NEBRASKA DEPARTMENT OF EDUCATION

CONTESTED CASE DOCKET SHEET

CASE # 11-03

NAME Commissioner v. Wayne

Filing Number	Date	Description
01	7/8/11	APC File

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NEBRASKA DEPARTMENT
OF EDUCATION

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P.O. Box 94933 Lincoln, NE 68509-4933, Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045, Respondent.	)	N.P.P.C. Case No. 11-04 Case No. 11002 Findings Of Fact, Conclusions Of Law And Recommendation Of the Commission

I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on March 3, 2011, by Roger D. Breed, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Rodney Wayne, hereinafter referred to as "Respondent." The Petition alleges certain acts of conduct by the Respondent in violation of Neb. Rev. Stat. Section 79-866(2) (Reissue 2003); Title 92, Nebraska Administrative Code, Chapter 27, Section 004.02G (effective date: November 12, 2003).

On March 8, 2011, the Petition, Notice of Right to Submit an Answer, and a copy of Title 95, Nebraska Administrative Code, Chapter 1 (effective date: October 30, 1993), was served upon Respondent by certified mail, return receipt requested.

The Respondent has failed to file an Answer to the Petition. On March 30, 2011, the Petitioner filed a Motion for Default Judgment. Also on March 30, 2011, Kathi Vontz, Clerk of the Commission filed a Request for Support Information.

Further, on or about March 30, 2011, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Respondent, postage prepaid, and delivered by hand to the Petitioner's general counsel. The Notice of Hearing advised that a public hearing on the Petition would be held on June 15, 2011, commencing at approximately 9:05 a.m., in the State

Board Hearing Room, 6th 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 Chair in the performance of his duties.

On April 4, 2011, Petitioner, through his General Counsel filed the requested Support Information with the Commission.

The Petition and Default Motion, came on for hearing at the above time and place before a Hearing Panel of the Commission consisting of Commission Members: Susan J. Anglemyer, Robert Beck, Sarah Brown, Susan Johnson, Raymond Keller, Jodi Kupper, Brian Maher, Cindy Serfass, Karen Shelton, Lana Sides, Jane Stavem and Lynn Strack. Commissioner Beck served as Chairperson. The proceedings were reported by Wendy Cutting of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, General Counsel. Neither the Respondent nor anyone representing the Respondent appeared. Exhibits were received in evidence and the Petitioner's General Counsel made his closing argument.

Thereupon, the Commission adjourned and deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and Recommendation to the State Board of Education.

II. FINDINGS OF FACT

1. The Petitioner, Roger D. Breed, is the Commissioner of Education for the State of Nebraska; Respondent holds a public Nebraska standard administrative certificate number 2004000679, endorsed as Principal 7-12, Principal K-6, Physical Education K-12, and Health K-12, with an expiration date of August 31, 2014.

2. The Respondent's Georgia teaching certificate was revoked by the Georgia Professional Standards Commission effective November 24, 2010, after the Respondent admitted to taking several items from a high school concession stand that was under construction.

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 proven by a preponderance of the evidence that the Respondent committed an immoral act and an act of moral turpitude in violation of Neb. Rev. Stat. Section 79-866(2) (Reissue 2003); and Title 92, Nebraska Administrative Code, Chapter 27, Section 004.02G(effective date: November 12, 2003) which states, "the educator: Shall not have had revoked for cause a teaching certificate, administrative certificate, or any certificate enabling a person to engage in any of the activities for which a special services certificate is issued in Nebraska".

IV. RECOMMENDATION

Therefore, the Commission respectfully recommends to the State Board of Education that the Respondent's Nebraska standard administrative certificate number 2004000679, endorsed as Principal K-6, principal 7-12, Physical Education K-12, and Health K-12, with an expiration date of August 31, 2014, be revoked for a period of five years from and after final action herein by the State Board of Education. The Commission further recommended that the Respondent not be allowed to apply for a new certificate until his Georgia certificate has been reinstated.

Dated this 8th day of July, 2011.

Robert Beck

Robert Beck, Chairperson
Hearing Committee
Nebraska Professional Practices Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Recommendation for Case No. 11-04, was served upon Respondent, Rodney Wayne, by certified U.S. Mail, postage prepaid, and hand delivered to Brian Halstead, attorney for the Petitioner, on this 8th day of July, 2011, at the following addresses.

Rodney Wayne
Respondent
1235 Opie Lane
Lawrenceville, GA 30045

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

Kathi Vontz
Clerk of the Commission

ORIGINAL

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South P.O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	Case No. 11002 PPC Case No. 11-04 TRANSCRIPT VOLUME I of I (Pages 1 through 12) EXHIBITS 1-3

Nebraska State Office Building
301 Centennial Mall South
Department of Education Board Room
Sixth Floor
Lincoln, NE

Convened, pursuant to notice, at 9:13 a.m., on June 15, 2011,

BEFORE:

ROBERT BECK, Hearing Officer.

