

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

DEPARTMENT OF EDUCATION,	:	
Petitioner,	:	
	:	
	:	
v.	:	DOCKET NO. DI-20-009
	:	
DARREN A. HANDLEY,	:	
Respondent.	:	

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

Darren A. Handley (“Respondent”) holds an Instructional I certificate in the areas of Biology 7-12 and General Science 7-12. At all relevant times, Respondent was employed as an Athletic Director and Assistant Principal by the Fayette County High School in Fayetteville, Georgia. The Department initiated disciplinary proceedings against Respondent with the filing of a Notice of Charges on January 31, 2020. The Notice of Charges alleges that Respondent was convicted of the Georgia crime of Theft by Taking, 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 certificate and employment eligibility based upon his conviction.

As required, the Department mailed copies of the Notice of Charges and Motion for Summary Judgment to Respondent at his 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.¹ On November 2, 2016, Respondent was convicted in the Superior Court of Fayette County, Georgia of five counts of Theft by Taking, O.C.G.A. § 16-8-2. The facts underlying the conviction are that Respondent misappropriated, misused, mishandled, and miscredited several thousand dollars in public and private funds, including funds associated with the school district, regional athletic association and various booster clubs.

DISCUSSION

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).

The Department seeks the revocation of Respondent's certificate 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 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.² 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.

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

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 Taking. The Department seeks a determination that this crime involves moral turpitude. The 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 Georgia crime of Theft by Taking is defined as follows:

A person commits the offense of theft by taking when he unlawfully takes or, being in lawful possession thereof, unlawfully appropriates any property of another with the intention of depriving him of the property, regardless of the manner in which the property is taken or appropriated.

O.C.G.A. § 16-8-2. 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. Therefore, the Commission concludes that the Georgia crime of Theft by Taking is a crime of moral turpitude. 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).³

Because Respondent has been convicted of a crime of moral turpitude, the Commission must direct the Department to revoke Respondent's certificate 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).⁴

ORDER

AND NOW, this 24th 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 certificate 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

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

4. 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.

requiring certification or as a charter or cyber charter school staff member or contracted educational provider staff member, or eligible for any certificate until his certificate or employment eligibility is reinstated in accordance with the Act.

PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

By: 

Myron Yoder
Chairperson Pro Tempore

Date Mailed: June 24, 2020


Attest: _____
Shane F. Crosby
Executive Director