss, chair of the Department of Physiology, on behalf of the department's Executive Committee, filed a complaint with Provost Peter Spear alleging that Professor Coronado's criminal conduct violated Faculty Policies and Procedures (FPP) 8.02.A. which requires faculty members to maintain professional honesty and integrity, constituted "the deepest possible breach of the public trust," and substantially and adversely affected the faculty, staff and students of the Department of Physiology.

Following an investigation of the complaint, on July 26, 2005, Provost Spear filed formal charges seeking Professor Coronado's dismissal on the grounds stated by Professor Moss. On August 5, 2005, Professor Coronado was sentenced to eight years in prison, to be followed by five years of extended supervision, for the crimes of which he was convicted. Provost Spear

subsequently amended the charges for dismissal to include as an additional ground the fact that Professor Coronado would not be available to perform his duties because of his incarceration.

Professor Coronado requested a hearing on the charges under Chapter UWS 4, Wisconsin Administrative Code. The hearing was held before the UW-Madison Committee on Faculty Rights and Responsibilities (CFRR) on November 16, 2005. Following the hearing, the CFRR unanimously concluded, in a decision dated November 28, 2005, that there was just cause for the dismissal of Professor Coronado.

Chancellor Wiley concurred with the CFRRs recommendation for dismissal and, as required by UWS 4.07(1), Wis. Adm. Code, offered Professor Coronado the opportunity to discuss the recommendation. By letter of December 9, 2005, Professor Coronado, through counsel, waived his right to meet with the chancellor to discuss the matter. Chancellor Wiley then forwarded his recommendation for Professor Coronado's dismissal through the UW System President to the Board of Regents for formal action.

Regent President David Walsh subsequently referred the matter to the Personnel Matters Review Committee (PN4RC) for its recommendation to the full Board as to whether Professor Coronado should be dismissed. Under s. 36.13(5), Wisconsin Statutes, and I-NIS 4.01, Wis. Adm. Code, a tenured faculty member may be dismissed only for just cause and only by the Board of Regents. The PN4RC reviewed the record, received briefs from the parties, and heard oral argument in the matter on January 27, 2006. The PN4RC unanimously determined that there is just cause for Professor Coronado's dismissal.

### Findings of Fact

1. Professor Roberto Coronado is a tenured faculty member in the Department of Physiology of the UW Medical School, where he has been employed since August 1, 1989.

2. On June 11, 2004, Professor Coronado was arrested and jailed on charges of First Degree Sexual Assault of a Child (s. 948.02(1), Wisconsin Statutes) and Repeated Sexual Assault of Same Child (s. 948.025(1), Wisconsin Statutes). On June 15, 2004, he was released on bail and remained free until August 5, 2005.

3. On June 17, 2004, a criminal complaint was filed in the Circuit Court of Dane County, Wisconsin, charging Professor Coronado with one felony count of First Degree Sexual Assault of a Child (s. 948.02(1), Wisconsin Statutes) and two felony counts of Repeated Sexual Assault of Same Child (s. 948.025(1), Wisconsin Statutes). The criminal complaint alleged multiple acts of non-violent sexual assault against two different minor females over a period of years and a single act of non-violent sexual assault against a third minor female. The alleged sexual assaults consisted primarily of touching and fondling, without intercourse or penetration.

4. At an initial court appearance on June 21, 2004, pleas of 'Not Guilty' to the charges in the criminal complaint were entered on behalf of Professor Coronado.

5. Subsequently, on September 2, 2004, an Information was filed alleging one felony count of First Degree Sexual Assault of a Child (s. 948.02(1), Wisconsin Statutes) and two felony counts of Repeated Sexual Assault of Same Child (s. 948.025(1), Wisconsin Statutes) based upon the allegations in the criminal complaint. The Information was later amended to include an

additional felony count of First Degree Sexual Assault of Same Child (s. 948.02(1), Wisconsin Statutes).

6. On March 28, 2005, Professor Coronado pleaded "No Contest" to two felony counts of Repeated Sexual Assault of Same Child and one felony count of First Degree Sexual Assault of a Child. The remaining count in the Amended Information was dismissed by the court on the request of the Dane County District Attorney.

7. Based upon the pleas of 'No Contest,' Professor Coronado was found guilty of the crimes in question.

8. One of the minor victims of Professor Coronado's crimes is his niece and the child of another professor in the Department of Physiology. All three minor victims are relatives of Professor Coronado by marriage.

9. Professor Coronado remained free on bail from June 15, 2004 until August 5, 2005, when he was sentenced to eight years in prison, to be followed by five years of extended supervision. Professor Coronado is currently incarcerated in the Wisconsin Correctional System pursuant to that sentence.

10. After his release on bail in June, 2004, Professor Coronado sought to return to his faculty duties in the Department of Physiology.

11. The Department of Physiology was opposed to Professor Coronado's continuing participation in departmental governance and other activities while his legal issues were pending, and was opposed to providing him access to departmental facilities.

