

COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

Department of Education, : DOCKET NO. DI-92-10
: :
Petitioner : :
: :
v. : :
: :
A. Alan Opalek a/k/a : :
A. Allen Opalek, : :
: :
Respondent :

MEMORANDUM AND ORDER

On or about October 24, 1994, the Department of Education (Department), through its Office of Chief Counsel, filed with the Professional Standards and Practices Commission (Commission) a Motion for Entry of Order pursuant to section 5(a)(11) of the Teacher Certification Law, as amended, 24 P.S. §2070.5(a)(11), 1 Pa. Code §§35.37 and 35.178, and 22 Pa. Code §233.13(e)(1)(iii).

The Department requests the Commission to enter an order revoking the professional certification of the Respondent, A. Alan Opalek, based upon Respondent's default in responding to the Department's Notice of Charges and, also, because the crime of which Respondent was convicted is a crime involving moral turpitude. The Department also requests that the Commission deem Respondent to have admitted that he is a danger to the health, safety and welfare of the students of the schools of this Commonwealth.

As averred in the Motion for Entry of Order, the Department issued a Notice of Charges to Respondent on June 23, 1994. The Department avers, in part, as follows:

- a. On or about November 16, 1990, Respondent was charged with indecent assault, corruption of minors, unlawful restraint, false imprisonment, aggravated indecent assault, indecent exposure, simple assault, aggravated assault, and involuntary deviate sexual intercourse;
- b. On or about May 22, 1992, the Department filed a Notice of Charges seeking the suspension of Respondent's certification based upon the fact that he was charged with crimes involving moral turpitude;
- c. Respondent failed to file a timely response to the May 22, 1992 Notice of Charges and on September 28, 1992, the Department filed a Motion for Judgment on Default;
- d. On or about December 9, 1992, the Commission granted the Department's Motion for Judgment on Default and ordered the suspension of Respondent's certification;
- e. On or about August 30, 1993, Respondent was found guilty of corruption of minors;
- f. On or about March 17, 1994, Respondent's Motion for a New Trial and/or in Arrest of Judgment was denied;
- g. The crime corruption of minors, for which Respondent was convicted, involves moral turpitude;
- h. The facts underlying Respondent's conviction, namely, that Respondent

picked up a former female student at a dance under the pretext of showing her a jogging path, drove her to a secluded place where, refusing student's requests to be taken home, Respondent fondled her breasts and inserted his fingers and his tongue into her vagina, all

without her consent and against her will, which was overcome by fear of resisting the perceived mature authority of the Respondent.

constitute immorality, intemperance, and cruelty, all of which are grounds for discipline; and

- i. Respondent is a danger to the health, safety and welfare of students and/or other persons in the schools of the Commonwealth.

Motion for Entry of Order, at para. 1 (quoting Notice of Charges).

As averred in the motion, Respondent received, by certified mail, a copy of the Notice of Charges on June 29, 1994; and Respondent's counsel of record received a copy by certified mail on June 27, 1994. Pursuant to section 13(a) of the Teacher Certification Law, 24 P.S. §2070.13(a), Respondent had the right to request a hearing within 30 days of receipt of the Notice of Charges and was so informed by notice in the Notice of Charges. The response is due no later than July 29, 1994.

On August 1, 1994, the Commission received an untimely response to the Notice of Charges which, in any event, did not deny that Respondent had been convicted of the crime of corruption of minors in violation of 18 Pa.C.S. §6301.

Although Respondent did file a letter answer to the Motion for Judgment on Default, Respondent again did not deny that he has been convicted of the crime of corruption of minors.

At a meeting held March 10, 1995, the Commission decided to grant the Department's Motion for Entry of Order and to order to revocation of Respondent's professional certificate. The Commission enters the following Order:

ORDER

AND NOW, this 3rd day of April, 1995, upon consideration of the Motion for Entry of Order filed by the Department of Education and the response thereto, the Commission hereby FINDS and DECLARES that Respondent, A. Alan Opalek, has been convicted of a crime involving moral turpitude. Pursuant to section 5(a)(11) of the Teacher Certification Law, as amended, 24 P.S. §2070.5(a)(11), it is hereby ORDERED that the professional teaching certificate issued to respondent is REVOKED. However, the Commission declines to deem admitted that Respondent is a danger to the health, safety and welfare of the student's of this Commonwealth. Therefore, pursuant to section 15(b) of the Teacher Certification Law, as amended, 24 P.S. §2070.15(b), the Commission ORDERS that the revocation and public notice of the revocation shall be STAYED during the pendency of any appeal or the expiration of the time for appeal if no appeal is timely filed.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By: Kathleen M. Monahan
Kathleen M. Monahan
Vice-Chairman

Attest: Warren D. Evans
Warren D. Evans
Executive Director

Chairman Rosalind Jones-Johnson and Commissioner Mina H. Shuman took no part in the consideration or decision in this case.