COMMISSION MEMBERS PRESENT:

BRIAN MAHER, Chairperson; SUSAN ANGLEMEYER; SARAH BROWN; SUSAN JOHNSON; RAYMOND KELLER; JODI KUPPER; CINDY SERFASS; KAREN SHELTON; LANA SIDES; JANE STAVEM; and LYNN STRACK.

OTHERS PRESENT:

KATHI VONTZ, Clerk of the Commission

A P P E A R A N C E S

For the Commissioner:

Brian L. Halstead, #18077
Assistant Commissioner/
General Counsel
Department of Education
301 Centennial Mall South
Sixth Floor
Lincoln, NE 68509

- - -

I N D E X

EXHIBITS:	Marked	Offered	Ruled On	Found
1 Pleadings (62 pages)	5	6	6	Appendix
2 Title 92, Nebraska Administrative Code, Chapter 27 (16 pages)	5	6	6	Appendix
3 Title 95, Nebraska Administrative Code, Chapter 1 (20 pages)	5	6	6	Appendix

- - -

Appearances	2
Reporter's Certificate	4
Closing Argument by Mr. Halstead	7
Motion	10
Decision	12

- - -

REPORTER'S CERTIFICATE:

State of Nebraska)
) ss.
County of Lancaster)

I, WENDY C. CUTTING, reporter for GENERAL REPORTING SERVICE, certify that I reported the proceedings in this matter; that the transcript of testimony is a true and accurate and complete extension of the recording made of those proceedings; that the transcript consists of:

Volume I, pages 1 through 12, and Exhibits 1 through 3; and further that the disposition of the exhibits is referenced in the index hereto.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Lincoln, Nebraska, this 28th day of June, 2011.

Wendy C. Cutting
Reporter

- - -

PROCEEDINGS:

(Exhibits 1 through 3 were marked for identification.)

THE HEARING OFFICER: Ladies and gentlemen, I am Robert Beck, chairperson of this hearing panel of the Nebraska Professional Practices Commission. I convene this hearing at 9:13 a.m. for the purpose of receiving evidence on a petition filed by Roger D. Breed, Commissioner of Education, Petitioner, against Rodney Wayne, Case No. 11-4.

The other members of the hearing committee are Susan Anglemeyer, Sarah Brown, Susan Johnson, Raymond Keller, Jodi Kupper, Brian Maher, Karen Shelton, Lana Sides, Jane Stavem, Lynn Strack, and Cindy Serfass.

The Commission's attorney is Samuel Van Pelt, and as you can see, he is absent today.

The court reporter is Wendy Cutting. Her purpose is to record the testimony of the witness and mark the exhibits.

The Clerk of the Commission is Kathi Vontz. Her purpose is administrative.

This case arises from a request by the State Board of Education that the Commission hear this matter pursuant to Sections 79-859 through 79-871 of the Nebraska statutes and the rules and regulations thereunder.

At this time I ask the attorneys to enter their

appearance.

MR. HALSTEAD: Brian Halstead, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska 68509, on behalf of the Commissioner of Education.

THE HEARING OFFICER: Let the record show that the respondent is not present, nor is there anyone else present on behalf of the respondent.

At this time, if there are no objections, I will enter into the record the pleadings which are marked as Exhibit 1; the standards of ethics and competency, which is 92 Nebraska Administrative Code, Chapter 27, and is marked as Exhibit 2; and the Regulations Concerning Teacher and Administrator Professional Practices Hearings, which is 95 Nebraska Administrative Code, Chapter 1, and is marked as Exhibit 3. Are there any objections?

MR. HALSTEAD: I have no objections.

THE HEARING OFFICER: Exhibits 1, 2, 3 are received.

(Exhibits 1 through 3 were received in evidence. See Index.)

THE HEARING OFFICER: Is there an opening statement?

MR. HALSTEAD: I would waive an opening statement, Mr. Beck.

THE HEARING OFFICER: Any other evidence?

MR. HALSTEAD: I believe the evidence you need for the case is included in Exhibit No. 1, the pleadings, which has the Report of Investigation in it, so I have no further evidence than Exhibits 1, 2, and 3, in the matter.

THE HEARING OFFICER: At this time, then, the hearing committee's attorney will conduct the hearing. Go ahead and give us your closing statement.

MR. HALSTEAD: Thank you. Ladies and gentlemen of the Commission, as you can see from the information contained in Exhibit No. 1, the pleadings, Mr. Wayne currently holds a Nebraska certificate to be an educator. He has had his certificate in the State of Georgia revoked by that state for the theft of items from a school. As the information indicated, he took a number of items from the school district. Those items included a freezer, $500 in food products, hot dog cooker, hot dog bun steamer, a nacho cooker/warmer, food heat lamps, and a pop-up tent canopy. There was video surveillance that observed him taking all of these items. He was charged with a felony offense in the state of Georgia at the time that his certificate was revoked by the State of Georgia. I do not know the status of his felony charges at this time. We have alleged that he has, in fact, had his certificate revoked for cause by another state that's set forth in Title 92, Nebraska Administrative Code, Chapter 27 §004.02G. We think we've

clearly met our burden of proof in the fact that he's violated that ethical standard.

