

STATE OF SOUTH DAKOTA	)	DIVISION OF THE SECRETARY
	:SS	
COUNTY OF HUGHES	)	SOUTH DAKOTA DEPT. OF EDUCATION

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In the Matter of the	)	DSE 2019-10
Revocation of the	)	
Teaching Certificate of	)	<b>ORDER REVOKING</b>
DERRIK JOHN NELSON	)	<b>SOUTH DAKOTA TEACHER</b>
	)	<b>CERTIFICATION</b>
	)	


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Pursuant to the authority granted to the Secretary of the South Dakota Department of Education by SDCL §§13-43-28.1, 13-42-9, and 13-42-15, following receipt of a Complaint requesting revocation of a certificate from the South Dakota Professional Teachers Practices and Standards Commission, and after review of the entire file herein, the Secretary enters the following order:

1. The Secretary affirms and adopts the Findings of Fact and Conclusions of Law of the Commission. These findings and conclusions, attached as Exhibit A, are hereby incorporated into this Order by this reference as if set forth in full.
2. Based upon the foregoing Findings of Fact and Conclusions of Law, the teacher Certificate No. 78292 issued to Derrick John Nelson on May 19, 2015, is hereby **immediately, permanently revoked.**
3. Notification-of this revocation will be placed on the NASDTEC registry and be placed in Nelson's permanent certification file within the South Dakota Department of Education.
4. This Order and incorporated findings and conclusions are a public record pursuant to SDCL 13-42-17.1.

This constitutes final agency action.

Dated this 2<sup>nd</sup> day of October 2019.

  
 Benjamin F. Jones, Ph.D.  
 Secretary  
 Department of Education  
 800 Governors Drive  
 Pierre, SD 57501



- b. ARSD 24:08:03:02(8), which states that in fulfilling their obligations to the public, educators shall “[e]xemplify high moral standards by not engaging in or becoming a party to such activities as fraud, embezzlement, theft, deceit, moral turpitude, gross immorality, sexual contact with students, illegal drugs, or use of misleading or false statements[.]”
5. The complaint was served on Nelson on or about April 8, 2019.
6. Nelson responded to the initial complaint on or about April 23, 2019.
7. A due and proper notice of hearing was served on the parties, setting the hearing for June August 8, 2019.
8. The Commission received a letter from Nelson on August 1, 2019, indicating “I do not think there is a need for a hearing because of ongoing legal matters with the victim’s family. Putting the State of South Dakota Professional Teachers Practices in the middle of a rift between the two parties is a waste of your professional time. Furthermore, I am not able to make it to Pierre the day of the hearing, as I cannot take off work. Therefore, I have accepted the fact that my teaching license will be terminated for the State of South Dakota.”
9. A hearing was held on August 8, 2019, commencing at approximately 3:45 p.m. Central Time in Conference Room 1, MacKay Building, 800 Governors Drive, Pierre, South Dakota.
10. Nelson failed to appear at the hearing.
11. Nelson’s failure to appear at the hearing acts as a default and an admission to the allegations in the Complaint.
12. Nelson was fully aware of the hearing date and the requirement to attend.
13. Nelson purposely failed to appear at the hearing.
14. Nelson’s failure to appear at the hearing indicates his unwillingness to fully take responsibility for his actions which caused the death of Jessi Anderson.
15. Nelson’s failure to appear at the hearing shows disrespect for the Commission and the judicial process.
16. On or about June 29, 2019, at around 3:30 a.m., Nelson was driving an ATV in which Jessi Anderson was a passenger.
17. Nelson was driving the ATV while he was under the influence of alcohol.
18. Nelson crashed the ATV at a rural intersection near Nelson’s family farm.

19. As a result of the crash, Jessi Anderson died.
20. Nelson caused the death of Jessi Anderson.
21. Nelson fled the scene after the crash and failed to render assistance to Jessi Anderson.
22. Nelson lied as to what occurred and made up a story that he didn't know where Jessi Anderson was.
23. Nelson lied to Jessi Anderson's mother after he caused Jessi's death indicating that he was unaware of her whereabouts.
24. Nelson was charged in Cedar County Nebraska with multiple offenses as a result of his causing the death of Jessi Anderson.
25. Even after Nelson caused the death of Jessi Anderson, he demonstrated actions indicating a failure to accept responsibilities for his actions.
26. Lance Anderson witnessed Nelson at a bar wearing a lighted Christmas necklace and ordering a drink.
27. On September 10, 2018, Nelson pled guilty to the crimes of Motor Vehicle Homicide, a Class IIIA Felony and False Reporting to a Peace Officer, a Class I Misdemeanor.
28. On December 10, 2018, the Court sentenced Nelson as a result of his guilty pleas.
29. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

#### CONCLUSIONS OF LAW

30. The burden of proof in this matter as a contested case hearing is clear and convincing. *In re Setliff*, 2002 S.D. 57, 245 N.W.2d 601, 605.
31. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 that in fulfilling their obligations to the public, educators shall:
  - a. (7) Engage in no act that results in a conviction.
  - b. (8) Exemplify high moral standards by not engaging in or becoming a party to such activities as fraud, embezzlement, theft, deceit, moral turpitude, gross immorality, sexual contact with students, illegal drugs, or use of misleading or false statements.
32. The complainant has met his burden of proof through testimony and evidence presented at the hearing regarding the allegation of a violations of ARSD 24:08:03:02(7).

33. Clear and convincing evidences exists that Nelson violated ARSD 24:08:03:02(7).
34. The complainant has met his burden of proof through testimony and evidence presented at the hearing regarding the allegation of a violations of ARSD 24:08:03:02(8).
35. Clear and convincing evidences exists that Nelson violated ARSD 24:08:03:02(8).
36. Any conclusion of law improperly denoted as a finding of fact is hereby incorporated as a conclusion of law.

Based upon the foregoing findings and conclusions, it is hereby

ORDERED that this matter be referred to the Secretary of the South Dakota Department of Education for proceedings to revoke the teaching certificate of Nelson as provided for in SDCL 13-43-28.1.

It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law, and Order be sent to the parties herein. It is further

ORDERED that a copy of the Findings of Fact, Conclusions of Law, and Order be provided to the Court in Cedar County, Nebraska regarding Case No. CR18-21.

ORDERED that a copy of the Findings of Fact, Conclusions of Law, and Order be provided to the Secretary of the South Dakota Department of Education for placement on the National Association of the State Directors of Teacher Education and Certification (NASDTEC) clearinghouse and that it remain with the Department's permanent certification file. It is further

ORDERED that the Department may release the Findings of Fact, Conclusions of Law, and Order to the certification office of any state in which the respondent holds or applies for a certificate.

Dated this 29<sup>th</sup> day of August, 2019.

PROFESSIONAL TEACHERS PRACTICES  
AND STANDARDS COMMISSION

By: Mrs. Tammy Jo Schlechter  
Mrs. Tammy Jo Schlechter, Chair