

**COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION**

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**JOHN MCGRATH,
Respondent.**

:
:
:
:
:
:
:
:

DOCKET NO. DI-23-104

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

This matter is before the Professional Standards and Practices Commission (Commission) on a Notice of Charges and Motion for Summary Judgment filed by the Department of Education (Department). After consideration of the record in this matter and the applicable law, the Commission finds that summary judgment in favor of the Department is appropriate and enters this Order as follows:

Background

John McGrath (Respondent) holds an Intern certificate in the area of Social Studies 7-12. At all times relevant, Respondent was employed by the Our Lady of Mercy Regional Catholic School. The Department initiated disciplinary proceedings against Respondent with the filing of a Notice of Charges on September 28, 2023. The Notice of Charges alleges that Respondent was criminally convicted of Theft by Unlawful Taking or Disposition, which the Department asserts is a crime involving moral turpitude. Certified copies of the pertinent court documents are attached to the Notice of Charges. Simultaneous with the filing of the Notice of Charges, the Department filed a Motion for Summary Judgment requesting that the Commission enter summary judgment in its favor and revoke Respondent’s certificate and employment eligibility

based upon his conviction.

As required, the Department mailed copies of the Notice of Charges and Motion for Summary Judgment to Respondent at his last-known address. Respondent did not file an answer to either pleading.

The Commission heard oral argument at its regularly scheduled meeting on January 22, 2024. Respondent did not appear.

Summary Judgment Standard

Summary Judgment is appropriate only when, after examining the whole record in the light most favorable to the non-moving party, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Snyder v. Department of Environmental Resources, 588 A.2d 1001 (Pa. Cmwlth. 1991).

Material Facts

The material facts are not in dispute.¹ On August 21, 2023, Respondent was convicted in Montgomery County, Pennsylvania of Theft by Unlawful Taking or Disposition, 18 Pa.C.S. § 3921(a). The facts underlying Respondent's conviction are that he stole approximately \$25,000 from Our Lady of Mercy Regional Catholic School while serving as the school's principal.

Discussion

The Department seeks the revocation of Respondent's certificate and employment eligibility pursuant to section 9b(a)(2) of the Educator Discipline Act (Act). 24 P.S. § 2070.9b(a)(2). That section mandates, in relevant part, that the Commission

1. Since Respondent did not file a responsive pleading, the only facts considered by the Commission are those alleged in the Department's Notice of Charges, which are deemed admitted and incorporated herein by reference. See 22 Pa. Code § 233.115(c)(1); 1 Pa. Code § 35.37; See also Kinniry v. Professional Standards and Practices Commission, 678 A.2d 1230 (Pa. Cmwlth. 1996).

shall direct the Department to revoke the certificate and employment eligibility of an educator convicted of a crime involving moral turpitude upon the filing of a certified copy of the verdict, judgment or sentence of the court with the Commission.² Id. The Commission's regulations define moral turpitude, in relevant part, as follows:

(a) *Definition.* Moral turpitude includes the following:

(1) That element of personal misconduct in the private and social duties which a person owes to his fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.

(2) Conduct done knowingly contrary to justice, honesty or good morals.

...

22 Pa. Code § 237.9. Similarly, the Commonwealth Court has defined moral turpitude as "anything done knowingly contrary to justice, honesty, or good morals." Gombach v. Department of State, Bureau of Comm'n's, Elections & Legislation, 692 A.2d 1127, 1130 (Pa. Cmwlth. 1997). A crime of moral turpitude requires a reprehensible state of mind or *mens rea*. Bowalick v. Commonwealth, 840 A.2d 519, 523-24 (Pa. Cmwlth. 2004). Crimes in which fraud is an ingredient have always been regarded as involving moral turpitude. Moretti v. State Board of Pharmacy, 277 A.2d 516 (Pa. Cmwlth.1971); *citing* Jordan v. DeGeorge, 341 U.S. 223, 71 S.Ct. 703 (1951) (fraud is the touchstone of moral turpitude).

Here, the Department has presented the Commission with certified court records of Respondent's conviction for Theft by Unlawful Taking or Disposition, which the

2. The term conviction includes a plea of guilty or nolo contendere. 24 P.S. § 2070.9b(a)(2).

Commission has previously determined is a crime involving moral turpitude. See Dep't of Educ. v. Makarevich, PSPC Docket No. DI-05-02. Certainly, this crime requires conduct "contrary to the accepted and customary rule of right and duty," 22 Pa. Code § 237.9(a)(1), and conduct "done knowingly contrary to justice, honesty or good morals," 22 Pa. Code § 237.9(a)(2), and thus a "reprehensible state of mind or *mens rea*." Bowalick, 840 A.2d at 524 (Pa. Cmwlth. 2004). Fraud is also an essential ingredient of this crime. The Commonwealth Court has also recognized that crimes involving theft are crimes of moral turpitude. See Krystal Jeep Eagle, Inc. v. Bureau of Prof'l & Occupational Affairs, 725 A.2d 846 (Pa. Cmwlth. 1999) (theft by deception and theft by failure to make required disposition of funds received); Ancharski v. Bureau of Prof'l & Occupational Affairs, State Bd. of Nursing (Pa. Cmwlth. No. 1765 C.D. 2010, filed June 21, 2011) (theft by unlawful taking or disposition); Spence v. Bureau of Prof'l & Occupational Affairs (Pa. Cmwlth. No. 1692 C.D. 2009, filed March 22, 2010) (theft by unlawful taking or disposition).³ Therefore, the Commission finds that Respondent has been convicted of a crime of moral turpitude.

Because Respondent has been convicted of a crime involving moral turpitude, the Commission must direct the Department to revoke Respondent's certificate and employment eligibility. 24 P.S. § 2070.9b(a)(2); See also Bowalick, 840 A.2d at 522 (Pa. Cmwlth. 2004) (revocation of a teaching certificate on summary judgment is appropriate upon proof of a conviction of a crime of moral turpitude); citing Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230, 1234 (Pa. Cmwlth. 1996).⁴

3. Ancharski and Spence are cited herein for their persuasive value pursuant to 210 Pa. Code § 69.414(a).

4. Pursuant to section 15 of the Act, an appeal shall not operate as a stay when the discipline is imposed

Order

AND NOW, this 14th day of February 2024, upon consideration of the Department's Motion for Summary Judgment and the lack of response thereto, it is hereby ORDERED:

1. The Motion is Granted.
2. Pursuant to 24 P.S. § 2070.9b(a)(2), the Department is directed to revoke Respondent's certificate and eligibility to be employed as a charter or cyber charter school staff member or a contracted educational provider staff member effective on the date of this Order.
3. Respondent is not eligible to be employed in a school entity in a position requiring certification or as a charter or cyber charter school staff member or contracted educational provider staff member, or eligible for any certificate until his certificate and employment eligibility are reinstated in accordance with the Act.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By:



Myron Yoder
Chairperson Pro Tempore

under section 9b. 24 P.S. § 2070.15. Therefore, the revocation of Respondent's certificate and employment eligibility will be effective immediately.



Attest: _____

Shane F. Crosby
Executive Director

Date Mailed: February 14, 2024