

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Douglas D. Christensen)
Commissioner of Education)
301 Centennial Mall South - 6th Floor)
P.O. Box 94933)
Lincoln, NE 68509-4933,)

Petitioner,)

vs.)

Paul Votruba)
1345 T Street)
Gering, NE 69341,)

Respondent.)

N.P.P.C. Case No. 03-06
Case No. 02004

Findings Of Fact, Conclusions
Of Law, And Order
Of The Commission



1. STATEMENT OF THE CASE.

This case commenced with the filing of a Petition on June 25, 2003, by Douglas D. Christiansen, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Paul Votruba, hereinafter referred to as "Respondent." The Petition alleges certain acts of conduct by the Respondent in violation of Neb. Rev. Stat. Sec. 79-866(2) (Reissue 1996); Title 92, Nebraska Administrative Code, Chapter 27, Section 004.04B (effective date: December 225, 1989), Section 004.04E (same effective date), Section 004.04F (same effective date), and Section 004.06G (same effective date).

Also on June 25, 2003, the Petition, Notice of Right to Submit an Answer, and a coy of Title 95, Nebraska Administrative Code, Chapter 1, (effective date: October 30, 1993) were served upon the Respondent and his attorney, Scott Norby, by certified mail, return receipt requested. On or about July 14, 2003, the Respondent, through his attorney, filed an Answer with the Commission, in which he generally denied any and all allegations of wrongdoing, and alleged certain mitigating circumstances which should be considered by the Commission.

On or about July 31, 2003, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing and sent the same to the Respondent at the above address, as well as to his attorney, by U.S. Mail, postage prepaid. The Notice advised that a public hearing on the Petition and Answer would be held on August 16, 2003, commencing at approximately 9:05 a.m., in the State Board Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a

designated hearing committee of the Commission, with Samuel Van Pelt serving as legal counsel to advise the chairperson in the performance of her duties.

The Petition and Answer came on for hearing at the above time and place before a hearing committee of the Commission consisting of Commission members Jay Bellar, Rose Mary Datus, Kirby Eltiste, Marilyn Hammond, Kenneth Heinz, Linda Mihm, Daniel Ross, Timothy Shafer, Loretta Tebbe, James Thomas, and Debra Wallman with Debra Wallman serving as chairperson of the hearing committee. The proceedings were reported by Carolyn Freeman of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by his General Counsel, Brian L. Halstead. The Respondent appeared with his attorney, Scott J. Norby. Exhibits were received in evidence, testimony was adduced, and counsel for both parties made their closing arguments.

Thereupon the Commission adjourned and deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and recommended Order.

II. FINDINGS OF FACT.

1. The Petitioner, Douglas D. Christensen, is the Commissioner of Education for the State of Nebraska. The Respondent holds a Nebraska public schools teaching certificate number -6294, Type 2, Rank B, Level 7, endorsed in Social Science 7-12, with an expiration date of August 31, 2004.

2. At all times relevant herein, the Respondent was employed as a teacher by the Scottsbluff Public Schools. Between October 1, 1999, and November 30, 1999, the Respondent used school district equipment of the Scottsbluff Public Schools to view, download, or forward sexually explicit pictures.

III CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this case, and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory requirements.

2. The Petitioner has failed to prove by a preponderance of the evidence that the Respondent committed an immoral act or an act of moral turpitude in violation of Neb. Rev. Stat. Sec. 79-866(2) (Reissue 1996), and Title 92, Nebraska Administrative Code, Chapter 27, Section 004.04E (effective date: December 25, 1989). The Petitioner has further failed to prove by a preponderance of the evidence that the Respondent used institutional privileges for private gain in violation of the above title and chapter of the Nebraska Administrative Code, Section 004.04B (same effective date); or that the Respondent failed with reasonable diligence to attend to the duties of his professional position in violation of the above title and chapter of the Nebraska Administrative Code, Section 004.04F (same effective date). The Petitioner has proven by a preponderance of the evidence that the Respondent failed to use time on duty for the purpose for which it was intended in violation of the above title and chapter of the Nebraska Administrative Code, Section 004.06G (same effective date).

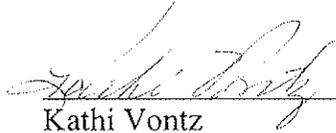
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Order of the Commission for Case No. 03-06 was served upon Respondent, Paul Votruba, and Scott J. Norby, attorney for the Respondent by U. S. Mail, postage prepaid. It was also hand delivered to Brian Halstead, attorney for the Petitioner, on this 8th day of September, 2003, at the following addresses.

Paul Votruba
Respondent
1345 T Street
Gering, NE 69341

Brian L. Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Scott J. Norby
Attorney for Respondent
605 So. 14th Street
Suite 100
Lincoln, NE 68508



Kathi Vontz
Clerk of the Commission

IV. DISCUSSION

All hearing committee members agreed that the Respondent be issued a public reprimand.

V. ORDER

Therefore, the Commission respectfully orders that Paul Votruba, with Nebraska public schools teaching certificate number -6294, Type 2, Rank B, Level 7, endorsed in Social Science 7-12, with an expiration date of August 31, 2004, be issued a public reprimand for failing to use time on duty for the purpose for which it was intended.

Dated this 4th day of September, 2003



Debra Wallman, Chairperson
Hearing Committee
Nebraska Professional Practices Commission