

BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION  
OF THE STATE OF OREGON

In the Matter of the	)	
Teaching License of	)	FINAL ORDER
	)	
KHALIL TAMIR EDWARDS	)	Case No. 1102293

On August 5, 2011, Senior Administrative Law Judge Ken L. Betterton issued a Ruling on Summary Determination and Proposed Order in this case.

The Teacher Standards and Practices Commission adopts in its entirety the Findings of Fact, Conclusions of Law and Order contained in the attached Ruling on Summary Determination and Proposed Order.

ORDER

The Commission adopts the Ruling on Summary Determination and Proposed Order that revokes Khalil Tamir Edward's teaching license and revokes his right to apply for a license.

Dated this 7<sup>th</sup> day of November 2011.

TEACHER STANDARD AND PRACTICES COMMISSION

By:   
Victoria Chamberlain, Executive Director

**NOTICE:** You are entitled to judicial review of this Final Order pursuant to the provisions of ORS 183.480. Judicial review may be obtained by filing a petition in the Oregon Court of Appeals. The petition must be filed within 60 days from the date of service of this Final Order.

Rec'd  
8-8-11

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
TEACHER STANDARDS AND PRACTICES COMMISSION**

IN THE MATTER OF THE TEACHING LICENSE OF:	) <b>RULING ON SUMMARY</b> ) <b>DETERMINATION AND</b> ) <b>PROPOSED ORDER</b> ) ) OAH Case No.: 1102293
<b>KHALIL TAMIR EDWARDS</b>	

**HISTORY OF THE CASE**

On January 24, 2011, the Teacher Standards and Practices Commission (TSPC) issued a Notice of Opportunity for Hearing to Khalil Tamir Edwards (Licensee), seeking to revoke his teaching license for violating laws regarding his licensure. Licensee filed a request for hearing on February 10, 2011.

TSPC referred the case to the Office of Administrative Hearings on April 5, 2011. The case was assigned to Senior Administrative Law Judge Ken L. Betterton.

A telephone pre-hearing conference was held on May 31, 2011. TSPC was represented by Assistant Attorney General Raul Ramirez. Licensee did not appear. The case was scheduled for hearing on September 1, 2011.

On June 17, 2011, TSPC filed a Motion for Summary Determination. Licensee did not file a response to the motion.

**ISSUE**

Whether Licensee committed gross unfitness and should have his teaching license revoked under ORS 342.175 and OAR 584-020-0040.

**DOCUMENTS CONSIDERED FOR THE RULING**

Exhibits A through D, presented by TSPC, were made a part of the record.

**BASIS FOR THE MOTION**

TSPC asserts that there is no genuine issue of material fact that Licensee's teaching license should be revoked for gross unfitness as a result of a conviction for sodomy in the third degree.

## **FACTS RELEVANT TO THE RULING**

(1) Licensee has been licensed as a teacher in Oregon since August 30, 2007. (Ex. A.) His current Initial I Teaching License was issued August 30, 2007 and was valid through December 1, 2010. (Ex. B.)

(2) While performing a routine criminal background check on Licensee in September 2010, TSPC staff discovered that Licensee was convicted of sodomy in the third degree in Multnomah County Circuit Court, Portland, Oregon on April 28, 2008. (Ex. C.) Sodomy in the third degree (ORS 163.385) is a Class C felony. (Ex. D.)

(3) Licensee was charged with performing oral sex on a 15-year-old male on November 21, 2007. Licensee entered a guilty plea to the charge. He received a sentence of supervised probation for three years. Under his conditions of probation, Licensee is prohibited from unsupervised contact with minors and banned from places frequently designed for the primary use of children, such as parks and schools, without first obtaining written permission. Licensee is also required to register as a sex offender under Oregon law. (Ex. D.)

## **SUMMARY DETERMINATION**

OAR 137-003-0580 governs motions for summary determination. That administrative rule provides, in relevant part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

(9) A party or the agency may satisfy the burden of producing evidence through affidavits. Affidavits shall be made on personal knowledge, establish that the affiant is competent to testify to the matters stated therein and contain facts that would be admissible at the hearing.

(10) When a motion for summary determination is made and supported as provided in this rule, a non-moving party or non-moving agency may not rest upon the mere allegations or denials contained in that party's or agency's pleading.

(11) The administrative law judge's ruling may be rendered on a single issue and need not resolve all issues in the contested case.

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order \* \* \* incorporating that ruling \* \* \*.

### CONCLUSION OF LAW

Licensee committed gross unfitness and his teaching license should be revoked under ORS 342.175(1)(c) and OAR 584-020-0040.

### OPINION

TSPC contends that it is entitled to summary determination as a matter of law because there is no genuine issue of material fact that Licensee committed gross unfitness under ORS 342.175(1)(c) and OAR 584-020-0040 as a result of his conviction for sodomy in the third degree.

Because TSPC filed the Motion for Summary Determination, I must consider the evidence in a manner most favorable to the non-moving party, *i.e.*, Licensee. OAR 137-003-0580(7).

ORS 342.175(1)(c) states that TSPC may discipline a teacher for gross unfitness. Gross unfitness is defined in OAR 584-020-0040(5) "any conduct which renders an educator unqualified to perform his or her professional responsibilities."

OAR 584-020-0040(5)(d) states that gross unfitness includes commission of a crime listed in OAR 584-020-0040(1). Sodomy in the third degree (ORS 163.385) is a crime listed in OAR 584-020-0040(1)(h).

OAR 584-020-0040(5)(c) states that a conviction for violating any federal, state or local law is evidence of gross unfitness.

Licensee was convicted of sodomy in the third degree. A condition of his sentence included no unsupervised contact with minors. A conviction for sodomy in the third degree is evidence of gross unfitness. OAR 584-020-0040(5)(c) and (d).

Licensee did not file a response to TSPC's Motion for Summary Determination. There is no genuine issue of material fact that Licensee committed gross unfitness and that his teaching license should be revoked.

## **RULING ON SUMMARY DETERMINATION**

TSPC's Motion for Summary Determination is granted.

### **ORDER**

I propose TSPC issue the following order:

TSPC's decision to revoke Khalil Tamir Edwards's teaching license is affirmed.

Ken L. Betterton

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Senior Administrative Law Judge  
Office of Administrative Hearings

### **EXCEPTIONS**

The proposed order is the Administrative Law Judge's recommendation to the Teacher Standards and Practices Commission. If you disagree with any part of this proposed order, you may file written objections, called "exceptions," to the proposed order and present written argument in support of your exceptions. Written argument and exceptions must be filed **within fourteen (14) days after mailing of the proposed order** with the:

Teacher Standards and Practices Commission  
465 Commercial Street, NE  
Salem, Oregon 97301

The Commission need not allow oral argument. The Executive Director may permit oral argument in those cases in which the Director believes oral argument may be appropriate or helpful to the Commissioners in making a final determination. If oral argument is allowed, the Commission will inform you of the time and place for presenting oral argument.