

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**ANGELA M. GEARY,
Respondent.**

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DOCKET NO. DI-19-186

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 31, 2019, the Department filed a Notice of Charges alleging that Respondent has been convicted of a crime involving moral turpitude, namely two counts of Theft by Deception (18 Pa.C.S. § 3922(a)(1) and (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 involving moral turpitude upon the filing of a certified copy of the

1. The facts underlying Respondent’s convictions are that she stole approximately \$207.45 from a grocery store by paying for items with bad checks and that she stole, endorsed, and cashed a money order belonging to another person.

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

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 convictions.

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 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 Theft by Deception. 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.³ 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

turpitude. 22 Pa. Code § 237.9(b); Startzel v. Commonwealth, Department of Education, 562 A.2d 1005, 1007 (Pa. Cmwlth.1989). As a general rule, all crimes of which fraud is an element are looked on 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).

The Commission has previously determined that Theft by Deception is a crime involving moral turpitude. See Dep't of Education v. Coleman-Brown, PSPC Docket No. DI-99-06; See *a/so* 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 constitute crimes involving moral turpitude for purposes of statute allowing Board of Vehicle Manufacturers, Dealers, and Salespersons to revoke vehicle dealer license). 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 *a/so* 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

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

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 ANGELA M. GEARY 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