5-23-2013

Board of Education vs. Marshay Thornton

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BEFORE THE TENNESSEE STATE BOARD OF EDUCATION

IN THE MATTER OF:

Marshay Thornton,
Respondent.                                     DOCKET NO: 07.01-120631A

INITIAL ORDER

This matter was heard on May 1, 2013, in Nashville, Tennessee before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and designated to sit for the Tennessee State Board of Education (Board). Attorney Dannelle F. Walker represented the Board, and Respondent was represented by attorney Virginia A. McCoy with the Tennessee Education Association.

ISSUE FOR DETERMINATION

Should Respondent’s professional teaching license be revoked for hiring a surrogate to sit for her PRAXIS examinations?

SUMMARY OF DETERMINATION

It is DETERMINED that Respondent paid a surrogate to pass her PRAXIS examinations. Respondent presented these false scores to the Board to secure her professional teaching license and guidance counselor’s certification. Under these circumstances, revocation of Respondent’s license is appropriate. This determination is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Respondent completed a bachelor’s degree in biology and began teaching for the Memphis City Schools. She held a restricted teaching license allowing her to teach while
working towards her professional teaching license. To gain her professional teaching license, Respondent was required to pass the PRAXIS examination in biology.

2. Respondent sat for and failed the PRAXIS examination in biology approximately seven times. Respondent was aware that if she did not pass the PRAXIS examination within a certain time period her restricted teaching license would expire and she would lose her teaching position.

3. A fellow educator told Respondent that Clarence Mumford could arrange for a surrogate to sit for and pass the PRAXIS examination using Respondent’s name and identification. Respondent contacted Mumford and paid him to have a surrogate take her PRAXIS examination. Respondent provided her driver’s license to Mumford for the surrogate to use as identification.

4. Respondent’s surrogate failed to attain a passing score on the PRAXIS examination on the first attempt. Respondent paid Mumford an additional fee for a second attempt by a surrogate. On the second attempt the surrogate obtained a passing score on the PRAXIS examination. Respondent used this passing score to procure her Tennessee professional teaching license.

5. Respondent also completed a master’s degree in counseling. To be certified as a guidance counselor, one holding a professional teaching license must sit for and pass the PRAXIS examination in school guidance and counseling. Respondent did not attempt this PRAXIS examination on her own, but rather again contacted Mumford and paid for a surrogate to take the examination on her behalf. The surrogate attained a passing score on the PRAXIS school guidance and counseling examination on Respondent’s behalf. Respondent used this score to secure her guidance counselor’s certification.
6. Law enforcement became aware of Mumford’s scheme and identified Respondent as being involved. When Respondent learned of the investigation, she sat for and passed the PRAXIS examinations in biology, school guidance and counseling, and principles of learning and teaching 7-12 on her own. Respondent had also completed an educational specialist degree by this time.

7. Respondent entered into a pretrial diversion agreement with the United States in lieu of prosecution for her conduct. In this agreement Respondent agreed “not to seek or obtain any teaching position at any educational institution, public or private, during” her five year diversion period. Respondent’s diversion period begins May 24, 2013 and ends on May 23, 2018.

8. Respondent acknowledged in her diversion agreement with the United States and at the hearing of this case that she paid for a surrogate to take her PRAXIS examinations.

9. The Board showed, by a preponderance of the evidence, that Respondent paid a surrogate to sit for her PRAXIS examinations. Respondent then submitted these false scores to the Board to obtain her professional teaching license and guidance counselor’s certification.

10. Under the circumstances of this case revocation of Respondent’s professional teaching license is the only appropriate penalty for her conduct.

CONCLUSIONS OF LAW

1. The Board has the burden to introduce evidence that would by a preponderance of the evidence prove the issues should be resolved in Petitioner’s favor. Rule 1360-4-1-.02.

2. Tennessee Board of Education Rule 0520-2-4-.01(9) provides in relevant part as follows:

(b) Denial, Suspension or Revocation of License. The State Board of Education may revoke, suspend or refuse to issue or renew a license for the following reasons:
   1. Conviction of a felony,
   2. Conviction of possession of narcotics,
3. Being on school premises or at a school-related activity involving students while documented as being under the influence of, possessing or consuming alcohol or illegal drugs,
4. Falsification or alteration of a license or documentation required for licensure,
5. Denial, suspension or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, suspension or revocation under this rule, or
6. Other good cause. Other good cause shall be construed to include noncompliance with security guidelines for TCAP or successor tests pursuant to Tenn. Code Ann. § 49-1-607, default on a student loan pursuant to Tenn. Code Ann. § 49-5-108(d)(2) or failure to report under part (e).

**IT IS CONCLUDED THAT** the Board showed, by a preponderance of the evidence, that Respondent paid a surrogate to pass her PRAXIS examinations and presented these false scores to the Board to secure her professional teaching license and guidance counselor’s certification. The Board further showed that revocation of Respondent’s teaching license is appropriate.

**IT IS THEREFORE ORDERED** that Marshay Thornton’s teaching license is revoked.

This Order entered and effective this _________ day of __________________, 2013.

_____________________________
Steve R. Darnell
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this _________ day of __________________, 2013.

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Thomas G. Stovall, Director
Administrative Procedures Division