Our recommendation to the Commission is that his certificate in Nebraska be revoked for a period of five years and that as a condition for reinstatement, he first get his certificate or license in the State of Georgia reinstated before he comes back to Nebraska. The five years, primarily because it's a felony charge. It's not just a simple little theft. This is a serious matter in that regard. And usually with felony offenses, you've heard me in the past argue for five-year revocations. What that will also do is make it clear to the respondent he needs to get his act cleaned up in the State of Georgia and have the State of Georgia relicense him to be an educator before he comes back to Nebraska and asks for the Board to give him another certificate. So, with that, I would close.

I'd be more than happy to answer any questions you might have on the facts in the case before you.

THE HEARING OFFICER: Anyone have any questions?

(No response.)

The hearing committee will now adjourn and will consider the evidence. The hearing committee's decision will be reduced to writing. A copy of the hearing committee's findings, conclusions, and decision will be furnished to the parties. If the decision includes a

recommendation to suspend or revoke the respondent's certificate, the findings, conclusions, and recommendation will be presented to the State Board of Education.

I now declare this hearing adjourned at 9:19 a.m.

(Whereupon, the hearing was adjourned at 9:19 a.m. to be reconvened after executive session and deliberation of the evidence.)

(Back on the record 3:34 p.m.)

CHAIRPERSON MAHER: So, we will go back now to the matter of Commissioner versus Wayne. In that matter, is there a motion?

COMMISSIONER ANGLEMEYER: Mr. Maher, I move that the Nebraska Professional Practices Commission adopt the fact and findings and conclusions of law and recommend to the State Board of Education that the certification of Rodney Wayne be suspended for five years under the condition that he reinstates his Georgia certificate first.

COMMISSIONER BECK: Is revoked, isn't it?

COMMISSIONER ANGLEMEYER: Oh, I'm sorry.

CHAIRPERSON MAHER: Could you restate your motion for purposes of clarity?

COMMISSIONER ANGLEMEYER: Sure. That the certificate --

COMMISSIONER KUPPER: It should be revoked.

COMMISSIONER ANGLEMEYER: -- do I have the right

one? Rodney Wayne be suspended for a term of five years under the condition that he reinstate his Georgia certificate first.

CHAIRPERSON MAHER: Before I ask for a second, I'm going to ask a question again for clarification, Susan. I think I heard you say that your motion was to suspend his license and there is a difference between suspension and revoking.

COMMISSIONER ANGLEMEYER: I'm sorry, it is revocation. It's my fault. Should I read again?

CHAIRPERSON MAHER: Would you read your motion one more time?

COMMISSIONER ANGLEMEYER: I move that the Nebraska Professional Practices Commission adopts the findings of fact and conclusions of law and recommend to the State Board of Education that the certificate of Rodney Wayne be revoked for a period of five years under the condition that the Georgia certificate is reinstated first.

CHAIRPERSON MAHER: We have a motion. Is there a second?

COMMISSIONER STAVEM: I would second the motion.

CHAIRPERSON MAHER: We have a second. Is there discussion on the motion?

(No response.

Seeing none, call for the vote.

THE CLERK: Anglemeyer.

COMMISSIONER ANGLEMEYER: Yes.

THE CLERK: Beck.

COMMISSIONER BECK: Yes.

THE CLERK: Brown.

COMMISSIONER BROWN: Yes.

THE CLERK: Johnson.

COMMISSIONER JOHNSON: Yes.

THE CLERK: Keller.

COMMISSIONER KELLER: Yes.

THE CLERK: Kupper is absent. Maher.

CHAIRPERSON MAHER: Kupper is back.

THE CLERK: Oh, okay. Just a minute. I thought I messed up on the last one. Just a minute and I will put you back. Sorry.

COMMISSIONER KUPPER: Yes.

THE CLERK: Maher.

CHAIRPERSON MAHER: Yes.

THE CLERK: Serfass.

COMMISSIONER SERFASS: Yes.

THE CLERK: Shelton.

COMMISSIONER SHELTON: Yes.

THE CLERK: Sides?

CHAIRPERSON SIDES: Yes.

THE CLERK: Stavem.

COMMISSIONER STAVEM: Yes.

THE CLERK: Strack.

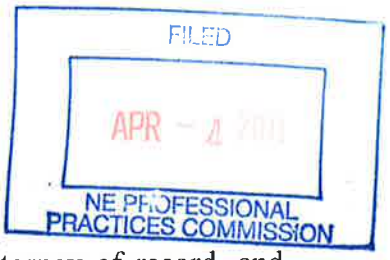
COMMISSIONER STRACK: Yes.

(Whereupon, at 3:35 p.m. on June 15, 2011, the proceedings were concluded.)

