

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**JAMES R. HART,
Respondent.**

:
:
:
:
:
:
:
:

DOCKET NO. DI-19-108

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 October 24, 2019, the Department filed a Notice of Charges alleging that Respondent has been convicted of a crime involving moral turpitude, namely Invasion of Privacy (18 Pa.C.S. § 7507.1(a)(1)). Simultaneous with the filing of the Notice of Charges, the Department filed a Motion for Summary Judgment requesting that the Commission enter an order directing the Department to revoke Respondent’s Pennsylvania educator certification¹ 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 involving moral turpitude upon the filing of a certified copy of the verdict, judgment or sentence of the court with the Commission.

1. Respondent holds an Instructional II Pennsylvania teaching certificate in the area of Elementary K-6. At all relevant times, Respondent was employed as a teacher by the Fox Chapel Area School District.

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. 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 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 Invasion of Privacy. Therefore, the only question before the Commission is whether this crime involves moral turpitude. The determination of whether a crime involves moral turpitude turns on the elements of the crime juxtaposed against the Commission's definition of moral turpitude.² The facts underlying the charges are not relevant to the issue of moral

3. 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; (3) Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury. 22 Pa. Code § 237.9(a).

turpitude. 22 Pa. Code § 237.9(b); Startzel v. Commonwealth, Department of Education, 562 A.2d 1005, 1007 (Pa. Cmwlth.1989).

The Commission has previously determined that Invasion of Privacy is a crime involving moral turpitude. See Dep't of Educ. v. Curry, PSPC Docket No. DI-12-39; Dep't of Educ v. Wright, PSPC Docket No. DI-14-95. 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 JAMES R. HART shall be REVOKED by the Department pursuant to 24 P.S. § 2070.9b(a)(2). 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