



*Before the Education Practices Commission of
the State of Florida*

Final Order

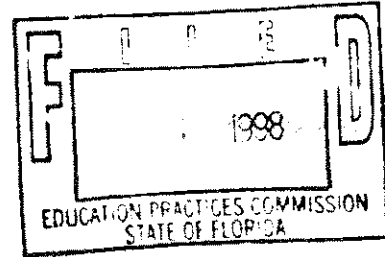
ELVIS J. ALLEN,

Petitioner,

vs.

FRANK BROGAN, as
Commissioner of Education,

Respondent,



CASE NO. 97-129-D
EPC INDEX NO. 98-064-S

Petitioner, ELVIS J. ALLEN, applied for a Florida educator's certificate and that application was denied. Respondent has filed a Notice of Reasons stating the reasons for denial of the certificate.

Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause; the Settlement Agreement and the Notice of Reasons are attached to and made a part of this Final Order.

A teacher panel of the Education Practices Commission met on April 24, 1998, in Tampa, Florida. The Commission accepts the Settlement Agreement as the appropriate resolution of this cause.

It is therefore ORDERED that the Settlement Agreement is hereby ACCEPTED and Petitioner shall comply with its terms and conditions. This Order takes effect upon filing.

Final Order
Elvis J. Allen
Page Two

This Order may be appealed, unless otherwise waived, by filing notices of appeal and a filing fee, as set out in Section 120.68, F.S., and Florida Rule of Appellate Procedure 9.110, within 30 days of the date of filing.

DONE AND ORDERED, this 8 day of May, 1998.

COPIES FURNISHED TO:

Jerry Whitmore, Program
Director
Professional Practices Services

Florida Admin. Law Reports

Dr. David Sawyer, Supt.
Brevard County Schools
2700 St. Johns St.
Melbourne, FL 32940-6800

Leroy Berry, Asst. Supt.
Human Resources
Brevard County Schools

Carl Zahner
Attorney at Law
1701 The Capitol
Tallahassee, FL 32399

Phoebe Raulerson
Phoebe Raulerson, Presiding Officer

I HEREBY CERTIFY that a copy of the foregoing Order in the matter of Elvis J. Allen vs. Brogan, was mailed to Francisco M. Negron, Jr., Attorney at Law, FEA/United, 118 N. Monroe St., Tallahassee, FL 32399, this 11 day of May, 1998, by U.S. Mail.

Kathleen M. Richards
KATHLEEN M. RICHARDS, Clerk

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

ELVIS JEROID ALLEN,

Petitioner,

vs.

CASE NO. 967-0012-LA

**FRANK T. BROGAN, as
Commissioner of Education,**

Respondent.

SETTLEMENT AGREEMENT

COME NOW the Petitioner and the Respondent, who hereby stipulate and agree as follows:

1. The Petitioner has applied for a Florida educator's certificate, which the Respondent denied by Notice of Reasons previously filed herein.
2. The Petitioner neither admits nor denies, but elects not to contest the allegations set forth in the Respondent's Notice of Reasons, which are incorporated herein by reference.
3. The Respondent agrees to issue the Petitioner the appropriate educator's certificate to which the Petitioner is entitled pursuant to the application filed by the Petitioner.
4. The Petitioner agrees to accept a letter of reprimand, a copy of which shall be placed in his certification file with the Department of Education, and a copy of which shall be placed in his personnel file with the employing Florida county school district.
5. The Petitioner agrees to pay to the Education Practices Commission an administrative fine in the amount of \$150.00 within the first thirty days of the first year of probation and pay \$150.00 within the first thirty days of the second year of probation.

f

6 The Petitioner agrees that he shall be placed on probation for a period of four years, commencing upon the issuance of the Final Order by the Education Practices Commission (EPC) accepting this settlement agreement if the Petitioner is currently employed as an educator in Florida. If the Petitioner is not currently employed as an educator in Florida, the probationary period shall commence upon his reemployment as an educator in Florida. In the event that the Petitioner's employment in the teaching profession is interrupted for any reason prior to the expiration of the probationary period, the probationary period shall be tolled until such time as the Petitioner resumes employment as an educator in Florida. As conditions of probation, the Petitioner shall:

(a) immediately contact the EPC upon employment as a certified educator in Florida and indicate the name and address of the school, as well as the name, address, and telephone number of his immediate supervisor; or if Petitioner is currently employed as an educator in Florida, he shall contact the EPC within ten days of the issuance of the Final Order accepting this settlement agreement and indicate the school and supervisor information requested above,

(b) make arrangements for his immediate supervisor to provide the EPC with a true and accurate copy of each written performance evaluation or assessment prepared by his supervisor within ten days of its preparation;

(c) make arrangements for his immediate supervisor to make quarterly reports to the EPC of his teaching performance, including, but not limited to, compliance with school rules and school district regulations and any disciplinary action imposed upon Petitioner by his immediate supervisor or by the school district,

(d) pay to the EPC \$150.00 within the first six months of each probation year to defray the costs of monitoring probation;

(e) within the first year, successfully complete a three credit hour college level course or sixty hours of the inservice training in the area of Ethics and, within the second year, successfully complete a three credit hour college level course of sixty hours of the inservice training in the area of Financial Management,

(f) violate no law and shall fully comply with all district school board regulations, school rules, and State Board of Education Rule 6B-1.006, and,

(g) satisfactorily perform his assigned duties in a competent, professional manner;

B

7. In the event that the Petitioner fails to comply with each condition of this settlement agreement including each condition of probation set forth herein, the Petitioner agrees that the Respondent shall be authorized to file an administrative complaint seeking action against his teaching certificate up to and including the revocation of the same based upon the violation of the terms of this agreement.

