

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

In the Matter of the	)	
Personnel Service License of	)	STIPULATION OF FACTS AND
JOSEPH ANTHONY HERTZ	)	ORDER OF REVOCATION
	)	

On or about September 30, 1996, the Teacher Standards and Practices Commission (Commission) issued a notice of opportunity for hearing to Joseph Anthony Hertz in which the Commission proposed to suspend or revoke the personnel service license of Mr. Hertz, or otherwise impose discipline under ORS 342.177 based upon alleged misconduct, including conviction of the crime of assault in the third degree, a Class C felony. On October 11, 1996, Mr. Hertz requested a hearing. In accordance with Mr. Hertz's wishes, a hearing has not yet been scheduled.

The Commission and Mr. Hertz have now reviewed the matter alleged and have agreed that their respective interests, together with the public interest, are best served by revoking Mr. Hertz's right to apply for a personnel service license and a stipulation to certain facts. In entering this stipulation, Mr. Hertz waives his right to a hearing. This agreement sets forth the facts upon which the parties have agreed and the Commission's order revoking Mr. Hertz's right to apply for a personnel service license.

STIPULATED FACTS

Mr. Hertz agrees and stipulates that substantial evidence exists in the record to support the following findings of fact by the Commission:

1. Mr. Hertz has been employed as a school psychologist from about September 1987 to May 1994. During that period, he has been employed by the Douglas County Education Services District, the Lake Washington (Washington) School District, and the Curry Education Services District. Mr. Hertz has been an effective school psychologist throughout his career. Mr. Hertz's personnel service license expired on September 13, 1996.

2. At about 2 a.m. on April 22, 1994, Mr. Hertz entered the residence of his estranged wife, who was in bed with her boyfriend. Mr. Hertz repeatedly struck the boyfriend with a piano bench leg that Mr. Hertz had brought with him, inflicting multiple contusions and broken bones on the boyfriend. During the incident, Mr. Hertz's estranged wife suffered minor contusions and a broken finger.

3. Based on the above, Mr. Hertz was indicted for the crime of assault in the third degree, a Class C felony. On September 19, 1994, Mr. Hertz entered a plea of guilty to the crime.

4. On October 12, 1994, the Curry County Circuit Court sentenced Mr. Hertz to 180 custody units and 60 months probation, and ordered Mr. Hertz to make certain payments including \$33,000 to his estranged wife's boyfriend. The court ordered Mr. Hertz to satisfy those financial obligations by paying \$250 per month to the court, beginning February 7, 1995.

5. Mr. Hertz's behavior was based in part on his desire to protect his children, who were living with his estranged wife and her boyfriend.

6. Mr. Hertz has no prior criminal history.

7. Following his arrest and before his sentencing, Mr. Hertz attended seven sessions of anger management counseling. The clinical psychologist who supervised the counseling concluded that Mr. Hertz had made good progress and was not likely to be a danger to anyone.

8. Since his release from incarceration in December 1994, Mr. Hertz has complied with all the terms of his probation except for the following: Mr. Hertz is significantly delinquent in making payments to the court.

9. Mr. Hertz's failure to make payments to the court is the result of his failure to obtain meaningful employment following his release from incarceration. Mr. Hertz currently is enrolled in taxidermy school and earns small amounts of money chopping wood.

10. This stipulation and the proposed order are contingent upon approval by the full Commission at the Commission's next meeting. If the Commission does not approve this stipulation, the matter will be returned for a hearing, and neither the Commission nor Mr. Hertz shall be bound by the matters in this stipulation.

### CONCLUSION OF LAW

Mr. Hertz's conduct renders him unfit to hold a personnel service license under OAR 584-20-040(3)(a).

### ORDER

The Commission revokes Mr. Hertz's right to apply for a personnel service license as provided in ORS 342.175(1) and OAR 584-50-027(2).

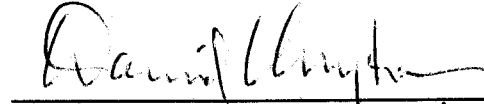
Under ORS 342.175(3), any person whose right to apply for a license has been revoked may apply to the Commission for reinstatement after one year from the date of revocation. If Mr. Hertz should apply for reinstatement at some future date, the decision would lie within the discretion of the Commissioners who consider the matter at that time. Without limiting the discretion of future Commissioners, it is expected that Mr. Hertz would demonstrate, at a minimum, that he has complied with all the terms of his probation, demonstrated progress and efforts to become current in payments required to be made to the court under the terms of his Judgment Order of Conviction, and that he has

committed no acts that would constitute a violation of professional standards under OAR, Division 20.

It is so stipulated and ordered this 24<sup>th</sup> day of March, 1997:

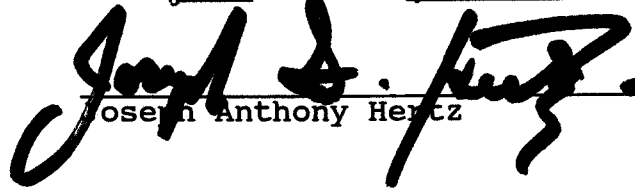
TEACHER STANDARDS AND PRACTICES COMMISSION

By:



David V. Myton, Executive Secretary

It is so stipulated this 27 day of Feb., 1997:



Joseph Anthony Hertz

SSBHERTZ.ORD