12. The university initially prohibited Professor Coronado from using the department's facilities, including his laboratory and office. Following negotiations with his attorney, however, the university eventually permitted Professor Coronado limited access, consisting of substitute office space outside the department's facilities, and permission to use his laboratory for three hours on one morning per week. He performed faculty duties under this arrangement from February, 2005 until the conclusion of the criminal court proceedings and his incarceration in August, 2005.

13. Professor Coronado's presence even on a limited basis disrupted the work of individuals in the Department of Physiology. Faculty and students avoided him, and some felt threatened by his presence. In addition, the fact that the crimes with which he was charged involved department members and their families, added to the level of stress and discomfort experienced by members of the department.

14. Shortly after Professor Coronado's conviction on March 28, 2005, Professor Moss, Chair of the Department of Physiology, filed a formal complaint on behalf of the Department with Provost Spear, seeking Coronado's dismissal from the faculty. Following an investigation by Associate Professor Caitilyn Allen of the Departments of Plant Pathology and Women's Studies, Provost Spear brought formal charges for dismissal against Professor Coronado and these proceedings ensued.

15. By letter dated August 10, 2005, Provost Spear placed Professor Coronado on leave of absence without pay from his faculty appointment due to his incarceration and inability to perform his faculty duties.

### Decisions of the CFRR and Chancellor

Under s. 36.13, Wis. Stats., a tenured faculty member may only be dismissed for just cause. The term "just cause" is not defined in the statutes or in the Board's administrative rules. UW-Madison, however, through its institutional policies and procedures, has adopted the following definition of cause for dismissal:

FPP 9.03 CAUSE FOR DISMISSAL. No faculty member shall be subject to dismissal except for just cause, based upon a determination that the faculty member's conduct directly and substantially affects adversely, to a degree greater than that reserved for disciplinary action, the ability to carry out satisfactorily his/her responsibilities to the university. Examples of conduct that may warrant dismissal include, but are not limited to, fraud or intentional misrepresentation of facts for personal benefit, gross abuse of authority or influence (e.g., discriminatory or retaliatory actions, particularly where a pattern is evident), or willful and protracted violations of university rules or policies. Layoff and termination for reasons of financial emergency are not dismissals for cause, and such actions are taken pursuant to Chapter 10 of these rules.

The parties relied on this standard in establishing these issues for hearing before the CFRR:

(1) Does the following conduct directly and substantially affect adversely, to a degree greater than that reserved for disciplinary action, Professor Roberto Coronado's ability to carry out satisfactorily his responsibilities to the university, and does such conduct therefore constitute just cause for dismissal?

- (a) On March 28, 2005, in the Circuit Court for Dane County, Wisconsin, Professor Coronado pled no contest and was found guilty of two felony counts of Repeated Sexual Assault of a Child (sec. 948.025(1), Wisconsin Statutes) and one felony count of First Degree Sexual Assault of a Child (sec. 948.02(1), Wisconsin Statutes).
- (b) One of the victims of the above-described criminal behavior is the minor daughter of one of Professor Coronado's faculty colleagues in the Department

of Physiology. The minor victim is well known to the other faculty and staff in the department.

(2) Does the following fact directly and substantially affect adversely, to a degree greater than that reserved for disciplinary action, Professor Coronado's ability to carry out satisfactorily his responsibilities to the university, and does such conduct therefore constitute just cause for dismissal?

(a) Professor Coronado is incarcerated as a result of the court's sentence of eight years in prison in the above-described criminal prosecution.

Applying the just cause standard of FPP 9.03, and upon review of the stipulated facts, the CFRR reached a unanimous decision that . . . in view of Professor Roberto Coronado's incarceration for eight years for the commissions of serious felonies, there is just cause to support his dismissal from his tenured position because of his inability to perform and fulfill his responsibilities as a member of the faculty at the University of Wisconsin-Madison." Chancellor Wiley has concurred with this finding, and recommends to the Board that Professor Coronado be dismissed.

#### Issue before the Board of Regents

The ultimate issue presented to the Board of Regents is whether, based upon the record in the matter, there is just cause for Professor Coronado's dismissal from his tenured faculty position, as recommended by the CFRR and the chancellor.

#### Conclusions of Law

1. Based upon the undisputed facts of record in this matter, there is just cause for Professor Coronado's dismissal from his tenured faculty position at UW-Madison.
2. Professor Coronado shall be dismissed, effective immediately.

### Discussion

In the statement of charges against Professor Coronado, and at oral argument before the PIVIRC, the university asserted three grounds supporting just cause for dismissal: (1) The serious criminal conduct of which Professor Coronado was convicted, which violates the requirement of FPP 8.02 that faculty members maintain professional honesty and integrity; (2) The disruption to his department and the Medical School caused by his misconduct, and the negative impact it had on colleagues and students; and (3) The fact the Professor Coronado's incarceration precludes him from performing his duties.