- - -

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 PPC Case No. 11-04 SUPPORT INFORMATION



COMES NOW the Petitioner, by and through the undersigned attorney of record, and pursuant to the Commission's Request for Support Information, submits the following information requested as provided in Title 95, *Nebraska Administrative Code*, Chapter 1, Section 003.05:

1. Title 92, *Nebraska Administrative Code*, Chapter 28, a copy of which is attached and marked as Exhibit "A", and by this reference is incorporated herein;

2. Title 92, *Nebraska Administrative Code*, Chapter 29, a copy of which is attached and marked as Exhibit "B", and by this reference is incorporated herein;

3. An Affidavit of Kevin Peters, Director for the Teacher Education/Certification Division of the Nebraska Department of Education, a copy of which is attached and marked as Exhibit "C", and by this reference is incorporated herein; and

4. The Report of Investigation in Case No. 11002, a copy of which is attached and marked as Exhibit "D", and by this reference is incorporated herein.

WHEREFORE, the Petitioner prays that the Commission make a recommendation to the State Board of Education that is in accordance with the law.

Brian L. Halstead #18077
Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the above motion and exhibits was mailed to the parties of record, by U. S. mail, sufficient postage prepaid, on this 4th day of April 2011.

Brian L. Halstead #18077
General Counsel
P. O. Box 94933
Lincoln, NE 68509

NEBRASKA DEPARTMENT
OF EDUCATION

RULE 28

REGULATIONS AND STANDARDS FOR INVESTIGATIONS AND NONPUBLIC PROFESSIONAL PRACTICES HEARINGS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 28

EFFECTIVE DATE
DECEMBER 25, 1989

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner

EXHIBIT
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7.6-20

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NEBRASKA DEPARTMENT
OF EDUCATION

RULE 29

REGULATIONS AND STANDARDS FOR PROFESSIONAL PRACTICES CASE DETERMINATIONS BY THE STATE BOARD

TITLE 92, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 29

EFFECTIVE DATE
DECEMBER 25, 1989

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner

EXHIBIT
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BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 PPC Case No. 11-04 AFFIDAVIT

STATE OF NEBRASKA)
) SS
COUNTY OF LANCASTER)

Kevin Peters, Ed.D., being first duly sworn, deposes and says:

1. I am the Director of the Teacher Certification Division of the Nebraska Department of Education.

2. The Petitioner is Roger D. Breed, Commissioner of Education, 301 Centennial Mall South - 6th Floor, P. O. Box 94933, Lincoln, NE 68509-4933, telephone: (402) 471-5020.

3. The duties as Director include being the custodian of records regarding individuals who currently hold valid certificates issued by the Department pursuant to Title 92, *Nebraska Administrative Code*, Chapter 21.

4. The records indicate that the Respondent, Rodney Wayne, holds a public Nebraska standard administrative certificate number 2004000679, endorsed as Principal 7-12, Principal K-6, Physical Education K-12, and Health K-12, with an expiration date of August 31, 2014.

5. The acts, events, or conditions appearing on the records under my custody are made at or near the time of such acts, events, or conditions, in the course of regularly conducted activity, and that it is the regular course of activity for the Department to make such record.

FURTHER AFFIANT SAITH NOT.

Dated this 30th day of March 2011.

Kevin Peters, Ed.D.

Subscribed and sworn to before me this 30th day of March 2011.

GENERAL NOTARY - State of Nebraska
BRENDA L. WID
My Comm. Exp. Dec. 30, 2013

Notary Public

ONFIDENTIAL

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Nikole Sander 301 Centennial Mall South Lincoln, NE 68509 Complainant, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 REPORT OF INVESTIGATION

In accordance with Title 92, *Nebraska Administrative Code,* Chapter 28, the attached Report of Investigation into case number 11002 is submitted to the Commissioner of Education on this 3rd day of March 2011. The Report was submitted to the Respondent on the 16th day of February 2011, and no exceptions were filed.

P Jeffrey Schneider

Certification Investigator

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ONFIDENTIAL

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Nikole Sander 301 Centennial Mall South Lincoln, NE 68509 Complainant, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 REPORT OF INVESTIGATION

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P Jeffrey Schneider

Certification Investigator

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JURISDICTION

On January 25, 2011, Nikole Sander filed a Complaint with the Commissioner of Education against Rodney Wayne, the Respondent. A copy of the Complaint was served upon the Respondent on February 1, 2011. Copies of the Complaint and return receipt are collectively attached and marked as exhibit "E-1".

The Teacher Certification Office Records revealed that the Respondent holds a public Nebraska standard administrative certificate number 2004000679, endorsed as Principal K-6, Principal 7-12, Physical Education K-12, and Health K-12, with an expiration date of August 31, 2014.

SUMMARY OF COMPLAINT

The Complainant alleged that the Respondent's Georgia teaching certificate was revoked effective November 24, 2010, after voluntarily surrendering and admitting to taking several items from a high school concession stand that was under construction. In addition, the Respondent has been charged with felony Burglary which is still pending.

POSITION OF RESPONDENT

The Respondent responded to the complaint in this matter, a copy of which is attached and marked as exhibit "E-2". The Respondent stated the criminal matter is still pending.

