



HIGH COURT OF AUSTRALIA

Public Information Officer

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GRIFFITH UNIVERSITY v VIVIAN TANG

Exclusion from a PhD program was not a decision which was susceptible to review under Queensland's *Judicial Review Act*, the High Court of Australia held today.

Ms Tang was excluded from Griffith University's PhD program on the ground of alleged academic misconduct in the form of the presentation of falsified or improperly obtained data as if it resulted from laboratory work. The Assessment Board, a sub-committee of the university's Research and Postgraduate Studies Committee, found she had engaged in academic misconduct. After receiving submissions from Ms Tang the board determined that she should be excluded from the PhD program on the ground that she had undertaken research without regard to ethical and scientific standards. The Appeals Committee upheld this decision and dismissed the appeal. Ms Tang contended that there had been breaches of the requirements of natural justice, failures to comply with mandatory procedures, improper exercises of power and errors of law. She said her prospects of a career in molecular biology and bioscience had been destroyed. Ms Tang commenced action against the University under the *Judicial Review Act*. The University unsuccessfully sought to have the action dismissed in both the Queensland Supreme Court and the Court of Appeal. It then appealed to the High Court.

The issue in the appeal was whether the decision to exclude Ms Tang was a decision to which the *Judicial Review Act* applied. This depended on whether it was a decision of an administrative character made under an enactment, namely the *Griffith University Act*. Nothing in this Act dealt specifically with admission to or exclusion from a research program, academic misconduct or procedures for dealing with such cases. These powers flowed from a general description in section 5 of the university's functions, the general powers in section 6, and the powers of the University Council, including its powers of delegation.

The High Court held, by a 4-1 majority, that Ms Tang was not entitled to a review under the *Judicial Review Act* because the decision to exclude her was not made under the *Griffith University Act*. Griffith University's decision to terminate its relationship with Ms Tang did not take legal force or effect from the *Griffith University Act*. Rather, the termination occurred under the general law and under the terms and conditions on which Griffith University had been willing to enter into a relationship with Ms Tang.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*