Professor Coronado has asserted that his crimes occurred in his private life, and are not necessarily related to the performance of his duties as a faculty member. He further argues that he could perform research duties as a faculty member, and that he was allowed to do so while free on bail prior to his incarceration. Finally, he contends that his pay should have been continued after his incarceration and throughout these proceedings.

The CFRR, applying the UW-Madison definition of "cause for dismissal, " based its finding of just cause solely on the fact of Professor Coronado's incarceration and inability to perform his duties. The Board agrees with the CFRR that there is just cause for Professor Coronado's dismissal based on the fact of his incarceration. Plainly, he will be unable to perform any faculty duties for a minimum of eight years and possibly longer, depending upon the terms of his supervision following release from prison.

The Board concludes, however, that there is also just cause for Professor Coronado's dismissal based solely upon the nature of his conduct and, also, based on the impact of his conduct on his Department, colleagues and students.

Professor Coronado's conduct involved heinous and egregious sexual acts against children, which evidences a clear disregard for the safety and welfare of others. His conduct endangered the public and violated the integrity and trust Wisconsin citizens expect and require of the University of Wisconsin System and its tenured faculty. Public trust and confidence in our faculty is significantly and severely damaged by such conduct. And, because the public's perception of our faculty's character is central to its trust and support of the System such conduct is grounds alone for dismissal. Lest there is no misunderstanding, the Board wishes to make it perfectly clear that such conduct, particularly conduct that violates the rights of children, some of the most vulnerable members of society, is unacceptable. To that end, the Board notes that it recently appointed a committee to review and where appropriate recommend changes to our disciplinary system to assure that conduct of such nature will be addressed in an expeditious manner affording due process.

It also follows that given the egregious nature of Professor Coronado's conduct, its effect and its impact on the University community are also grounds for dismissal. Professor Coronado's conduct is so unacceptable and reprehensible that, as supported by the record, his community of co-workers and students had every right to object to his continued presence and employment. Professor Coronado's relationships with the University community play an integral

part in his ability to carry out his responsibilities to the University and his conduct has so impaired those relationships that it is a separate grounds for dismissal.

In reaching this conclusion, the Board is mindful of the fact that the standard for just cause set forth in UW-Madison's policies differs in some respects from the standard adopted by the Wisconsin Supreme Court in *Safransky v. State Personnel Board*, 62 Wis. 2d 464 (1974), and relied upon by the Board in other cases. Under either policy, however, the Board concludes that the standard of just cause has been satisfied.

FPP 9.03, applied by the CFRR, defines "cause for dismissal" in terms of the direct and substantial adverse effect of the alleged misconduct on the faculty member's ability to perform his duties to the university. *Safransky* provides that, in determining whether there is just cause for the termination of a tenured government employee, "one appropriate question is whether some deficiency has been demonstrated which can reasonably be said to have a tendency to impair his performance of the duties of his position or the efficiency of the group with which he works State ex rel. *Gudlin v. Civil Service Comm.*, 27 Wis. 2d 77(1965)." The case further emphasizes that there must be a nexus between the conduct complained of and its deleterious effects on job performance.

Under either standard, Professor Coronado's misconduct demonstrates that there is just cause for his dismissal, and that each of the three bases for just cause asserted by the university constitute independent grounds for that penalty. Applying FPP 9.03, it is clear that his inability to report to work for eight years completely prevents him from fulfilling his faculty duties. It is likewise clear that the gravity of his offenses and their effect within the university community

directly and substantially affect adversely his ability to carry out satisfactorily his faculty duties.

Similarly, under the Safransky standard, the record evidence demonstrates that Professor Coronado's conduct has substantially impaired his ability to perform his job duties.

In this regard, it should also be emphasized that the Board does not accept Professor Coronado's argument that his misconduct occurred in his private life, and so cannot serve as a basis for termination. While some private conduct may not appropriately be within the reach of the university's disciplinary process, the facts here show that Professor Coronado's conduct had direct implications for the university. The assertion that such conduct can be ignored as "private" is simply not supported by this record.

Finally, Professor Coronado has argued that he should not have been denied pay following his incarceration and during these dismissal proceedings, based on UWS 4.09, Wis. Adm. Code, which provides that during dismissal proceedings, a faculty member's "salary shall continue until the board makes its decision as to dismissal." It is the Board's interpretation of this rule that pay may only be continued where the faculty member is available for work, and is being prevented from work by reason of a university-imposed suspension from duties. There is no basis for paying an individual who is not otherwise available for work. Since Professor Coronado was incarcerated and not available to report for duties at the university, he was properly denied pay.

#### Order

Based upon the foregoing decision, the Board orders that Professor Roberto Coronado be dismissed from his tenured faculty position at UW-Madison, effective immediately.

. This decision may be judicially reviewed by filing a petition for review in the appropriate circuit court, as specified in s. 227.53(1)(a)3, Wis. Stats. , within 30 days of the mailing of the decision. The petition must name as party respondent the Board of Regents of the University of Wisconsin System.

This the        day of February, 2006.

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Judith A. Temby  
Secretary to the Board of Regents