

B.C. teacher suing over ‘unimaginable hardship’ after false accusations of rape, torture

A Vancouver Island teacher falsely accused of sexual assault and torture is seeking compensation for more than two years of ‘unimaginable hardship’



POSTMEDIA NEWS

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A Vancouver Island teacher falsely accused of sexual assault and torture by a Grade 9 student — accusations that were later shown to be ripped off from TV episodes of *Law & Order: Special Victims Unit* — is seeking compensation for more than two years of “unimaginable hardship.”

In an arbitration hearing last year, the student described a series of sadistic rapes that left her beaten and bloody, as well as torture, including waterboarding and being buried alive.

B.C. teacher had to fight to restore shattered reputation after student falsely accused him of sadistic crimes



The claims were eventually revealed as fiction — with almost every act the girl described featuring in an episode of the police drama.

According to court documents, the girl was a “big fan” of the show and admitted to watching each episode at least three times.

In a decision dated July 10, 2014, labour arbitrator Joan McEwen found in favour of the B.C. Teachers’ Federation (BCTF), which represented the teacher when he filed a grievance to get his job back, saying it was clear to “everyone” that the student could not be believed. The teacher was to be “made whole as soon as possible.”

In hearings continuing next week in a Nanaimo hotel room, the BCTF will pursue a claim for damages relating to the teacher’s loss of reputation.

[Her words were] maliciously published ... knowing that they were false or with careless disregard as to whether they were true or not

Details of the upcoming arbitration are scarce, with BCTF president Jim Iker saying the union can’t comment because “proceedings around this case are ongoing.”

A civil suit filed in February identifies the teacher as Donald Barber. The Qualicum man is suing the investigator hired by the school board to report on the student’s claims, saying the investigator was negligent in her work.

According to the civil claim filed in the Supreme Court of B.C., the Grade 9 student falsely told a school counsellor she had been sexually assaulted by Barber for several years. Three days later, on Sept. 30, 2012, Barber was arrested on possible

charges of sexual exploitation. Barber was suspended with pay. Less than a month later, according to the civil suit, Crown counsel decided not to lay charges against Barber.

But in early November, the school board hired Victoria lawyer and investigator Marli Rusen to look into the student's allegations.

Her report was damning.

According to the civil claim, Rusen repeated false accusations that he had "engaged in serious acts of psychological, physical and sexual violence." She recommended the school district ensure Barber had no involvement with students and urged them to share her findings with police.

Schools and school boards are running by the seat of their pants

Barber was fired March 15, 2013.

In the civil suit, the teacher is seeking damages related to Rusen's report, saying her words were defamatory and "maliciously published ... knowing that they were false or with careless disregard as to whether they were true or not."

Barber claims he has suffered embarrassment and humiliation, as well as injury to his professional character and reputation.

The civil suit hasn't been proven in court. A statement of defence wasn't available. The Province contacted both Barber and Rusen on Thursday, but didn't receive a reply by deadline.

McGill University education Prof. Jon Bradley said the case is the first he's seen where a teacher is seeking damages for a student's false accusations.

As a society, we have a history of not believing kids, but I think this shows that maybe we've swung back a little too far the other way

"It's long overdue," he said. "Too often teachers are thrown under the bus."

Bradley said many Canadian school districts lack procedures for dealing with allegations that are fair for both student and teacher.

“Schools and school boards are running by the seat of their pants,” he said.

Bradley said it was odd that the school district fired the teacher after Crown counsel dismissed the charges.

“As a society, we have a history of not believing kids, but I think this shows that maybe we’ve swung back a little too far the other way,” he said. “We need transparent, straightforward codes of practice and procedures.”

Vancouver labour lawyer Paul Pulver, who isn’t involved in the cases, said the arbitration hearing was somewhat unique because of the “horrific allegations” against the teacher, as well as the “utter lack of corroboration.” And it isn’t uncommon for a union to seek lost wages and damages when an employee’s dismissal is overturned.

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