Before the Education Practices Commission of the State of Florida

FILED
DEC 8 2004
EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA

JIM HORNE as the
Commissioner of Education,

Petitioner,

vs.

CASE Nº: 03-0343-RT
EPC Index Nº 04-279-AS

DARRELL POLITE,

Respondent.
_____/

Final Order

Respondent, Darrell Polite, holds Florida educator's certificate no. 770237. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate.

Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Amended Administrative Complaint are attached to and made a part of this Final Order.

A Teacher Panel of the Education Practices Commission met on December 3, 2004, in Tallahassee, Florida. The Commission accepts the Settlement Agreement as the appropriate resolution of this cause.

It is therefore ORDERED that the Settlement Agreement is hereby ACCEPTED and Respondent shall comply with its terms and conditions.

This Order becomes effective upon filing.

DONE AND ORDERED, this 3rd day of December, 2004.

Grace Williams
GRACE WILLIAMS, Presiding Officer

COPIES FURNISHED TO:

Bureau of Professional Practices

Bureau of Teacher Certification

Florida Administrative Law Reports

Ronald G. Stowers, Attorney at Law

Probation Office

Recovery Network Program

Superintendent
Putnam County Schools
200 S. 7th St.
Palatka, FL 32177-4615

Director, Human Resources
Putnam County Schools
200 S. 7th St.
Palatka, FL 32177-4615

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order in the matter of Horne v. Polite was furnished to Darrell Polite, [redacted] Palatka, FL 32177 by U.S. Mail this 8 day of December, 2004.

Kathleen Richards
KATHLEEN RICHARDS
Executive Director

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STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

JIM HORNE, as Commissioner of Education,

Petitioner,

vs. **CASE NO. 023-1623-C**

DARRELL T. POLITE,

Respondent.

_____/

SETTLEMENT AGREEMENT

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 770237 issued by the Department of Education covering the area of Physical Education which was valid through June 30, 2004.

2. **Employment.** At all times pertinent hereto, Respondent was employed as a Physical Education Teacher at Palatka High School in the Putnam County School District.

3. **Allegations.** Respondent neither admits nor denies, but elects not to contest the allegations set forth in Petitioner's Amended Administrative Complaint, which are incorporated herein by reference.

4. **Suspension.** Respondent agrees to accept a six (6) month suspension of his Florida educator's certificate, commencing upon issuance of the Final Order entered by the Education Practices Commission (EPC) accepting this Settlement Agreement. Or, in the alternative, if Respondent's certificate has expired, Respondent agrees to accept a six (6) month bar from re-application commencing upon the issuance of the Final Order accepting this Settlement Agreement. (Suspension means that Respondent may not be employed by any district school board or any other public school or in a position requiring a Florida educator's certificate in a private school during the period of suspension; however, if applicable, Respondent may renew the certificate).

5. **Recovery Network Program**.

a. **Evaluation.** Respondent agrees to:

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1) submit to an evaluation relating to the issues cited in the Amended Administrative Complaint as determined by the Recovery Network Program (RNP) and conducted by a Florida licensed psychologist, psychiatrist or mental health counselor approved by the RNP;

2) provide the RNP written verification from the treatment provider(s) of successful completion of the evaluation within sixty (60) days of issuance of the Final Order accepting this Settlement Agreement OR within sixty (60) days of the initial date of employment in a position requiring a Florida educator's certificate, whichever occurs later, and authorize RNP to release evidence of satisfaction of this requirement directly to any employing school district or private or charter school;

3) undergo any counseling or treatment as may be prescribed by said professional;

4) provide the RNP and the employing school district or private or charter school with written verification from the treatment provider(s), of completion of all recommended treatments within sixty (60) days of completion; and

b. **Written Verification.** Respondent agrees to:

1) provide the RNP and the employing school district or private or charter school with written verification from the treatment provider(s), to the degree that the treatment provider(s) may ethically predict, that Respondent poses no risk of threat or harm to the safety or well-being of students within sixty (60) days of issuance of the Final Order accepting this Settlement Agreement OR within sixty (60) days of the initial date of employment in a position requiring a Florida educator's certificate, whichever occurs later; and

2) provide the RNP and the employing school district or private or charter school with written verification from the treatment provider (s) that Respondent is capable of performing his responsibilities as an educator within sixty (60) days of issuance of the Final Order accepting this Settlement Agreement OR within sixty (60) days of the initial date of employment in a position requiring a Florida educator's certificate, whichever occurs later.

