

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

**DEPARTMENT OF EDUCATION,  
Petitioner,**

**v.**

**DONALD R. DARE,  
Respondent.**

:  
:  
:  
:  
:  
:  
:  
:

**DOCKET NO. DI-20-094**

**MEMORANDUM AND ORDER**

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

**BACKGROUND AND PROCEDURAL HISTORY**

The Department initiated disciplinary proceedings against Donald R. Dare (“Respondent”) with the filing of a Notice of Charges on November 17, 2020. The Notice of Charges alleges that Respondent was convicted of Simple Assault after he held a knife to his 77-year-old mother’s chest and threatened to kill her and himself. The Notice of Charges further alleges that Respondent’s conduct constitutes immorality and intemperance under the Educator Discipline Act (“Act”) and the Commission’s regulations and requests the revocation of Respondent’s certificates and employment eligibility.

Respondent’s response to the Notice of Charges was due on or before December 17, 2020. When no response was filed, on December 24, 2020, the Department filed a Motion for Judgment on Default, requesting that the Commission find Respondent in default and issue an order directing the Department to revoke his

certificates and employment eligibility. By letter dated December 14, 2020, the Commission's executive director notified Respondent that the Commission would consider the Department's motion at its January 11, 2021 meeting. In response, Respondent emailed the executive director and stated that he "support[s] the Department of Education revoking [his] certificate." The Commission considered the motion at its January 11, 2021 meeting as scheduled.

#### FINDINGS OF FACT

1. Respondent was issued Day-to-Day Substitute Emergency Permits in the area of All Instructional Areas PK-12 on May 1, 2017 and August 1, 2017.
2. Respondent most recently worked as a substitute teacher in the Warren County School District during the 2017-2018 school year.
3. On February 24, 2019, Respondent held a knife to his then 77-year-old mother's chest and said, "It's time for you to go and it's time for me to go."
4. After Respondent was disarmed and admitted to the hospital, he continued to threaten to kill his mother and himself.
5. As a result of his actions, Respondent was arrested and subsequently pleaded guilty to Simple Assault, 18 Pa.C.S. § 2701(a)(3).
6. Respondent received the Notice of Charges and all other notices in this matter.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this matter.
2. Respondent is in default under 1 Pa. Code § 35.37. 22 Pa. Code § 233.115(c)(1).
3. The Commission may deem admitted the relevant facts stated in the Notice of

Charges and proceed to consideration of discipline based upon the admitted facts and exhibits to the Notice of Charges. 22 Pa. Code § 233.115(c)(1); Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230 (Pa. Cmwlth. 1995).

4. Immorality is conduct which offends the morals of the Commonwealth and is a bad example to the youth whose ideals a professional educator or charter school staff member has a duty to foster and elevate. 22 Pa. Code § 237.3.
5. Respondent is guilty of immorality.
6. Intemperance is a loss of self-control or self-restraint, which may result from excessive conduct. 22 Pa. Code § 237.5.
7. Respondent is guilty of intemperance.
8. Respondent is subject to discipline under the Act. 24 P.S. § 2070.9c(a)(1) and (3).

### DISCUSSION

Under 22 Pa. Code § 233.115(a), a Notice of Charges is to be treated as an order to show cause under 1 Pa. Code § 35.14. If the educator timely responds in writing to the Notice of Charges, setting forth the facts upon which he or she is relying and stating concisely the matters of law relied upon, in compliance with 1 Pa. Code 35.37, the Commission will appoint a hearing officer to conduct an evidentiary hearing on the matter. 22 Pa. Code § 233.115(d). If, however, the educator fails to timely respond to the Notice of Charges, the educator is deemed to have defaulted under 1 Pa. Code § 35.37, and the Commission may deem admitted the relevant facts stated in the Notice of Charges and proceed to consideration of discipline based upon the

admitted facts and exhibits to the Notice of Charges. 22 Pa. Code § 233.115(c)(1); Kinniry v. Professional Stds. & Practices Comm'n, 678 A.2d 1230 (Pa. Cmwlth. 1995).