FINDINGS

The Respondent's Georgia teaching certificate was revoked effective November 24, 2010, after he voluntarily surrendered his certificate. According to the Final Order of the Georgia Professional Standards Commission attached to the complaint, on October 14, 2010, the Professional Standards Commission approved a probable cause determination and proposed a disciplinary sanction against the Respondent. On October 25 the Respondent was served notice of this decision. The Respondent failed to request a hearing on the matter within 30 days which waived his right to contest the proposed sanction which began the final decision of the Commission. The Respondent had 30 days to appeal the findings of the Commission which he did not do and the matter became final on November 24, 2010.

According to the Voluntary Surrender document included with the Final Order of the Georgia Professional Standards Commission, the Respondent stole multiple items from a high school concession stand and said items were located at the Respondent's home. The Respondent admitted to taking most of the items located. The Respondent was under the impression the items had been discarded due to construction taking place, and failed to obtain the permission of a school officials prior to taking the items. Due to the fact the items were not being discarded during construction, the Respondent was criminally charged with the felony offense of Burglary. Pursuant to the Voluntary Surrender document, the Respondent is not eligible to petition for a new certificate for a period of three (3) years from the date of the surrender.

Additional documentation obtained by the Department from the Georgia Professional Standards Commission included a case summary report by an investigator. According to the report, during the summer of 2010, the Respondent removed several items from a school concession stand a school where the Respondent was employed as a teacher. The stolen items included a freezer with approximately $500 in food products, a hot dog cooker, a hot dog bun steamer, a nacho cooker/warmer, food heat lamps, and a pop-up tent/canopy. When questioned, the Respondent admitted to taking the items with the exception of the food products which he stated were not in the freezer when he took it. The freezer was last seen with food contained within and locked by a padlock. The Respondent stated when he took the freezer it was unlocked and he took the lock which he was unable to locate when questioned. All other items were located by law enforcement at the educator's residence.

The Respondent advised law enforcement he thought the items could be taken since the roof of the concession stand was being repaired. The Respondent also stated he asked two unidentified Hispanic male construction workers if he could take the items, which they stated he could. Permission was not granted by local school administration and the items were not being discarded. Surveillance video shows the Respondent pushing the freezer behind a dumpster at the school and later loading it onto a trailer being pulled by the Respondent's vehicle. When the Commission's investigator spoke to the Respondent via telephone, the Respondent advised he was thinking about getting an attorney in this matter. A written statement of the Respondent was obtained by law enforcement. An arrest warrant was issued for the felony Burglary offense and is pending in the Georgia criminal court system.

STANDARDS OF PROFESSIONAL CONDUCT AND ETHICS

The following statute and standard would appear applicable: Neb. Rev. Stat. Section 79-866(2) (Reissue 2003) which, in part, states, "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board"; and Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.02G (effective date: November 12, 2003) which states, "the educator: Shall not have had revoked for cause a teaching certificate, administrative certificate, or any certificate enabling a person to engage in any of the activities for which a special services certificate is issued in Nebraska".

DETERMINATION OF LEGAL SUFFICIENCY

There is legally sufficient evidence to indicate a violation of the statute and standard with regard to the allegation that the Respondent's certificate was revoked by the State of Georgia for taking items of a school district without permission.

RECOMMENDATION

Unless the Respondent voluntarily surrenders his certificate pursuant to 92 NAC 28 Section 003.08, the Certification Investigator would recommend the Commissioner of Education file a Petition in this matter.

EXHIBITS

E-1. Copies of the Complaint and return receipt.

E-2. A copy of the Respondent's written response.

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Nikole Sander 301 Centennial Mall South Lincoln, NE 68509-4987 Complainant, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 COMPLAINT

In accordance with Title 92, Chapter 28, of the *Nebraska Administrative Code*, the Complainant states as follows:

1. The Complainant is Nikole Sander. Her address is 301 Centennial Mall South, Lincoln, NE 68509-4987;

2. The Respondent is Rodney Wayne. His address is 1235 Opie Lane, Lawrenceville, GA 30045;

3. The Respondent had his Georgia teaching certificate revoked effective November 24, 2010, after voluntarily surrendering and admitting to taking several items from a high school concession stand that was under construction. In addition, the Respondent has been charged criminally with felony Burglary. A copy of the Final Order of the Georgia Professional Standards Commission is attached; and

4. Witness(es): Kevin Shumake, Investigator, Georgia Professional Standards Commission, Two Peachtree Street, Suite 6000, Atlanta, GA 30303; (404) 232-2500.

WHEREFORE, Complainant requests that the Commissioner of Education investigate this Complaint and take such action as is warranted, including the filing of a petition.

Dated this 25th day of January 2011.

Nikole Sander
Nikole Sander

EXHIBIT
E-1

VERIFICATION

State of Nebraska)
) ss
County of Lancaster)

I, Nikole Sander, being first duly sworn under oath, state that I have read the contents of the Complaint and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said document.

Nikole Sander

Subscribed and sworn before me this 25th day of January 2011 by Nikole Sander.

