



Before the Education Practices Commission of the State of Florida

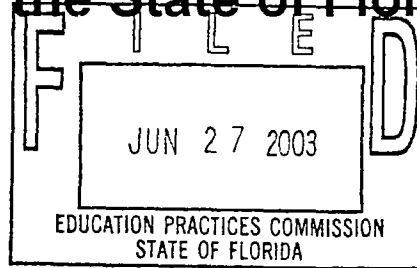
CHARLIE CRIST, as
Commissioner of Education,

Petitioner,

vs.

SCOTT E. DAMASCHKE,

Respondent.



CASE N° 02-0728-RT
EPC index N° 03- 290 -FOI

Final Order

Respondent, SCOTT E. DAMASCHKE, holds Florida educator's certificate N° 735076 which is valid until June 30, 2006. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate. A copy of the Administrative Complaint is attached to and made a part of this Order.

On or about January 30, 2003, service of the Administrative Complaint was made upon Respondent by Certified Mail.

Respondent has failed to respond to the Administrative Complaint and has not requested a hearing or any other proceeding.

This matter was heard by a teacher panel of the Education Practices Commission pursuant to Section 1012.796, Florida Statutes, and Rule 6B-11.004(6), Florida Administrative Code, on May 30, 2003, in Tampa, Florida. Petitioner was represented by Heidi Maynard, Attorney at Law. Respondent was neither

present nor represented.

The Commission finds that Respondent was properly served with the Administrative Complaint, has failed to timely respond and has waived any right to be heard.

As the Respondent has not replied to the Administrative Complaint nor contested the factual allegations, the Petitioner's attorney offered documents to prove the facts as alleged in the Administrative Complaint. These were received into evidence and were found to clearly and convincingly support the allegations and establish a prima facie case.

FINDINGS OF FACT

1. The allegations of fact set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the findings of fact by the panel.
2. There is competent, substantial evidence to support the panel's findings.

CONCLUSIONS OF LAW

1. The conclusions of law alleged and set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the conclusions of law by the panel.
2. There is competent, substantial evidence to support the panel's conclusions.
3. The violations committed by the Respondent warrant disciplinary action by the Education Practices Commission.

PENALTY

Upon consideration of the entire record, it is ORDERED that Respondent's

Florida Educator's Certificate is hereby PERMANENTLY REVOKED and he is hereby PERMANENTLY BARRED from applying for another.

This Order takes effect upon filing.

DONE AND ORDERED, this th 18 day of June, 2003.

Margaret Wolfe
MARGARET WOLFE, Presiding Officer

COPIES FURNISHED TO:

Bureau of Educator Standards

Bureau of Teacher Certification

Florida Admin. Law Reports

Assistant Superintendent of Schools
1450 NE Second Avenue #912
Miami, FL 33132

Director
Office of Professional Standards
Dade County Schools
1500 Biscayne Blvd., Suite 222
Miami, FL 33132

Heidi Maynard, Attorney at Law

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE EDUCATION PRACTICES COMMISSION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF THE FILING OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order in the matter of Crist vs. Scott E. Damaschke was mailed to Scott E. Damaschke, [REDACTED] Coconut Grove, FL 33133 this 27th day of June, 2003, by Certified U.S. Mail.

Kathleen M. Richards
KATHLEEN RICHARDS, Clerk

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**CHARLIE CRIST, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 001-2007-V

SCOTT E. DAMASCHKE,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Charlie Crist, as Commissioner of Education, files this Administrative Complaint against SCOTT E. DAMASCHKE. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's Educator's Certificate pursuant to Sections 231.262 and 231.2615, Florida Statutes, and pursuant to Rule 6B-1.001, Florida Administrative Code, Code of Ethics of the Education Profession in Florida, and Rule 6B-1.006, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, and said sanctions specifically set forth in Sections 231.262(7) and 231.2615(1), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 735076, covering the area of Varying Exceptionalities Education, which is valid through June 30, 2006.
2. At all times pertinent hereto, the Respondent was employed as a Teacher at Coconut Grove Elementary School in the Miami-Dade County School District.

MATERIAL ALLEGATIONS

3. On his application for a Florida educator's certificate dated, August 22, 1994, the Respondent answered "Yes" to the question of whether he had ever been convicted of a criminal offense. On or about February 24, 1995, the Commissioner of Education cleared his application on a 1994 Trespass conviction.
4. On or about January 19, 1997, a Miami police officer observed Respondent hitting and pushing his girlfriend. She suffered a laceration to the upper lip and bruises to the left arm. Respondent was arrested and charged with misdemeanor Disorderly Conduct. He pled *nolo contendere* to the charges on March 29, 1997. He was sentenced to a pre-trial intervention program. The charge was *nolle prosequi* upon his completion of the program.

