

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

PROFESSIONAL TEACHERS)
PRACTICES AND STANDARDS)
COMMISSION,)
800 Governors Drive)
Pierre, SD 57501)

Case No. TR 2010- 06

COMPLAINANT,)
v.)

ORDER
REVOKING RESPONDENT'S
SOUTH DAKOTA TEACHER CERTIFICATION

GERRY J. HECK ([REDACTED])
[REDACTED])
[REDACTED])
[REDACTED])
[REDACTED])
RESPONDENT.)

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 13-42-10, following receipt of a Complaint for the Revocation or Suspension of a Teacher's Certificate dated July 26, 2010, from the Professional Teachers Practices and Standards Commission, and after review of the entire record of the hearing before the Commission, the Secretary of Education hereby issues the following:

IT IS HEREBY ORDERED that after review of the entire record of the hearing before the Professional Teachers Practices and Standards Commission, the attached Findings of Fact and Conclusions of Law of the Commission dated July 26, 2010, are hereby affirmed and adopted by the Secretary and incorporated into this Order by this reference as if set forth in full.

IT IS FURTHER ORDERED that based upon a review of the entire record of the hearing before the Professional Teachers Practices and Standards Commission, there is clear and convincing evidence that Respondent violated the South Dakota Code of Ethics for Teachers established under SDCL 13-43-25, namely ARSD 24:08:03:02(7) and (8).

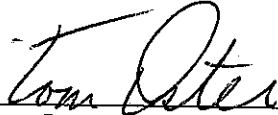
IT IS FURTHER ORDERED that pursuant to SDCL 13-42-9 and 13-42-10, the Teacher Certificate No. 14162 issued to Respondent on August 13, 1976, shall be permanently revoked for violation of the South Dakota Code of Ethics for Teachers, namely ARSD 24:08:03:01(7) and (8).

IT IS FURTHER ORDERED that notification of Respondent's permanent revocation information be placed on the NASDTEC registry and be placed in his permanent certification file within the South Dakota Department of Education. This Order will be sent to the Professional Teachers Practices and Standards Commission and its counsel, the complainant and their counsel, and the respondent and his counsel, if any. This Order does not restrict the Secretary of Education from forwarding this file to anyone that has the authority to employ Respondent, if requested in writing.

IT IS FURTHER ORDERED that pursuant to SDCL 13-42-15, Respondent has **ten (10) days** after receipt of this notice to surrender his original South Dakota Teacher certificate No. 14162 to Ferne Haddock, South Dakota Department of Education, MacKay Building, 800 Governors Drive, Pierre, SD 57501. As stated in SDCL 13-42-15.1, failure to surrender the certificate may be subject to a civil penalty.

This constitutes final agency action. Respondent has the right to appeal from this Order to circuit court as provided by law unless such appeal has been waived.

Dated this 10 day of August, 2010.



Tom Oster
Secretary
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501

3. The complaint alleged that Heck violated sections of the South Dakota Code of Professional Ethics for Teachers.
4. The complaint was served on Heck on or about March 15, 2010.
5. A notice of hearing was served on Respondent on or about May 3, 2010. The notice of hearing advised Heck that a hearing had been set for Tuesday June 15, 2010 at 8:30 a.m. at Conference Room 1, McKay Building (State Library), 800 Governors Drive, Pierre, South Dakota.
6. On June 15, 2010 Heck did not appear at the hearing having signed a Voluntary Surrender of Certificate for Revocation.
7. On or about March 16, 2010 Heck voluntarily agreed to surrender his teaching certificate for permanent revocation.
8. On or about between September 29, 1993 and September 28, 1995, Heck did cause and attempt to cause an Indian child who had not attained the age of twelve years, to engage in sexual contact, that is, the intentional touching of that child's genitalia, groin, inter thigh, breast and buttocks, with the intent to arouse, humiliate, harass and degrade that child, and to arouse and gratify the sexual desire of Heck, in violation of ARSD 24:08:03:02.
9. The acts contained in paragraph 8 violate ARSD 24:08:03:02(8), in that in fulfilling their obligations to the public, educators shall commit no act of moral turpitude or gross immorality.
10. On or about February 18, 2010, Heck pled guilty to Count II of a Redacted Indictment filed in United States of America v. Gerry J. Heck, CR 09-30075-RAL in United States District Court, District of South Dakota, Central Division. Count II alleged that Heck engaged in sexual conduct with an Indian child who was less than twelve years old.
11. Heck's guilty plea violates ARSD 24:08:03:02(7), in that in fulfilling their obligations to the public, educators shall engage in no act that results in a conviction.
12. Any finding of fact improperly denoted as a conclusion of law is hereby incorporated as a finding of fact.

CONCLUSIONS OF LAW

13. The Commission has jurisdiction over this matter pursuant to SDCL 13-43-28 and 13-43-28.1, SDCL Ch. 1-26, and the Administrative Rules of South Dakota, Chapters 24:08:03 and 24:08:04.01.

14. The burden of proof in this matter is clear and convincing. In Re: Setliff, 202 SD 58, 645 N.W.2d 601, 605.
15. The South Dakota Code of Professional Ethics for Teachers provides at ARSD 24:08:03:02 that in fulfilling their obligations to the students, educators shall act as follows:
 - (7) engage in no act that results in a conviction;
 - (8) commit no act of moral turpitude or gross immorality.
16. Clear and convincing evidence exists that Heck violated ARSD 24:08:03:02 (7) and (8).
17. Heck violated the South Dakota Code of Professional Ethics for Teachers, ARSD 24:08:03:02(7), by being convicted in United States District Court in South Dakota of Sexual Contact with a child.
18. Heck violated the South Dakota Code of Professional Ethics for Teachers, ARSD 24:08:03:02(8), by engaging in sexual contact with at child less than twelve years old.
19. 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 Heck as provided for in SDCL 13-43-28. It is further

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

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 NASDTEC clearing house and that it remain with the Department's permanent certification file

Dated this 26th day of July, 2010.

PROFESSIONAL TEACHERS PRACTICES
and STANDARDS COMMISSION

By Joseph Harrison
Joseph Harrison Ed.D. Chair
700 Governors Drive
Pierre, SD 57501-2291