Here, the Department mailed a copy of the Notice of Charges to Respondent by first class mail on November 17, 2020. The first class mail was not returned, and the post office confirmed that Respondent receives mail at the address used for service. (Motion for Entry of Order, Attachment 1). Depositing in the post office of a properly addressed letter with prepaid postage raises a natural presumption that the letter reached its destination by due course of mail. In re Rural Route Neighbors, 960 A.2d 856, 861 (Pa. Cmwlth. 2008). After laying out the charges against Respondent and calling for the revocation of his certificates and employment eligibility, the Notice of Charges stated:

If you contest any factual assertion made in this Notice, you have a right to request, in writing, a hearing. The proceeding shall be in the nature of a formal hearing conducted in accordance with the Educator Discipline Act (24 P.S. §§ 2070.1a – 2070.18c). Your response and request for a hearing must include specific admissions or denials of the factual assertions, as well as a concise reference to the facts and matters of law relied upon.

YOUR RESPONSE MUST BE RECEIVED BY THE COMMISSION WITHIN THIRTY (30) DAYS AFTER THE DATE OF SERVICE OF THIS NOTICE OF CHARGES. IF YOU FAIL TO FILE A RESPONSE TO THIS NOTICE OR TO REQUEST A HEARING WITHIN THIRTY (30) DAYS OF SERVICE, ALL OF THE FACTUAL ASSERTIONS STATED IN THE ABOVE NOTICE MAY BE CONSIDERED ADMITTED AND DISCIPLINE MAY BE IMPOSED WITHOUT A HEARING. ADDITIONALLY, IF YOU FAIL TO RESPOND AND OR MAINTAIN A CURRENT ADDRESS WITH THE DEPARTMENT AND THE PROFESSIONAL STANDARDS AND PRACTICES COMMISSION, DISCIPLINE MAY BE IMPOSED BY THE PROFESSIONAL STANDARDS AND PRACTICES COMMISSION WITHOUT FURTHER NOTICE TO YOU AND WITHOUT YOUR PRESENCE.

Notice of Charges, page 3.

Respondent's response to the Notice of Charges was due on or before December 17, 2020. However, despite the clear directive in the Notice of Charges, Respondent did not file a response or request a hearing. Therefore, Respondent is in default under 1 Pa. Code § 35.37 and the Commission may deem admitted the relevant facts stated in the Notice of Charges and proceed to consideration of discipline without scheduling an evidentiary hearing.

The Act empowers the Commission to "direct the Department to discipline any educator in accordance with section 9b, 9c, 9d or 9e." 24 P.S. § 2070.5(a)(11.1). Section 9c provides, in pertinent part, that the Commission shall direct the Department to impose discipline against any educator for conduct found by the Commission to constitute immorality or intemperance. 24 P.S. § 2070.9c(a)(1), (3). The Act does not define these terms, but rather directs the Commission to establish definitions. 24 P.S. § 2070.9c(b).

The Commission has defined immorality as "conduct which offends the morals of the Commonwealth and is a bad example to the youth whose ideals a professional educator has a duty to foster and elevate." 22 Pa. Code § 237.3. Respondent's conduct clearly offends the Commonwealth's morals and sets the requisite bad example. Furthermore, Respondent's actions evidence a clear disregard for the rights and well-being of others. Therefore, Respondent is guilty of immorality.

Intemperance is a loss of self-control or self-restraint, which may result from excessive conduct. 22 Pa. Code § 237.5. A single episode can be sufficient to establish intemperance. Gow v. Department of Education, 763 A.2d 528 (Pa. Cmwlth.

2000). Respondent's violent behavior was excessive and unquestionably evidences a loss of self-control or self-restraint. Therefore, Respondent is guilty of intemperance.

The Department has requested that the Commission issue an order directing it to revoke Respondent's certificates and employment eligibility. By defaulting, Respondent has forfeited the opportunity to provide the Commission with evidence in mitigation of any sanction. Moreover, Respondent has expressed his agreement with having his certificates and employment eligibility revoked. Accordingly, the Commission enters the following:

**ORDER**

AND NOW, this 24<sup>th</sup> day of February 2021, it is hereby Ordered:

1. The Motion for Judgment on Default is granted.
2. The Department is directed to revoke Respondent's certificates and his eligibility to be employed as a charter or cyber charter school staff member or contracted educational provider staff member. The revocation of Respondent's certificates and employment eligibility shall be effective upon the conclusion of any appeal from this order or, if no appeal is timely taken, the expiration of the time prescribed for appeal.
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 his certificates and employment eligibility are reinstated in accordance with the Act.

PROFESSIONAL STANDARDS AND  
PRACTICES COMMISSION

By: 

---

Myron Yoder  
Chairperson Pro Tempore

Attest: 

---

Shane F. Crosby  
Executive Director

Date Mailed: February 24, 2021