(Seal) GENERAL NOTARY - State of Nebraska
BRIAN L. HALSTEAD
My Comm. Exp. Nov. 27, 2014

Notary Public

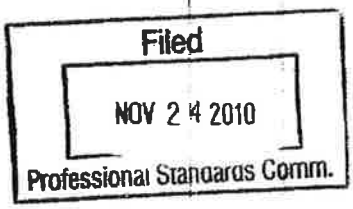
BEFORE THE GEORGIA PROFESSIONAL STANDARDS COMMISSION
STATE OF GEORGIA

IN THE MATTER OF:

Rodney L. Wayne
Certificate # 697591

Respondent.

PSC NO. 10-8-123



FINAL ORDER

The Professional Standards Commission approved a probable cause determination and proposed a disciplinary sanction in the above-captioned matter on October 14, 2010, and the Respondent was served notice of this decision on October 25, 2010. Because the Respondent failed to request a hearing within thirty (30) calendar days after service of notice of the proposed disciplinary sanction, the Respondent has waived the right to contest the proposed sanction. Therefore, the proposed sanction becomes the final decision of the Commission pursuant to Commission Rule 505-6-.04 (1) (c).

FINDINGS OF FACT

The Findings of Fact entered by the Commission in the Consent Order are hereby adopted and incorporated by reference herein.

CONCLUSIONS OF LAW

The Conclusions of Law entered by the Commission in the Consent Order are hereby adopted and incorporated by reference herein.

ORDER

1.

The Order entered by the Commission in the Consent Order is hereby adopted and incorporated herein by reference with the following specification. The Commission's proposed disciplinary action that Respondent's certificate be Revoked is adopted and having become final on November 24, 2010, is hereby made the Final Decision of the Commission on November 24, 2010.

2.

If the Respondent so chooses, he may appeal the findings of the Professional Standards Commission within 30 days of service of this order by following the procedures outlined in O.C.G.A. §50-13-19.

Kelly C. Henson

Kelly C. Henson
Executive Secretary
Professional Standards Commission
State of Georgia

BEFORE THE GEORGIA PROFESSIONAL STANDARDS COMMISSION

STATE OF GEORGIA

IN THE MATTER OF:	*	
	*	
Rodney L. Wayne	*	PSC NO. 10-8-123
Certificate # 697591	*	
	*	
Respondent.	*	

VOLUNTARY SURRENDER

By agreement of the Georgia Professional Standards Commission and Rodney L. Wayne, Respondent, the following disposition of this matter is entered pursuant to the provisions of the Georgia Administrative Procedure Act, codified as O.C.G.A. §50-13-13(a)(4).

FINDINGS OF FACT

1.

The Respondent holds a certificate to teach in the State of Georgia and held such certificate at all times relevant to the matters asserted herein.

2.

The Respondent stole multiple items from a high school concession stand. The stolen items were located at the Respondent's residence. The Respondent admitted taking most of the items in question. The Respondent indicated thinking the items had been discarded because of construction that was taking place, but the Respondent failed to secure permission from a legitimate school system official prior to taking the items. The items in question were not being discarded. The Respondent has been criminally charged with the felony offense of Burglary.

CONDITIONS OF SURRENDER

1.

Respondent, holder of Certificate # 697591 to practice as an educator in the State of Georgia pursuant to Chapter 2 of Title 20 of the Official Code of Georgia Annotated, hereby freely, knowingly and voluntarily surrenders said certificate to the Georgia Professional Standards Commission. Respondent hereby acknowledges that this surrender shall have the same effect as a revocation of his/her certificate. Respondent knowingly forfeits and relinquishes all right, title and privilege of holding himself/herself out as and being able to practice as an educator in the public schools in the State of Georgia, unless and until such time as his/her certificate may be reinstated or a new certificate issued. Respondent shall not serve as a volunteer or be employed as an educator, paraprofessional, aide, substitute teacher, or in any other position in a public school in the State of Georgia. Respondent will not seek or accept employment or any service position in any agency serving children between the ages of 3 and 17.

2.

Respondent shall not be eligible to petition to apply for a new certificate or reinstatement until three (3) years from the effective date of this Surrender. Respondent understands and agrees that the decision to reinstate or reissue a certificate will be within the sole discretion of the Commission. Respondent also understands and agrees that should the Commission consider a petition to apply for a new certificate, the Commission shall have access to the entire investigative file in this matter.

3.

Approval of this Voluntary Surrender by the Georgia Professional Standards Commission shall in no way be construed as condoning Respondent's conduct and shall not be construed as a waiver of any lawful rights possessed by the Commission.

4.

This Voluntary Surrender shall not become effective unless and until approved by the Georgia Professional Standards Commission. This Voluntary Surrender shall become effective immediately upon approval by the Commission.

5.

Respondent acknowledges that he/she has read this Voluntary Surrender and understands the terms and sanctions described herein. Respondent understands and agrees that the Commission shall have the authority to review the investigative file and all relevant evidence in considering the Voluntary Surrender. Respondent further understands that this Voluntary Surrender, once approved, shall constitute a public record that may be disseminated as a disciplinary action of the Commission. If this voluntary Surrender is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the ability of the commission to adjudicate this matter. Respondent hereby consents to the terms and sanctions contained herein.