c. **Prior Evaluation.** If Respondent has undergone evaluation(s) and treatment and/or counseling after the incident(s) alleged in the Amended Administrative Complaint, the evaluation(s) and treatment and/or counseling may be used in lieu of the evaluation(s) and treatment and/or counseling agreed to herein, if acceptable to RNP.

d. **Employment.** If Respondent is not employed in a position requiring a Florida educator's certificate on the date, or within one (1) year of the date, the initial RNP

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evaluation(s) required herein are performed, Respondent agrees to submit to follow-up evaluation(s) as determined by the RNP within sixty (60) days of being employed in such a position.

e. **Costs.** Respondent shall bear responsibility for all costs associated with the evaluation, treatment and counseling.

6. **Probation.** Respondent agrees that he shall be placed on probation for a period of three (3) employment years. If Respondent is currently employed in a position requiring a Florida educator's certificate, probation shall begin upon the issuance of the Final Order by the Education Practices Commission (EPC) provided the EPC has accepted this Settlement Agreement. If Respondent is not currently employed in a position requiring a Florida educator's certificate, probation shall begin upon his re-employment in such a position. In the event Respondent's employment is interrupted for any reason prior to the expiration of probation, the probation shall be tolled until Respondent resumes employment in a position requiring a Florida educator's certificate. As conditions of probation, Respondent:

a. shall immediately contact the Bureau of Educator Standards (BES) upon employment in Florida in a position requiring a Florida educator's certificate or upon termination from such a position. If currently employed in such a position, Respondent shall contact the BES within ten (10) days of the issuance of the Final Order accepting this Settlement Agreement and Respondent shall provide the BES with the name and address of his work site as well as the name, address and telephone number of his immediate supervisor.

b. shall make arrangements for his immediate supervisor to provide the EPC with a true and accurate copy of each written annual performance evaluation or assessment prepared by his supervisor within ten (10) days of it preparation;

c. shall pay to the EPC $150.00 within the first six (6) months of each probation year to defray the costs of monitoring probation;

d. shall violate no law and fully comply with all district school board regulations, school rules, and State Board of Education Rule 6B-1.006; and

e. shall satisfactorily perform his duties in a competent, professional manner.

7. **Violation.** In the event Respondent fails to comply with each condition set forth herein, he agrees that the Petitioner shall be authorized to file an Administrative Complaint or a Notice of Violation with the EPC seeking sanctions against his Florida educator's certificate up to and including permanent revocation of his Florida educator's certificate and a permanent bar from re-application for a Florida educator's certificate, based upon the violation of the terms of

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this Settlement Agreement.

8. **Costs and Fees.** Respondent agrees that any costs associated with the fulfillment of the terms of this Settlement Agreement, including those associated with the Recovery Network Program (RNP), if applicable, and the terms of Respondent's probation, if applicable, including the statutory $150.00 per year probation monitoring fee, shall be the sole responsibility of Respondent. However, the probation monitoring fee shall be held in abeyance if Respondent is not employed as an educator pursuant to the terms of the Probation.

9. **Force and Effect.** This Settlement Agreement constitutes an offer of settlement disputed issues of material fact until accepted and executed by all parties. The Settlement Agreement is void and has no force or effect unless executed by all parties and accepted by the EPC. If the Settlement Agreement is not accepted and executed by all parties, the terms herein shall be inadmissible in any subsequent formal or informal administrative hearing or in any other legal action between the parties.

10. **Notice of "Three Strikes" Provision.** Respondent is hereby put on notice that Section 1012.795(6)(b), Florida Statutes (2004), provides for permanent revocation of an educator's certificate under certain circumstances when the educator's certificate has been sanctioned by the Education Practices Commission on two (2) previous occasions.

11. **Waiver of Rights.** Respondent understands provisions of this Settlement Agreement, their legal effect, and his rights under Florida law to a formal hearing before a duly designated administrative law judge of the Division of Administrative Hearings (DOAH) or an informal hearing before the EPC. Respondent specifically waives his right to both a formal and an informal hearing, except he may appear before the EPC in order to urge the adoption of this Settlement Agreement. Respondent further acknowledges that he is under no duress, coercion or undue influence to execute this Settlement Agreement and that he has had the opportunity to receive the advice of legal counsel prior to signing this Settlement Agreement.

