

STATE BOARD OF EDUCATION

STATE OF GEORGIA

E. S. COOK, JR., CHAIRMAN, :
: Petitioner, :
: v. : CASE NO. 1982-10
: CHARLES OTIS LOGAN, :
: Respondent. :

O R D E R


THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the teaching certificate of Charles Otis Logan is hereby revoked.

Mr. Vann and Mrs. Oberdorfer were not present.

This 11th day of November, 1982.



HOLLIS Q. LATHEM
Acting Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

E.S. COOK, JR., CHAIRMAN,	:	
	:	
Petitioner,	:	CASE NO. 1982-10
	:	
v.	:	REPORT OF
	:	SPECIAL MASTER
	:	
CHARLES OTIS LOGAN,	:	
	:	
Respondent.	:	

PART I

SUMMARY OF APPEAL

This is a report on the exceptions filed by Charles Otis Logan (hereinafter "Respondent") from a Professional Practices Commission report to the State Board of Education which recommended revocation of respondent's teaching certificate on the grounds he committed an act involving moral turpitude and he did not account properly for school funds. The Special Master finds that the exceptions to the report are without merit and recommends revocation of Respondent's certificate.

PART II

FINDINGS OF FACT

In January, 1980, Respondent was convicted on a nolo contendere plea of willfully submitting fraudulent and false documents to an officer of the Internal Revenue Service. He was sentenced to serve three weekends in jail and two years probation. In February, 1980, the Local Superintendent asked the

Professional Practices Commission to determine if there was cause to revoke Respondent's teaching certificate. The Professional Practices Commission conducted a preliminary investigation and forwarded a report to the State Department of Education. In September, 1980, the State Department of Education recommended to the Professional Practices Commission that a complete investigation be undertaken. The Professional practices Commission completed it's investigation in February, 1981 and on April 10, 1981, a determination was made by the Professional Practices Commission that probable cause existed to revoke Respondent's certificate. The State Superintendent of Education then directed that a Petition for Revocation be filed by the Professional Practices Commission with the State Board of Education. At approximately the same time, Respondent's contract for the 1981-82 school year was not renewed and he appealed the non-renewal. The Professional Practices Commission delayed any further action on the Petition for Revocation in order to avoid any conflicts of interest and adverse impacts on Respondent. The Petition for Revocation was filed with the State Board of Education in November, 1981. Subsequently, on March 19, 1982, an amended Petition for Revocation was filed by the Professional Practices Commission with the State Board of Education.

The hearing on the Petition for Revocation was held before a Professional Practices Commission tribunal on April 15, 1982. The Professional Practices Commission tribunal issued its

report on June 11, 1982 and recommended revocation of Respondent's teaching certificate. Respondent filed exceptions to the Professional Practices Commission tribunal's report on July 9, 1982.

The Professional Practices Commission tribunal found that Respondent had deposited school funds into his personal checking account in 1978 and the funds were not repaid until the loss was discovered during an audit conducted in August, 1978. At that time, no action was taken against Respondent other than requiring him to repay the missing funds. In addition, the Local Superintendent notified Respondent that he was being placed on probation for the 1979-1980 school year. It was during the 1979-1980 school year that Respondent was convicted of tax fraud and required to spend three weekends in jail and placed on two years probation. The Professional Practices Commission found that the act of submitting false and fraudulent documents to the Internal Revenue Service was an act of gross immorality or an act involving moral turpitude. Based upon these findings, the Professional Practices Commission tribunal recommended revocation of Respondent's teaching certificate.

PART III

CONCLUSIONS OF LAW

Respondent filed three objections to the report by the Professional Practices Commission tribunal. The first ex-

ception is that the evidence did not establish that Respondent's conviction for tax fraud rendered him unfit to serve as a principal or teacher. The basis for this objection was that the only evidence to support the finding by the Professional Practices Commission tribunal was the conclusory testimony of the Local Superintendent, i.e., there was no evidence introduced which showed that Respondent was any less effective as a result of the conviction other than the Local Superintendent's assertions.

The second exception maintains that a ruling by the Professional Practice Commission tribunal that Respondent could not inquire about a letter from the Attorney General's office to the Professional Practices Commission regarding the quantum of evidence available to support the charges denied Respondent an opportunity to conduct a thorough and sifting cross-examination.

The third exception asserts that the decision of the Professional Practices Commission tribunal was arbitrary and capricious because in similar cases involving nolo contendere pleas, the action was resolved within three weeks, whereas Respondent taught one and one-half years after he entered his plea; his contract was renewed once during the period; he has not had a speedy determination, and similar cases should be disposed of similarly.

Respondent's claim with regard to the first exception is the same claim that was made and rejected by the Court in

the case of Dominy v. Mays, 150 Ga. App. 187 (1979). In Dominy, the Court held that a local board of education could rightfully determine that a teacher's effectiveness had been lost as a result of a conviction for possession of illegal substances. As the Court stated, a teacher is held to a higher standard than others in society because of the influence teachers have in the development of children. The general knowledge that a teacher had been convicted is sufficient to establish ineffectiveness without the necessity of showing how the teacher was less effective in actually carrying out the duties of a teacher.

Respondent points to the unreported case of Lodwick v. Hendricks as the basis for claiming that there has to be a showing that the conviction renders him unfit to teach. As pointed out by counsel for Respondent, the recommendation of revocation of Respondent's teaching certificate does not arise because of his conviction of a crime, but because he committed an act involving moral turpitude. This was the determination by the Superior Court, and any other showing of how effective or ineffective he was as a teacher was unnecessary. As pointed out in the Lodwick case, the test to be applied is whether the action of the governmental body "lacks any rational basis so as to be deemed totally arbitrary and capricious." (Opinion, p. 2). In Lodwick, no evidence was submitted concerning the reasons why the certificate was revoked and the Court held that no rational basis had been

shown for the action. In the instant case, however, there has been a showing and a rational basis has been established in that the record shows that Appellant committed an act involving moral turpitude. The recommendation by the Professional Practices Commission, therefore, was not arbitrary and capricious, but was supported by the evidence that was presented. The Hearing Officer, therefore, concludes that the Professional Practices Commission was not required to establish a nexus between the conviction for income tax fraud and Appellant's ability as a principal or teacher.

The second objection concerned Respondent's inability to conduct a thorough cross-examination concerning the contents of a letter from the Attorney General's office to the Professional Practices Commission which allegedly stated that the Professional Practices Commission would have difficulty with a case which was based solely upon the criminal conviction. Assuming arguendo that there was a letter which stated there was insufficient evidence to obtain a revocation with only the income tax conviction, sufficient evidence was in the record to permit revocation and the existence of such a letter would not detract from the evidence available. The Special Master, therefore, concludes that the error, if any, was harmless, and the Professional Practices Commission did not commit reversible error by limiting the cross-examination.

The final objection argues that the prosecution of this case by the Professional Practices Commission was arbitrary

because other cases have not been handled in the same manner. The transcript, however, contains testimony concerning the causes for delay, the reasons for the actions taken, and the fact that all procedural requirements were followed. The case was initially submitted to the State Department of Education for a recommendation concerning whether an investigation would be made. The preliminary investigation was submitted to the State Superintendent who found that there was probable cause to proceed with a complete examination. The Professional Practices Commission, therefore, did not act solely on its own but received an outside review before proceeding. Additionally, the reasons an administrative body takes any particular actions with respect to one case vis-a-vis another case does not establish that the actions are arbitrary and capricious. Without evidence that the factual circumstances are the same, it cannot be said that the two cases should have been handled in the same manner. The Special Master, therefore, concludes that the Professional Practices Commission actions were not arbitrary or capricious.

PART IV
RECOMMENDATION

Based upon the foregoing findings and conclusions, the transcript submitted, and the briefs and arguments of counsel, the Special Master is of the opinion that the Professional Practices Commission recommendation is supported by the evidence

and that the Professional Practices Commission did not act arbitrarily and capriciously. The Special Master, therefore, recommends that the recommendation of the Professional Practices Commission be followed and that Respondent's certificate should be revoked.

L. O. Buckland

L. O. BUCKLAND
Special Master