CONSENTED TO: _____

Rodney L. Wayne
Respondent

Sworn to and subscribed
before me this _____ day
of _____, _____.

_____
NOTARY PUBLIC
My Commission expires:

SO ORDERED, this _____ day of _____, ____.

APPROVED: GEORGIA PROFESSIONAL STANDARDS COMMISSION

BY: _____
DEBORAH WILKES, Ph.D.
Chairperson

ATTEST: _____
KELLY C. HENSON
Executive Secretary

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Nebraska Department of Education
P. O. Box 94933
Lincoln, NE 68509-4933

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1. Article Addressed to:

Rodney Wayne
1235 Oak Lane
Lawrence GA 30045

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Rodney Wayne
C. Date of Delivery 2/1/11

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

February 7, 2011

Dear Nebraska Department of Education,

I received my certified letter for termination of my teacher certificate in the State of Nebraska for incident that occurred in Georgia. My lawyer and I are in the process of defending me on this matter. As of today, no court date has been set for this matter that occurred in July 2010.

I would like to appeal your decision until this matter is resolved. I'm innocent until proven guilty.

Sincerely,

Rodney Wayne

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South – 6th Floor P.O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045, Respondent.	)	NPPC Case No. 11-04 Case No. 11002 NOTICE OF HEARING

Petitioner and Respondent are hereby notified that a hearing on the Petition filed by Roger D. Breed, on March 3, 2011, will be held in the Hearing Room, 6th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, on Wednesday, the 15th day of June, 2011, commencing at 9:05 a.m.

Commission members of the Nebraska Professional Practices Commission will hear and consider the case.

Samuel Van Pelt, Route 1, Box 169, Hickman, Nebraska 68372 has been appointed legal counsel to advise the chairperson in the performance of the chairperson's duties.

Dated March 30, 2011

Robert Beck, Chairperson, Hearing Panel
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

By Kathi Vontz, Clerk of the Commission
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Notice dated March 30, 2011, for Case Number 11-04, was mailed to Rodney Wayne, Respondent, by U.S. Mail postage prepaid, and delivered by hand to Brian Halstead, Attorney for the Petitioner, on this 30th day of March, 2011, at the following addresses.

Rodney Wayne
Respondent
1235 Opie Lane
Lawrenceville, GA 30045

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

Kathi Vontz
Clerk of the Commission

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045, Respondent.	)	N.P.P.C. Case No. 11-04 Case No. 11002 Request for Support Information

PURSUANT to 93 NAC 003.05 of the Rules and Regulations of the Commission, the Commission requests the Petitioner to file support information regarding the allegations in the Petition.

Dated March 30, 2011

Robert Beck, Chairperson, Hearing Panel
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

Kathi Vontz

By Kathi Vontz, Clerk of the Commission
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Notice dated March 30, 2011, for Case No. 11-04 was mailed to Rodney Wayne, Respondent, by U.S. Mail, postage prepaid, and hand delivered to Brian Halstead on this 30th day of March, 2011, at the following addresses.

Rodney Wayne
Respondent
1235 Opie Lane
Lawrenceville, GA 30045

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

Kathi Vontz, Clerk of the Commission

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 PPC Case No. 11-04 MOTION FOR DEFAULT JUDGMENT

FILED
MAR
NE PROFESSIONAL
PRACTICES COMMISSION

COMES NOW the Petitioner, by and through the undersigned attorney of record, and moves the Commission for an order of judgment in default as provided in Title 95, *Nebraska Administrative Code*, Chapter 1, Section 003.05. That in support of said Motion, the Petitioner would offer the following:

1. That the Petition and Notice of Right to Submit an Answer were filed with the Commission on March 3, 2011;

2. That said Petition, Notice, and a copy of Title 95, Nebraska Administrative Code, Chapter 1 (effective date: October 30, 1993), were served upon the Respondent on March 8, 2011, by certified mail, return receipt requested, a copy of which is attached and marked as Exhibit A, and by this reference is incorporated herein;

3. That Title 95, *Nebraska Administrative Code*, Chapter 1, Section 003.05 provides that the Respondent shall be considered in default if the Respondent fails to file an answer within 21 days after service of the Petition and Notice of Right to Submit an Answer.

WHEREFORE, the Petitioner prays that the Commission enter an order finding the Respondent in default, and make such decision and/or recommendation to the State Board of Education that is in accordance with the law.

The undersigned certifies that a copy of the above motion and exhibit was mailed to the parties of record, by U.S. mail, sufficient postage prepaid, on the 30th day of March 2011.