12. **Approval.** When fully executed, this Settlement Agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this Settlement Agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion to reject this Settlement Agreement and order a full evidentiary hearing on the allegations of the Amended Administrative Complaint if, in the exercise of its discretion, it deems such action to be appropriate.

13. **Notice.** Respondent waives all statutory and regulatory provisions concerning notice of hearing and agrees that this Settlement Agreement may be presented to the EPC for consideration at its next available scheduled meeting, provided that Respondent is given reasonable advanced notice of time, place and date of said meeting.

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IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this August day of 26, 2004.

Darrell T. Polite
DARRELL T. POLITE

STATE OF FLORIDA
COUNTY OF Putnam

The foregoing instrument was acknowledged before me this 26th day of August, 2004, by Darrell T. Polite, who is _____ personally known or produced [redacted] FL Driver License as identification [type of identification produced].

LaShonda T. Simmons
NOTARY PUBLIC
My commission expires:

LASHONDA T. SIMMONS MY COMMISSION EXPIRES Jun 9, 2006 #DD 132715 Bonded thru Notary Public Underwriters NOTARY PUBLIC, STATE OF FLORIDA

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ATTORNEY FOR PETITIONER

ATTORNEY FOR RESPONDENT

STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

JIM HORNE, as
Commissioner of Education,

Petitioner,

vs. **CASE NO. 023-1623-C**

DARRELL T. POLITE,

Respondent.
_____/

AMENDED ADMINISTRATIVE COMPLAINT

Petitioner, Jim Horne, as Commissioner of Education, files this Amended Administrative Complaint against DARRELL T. POLITE. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.795 and 1012.796, Florida Statutes, and pursuant to Rule 6B-1.006, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in Sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 770237, covering the area of Physical Education, which is valid through June 30, 2004.

2. At all times pertinent hereto, the Respondent was employed as a Physical Education Teacher at Palatka High School in the Putnam County School District.

MATERIAL ALLEGATIONS

3. On or about September 20, 1998, Respondent grabbed B.N. by the arm against her will. Respondent was charged with Domestic Battery. On or about October 20, 1998, the state attorney's office filed no information in the case.

4. On or about March 31, 2001, Respondent was in unlawful possession of a suspended driver's license. Respondent was arrested and charged with Possession of a Suspended Driver's License. On or about August 30, 2001, Respondent pled no contest to the charge. The court withheld adjudication of guilt and fined Respondent $100.00.

5. On or about December 16, 2002, Respondent willfully and intentionally struck C.C., his girlfriend, in the mouth against her will causing injury to her lip. C.C. was holding their son at the time. Respondent was arrested and charged with Domestic Violence. On or about March 3, 2003, the state attorney's office filed no information in the case.

6. On or about January 26, 2004, Respondent engaged in an argument with C.C., his girlfriend. During the argument, Respondent was outside a residence, while C.C. and her family were inside. C.C. refused to open the door. Respondent then fired several rounds from a .38 caliber semi-automatic pistol. Respondent was arrested and charged with Discharge of a Firearm in Public. On or about January 27, 2004, the sheriff's office amended the charge to Aggravated Assault with a Deadly Weapon without the Intent to Kill. On or about January 27, 2004, the state attorney's office filed information against Respondent charging him with Aggravated Assault with a Deadly Weapon. On or about February 26, 2004, the state attorney's office filed information against the Respondent on the reduced charge of Improper Exhibition of a Dangerous Weapon. On or about May 18, 2004, Respondent entered into a six month pre-trial diversion program.

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of Section 1012.795(1)(c), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude.

WHEREFORE, the Petitioner recommends that the Education Practices Commission impose an appropriate penalty pursuant to the authority provided in Sections 1012.795(1) and 1012.796(7), Florida Statutes, which penalty may include a reprimand, probation, restriction of the authorized scope of practice, administrative fine, suspension of the teaching certificate not to exceed three years, permanent revocation of the teaching certificate, or combination thereof, for the reasons set forth herein, and in accordance with the Explanation and Election of Rights forms which are attached hereto and made a part hereof by reference.

EXECUTED on this 9th day of July, 2004.

JIM HORNE, as
Commissioner of Education
State of Florida

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