

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**TARLEY P. COOPER,
Respondent.**

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DOCKET NO. DI-19-060

MEMORANDUM AND ORDER

This matter is before the Professional Standards and Practices Commission (“Commission”) upon the Department of Education’s (“Department”) Motion for Summary Judgment. For the reasons set forth below, the Motion is granted.

On August 30, 2019, the Department filed a Notice of Charges alleging, *inter alia*, that Respondent has been convicted of a crime set forth in section 111(e)(1) through (3) of the Public School Code of 1949 and a crime involving moral turpitude, namely Aggravated Assault (18 Pa.C.S. § 2702(a)(3)).¹ Simultaneous with the filing of the Notice of Charges, the Department filed a Motion for Summary Judgment requesting the Commission to immediately revoke Respondent’s Pennsylvania educator certification² and employment eligibility pursuant to section 9b(a)(2) of the Educator Discipline Act (“Act”). Section 9b(a)(2) of the Act requires the Commission to direct the Department to revoke the certification and employment eligibility of an educator convicted of a crime

1. Respondent’s conviction stems from allegations he became physically combative with police officers who were dispatched to his residence in response to a report of an argument between Respondent and his wife.

2. Respondent was issued a Day-to-Day Substitute Emergency Permit in the area of All Instructional Areas PK-12.

involving moral turpitude or a crime listed in section 111(e)(1) through (3) of the Public School Code of 1949 upon the filing of a certified copy of the verdict, judgment or sentence of the court with the Commission. 24 P.S. § 2070.9b(a)(2). Attached to the Department's Notice of Charges are certified copies of the pertinent court documents reflecting Respondent's conviction.

The Department served the Notice of Charges and Motion for Summary Judgment on Respondent by first class and certified mail. Notwithstanding the language in the Notice of Charges cautioning Respondent that failure to respond could result in the factual assertions being deemed admitted and the imposition of discipline without a hearing, Respondent failed to respond to either pleading.³ Accordingly, the facts alleged in the Notice of Charges are deemed admitted. 22 Pa. Code § 233.115(c)(1); 1 Pa. Code § 35.37.

We can grant summary judgment 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). In the instant case, there is no dispute that Respondent has been convicted of Aggravated Assault. Therefore, the only question before the Commission is whether Aggravated Assault is a crime involving moral turpitude or is among the crimes enumerated in

3. The Commission received a letter from Respondent on January 7, 2020. Respondent does not contest that he pleaded guilty to Aggravated Assault. Rather, he asserts that the criminal complaint was a "complete fabrication" and that he was wrongfully convicted. However, in this administrative proceeding, Respondent is prohibited from collaterally attacking his conviction. Commonwealth v. Duffey, 639 A.2d 1174, 1177 (Pa. 1994); Krystal Jeep Eagle v. Bureau of Prof'l, 725 A.2d 846, 850 (Pa. Cmwlth. 1998).

section 111(e)(1)-(3) of the Public School Code of 1949. Aggravated Assault is a crime enumerated in section 111(e)(1) of the Public School Code of 1949 and a crime involving moral turpitude *per se*. 24 P.S. § 1-111(e)(1); 22 Pa. Code § 237.9(c)(1). Thus, there is no genuine issue as to any material fact and the Department is entitled to judgment in its favor as a matter of law as the Act mandates revocation. 24 P.S. § 2070.9b(a)(2); See also Bowalick v. Dep't of Educ., 840 A.2d 519 (Pa. Cmwlth. 2004)(revocation of a teaching certificate on summary judgment is appropriate upon proof of a conviction of a crime of moral turpitude).

Finally, our General Assembly has determined that in those cases where an educator is convicted of an offense compelling revocation under section 9b of the Act, an appeal from the Commission's adjudication will not delay the imposition of discipline. 24 P.S. § 2070.15. Therefore, the revocation of Respondent's certification and employment eligibility will be effective immediately.

Accordingly, we enter the following:

ORDER

AND NOW, this 31st day of January 2020, upon consideration of the Motion for Summary Judgment filed by the Department of Education and the lack of response thereto, it is hereby ORDERED that the educator certification and eligibility to be employed as a charter or cyber charter school staff member or a contracted educational provider staff member of Respondent TARLEY P. COOPER shall be REVOKED by the Department pursuant to 24 P.S. § 2070.9b(a)(2). Pursuant to 24 P.S. § 2070.16(c), the Commission shall not reinstate Respondent's educator certification or employment eligibility for the time period set forth in 24 P.S. § 1-111(e). This Order is effective IMMEDIATELY.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

By:



Myron Yoder
Chairperson Pro Tempore

Attest:



Shane F. Crosby
Executive Director

Date Mailed: January 31, 2020