Brian L. Halstead #18077
Attorney for Petitioner
Nebraska Department of Education

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Lincoln, NE 68509-4933

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- Print your name and address on the reverse so that we can return the card to you. 11-04
- Attach this card to the back of the mailpiece, or on the front if space permits. 11 EOL

1. Article Addressed to:

Rodney Wayne
1235 Opic Lane
Lawrenceville GA 30045

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Rodney Wayne

C. Date of Delivery 3/8/11

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RESTRICTED DELIVERY

3. Service Type
☑ Certified Mail ☐ Express Mail
☑ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☑ Yes

2. Article Number (Transfer from service label) 7010 0780 0000 3455 9937

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

EXHIBIT
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7.6-44
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BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 PPC Case No. 11-04 PETITION

FILED
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NE PROFESSIONAL PRACTICES COMMISSION

Petitioner, in accordance with Section 79-859 through 79-871 of the Revised Statutes of Nebraska, Title 95, Chapter 01, of the Nebraska Administrative Code, and Title 92, Chapters 27 and 28 of the Nebraska Administrative Code, states and alleges as follows:

1. The Petitioner is Roger D. Breed, Commissioner of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, NE 68509;

2. The Respondent is Rodney Wayne, 1235 Opie Lane, Lawrenceville, GA 30045;

3. The Respondent holds a public Nebraska standard administrative certificate number 2004000679, endorsed as Principal K-6, Principal 7-12, Physical Education K-12, and Health K-12, with an expiration date of August 31, 2014;

4. The Respondent's Georgia teaching certificate was revoked by the Georgia Professional Standards Commission effective November 24, 2010, after the Respondent admitted to taking several items from a high school concession stand that was under construction; and

5. Based upon the factual allegation contained in paragraph 4 of the Petition, the Respondent violated the following statute and standard: Neb. Rev. Stat. Section 79-866(2) (Reissue 2003) which, in part, states, "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board"; and Title 92,

Nebraska Administrative Code, Chapter 27, Section 004.02G (effective date: November 12, 2003) which states, "the educator: Shall not have had revoked for cause a teaching certificate, administrative certificate, or any certificate enabling a person to engage in any of the activities for which a special services certificate is issued in Nebraska".

WHEREFORE, the Petitioner requests that the Professional Practices Commission hold hearings and make recommendations to the State Board of Education as is warranted, regarding the certificate(s) of the Respondent.

Dated this 2nd day of March 2011.

Roger D. Breed, Ed.D.
Commissioner of Education

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

I, Roger D. Breed, being first duly sworn under oath, state that I have read the contents of the Petition and that to the best of my knowledge, information, and belief such contents are true.

Petitioner

Subscribed and sworn to before me this 2nd day of March 2011 by Roger D. Breed, Commissioner of Education, as Petitioner.

GENERAL NOTARY - State of Nebraska
DENISE L. FISHER
My Comm. Exp. May 25, 2012

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Petition and a copy of Title 95, *Nebraska Administrative Code*, Chapter 1, was mailed to the following person, postage prepaid, by certified mail, return receipt requested, this 3rd day of March 2011:

Rodney Wayne
1235 Opie Lane
Lawrenceville, GA 30045
Article Number 7010 0780 0000 3455 9937

General Counsel

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Rodney Wayne 1235 Opie Lane Lawrenceville, GA 30045 Respondent.	)	Case No. 11002 PPC Case No. 11-04 FILED MAR - 3 2011 NE PROFESSIONAL PRACTICES COMMISSION NOTICE OF RIGHT TO SUBMIT ANSWER

Notice is hereby given that Respondent has a right to submit an Answer within 21 days after the receipt of this Notice by filing an Answer with the Nebraska Professional Practices Commission, P. O. Box 94941, Lincoln, NE 68509.

Brian L. Halstead #18077
General Counsel
Nebraska Department of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Notice was mailed to the following person, postage prepaid, by certified mail, return receipt requested, this 3rd day of March 2011:

Rodney Wayne
1235 Opie Lane
Lawrenceville, GA 30045
Article Number 7010 0780 0000 3455 9937

Brian L. Halstead #18077
General Counsel
Nebraska Department of Education

NEBRASKA DEPARTMENT
OF EDUCATION

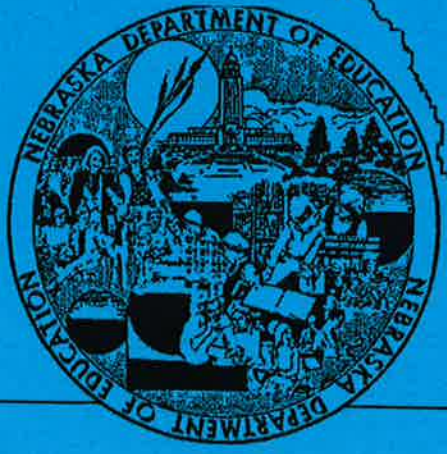
RULE 27

REGULATIONS AND STANDARDS FOR PROFESSIONAL PRACTICES CRITERIA

TITLE 92, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 27

EFFECTIVE DATE
November 12, 2003
(REVISED)

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner



EXHIBIT
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6-15-11
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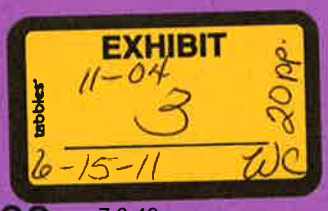
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

TITLE 95, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

REGULATIONS CONCERNING TEACHER AND ADMINISTRATOR PROFESSIONAL PRACTICES HEARINGS



Effective Date
October 30, 1993