5. On or about November 29, 1997, Respondent committed a battery on [REDACTED] by actually touching or striking [REDACTED] against his will or by intentionally causing bodily harm to said person in violation of Florida Statute 784.03. The Collier County Sheriff's Office issued an arrest warrant and Respondent was arrested for Battery on September 4, 1998. He pled *nolo contendere* to a charge of misdemeanor Battery. On or about November 30, 1998, the court withheld adjudication and sentenced him to six months probation, court fees and costs of \$125.00 and completion of anger management classes.

6. On or about February 26, 2000, Respondent committed a battery on his girlfriend [REDACTED] by actually touching or striking [REDACTED] against her will or by intentionally causing bodily harm to said person in violation of Florida Statute 784.03. He grabbed [REDACTED] by the throat and shook her violently, then threw her on the floor and kned her in the mouth. Respondent was arrested for misdemeanor Simple Battery on February 26, 2000. He pled *nolo contendere* to the charge. On or about November 13, 2000, the court withheld adjudication and sentenced him to one year probation, 100 community service hours, court fees and costs of \$161.00 and completion of anger management classes.

7. On or about January 1, 2001, Respondent committed a battery on [REDACTED] by actually touching or striking [REDACTED] against his will or by intentionally causing bodily harm to said person in violation of Florida Statute 784.03. He delivered a full-blown strike with his fist to [REDACTED]'s temple while [REDACTED] was asleep on a couch. [REDACTED] suffered a concussion. Respondent pled *nolo contendere* to the charge of misdemeanor Battery. The court adjudicated him guilty as charged on May 3, 2001. He was sentenced to seven years probation and ordered to complete the Advocate program, anger management classes, and 250 hours of community service. Respondent continues to have student contact while employed by the Miami-Dade County Public School District.

8. On his application for renewal of a Florida Educator's Certificate, dated August 20, 2001, Respondent failed to acknowledge the January, 1997 arrest for Disorderly Conduct and the November, 1997 arrest for Battery, as required in Section V of the application.

STATUTORY VIOLATIONS

COUNT 1: The allegations of misconduct set forth herein are in violation of Section 231.2615(1)(a), Florida Statutes, in that Respondent has obtained the teaching certificate by fraudulent means.

COUNT 2: The allegations of misconduct set forth herein are in violation of Section 231.2615(1)(c), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude.

COUNT 3: The allegations of misconduct set forth herein are in violation of Section 231.2615(1)(e), Florida Statutes, in that Respondent has been convicted of a misdemeanor, felony, or other criminal charge, other than a minor traffic violation.

COUNT 4: The allegations of misconduct set forth herein are in violation of Section 231.2615(1)(f), Florida Statutes, in that Respondent, upon investigation, has been found guilty of personal conduct which seriously reduces his effectiveness as an employee of the school board.

COUNT 5: The allegations of misconduct set forth herein are in violation of Section 231.2615(1)(i), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession in Florida prescribed by the State Board of Education.

COUNT 6: Section 231.2615(2), Florida Statutes, provides that the plea of guilty in any court or a decision of guilty by any court is prima facie proof of grounds for the revocation of the certificate.

RULE VIOLATIONS

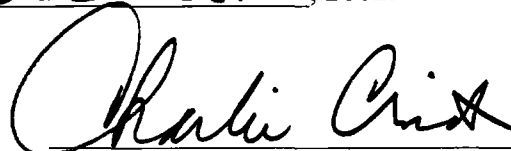
COUNT 7: The allegations of misconduct set forth herein are in violation of Rule 6B-1.001(3), Florida Administrative Code, in the Respondent has failed to be aware of the importance of maintaining the respect and confidence of his colleagues, of students, of parents and of other members of the community and that Respondent has failed to achieve and sustain the highest degree of ethical conduct.

COUNT 8: The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(5)(h), Florida Administrative Code, in that Respondent has submitted fraudulent information on a document in connection with professional activities.

COUNT 9: The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(5)(i), Florida Administrative Code, in that Respondent has made a fraudulent statement or failed to disclose a material fact in his or another's application for a professional position.

WHEREFORE, the Petitioner recommends that the Education Practices Commission impose an appropriate penalty pursuant to the authority provided in Sections 231.262(7) and 231.2615(1), 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 17 day of December, 2002.



Charlie Crist, as
Commissioner of Education,
State of Florida