

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License of
Angela Montemayor

KSDE No. 23-PPC-19
OAH No. 23ED0017 ED

FINAL ORDER

NOW, on this 10th day of October 2023, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairwoman, Melanie Haas, and members, Betty Arnold, Dennis Hershberger, Michelle Dombrosky, Cathy Hopkins, Deena Horst, Jim McNiece, Ann Mah, Jim Porter and Danny Zeck.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on July 14, 2023. Angela Montemayor appeared in person. The Kansas State Department of Education appeared through its attorney, R. Scott Gordon. After reviewing the evidence, the Commission voted **8 – 0**, to recommend the Board deny Angela Montemayor's application for an emergency substitute teaching license.

WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Jennifer Holt, Commission Chair, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of **10 – 0**.

All findings set forth in the Commission's Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Angela Montemayor application for an emergency substitute teaching license is denied.

This Final Order is made and entered this 10th day of October 2023.

Kansas State Board of Education



BY: Melanie Haas, Chairwoman
Signed October 11, 2023

NOTICE TO LICENSEE/APPLICANT

This is a Final Order and is effective upon service.

To request reconsideration of this order, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

To request a stay of effectiveness of this order, you must file a Petition for Stay with the Secretary to the State Board of Education at the address below. A petition can be filed until the time which a petition for judicial review would no longer be timely.

To seek judicial review of a Final Order, you must file a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* within 30 days following the service of the Final Order. Filing a Petition for Reconsideration is not a prerequisite for seeking judicial review. A copy of any Petition for Judicial Review must be served upon the Secretary to the State Board of Education at the address below.

Makayla Auldridge
Secretary, Kansas State Board of Education
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

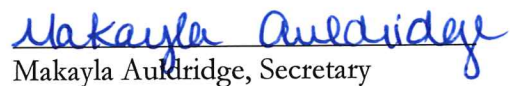
CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of October 2023, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Angela Montemayor
P.O. Box 1172
Sublette, Kansas 67877

And via interoffice mail to:

R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612


Makayla Auldridge, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION
PROFESIONAL PRACTICES COMMISSION

In the Matter of
the License of
Angela Montemayor

OAH Case No.: 23ED0017 ED
KSDE Case No.: 23-PPC-19

INITIAL ORDER

Decision

Having heard the testimony of the witnesses, considered the evidence presented, reviewed the applicable statutes, regulations and policies, and otherwise being duly and fully informed in the premises of this matter, the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) on a vote of 8 to 0 recommends to the Kansas State Board of Education (State Board) that the Complaint filed by KSDE seeking to deny the application for an emergency substitute teaching license submitted by Angela Montemayor (Montemayor) be affirmed.

Statement of Case

This matter comes on for hearing before the Commission upon the request for hearing made by Montemayor concerning a complaint filed by the KSDE on February 21, 2023, seeking denial of Montemayor's application for an emergency substitute teaching license.

The hearing was held on July 14, 2023. Appearing for the Commission were Chairperson, Jennifer Holt, and members Jamie Wetig, Darrin San Romani, Eric Filippi, Dr. Christy Ziegler, Aaron Edwards, Caroline Spaulding, and Ricardo Sanchez.

Montemayor appeared in person without an attorney.

KSDE appeared by and through R. Scott Gordon, General Counsel.

Loren F. Snell, Jr., Administrative Law Judge, was appointed and served as the Presiding Officer over the evidentiary hearing.

Evidentiary Rulings

KSDE offered documents marked as Exhibits A through D and requested they be admitted as evidence. Montemayor had no objection. Exhibits A through D were admitted.

Montemayor offered documents identified as Exhibits 1 through 7 and requested they be admitted as evidence. KSDE had no objection. Exhibits 1 through 7 were admitted.

Findings of Fact

1. Montemayor submitted an application to KSDE for an emergency substitute teaching license. [Ex. A]. The exact date of the application is unknown to the PPC.
2. In reviewing Montemayor's application KSDE learned that Montemayor had been charged criminally in Haskell County District Court, case number 20-CR-26.
3. Montemayor was charged with five (5) criminal counts: unlawful manufacturing of controlled substance, possession of controlled substance, possession of paraphernalia, aggravated endangering a child, and possession of paraphernalia to store/ingest. [Ex. C]. The date of the offense associated with the criminal charges was April 22, 2020, and the Complaint was filed on April 28, 2020.
4. On or about October 28, 2020, Montemayor entered into a two (2) year Diversion Agreement with the Haskell County Attorney's Office. [Ex. C].
5. On October 18, 2022, a Motion and Order of Dismissal was filed in Haskell County District Court, dismissing case number 20-CR-26 upon Montemayor's successful completion of the terms and conditions of the diversion agreement. [Ex. D].
6. On February 21, 2023, KSDE filed a Complaint against Montemayor, requesting that the application for emergency substitute teaching license be denied. [Ex. A].
7. On March 14, 2023, Montemayor requested a hearing before the PPC suggesting the decision to deny her application was "made without accurate information." [Ex. B]. Montemayor pointed out that she had not been convicted of the charges and had completed the diversion agreement to have the charges dismissed.
8. Jennifer Bright (Bright) is the younger sister to Montemayor. Bright testified that she was unaware of the drugs being in Montemayor's home until Montemayor was arrested, and that the drugs were in the home due to Montemayor's husband.
9. Montemayor testified that she and her husband had gotten into an argument. Law enforcement got involved and searched the home. Montemayor acknowledged she had been using methamphetamines for "a couple of years"¹ and was under the influence at the time of the fight with her husband. Montemayor testified her husband had been using methamphetamines and she was curious why, so she tried it.
10. Montemayor's children were in the home at the time of the fight, search and arrest.

¹ There was some confusion about how long Montemayor had actually been using drugs as she initially stated it was for a couple of years, but later stated she had used for five (5) years.

11. Montemayor testified that she has undergone drug treatment and completed a 90-day rehabilitation program at City on a Hill but does not attend any treatment now and does not attend any support meetings.

12. Montemayor testified she underwent random urinalysis (UA) testing as part of her surrogacy for her sister, Bright, and all of the UAs have come back negative.

13. Montemayor had been a paraprofessional for eight (8) years, and the school she was working for found out when she was arrested.

14. Montemayor testified she had been married 19 years and was still married to her husband who had been incarcerated at the Norton Correctional Facility. Montemayor also testified that her husband had undergone treatment at the Oxford House.

Conclusions of Law

The State Board is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas.²

“Any license issued by the state board may be suspended or revoked, or the license holder may be publicly censured by the state board for misconduct or other just cause” including: “entry into a criminal diversion agreement after being charged with an offense or act described in this subsection.”³

“A license may be denied by the state board to any person who fails to meet the licensure requirements of the state board or for any act for which a license may be suspended or revoked pursuant to subsection (a).”⁴

Kansas regulation allows for denial, suspension or revocation of a teaching license if an individual has been convicted “of any crime punishable as a felony”, “any crime involving a minor”, or “any misdemeanor involving drug-related conduct.”⁵

The Commission, in determining whether to recommend to the Board that an individual’s application should be granted, is required to determine the extent of the applicant’s efforts at rehabilitation as well as the fitness of the applicant to be a member of the teaching profession.⁶

The Commission felt it was appropriate to consider the factors set forth in K.A.R. 91-22-1a(g)(1) in determining if Montemayor’s application for a professional teaching license should be granted. The factors considered were:

² Kan. Const., Art. VI and K.S.A. 72-255.

³ K.A.R. 91-22-1a(a)(11).

⁴ K.A.R. 91-22-1a(b).

⁵ K.A.R. 91-22-1a(a)(1), (2) and (4), and (b).

⁶ *Wright v. State Bd. of Educ.*, 268 P.3d 1231 (Kan.App. 2012).

- (A) The nature and seriousness of the conduct that resulted in the denial or revocation of a license;
- (B) the extent to which a license may offer an opportunity to engage in conduct of a similar type that resulted in the denial or revocation;
- (C) the present fitness of the person to be a member of the profession;
- (D) the actions of the person after the denial or revocation;
- (E) the time elapsed since the denial or revocation;
- (F) the age and maturity of the person at the time of the conduct resulting in the denial or revocation;
- (G) the number of incidents of improper conduct; and
- (H) discharge from probation, pardon, or expungement.

The Commission concluded Montemayor was eligible to receive an emergency substitute teaching license, but the question was whether she should be issued a license?

The Commission was provided with court documentation concerning the criminal case filed against Montemayor. Based upon events occurring on or about April 22, 2020, Montemayor was charged with multiple drug-related felonies, a crime involving a minor, and a drug-related misdemeanor, after which she entered into a criminal diversion agreement.

Based upon the evidence presented, Montemayor completed the diversion agreement. However, the regulations that govern the revocation, suspension or denial of a teaching license provide that entering into and completing a diversion does not preclude revocation, suspension or denial of a teaching license, including an emergency substitute teaching license.

The Commission, in determining whether to recommend to the Board that an individual's application should be granted, is required to determine the extent of the applicant's efforts at rehabilitation as well as the fitness of the applicant to be a member of the teaching profession.⁷ Included in that analysis is looking at "[t]he nature and seriousness of the conduct", as well as how recent the conduct occurred.

Montemayor was either unwilling or unable to provide an answer regarding how long she had been utilizing methamphetamines prior to her arrest in April of 2020. It was also noted by the Commission that the activities for which Montemayor was criminally charged occurred a little over three (3) years ago. Montemayor did complete treatment and a 90-day stint in rehabilitation

⁷ *Wright v. State Bd. of Educ.*, 46 Kan.App.2d 1046, 1052, 268 P.3d 1231 (2012).

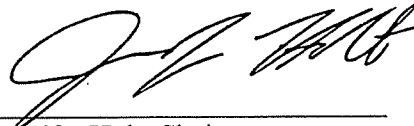
but has done nothing since. Montemayor does not attend narcotic anonymous meetings, nor does she participate in any drug counseling activities.

Finally, Montemayor remains married to her husband, whom, according to Montemayor's testimony, introduced her to methamphetamines. Circumstances still exist that would permit Montemayor to engage in drug conduct. Nonetheless, Montemayor had no plan for how to handle it if the opportunity presented itself.

Considering all of the evidence and testimony presented, the Commission concluded that Montemayor was not suitable to be a role model for students or licensed as an emergency substitute teacher.

On a vote of eight (8) in favor and zero (0) opposed, the Commission recommends to the State Board that the Complaint filed by KSDE seeking to deny the issuance of an emergency substitute teaching license to Montemayor be affirmed.

IT IS SO ORDERED.



Jennifer Holt, Chairperson
Professional Practices Commission

Notice

This Initial Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

You may submit to the Kansas State Board of Education for its consideration as a part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. You must file the brief with the State Board Secretary at the address indicated below within **fifteen (15) calendar** days after service of the Initial Order for transmittal to the State Board. You must also make any request for oral argument at that time.

Barbara Hughes
Secretary, Kansas State Board of Education
900 SW Jackson Street,
Topeka, Kansas 66612

Response briefs are due within **ten calendar days** after service of the legal brief upon the opposing party. Any reply brief is due **five calendar days** after service of any response brief on the opposing party. Any response or reply briefs must also be filed with the State Board Secretary at the address indicated above.

Certificate of Service

On August 29, 2023, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Angela Montemayor
P.O. Box 1172
Sublette, KS 67877

and, I further certify that I caused a copy of the foregoing to be hand-delivered to:

R. Scott Gordon, Attorney
Kansas State Department of Education
900 SW Jackson, Ste. 102
Topeka, KS 66612
Tel: (785) 296-3204



Marisa Seele, Secretary
Professional Practices Commission
Kansas State Department of Education
900 SW Jackson Street
Topeka, KS 66612-1182