

As required, the Department mailed copies of the Notice of Charges and Motion for Summary Judgment to Respondent at his last-known address. In response, Respondent sent a letter stating, “I am responding to Docket DI-21-008. My Teaching Certificate has been inactive since 2004. I have no issue nor do I challenge my teaching certificate being revoked. I forfeit by teaching certificate.”

The Commission heard oral argument at its regularly scheduled meeting on March 15, 2021. 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. On March 17, 2008, Respondent was convicted in the United States District Court for the District of Maryland of Bribery of Public Officials and Witnesses, 18 U.S.C. § 201(b)(2)(A). The facts underlying the conviction are that Respondent, while working as a prison guard, accepted approximately \$14,000 worth of bribes over seven months in exchange for smuggling contraband into the prison.

DISCUSSION

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.¹ 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'ns, 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 Bribery of Public Officials and Witnesses. The

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

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 crime of Bribery of Public Officials and Witnesses is defined, in relevant part, as follows:

(b) Whoever—

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in [] the performance of any official act;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

18 U.C.S. § 201(b)(2)(A).² It is clear that this crime requires conduct “contrary to the accepted and customary rule of right and duty,” 22 Pa. Code § 237.9(a)(1),

2. “Public official” has been defined as:

Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror.

18 U.S.C. § 201(a)(1). Congress has defined “official act” to include “any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.” 18 U.S.C. § 201(a)(3).

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 federal crime of Bribery of Public Officials and Witnesses is a crime of moral turpitude.

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).³

ORDER

AND NOW, this 16th day of April 2021, upon consideration of the Department of Education’s Motion for Summary Judgment, 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 requiring certification or as a charter or cyber charter school staff member or

3. An appeal of the Commission’s adjudication will not delay the imposition of discipline if the discipline is imposed under section 9b of the Act. 24 P.S. § 2070.15. Therefore, the revocation of Respondent’s certificate and employment eligibility will be effective immediately.

contracted educational provider staff member, or eligible for any certificate until his certificate 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: April 16, 2021