

is filed with the Commission. 24 P.S. §2070.5(a)(11).

In support of its Motion, the Department attached certified copies of the pertinent court documents reflecting Respondent's conviction. Respondent, having been served by certified mail with the Notice of Charges and the Motion for Summary Judgment, failed to respond to either pleading. Accordingly, the facts alleged in the Notice of Charges are deemed admitted. 22 Pa. Code §233.13(e)(1)(iii); 1 Pa. Code §35.28.

In the instant case, there is no dispute that Respondent was convicted of Indecent Assault and Corruption of Minors. Thus, the only question before the Commission is whether these crimes, or any of these crimes, constitute crimes involving moral turpitude. The determination of whether a crime involves moral turpitude is based solely upon the elements of the crime or misdemeanor. The facts underlying the charges are not relevant to the issue of moral turpitude. 22 Pa. Code §237.9(b); Startzel v. Commonwealth, Department of Education, 128 Pa. Commonwealth Ct. 110, 114, 652 A.2d 1005, 1007 (1989).

By regulation, the Commission has already determined that Corruption of Minors and Indecent Assault are crimes involving moral turpitude. 24 P.S. §1-111(e)(1); 22 Pa. Code §237.9(c). Further, the allegation that Respondent poses a danger to the health, safety and welfare of students is deemed admitted by virtue of Respondent's failure to respond to the Notice of Charges. Accordingly, there is no genuine issue as to any material fact and immediate revocation of Respondent's teaching certificate will be ordered as a matter of law.

ORDER

AND NOW, this 13th day of September, 2000, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the professional teaching certificate issued to Respondent Donald R. Foose shall be REVOKED by the Department pursuant to section 5(a)(11) of the Teacher Certification Law, as *amended*, 24 P.S. § 2070.5(a)(11). In addition, the Commission finds that Respondent is deemed to have admitted that he is a danger to the health, safety and welfare of the students of this Commonwealth. Thus, the revocation shall be effective IMMEDIATELY.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY:

Richard D. Hupper
Chairperson

ATTEST:

Carolyn Angelo
Executive Director

Date Mailed: