

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CHARLES W. TUCKER, :
 :
 Appellant, :
 :
 v. : CASE NO. 1982-25
 :
 E. S. COOK, PROFESSIONAL :
 PRACTICES COMMISSION, :
 :
 Appellee. :

O R D E R

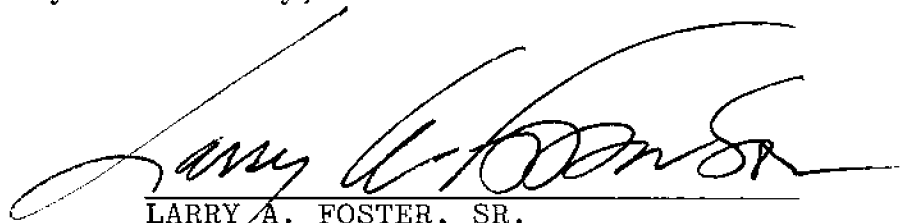
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein, the recommendation of the Professional Practices Commission, and the report of the Special Master, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Special Master 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 W. Tucker is hereby revoked.

Mrs. Kjorlaug and Mr. McClung were not present.

This 10th day of February, 1983.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

CHARLES W. TUCKER,	:	
	:	
Appellant,	:	CASE NO. 1982-25
	:	
vs.	:	
	:	
E. S. COOK, PROFESSIONAL	:	REPORT OF
PRACTICES COMMISSION,	:	SPECIAL MASTER
	:	
Appellee.	:	

PART I

SUMMARY OF APPEAL

This is a report on the exceptions filed by Charles W. Tucker (hereinafter "Appellant") from a report and recommendation by the Professional Practices Commission to the State Board of Education which found that Appellant had performed immoral acts and recommended revocation of his teaching certificate. The exceptions primarily relate to the adequacy of the evidence. The Special Master recommends that the State Board of Education adopt the findings and recommendation of the Professional Practices Commission.

PART II

FINDINGS OF FACT

Appellant was a coach employed by the Cobb County Board of Education for seven years. He was charged with having committed immoral acts by having sexual relationships with female students of the school where he coached. Based upon a preliminary investigation made by the Professional Practices Commission, the State Superintendent of Schools determined that probable cause existed

to proceed with a hearing to determine if Appellant's teaching certificate should be revoked. A tribunal from the Professional Practices Commission conducted a hearing on the charges on June 14, 1982.

The Professional Practices Commission tribunal found, by a preponderance of the evidence, that Appellant had engaged in sexual intercourse with two female students from the school where he taught. In both situations, the sexual encounters extended over a period of time and occurred both during and after school hours. With one student, the relationship covered the period December, 1976, through June, 1977. With the other student, the encounters occurred from November, 1979, through June, 1980. During school hours, Appellant would give passes to the girls when necessary so they could miss their classes. He would then take them to the nearby apartment of another coach from whom he borrowed a key. Appellant also met with the students in their own homes, in his home, and at the residences of other friends of his.

Appellant was also charged with immorality because he supplied alcoholic beverages to one of the girls with whom he maintained a sexual relationship. The Professional Practices Commission tribunal found that Appellant had given the student alcoholic beverages and she was a minor at the time.

Another charge against Appellant was that he had a propensity to engage in verbal and physical altercations with certain students. The Professional Practices Commission tribunal found that on one occasion, Appellant confronted a student at school

and exhibited anger during the conversation. In another incident with the same student, Appellant ran into the student at full force and shoved him down on the ground while they were playing football during a physical education class.

Based upon its findings, the Professional Practices Commission tribunal concluded that Appellant was guilty of acts of immorality in having sexual intercourse with his female students and in providing one of them with alcoholic beverages. The tribunal also found that Appellant had a propensity to lose control of his temper and he thus created a condition detrimental to the health, welfare, discipline, or morals of pupils, or to the best interest of the public schools of Georgia. The tribunal concluded that there had been violations of policies and executive procedures of the State Board of Education, and, therefore, recommended revocation of Appellant's teaching certificate.

The report of the Professional Practices Commission was issued on October 21, 1982. Appellant's exceptions were filed on November 22, 1982.

PART III

CONCLUSIONS OF LAW

Appellant's exceptions relate primarily to the sufficiency of the evidence. Appellant has pointed out that there are several inconsistencies in the testimony given by the witnesses. He also claims that all of the witnesses were a part of a group or "gang", thus intimating that he is the victim of a conspiracy.

Appellant argues that none of the testimony given against him was corroborated by any other witness, while the testimony

given on his behalf, which was in contradiction to the testimony against him, was corroborated. According to Appellant, the only corroboration pointed out by the Professional Practices Commission concerned a meeting between him and one of the students in the wrestling room of the high school one evening which was testified to by the former student and by a former custodian. Both of these witnesses, however, admitted that the wrestling room had a padlock on the outside and it could not be locked or unlocked from the inside. The custodian testified that the door was locked and that when he was about to enter the room, a voice from inside told him not to enter at that time. He then testified that he later saw Appellant with an unidentified girl whose age he could not determine. Another coach, however, testified that Appellant was not near the wrestling room on the night in question, but had, instead, gone to the coaches' offices which were at the opposite end of the gymnasium. Appellant argues that it is inconceivable that he would be locked into a room without any way out, and there was no testimony from anyone besides the former student that placed him in the room.

Appellant also argues that there was no testimony from anyone who had seen him with either of the students, but there was testimony that the girls adamantly denied involvement with him when they were asked about rumors that circulated at the time the incidents were to have taken place.

Appellant points out that all of the testimony on his behalf was given by people who were not joined together in any fashion

other than knowing him, whereas all of the testimony given against him was given by a group of former students who were close friends, or the parents of the close friends, who had a reputation in the community for being involved in various disputes. For example, there was testimony that one of the girls Appellant was allegedly involved with used drugs and was upset because she suspected that Appellant had informed the police that she was a drug user.

As another example of the inconsistencies that appear in the record, Appellant points out that the best friend of one of the girls involved placed their activities in a different year than was testified to by the girl. The mother of the girl's best friend also placed the period of involvement in a different year.

Based upon these inconsistencies, Appellant argues that the burden of proof was not met and that there was insufficient evidence available to support a recommendation that his teaching certificate should be revoked. He, therefore, asks that the charges be dropped and the case dismissed.

After reviewing the record and the recommendation of the Professional Practices Commission, however, the Special Master concludes that there was sufficient evidence before the Professional Practices Commission that would support its findings and conclusions. The hearing tribunal was in a position of being able to observe the witnesses and to weigh the evidence produced during the hearing. Appellant did not produce any

evidence to sustain a theory that there was a conspiracy against him. He also does not point out any errors of law made during the conduct of the hearing.

The members of the Professional Practices Commission tribunal were experienced educators. As such, they should be in a better position than any other group to be aware of the environment faced by teachers. They were in the position of having to weigh the testimony of all the witnesses and resolve the differences that existed. Although the amount of corroboration may have been slight, there was corroborating testimony from different sources presented to the tribunal. For example, there was testimony that Petitioner received the apartment keys from another teacher and that this practice stopped when the second teacher received complaints from other tenants about the students who were brought to the apartment. There was also corroborating testimony concerning Petitioner's meeting with one of the female students in the wrestling room of the high school. If Petitioner was the target of a conspiracy, the Professional Practices Commission tribunal did not have any evidence before it that such a conspiracy existed. The Special Master, therefore, concludes that there was sufficient evidence before the Professional Practices Commission tribunal which supports the findings made by the tribunal.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the

Special Master is of the opinion that there was evidence which supports the findings of the Professional Practices Commission tribunal. The Special Master, therefore, recommends that the State Board of Education adopt the recommendations of the Professional Practices Commission.



L. O. BUCKLAND
Special Master