8. The parties acknowledge and the Petitioner agrees that any costs associated with the fulfillment of the terms of this agreement and the terms of the Petitioner's probation, including the statutory \$150.00 per year EPC monitoring fee, shall be the sole responsibility of the Petitioner. It is provided that the probation monitoring fee shall be held in abeyance if the Petitioner is not employed as an educator pursuant to the terms of probation above.

9. This agreement shall be void and shall have no force or effect unless signed by all parties and accepted by the EPC.

10. This agreement constitutes an offer of settlement of disputed issues of material fact until accepted and executed by all parties. If this agreement is not accepted and executed by all parties, the terms hereof shall be inadmissible in any subsequent formal or informal administrative hearing or in any other legal action between the parties.

11. The Petitioner understands the provisions of this agreement, their legal effect and his rights under Florida law to a formal hearing before a hearing officer at the Division of Administrative Hearings or an informal hearing before the EPC. The Petitioner specifically waives his right to both a formal and informal hearing, except he may appear before the EPC in order to urge the adoption of this agreement. The Petitioner further acknowledges that he is under no duress, coercion, or undue influence in signing this agreement, and that he has had the opportunity to receive the advice of legal counsel prior to signing this agreement.

12. The agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion to reject this agreement and order a full evidentiary hearing on the allegations of the Administrative Complaint if, in the exercise of its discretion, it deems such action to be appropriate.


13. The Petitioner waives all statutory and regulatory provisions concerning notice of

C

hearing and agrees that this agreement may be presented to the EPC for consideration at its next regularly scheduled meeting, provided that the Petitioner is given reasonable advance notice of the time, place and date of said meeting

IN WITNESS WHEREOF, the parties have executed this agreement on this

16 day of February, 1998.

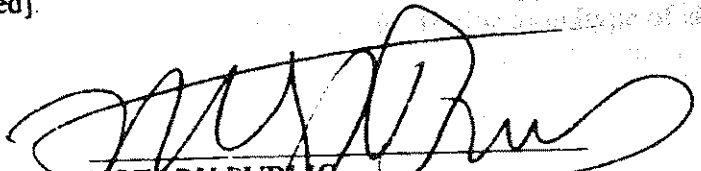

ELVIS JEROID ALLEN
PETITIONER


STATE OF FLORIDA
COUNTY OF Brevard

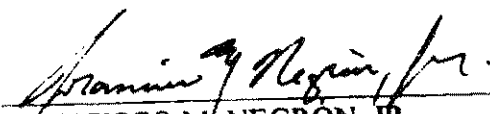
The foregoing instrument was acknowledged before me this 10 day of Feb., 1998, by ELVIS JEROID ALLEN, who is _____ personally known or produced FL Drivers License # [redacted] as identification [type of identification produced].



MICHAEL J. SPLITZ
My Commission CC382288
Expires Feb. 23, 1998
Bonded by HAI
800-422-1995


NOTARY PUBLIC
My commission expires:


CARL J. ZAHNER, II
Department of Education
Suite 1701, The Capitol
Tallahassee, Florida 32399-0400
(850) 922-7095
ATTORNEY FOR RESPONDENT


FRANCISCO M. NEGRÓN, JR.
FEA United
118 North Monroe Street
Tallahassee, Florida 32399-1700
(850) 224-7818
ATTORNEY FOR PETITIONER

D

STATE OF FLORIDA
DEPARTMENT OF EDUCATION

IN RE: The Denial of the
Application for Teacher's
Certificate of :

CASE NO. 967-0012-LA

ELVIS JEROID ALLEN,

NOTICE OF REASONS

ELVIS JEROID ALLEN, 587 Ellington Avenue, Palm Bay, Florida 32909, Department of Education Number 756316 having filed his application for a Florida Educator's Certificate before the Department of Education, and

The Department of Education having reviewed the application in accordance with Sections 231.17 and 231.262, Florida Statutes, has determined that ELVIS JEROID ALLEN is not entitled to the issuance of a Florida Educator's Certificate, accordingly

The Department of Education files and serves upon the Applicant, ELVIS JEROID ALLEN, its Notice of Reasons for its denial in accordance with the provisions of Section 120.60, Florida Statutes, and as grounds therefore, alleges:

1. On or about October 28, 1982, Applicant stole approximately \$1,700.00 worth of electronic equipment from someone. On or about October 28, 1982, a warrant for Applicant's arrest was issued by the District Court of Pike County Alabama. On or about February 23, 1983, the Applicant pled not guilty to cases 83-64 (Receiving Stolen Property 2nd Degree), 83-65 (Receiving Stolen Property 2nd Degree), and 83-67 (Unlawful Breaking and Entering Motor Vehicle) and the cases were Nolle prosequi on or about February 23, 1983. On or about February 23, 1983, Applicant pled guilty to Theft of Property 1st Degree and was adjudicated guilty. He was sentenced to 3 years in State prison with 14 days jail time credit and 5 years probation.

