

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**CARL S. REMUS,
Respondent.**

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DOCKET NO. DI-04-27

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, which seeks the revocation of Respondent’s teaching certificate. Initially, the Department filed a Notice of Charges against Respondent on October 25, 2004, alleging that the Respondent had been convicted in January, 2004, of the crimes of Indecent Assault (18 Pa.C.S. §3126), Corruption of Minors (18 Pa.C.S. §6301), Criminal Attempt to Commit Unlawful Contact or Communication with a Minor (18 Pa.C.S. §901), Criminal Solicitation to Commit the crime of Corruption of Minors (18 Pa.C.S. §902), and Tampering with or Fabricating Physical Evidence (18 Pa.C.S. §4910).

In its Motion for Summary Judgment, filed simultaneously with the Notice of Charges, the Department requests the Commission to revoke Respondent’s Instructional II teaching certificate endorsed in the area of Elementary K-6 and any and all other certificates issued to him by the Commonwealth of Pennsylvania pursuant to sections 5(a)(11.1) and 9.2 of the Professional Educator Discipline Act, 24 P.S.

§§2070.5(a)(11.1) and 2070.9b. Section 9.2(2) of the Professional Educator Discipline Act requires the Commission to direct the Department to revoke the certificate of a professional educator convicted of a crime involving moral turpitude, a crime listed in section 111(e) (1) through (3) Public School Code of 1949 (24 P.S. §1-111(e)), or a crime from another jurisdiction that is equivalent to the crimes that fall under the two preceding categories whenever a certified copy of the verdict, judgment or sentence of court is filed with the Commission. 24 P.S. §2070.9b(2).

In support of its Motion, the Department attached certified copies of the pertinent court documents reflecting Respondent's convictions. Respondent, having been served by certified mail with the Notice of Charges and the Motion for Summary Judgment, 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.

In the instant case, there is no dispute that Respondent was convicted of the crimes listed above. Thus, the only question before the Commission is whether these crimes involve moral turpitude, are listed in section 111(e) (1) through (3) of the Public School Code of 1949, or are equivalent thereto. The determination of whether a crime involves moral turpitude is based solely upon the elements of the crime or misdemeanor. The facts underlying the charges are not relevant to the issue of moral turpitude. 22 Pa. Code §237.9(b); Startzel v. Commonwealth, Department of Education, 128 Pa. Commonwealth Ct. 110, 114, 652 A.2d 1005, 1007 (1989). As the crimes of Corruption of Minors and Indecent Assault¹ are listed in section 111(e)(1)

1. The Commission need not reach the question whether the crimes of Criminal Attempt to Commit Unlawful Contact or Communication with a Minor, Criminal Solicitation to Commit the crime of Corruption of Minors or Tampering with or Fabricating Physical

through (3) of the Public School Code, there is no genuine issue as to any material fact and revocation of Respondent's teaching certificate will be ordered as a matter of law.

In addition, the Department requests that the Commission find that Respondent's conduct constituted sexual abuse or exploitation. The term "sexual abuse or exploitation" is defined in the Professional Educator Discipline Act as:

the employment, use, persuasion, inducement, enticement or coercion of a child or student to engage in, or assist any other person to engage in, any sexually explicit conduct or a simulation of any sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of any sexually explicit conduct or conduct that constitutes an offense under 18 Pa.C.S. Ch 31 (relating to sexual offenses) or section 6312 (relating to sexual abuse of children) or other forms of sexual exploitation of children or students.

24 P.S. §2070.1b. A finding of sexual abuse or exploitation precludes reinstatement of a professional educator under section 16 of the Act. 24 P.S. §2070.16(b).

While the Act does not prescribe how or when the Commission should make a finding of sexual abuse or exploitation, the Commission believes that in most cases such a finding should be made only after sufficient facts are presented to allow for a proper analysis and conclusion. Typically, summary disposition of a case is not conducive to a finding of sexual abuse or exploitation. The Commission finds, however, that in those cases in which a professional educator has been convicted of a crime included in the Act's definition, a finding of sexual abuse or exploitation can be made on a motion for summary disposition of the case. In the instant case, the Respondent was convicted of an offense under 18 Pa.C.S. Chapter 31 (Indecent Assault) and thus is guilty of sexual abuse or exploitation *per se*.

Evidence involve moral turpitude as the remaining crimes for which Respondent was convicted are listed in section 111(e).

ORDER

AND NOW, this 31st day of March, 2005, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the professional teaching certificate issued to Respondent Carl S. Remus shall be REVOKED by the Department pursuant to sections 5(a)(11.1) and 9.2 of the Professional Educator Discipline Act, *as amended*, 24 P.S. §§ 2070.5(a)(11.1) and 2070.9b. The Commission also finds that the Respondent is guilty of sexual abuse or exploitation.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY: _____

David J. Krauser
Chairperson

ATTEST: _____

Carolyn Angelo
Executive Director

Date Mailed: