

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of Application for
Teaching License Submitted by
Jerry S. Daskoski

Case No. 15-PPC-24

FINAL ORDER

NOW, on this 11th day of August, 2015, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board) upon Jerry S. Daskoski's application for a teaching license. Appearing for the Board are Chairman, Jim McNiece, and members, John Bacon, Kathy Busch, Carolyn Wims-Campbell, Sally Cauble, Deena Horst, Jim Porter, Steve Roberts, Janet Waugh, and Ken Willard.

WHEREUPON, a complaint was filed by the Kansas State Department of Education and Mr. Daskoski had the opportunity to respond to the complaint. Mr. Daskoski did not respond to the complaint. The complaint and supporting evidence were reviewed by the Professional Practices Commission (Commission).


WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Linda Sieck, Chairman of the Commission, 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 Jerry S. Daskoski's application for a teaching license be denied.

This Final Order is made and entered this 11th day of August, 2015.

Kansas State Board of Education


BY: Jim McNiece, Chairman
Signed August 28th, 2015

NOTICE TO APPLICANT

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

The filing of a Petition for Reconsideration is not a prerequisite for seeking judicial review.

Peggy Hill
Secretary, KSBE
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August, 2015, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Jerry Daskoski
10625 W. 61st Street
Shawnee, Kansas 66203

And via interoffice mail to:

Kelli M. Broers
Attorney, Kansas State Department of Education
Landon State Office Building
900 SW Jackson Ave., Suite 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION

In the Matter of Application for
Teaching License Submitted by
Jerry S. Daskoski

Case No. 13-PPC-09

OAH No. 13ED0004

INITIAL ORDER

Statement of Case

This matter comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the application of Jerry S. Daskoski for a professional teaching license.

The hearing was held on April 21-22, 2014. Appearing for the Commission were chairperson, Calin Kendall, and members, Dorsey Burgess, Phil Clark, Tavis DeSormiers, Kimberly Groom, Susan Myers, Bradley Nicks, Linda Sieck, and Sherry Turnbull.

The KSDE appeared by and through its attorney, R. Scott Gordon. Appearing and testifying on behalf of the KSDE was Dr. W. Spencer Payne.

Mr. Daskoski appeared in person and with his attorney, Clifford A. Cohen. Mr. Daskoski testified on his own behalf. Also appearing and testifying on behalf of Mr. Daskoski was Dr. Martin Zehr.

Findings of Fact

1. Mr. Daskoski was first licensed in Kansas in 1979 as an elementary school teacher.

2. Mr. Daskoski taught at Stearman Elementary School in Wichita, Kansas from 1979 to 1981.

3. Mr. Daskoski attended Sunset International Bible Institute from 1981 to 1983, and was employed as congregational minister from 1983 to 1985 at Great Bend, Kansas, Church of Christ.

4. Mr. Daskoski resumed teaching in Wichita, Kansas, at Benton Elementary School from 1985 to 1988.

5. Mr. Daskoski taught 6th grade at Merriam Elementary School in Merriam, Kansas, from 1988 to 1991.

6. Mr. Daskoski completed a Master's Degree in Education Administration in 1990 at University of Missouri – Kansas City.

7. Mr. Daskoski was hired as Assistant Principal at Tonganoxie Elementary School in 1991.

8. Mr. Daskoski was promoted to Principal of the Tonganoxie Elementary School in 1993.

9. In October 2005, on four separate occasions, Mr. Daskoski went to Macy's and Dillard's and switched price tags, on a total of eight ties, for the purpose of purchasing them at a lower cost.

10. On November 25, 2005, Mr. Daskoski committed the crime of felony theft. Specifically, Mr. Daskoski entered into the Sam's Wholesale Club in Wichita, Kansas, and removed a file cabinet from its box. Mr. Daskoski placed a 31" flat screen television valued at \$1,555.30 in the file cabinet box so he would not have to pay the full price. Mr.

Daskoski then removed an embossed portable platter set from its box and placed a portable DVD player with a value of \$188.26, into the platter set box. Mr. Daskoski left the store paying \$160.77 for the file cabinet and \$16.44 for the platter set.

11. Also on November 25, 2005, Mr. Daskoski committed the crime of theft in Hutchinson, Kansas, by stealing two electric razors by removing the theft detection devices from their boxes.

12. On November 26, 2005, Mr. Daskoski drove to Kansas City. He committed the crime of theft at Costco by placing a DVD player into a cheaper product's box and paying for the lower priced item. He repeated this scheme with three more items at Home Depot.

13. On November 29, 2005, officers with the Shawnee Police Department came to Mr. Daskoski's home to question him about the theft of the television at Sam's. It was from the police officers that his wife became aware of Mr. Daskoski's theft of the television and DVD player at Sam's. He was subsequently charged with felony theft.

14. On May 30, 2006, Mr. Daskoski entered into a diversion agreement deferring prosecution of the felony theft. Mr. Daskoski did not recall whether he had disclosed all of his thefts to Kathryn Pilcher, the Diversion Coordinator, prior to being placed on diversion.

15. In October 2006, the KSDE informed Richard Erickson, who was the Superintendent of the USD 464 Tonganoxie schools and Mr. Daskoski's supervisor, of the criminal charges by way of a complaint. This was the first time the Superintendent was made aware of any of Mr. Daskoski's crimes.

16. On December 11, 2006, the Commission, after conducting a full evidentiary hearing, recommended Mr. Daskoski's license be revoked as a consequence of his conduct in engaging in acts which constituted the commission of the felony offense of theft and entering into a criminal diversion agreement after being charged with the offense.

17. On December 31, 2006, Mr. Daskoski resigned his position as principal.

18. On January 9, 2007, the Kansas State Board of Education (Board) adopted the findings of the Commission and revoked Mr. Daskoski's teaching license.

19. On April 4, 2007, Mr. Daskoski applied for a new teaching license.

20. On June 4, 2007, the Commission recommended to the Board that Mr. Daskoski's application for a new license be denied. The Commission's recommendation was based on the following:

5. The Applicant's professional license was revoked by the State Board of Education less than six months ago. Only three months elapsed from the date of revocation of the Applicant's previous license and receipt of his application for a new one.

6. A building principal is in a position of leadership and trust within the school community as to the employees and students whose ideals an educator is expected to foster and elevate. An obvious goal of public education is to instill respect for the law.

7. The significance of the fact that the Applicant was licensed as a professional educator and employed by USD No. 464 in a leadership position as an elementary school principal at the time he engaged in the felonious conduct cannot be ignored.

8. The Applicant's conduct in failing to notify his employer, USD No. 464, that he had been charged with the commission of a felony, by itself, is disturbing, unprofessional and demonstrates a lack of leadership and forthrightness.

9. Even if the Applicant's felonious conduct was related to a compulsive disorder or his state of mind, either excuse does not diminish the seriousness of his conduct or justify his subsequent withholding of information. Such conduct by a professional educator violates the public's trust and confidence placed in members of the teaching and school administration profession.

10. The Commission believes the Applicant's felonious conduct and his related subsequent actions, demonstrate a lack of fitness to perform the duties and responsibilities of a member of the teaching and school administration professions. It further believes that insufficient time has passed for the Applicant to establish rehabilitation. Thus, the Commission believes there is sufficient and just cause for denying his application for a new professional educator's license.

21. On July 10, 2007, the Board adopted all findings of the Commission and denied Mr. Daskoski's application for a license.

22. From November 2007 through 2011, Mr. Daskoski was employed as a Disability Navigator for the Kansas Department of Commerce.

23. On March 18, 2008, Mr. Daskoski applied for a new teaching license.

24. In May 2008, Mr. Daskoski was hired as a part-time staff member at the Crisis Recovery Center and is still employed there.

25. On September 15, 2008, the Commission recommended to the Board that Mr. Daskoski's application for a new license be denied.

26. On October 14, 2008, the Board adopted all findings of the Commission and denied Mr. Daskoski's application for a license. The Commission's recommendation was based on the following:

6. Engaging in conduct that constitutes the commission of a felony presumes a lack of fitness to engage in the professions of teaching and school administration.

7. A building principal is not only in a position of leadership and trust within the school community as to its employees and students whose ideals an educator is expected to foster and elevate, but also, the community at large. An obvious goal of public education is to instill respect for the law. An educator is in a position of public trust.

8. The significance of the fact that the Applicant was licensed as a professional educator and employed by USD No. 464 in a leadership position as an elementary school principal at the time he engaged in the felonious conduct cannot be ignored.

9. The Applicant's conduct in failing to notify his employer, USD No. 464, that he had been charged with the commission of a felony, by itself, is disturbing, unprofessional and demonstrated a lack of leadership and forthrightness.

10. Even if the Applicant's felonious conduct was related to a compulsive disorder or his state of mind, either excuse does not diminish the seriousness of that conduct or justify his subsequent withholding of information. Such conduct by a professional educator violates the public trust and confidence placed in members of the teaching and school administration professions.

11. The Commission believes that the nature of the Applicant's felonious conduct in committing a crime involving acts of dishonesty while employed as an elementary school principal and his failure to disclose such conduct to his employer demonstrates a lack of fitness to engage in the professions of teaching and school administration and that

such conduct, by itself, is so serious that it continues to be sufficient and just cause for denying his application for a new professional educator's license.

27. On March 18, 2009, Mr. Daskoski applied for a new teaching license.

28. On September 14, 2009, the Commission recommended to the Board that Mr. Daskoski's application for a new license be denied. The Commission's recommendation was based on the following:

6. Engaging in conduct that constitutes the commission of a felony presumes a lack of fitness to engage in the professions of teaching and school administration.

7. A building principal is not only in a position of leadership and trust within the school community as to its employees and students whose ideals an educator is expected to foster and elevate, but also, the community at large. An obvious goal of public education is to instill respect for the law. An educator is in a position of public trust.

8. The fact that the Applicant was licensed as a professional educator and employed by USD No. 464 in a leadership position as an elementary school principal at the time he engaged in the felonious conduct is significant and an aggravating factor in this matter. Such conduct violates the public trust and confidence placed in members of the teaching and school administration professions.

9. The Applicant's conduct in failing to notify his employer, USD No. 464, that he had been charged with the commission of a felony, likewise, is an aggravating factor as such conduct was unprofessional and demonstrated a lack of leadership and forthrightness.

10. The Commission believes that the nature of the Applicant's felonious conduct in committing a crime involving acts of dishonesty while employed as an elementary school principal and his failure to disclose such conduct to his employer continues to demonstrate a lack of fitness to engage in the professions of teaching and school administration at

this time and is sufficient and just cause for denying his application for a new professional educator's license.”

29. On November 10, 2009, the Board adopted all findings of the Commission and denied Mr. Daskoski's application for a license.

30. In July 2011, Mr. Daskoski was hired as the Employment Advocate for Community Works (now known as Minds Matter), an agency that serves seniors and persons with brain injuries and other disabilities. He is still employed there.

31. On March 15, 2012, Mr. Daskoski applied for a new teaching license.

32. On April 16, 2013, the KSDE filed a formal complaint, 13-PPC-09, challenging Mr. Daskoski's application for a new teaching license, which is now at issue.

Conclusions of Law
and
Discussion

1. K.A.R. 91-22-1a(b) provides that a “license may be denied by the state board to any person . . . for any act for which a license may be suspended or revoked pursuant to subsection (a).”

2. K.A.R. 91-22-1a(a) provides, in pertinent part, that “[a]ny 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: 1) “conviction of any misdemeanor involving theft;” 2) “entry into a criminal diversion agreement after being charged with any offense or act described in this section [in this case, theft];” and 3) “obtaining, or attempting to obtain, a license by fraudulent means or through misrepresentation of material facts.”

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

4. K.A.R. 91-22-1a(g)(1) provides factors relevant to a determination as to rehabilitation. (*See also* K.S.A. 72-1397(c).) The factors are as follows:

(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.

5. Mr. Daskoski was approximately 53 years old at the time he committed the rash of thefts in 2005.

6. Mr. Daskoski was a licensed professional and at that time, was employed as a building principal. Whether a principal or a teacher, educators are in positions of

leadership and trust within the school as well as the community. Educators are expected to be role models for the students. This includes instilling respect for the law.

7. Mr. Daskoski was not truthful and forthcoming in disclosing to his supervisor that he had been charged with felony theft and had entered into a diversion agreement. He was apparently not truthful and forthcoming in disclosing all his thefts with the diversion coordinator, which, had he done so, may have resulted in him not being offered diversion. He was also not truthful and forthcoming in disclosing the thefts from Dillard's, Macy's, Costco, and Home Depot the other times he appeared before the Commission. This causes the Commission to question whether what he has now disclosed is the full story.

8. In support of his claim that he has been rehabilitated, Mr. Daskowski testified that through his employment he has been trained in Dialectical Behavior Therapy (DBT) and has utilized the skills to control his mind, emotions, and behavior. Dr. Zehr, Mr. Daskowski's expert witness, also testified that Mr. Daskowski was rehabilitated.

9. The Commission finds that neither Mr. Daskowski's evidence of rehabilitation nor the passage of time, now nearly nine years, mitigate the severity of Mr. Daskoski's conduct. The repeated incidents of theft were not of an impulsive nature but rather were more compulsive and somewhat planned. He engaged in this unlawful behavior while in a position of public trust. He failed to be forthright with his wife, supervisor, and the diversion coordinator. Most troubling is his lack of candor when he

appeared before the Commission on three prior occasions and never disclosed all the other thefts during the same time period.

10. A majority of the Commission find that Mr. Daskoski is not fit to be a member of the teaching profession.

11. On a vote of 8-1, the Commission finds that there is sufficient and just cause to deny Mr. Daskowski's application for a professional teaching license.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that the application of Jerry S. Daskoski be denied.

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.

The applicant 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. The legal brief must be filed with the Secretary of the Professional Practices Commission, Kansas State Department of Education, 900 SW Jackson Street, Topeka, Kansas 66612, within ten days after service of the Initial Order for transmittal to the Kansas State Board of Education.

This Initial Order is made and entered this 8th day of May, 2014.



Calin Kendall, Chairman
Professional Practices Commission

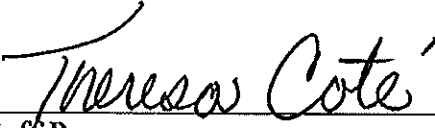
CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 2014, a true and correct copy of the above and foregoing Initial Order was deposited in the U.S. Mail, postage paid, addressed to:

Jerry S. Daskoski
10625 W. 61st St.
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