

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

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**DAVID NAPERKOSKI,
Respondent.**

:
:
:
:
:
:
:
:
:
:
:

DOCKET NO. DI-12-15

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 professional educator certification. Initially, the Department filed a Notice of Charges against Respondent on February 3, 2012, alleging that the Respondent had been convicted of the crime of Theft by Unlawful Taking – Moveable Property, 18 Pa.C.S. §3921(a).

In its Motion for Summary Judgment, filed simultaneously with the Notice of Charges, the Department requests that the Commission revoke Respondent’s Vocational Instructional II teaching certificate in the areas of Carpentry and Cooperative Education 7-12 pursuant to sections 5(a)(11.1) and 9b(2) of the Professional Educator Discipline Act. 24 P.S. §§2070.5(a)(11.1) and 2070.9b(2). Section 9b(2) of the Professional Educator Discipline Act requires the Commission to direct the Department to revoke the certificate of an educator convicted of a crime involving moral turpitude, a crime listed in section 111(e) (1) through (3) of the 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 conviction. Respondent, having been served 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 Theft by Unlawful Taking – Moveable Property. Thus, the only question before the Commission is whether this crime involves moral turpitude, is listed in section 111(e)(1) through (3) of the Public School Code of 1949, or is 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 Commission has previously held that the crime of Theft by Taking – Moveable Property is a crime involving moral turpitude, there is no genuine issue as to any material fact. Under the Professional Educator Discipline Act, the Commission must revoke the certification of an educator who is convicted of any crime involving moral turpitude. 24 P.S. §2070.9b(2). Accordingly, we enter the following:

ORDER

AND NOW, this 31st day of May, 2012, upon consideration of the Motion for Summary Judgment filed by the Department of Education, it is hereby ORDERED that the professional educator certification issued to Respondent DAVID NAPERKOSKI shall be REVOKED by the Department pursuant to sections 5(a)(11.1) and 9b of the Professional Educator Discipline Act, as *amended*, 24 P.S. §§ 2070.5(a)(11.1) and 2070.9b.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY: _____

Gilbert R. Griffiths
Chairperson

ATTEST: _____

Carolyn Angelo
Executive Director

Date Mailed: May 31, 2012