

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

<b>DEPARTMENT OF EDUCATION,</b>	:	
<b>Petitioner,</b>	:	
	:	
	:	
v.	:	<b>DOCKET NO. DI-19-223</b>
	:	
<b>ABEY S. DREW,</b>	:	
<b>Respondent.</b>	:	

**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 AND PROCEDURAL HISTORY**

Abey S. Drew (“Respondent”) was issued Day-to-Day Substitute Emergency Permits in the area of All Subject Areas PK-12 in 2015, 2016, and 2017. The Department initiated disciplinary proceedings against Respondent with the filing of a Notice of Charges on December 27, 2019. The Notice of Charges alleges that Respondent was convicted of the crime 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 certificates and employment eligibility based upon her conviction.

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

The Commission heard oral argument at its regularly scheduled meeting on May 11, 2020. Respondent was not present.

### 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.<sup>1</sup> On November 29, 2018, Respondent was convicted in the Court of Common Pleas of York County, Pennsylvania of Theft by Unlawful Taking or Disposition, 18 Pa.C.S. § 3921(a). The facts underlying the conviction are that Respondent stole \$16,237.79 from the Dollars for Scholars program operated by the York Suburban School District, while serving as the program treasurer.

### DISCUSSION

The Department seeks the revocation of Respondent's certificates 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 shall direct the Department to revoke the certificate and employment eligibility of an

---

1. Since Respondent did not file a responsive pleading, the only facts considered by the Commission are those alleged in the Notice of Charges, which the Commission deems admitted. 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).

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. Id.<sup>2</sup> 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 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. The Department seeks a determination that these crimes involve moral turpitude. The

---

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

Commission is required to make its assessment “based solely upon the elements of the crime.” 22 Pa. Code § 237.9(b); See also Startzel v. Commonwealth, Department of Education, 562 A.2d 1005, 1007 (Pa. Cmwlth.1989). The underlying facts or details of a conviction are not relevant to the issue of moral turpitude.

The Commission has previously examined the elements of Theft by Unlawful Taking or Disposition<sup>3</sup> and determined that this crime involves moral turpitude. See Dep’t of Education 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. 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, file 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).<sup>4</sup>

---

3. Theft by Unlawful Taking or Disposition is defined, in pertinent part, as follows:

(a) *Movable property*. — A person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with intent to deprive him thereof.

18 Pa.C.S. § 3921(a).

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

Because Respondent has been convicted of a crime of moral turpitude, the Commission must direct the Department to revoke Respondent's certificates and employment eligibility. 24 P.S. § 2070.9b(a)(2); *See also* Bowalick, 840 A.2d at 522 (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).<sup>5</sup>

### **ORDER**

AND NOW, this 24<sup>th</sup> day of June 2020, upon consideration of the Department of Education's Motion for Summary Judgment and the lack of response thereto, it is hereby ORDERED:

1. The Motion for Summary Judgment is Granted.
2. Pursuant to 24 P.S. § 2070.9b(a)(2), the Department is directed to revoke Respondent's certificates 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 her certificates or employment eligibility is reinstated in accordance with the Act.

---

5. 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 certificates and employment eligibility will be effective immediately.

PROFESSIONAL STANDARDS AND  
PRACTICES COMMISSION

By: 

---

Myron Yoder  
Chairperson Pro Tempore

Date Mailed: June 24, 2020



Attest: \_\_\_\_\_  
Shane F. Crosby  
Executive Director