

NORTHWESTERN UNIVERSITY SCHOOL OF LAW

MAJORITY OPINION

February 16, 1999

(Galluzzo, M):

The defendant was accused of and pleaded guilty to improperly collaborating with a former student and attempting to represent that student's ideas and work product as his own, in violation of sections 2(g), (h), and (j) of the Northwestern University School of Law Honor Code. The facts of the case are as follows:

Defendant is a first-year law student. On October 16, 1998, defendant's legal writing professor assigned a memo to be written in evaluation of a one page fact scenario to be due in class on Nov. 6. At the end of that class, defendant's professor distributed a page of new and additional facts to be incorporated into the memo rewrite, to be due on November 24. Prior to November 6, the facts in this new handout were not available to the defendant.

The defendant's professor, while reading the defendant's memo (who was identified only by his social security number), noticed that the memo's "statement of facts" section included the new facts that should not have been available to the defendant. The professor notified the head of the legal writing department of her discovery. The head of the department and the defendant's professor invited the defendant to meet with them on Nov. 10. At this meeting, the defendant denied any wrongdoing. The defendant testified that he knowingly lied out of fear of the potential repercussions.

However, on Nov. 13, the defendant admitted having collaborated with a former student on his "statement of facts" section. The legal writing department then reported the

violation to this Judicial Council. Defendant later testified that he felt that the legal writing professors had somehow acted in bad faith when dealing with this matter, an accusation that created doubt as to the defendant's willingness to take responsibility for his actions.

Although the identity of the collaborator is still unknown, the defendant testified that the collaborator was a 1995 graduate of Northwestern Law School that he had been friends with in college. Sometime between October 16 and November 6, the defendant discovered that his friend had also written a legal writing memo with the exact same fact scenario while a student at Northwestern Law School. The defendant testified that they never discussed the issues of the assignment until the morning of Nov. 6.

On that morning, at around 6:30 am, the defendant telephoned his friend and asked for help on the statement of facts section. The defendant testified that he was incapable of forming coherent thoughts at that time because he had consumed too much coffee and slept too little in the preceding week. The majority of the Judicial Council, having had to endure the same legal writing time pressures and deadlines as the defendant, feels little sympathy for this self-imposed state of incoherence.

Next, the defendant testified that he asked his friend what facts should and shouldn't be included in his statement of facts. His friend supplied the defendant with the facts included in the "statement of facts" section in his old memo. The defendant also testified that he took all efforts to avoid using his friend's exact language, although that necessarily implies that the defendant was more coherent and deliberate than he claimed to be. More importantly, the defendant knew, thanks to expressly clear language in the Judicial Council presentation during student orientation, his legal writing professor's classroom instructions,

and his legal writing syllabus, that this activity of sharing ideas was in direct violation of the Honor Code.

The Prosecutor and defense counsel recommended very similar penalties for the defendant's Honor Code violations. The Prosecutor suggested that the defendant receive an "F" in the class, be docked one full grade upon retaking the course, and receive a temporary notation of this violation on his transcript. The defense counsel suggested the defendant receive an "incomplete" in the class, be docked one full grade upon retaking the course, and receive a temporary notation of the violation on his transcript. After deliberation, the Judicial Council recommends the following:

1. The defendant's transcript should be adorned with a temporary notation stating that the defendant "received outside help to complete a legal writing assignment in violation of the Northwestern Law School Honor Code." This notation would remain on his transcript until his graduation, assuming that he does not violate the Honor Code again in which case the notation would become permanent.
2. The defendant should receive an "incomplete" grade with an asterisk referencing the above notation. We believe that the "F" grade could be misrepresentative of the defendant's academic abilities. The "incomplete" grade is permanent and is worth zero grade points and thus has the same effects on the defendant's GPA as an "F" would.
3. The defendant should be forced to retake the first semester legal writing course, and rather than be docked a full letter grade, he should be graded outside

of the class grading curve. This way, the legal writing professor can evaluate the defendant's work with his second-year status in mind.

We feel that the difficulty that this poses for the defendant's job search, while not insurmountable in the long run, is a necessary and natural consequence of the conscious decision to fail to follow the rules. This penalty seems to appropriately punish the defendant for his actions, deter him from further violations, and grant him the ability to rebound from his wrongdoing.