2. Prior to April 8, 1988, Applicant wrote a check which was worthless. On or about April 8, 1988, the Applicant pled nolo Contendere, the court withheld adjudication, and sentenced Applicant to pay restitution and pay \$18.00 in court costs.

F

3. Between June 8, 1990 and January 4, 1991, Respondent rented a car and then did not return it after the rental period had expired. Respondent was arrested and charged with Grand Theft 3rd Degree of a Motor Vehicle and Failure to Redeliver a Hired Motor Vehicle. On or about April 21, 1992, Respondent pled Nolo Contendere to the second charge. The Court Nolle Prosequi the first charge and withheld adjudication on the charge of "Failure to return a hired Motor Vehicle." The Court sentenced Applicant to 4 years probation, 1 day in jail with credit for time served, 20 days of community service, and court costs totaling \$200.00.

4. On or about July 28, 1993, Applicant wrote a worthless check for \$43.99 to Publix Supermarket. Applicant was arrested on or about November 5, 1996, and charged with writing a worthless check. The charge was Nolle Prosequi after Applicant finished a court mandated "Worthless Check Diversion Program."

5. On or about November 5, 1995, Applicant was arrested and charged with violation of his probation. Applicant had violated conditions of his probation in that he had, among other things, failed to pay the funds required for supervision, failed to respond to requests for information, and had changed his address without notifying his probation officer. On or about January 22, 1996, Applicant pled Nolo Contendere and was adjudicated guilty by the court. He was sentenced to have his probation revoked, 2 days in the Orange County Jail with credit for time served, 2 years supervised probation, 5 days community service, and \$105.00 in fines and court costs.

6. In his application of March 7, 1996, Applicant failed to acknowledge his 1988 arrest for a worthless check. This despite having certified in the application that it was true and correct.

The Department of Education charges:

STATUTE VIOLATIONS

COUNT 1: The Applicant is in violation of Section 231.17(1)(c)6., Florida Statutes, which requires that the holder of a Florida Educator's Certificate be of good moral character.

F

COUNT 2: The Applicant is in violation of Section 231.17(5)(a), Florida Statutes, which provides that the Department of Education is authorized to deny an Applicant an educator's certificate if it possesses evidence satisfactory to it that the Applicant has committed an act or acts or that a situation exists for which the Education Practices Commission would be authorized to revoke a teaching certificate.

COUNT 3: The Applicant is in violation of Section 231.28(1)(c), Florida Statutes, in that he has been guilty of gross immorality or an act involving moral turpitude.

COUNT 4: The Applicant is in violation of Section 231.28(1)(e), Florida Statutes, in that he has been convicted of a misdemeanor, felony, or other criminal charge, other than a minor traffic violation.

COUNT 5: The Applicant is in violation of Section 231.28(1)(i), Florida Statutes, in that he has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

COUNT 6: The Applicant is in violation of Section 231.28(2), Florida Statutes, which provides that the plea of guilty in any court or the decision of guilty by any court is prima facie proof of grounds for the revocation of the certificate.

RULE VIOLATIONS

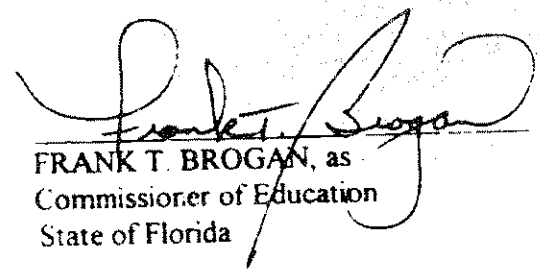
COUNT 7: The Applicant is in violation of Rule 6B.1006(5)(a), F.A.C., in that he has failed to maintain honesty in all professional dealings.

COUNT 8: The Applicant is in violation of Rule 6B.1006(5)(h), F.A.C., in that he has submitted fraudulent information on a document in connection with professional activities.

COUNT 9: The Applicant is in violation of Rule 6B 1006(5)(i), F.A.C., in that he made a fraudulent statement or failed to disclose a material fact in his or another's application for a professional position

WHEREFORE, the undersigned concludes that ELVIS JEROID ALLEN has committed an act or acts or that a situation exists for which the Education Practices Commission would be authorized to revoke an educator's certificate. It is therefore, respectfully recommended that the Education Practices Commission affirm the Department of Education's denial of the issuance of a teaching certificate to the Applicant based upon the reasons set forth herein, in accordance with the Explanation of Rights form which is attached to and made a part of this Notice of Reasons.

EXECUTED on this 3 day of April, 1997.


FRANK T. BROGAN, as
Commissioner of Education
State of Florida