

**BEFORE THE
COMMISSION ON TEACHER CREDENTIALING
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

CORNELIUS O. OGUN SALU, Respondent

Case No. 2-235219201

OAH No. 2023040932

PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on August 14, 2023, via videoconference.

Daniel J. Cross, Deputy Attorney General, represented complainant, Mary Vixie Sandy, Ed.D., Executive Director of the Commission on Teacher Credentialing of the State of California (Commission).

Jonathan C. Turner, Attorney at Law, represented respondent, Cornelius O. Ogunsalu, who was present.

The record was closed, and the matter submitted for decision on August 14, 2023.

SUMMARY

Complainant asks that respondent's application for a single subject teaching credential be denied because he was previously subject to an adverse action and his certification to teach was revoked; he lacks the qualifications to serve as a teacher; he engaged in acts of moral turpitude, due to threatening and vulgar emails respondent sent to the principal of the school where he worked as a teacher; he incurred criminal convictions for electronic harassment and contempt and domestic battery; and he engaged in misconduct involving students at the school where he worked. Considering the evidence of record as a whole, and after applying the "*Morrison*" criteria and applicable aggravating and mitigating factors, respondent's application for a certificate is denied.

Jurisdictional Matters

1. The Commission issued respondent a Preliminary Single Subject Teaching Credential in May 2008. After an administrative hearing, the Commission revoked the credential in 2017. The Commission adopted the decision of the administrative law judge and the factual findings made in that decision.

2. On October 1, 2020, respondent submitted to the Commission an application for a Single Subject Teaching Credential. The Commission denied the application on October 1, 2021, on various grounds: respondent's conviction in 2000 for domestic battery, his 2014 non-reelection from teaching at the San Diego Unified School District, his 2015 conviction for electronic harassment and contempt, and the Commission's 2017 revocation of his preliminary teaching credential. The Commission's Credential Committee recommended denying respondent's application

based on the 2017 revocation, and respondent's long history of conduct showing he is not fit to teach.

3. Respondent timely requested a hearing on this matter and complainant filed and served a statement of issues on March 9, 2023. Complainant alleges three causes for denial of respondent's application: Pursuant to Education Code section 44345, subdivision (f), his application is subject to denial due to the Commission's 2017 revocation of his preliminary credential (First Cause for Denial); he lacks qualifications related to his fitness to teach or competence to teach under Section 44345, subdivision (a), (Second Cause for Denial); and he engaged in acts of moral turpitude (Third Cause for Denial). Complainant further cites as aggravating factors a number of events, that in complainant's view, warrants a greater degree of adverse action including: respondent's prior record of adverse action; his multiple acts of wrongdoing; his conduct significantly harmed a child, the public and the educational system; he showed indifference towards the consequences of his misconduct; and he had prior notice, warnings, and reprimands for similar conduct.¹²

Complainant's Evidence

4. Complainant relies on three sets of documents to support her position that respondent's application should be denied: The Commission's decision, effective

¹ At the hearing complainant moved to amend the statement of issues to remove the first sentence of paragraph 26. That motion was granted.

² Redactions have been made to Exhibit A to remove identifying information of a minor.

March 19, 2017, revoking respondent's preliminary single subject teaching credential, and denying his application for a single subject teaching credential; the Superior Court, Appellate Division's Decision/Statement of Reasons affirming the July 2015, jury verdict convicting respondent of electronic harassment; and a series of email communications respondent sent between January 18, 2017, and January 12, 2018, to the Deputy Attorney General (DAG) who prosecuted the disciplinary action against respondent, the Commission's counsel, OAH, the Commission's Executive Director, and other persons. The Commission's Committee of Credentials (Committee) did not, in its findings recommending denying respondent's application, reference as a basis for its recommendation those emails. Respondent objects to them on jurisdictional grounds as a basis to support cause to deny his application citing Education Code section 44242.5, subdivisions (a) and (b). At the hearing complainant argued that, jurisdiction notwithstanding, these emails address the issue of respondent's rehabilitation and whether he changed his behavior after the Commission's March 19, 2017 decision.

5. The Commission's March 19, 2017 decision and the emails are summarized as follows:

SUMMARY OF MARCH 2017 DECISION

6. The Commission, as noted, revoked respondent's preliminary teaching credential after a hearing in which respondent failed to appear without good cause and with notice of the proceeding.

The Commission adopted the findings of fact the administrative law judge made and these findings of fact are accepted as fully adjudicated for purposes of making factual findings in this proceeding despite respondent's failure to appear and present a defense to those allegations. The doctrine of collateral estoppel, which precludes

relitigating in a second proceeding matters litigated and determined in a prior proceeding, applies even where the party did not participate in the initial matter despite the opportunity to do so. (*People v. Sims* (1982) 32 Cal.3d 468, pp 477-481 (citations omitted.))

The Commission found that cause existed to take adverse action against respondent's credential because he engaged in unprofessional conduct based on his interactions with several students and the principal, Dr. Dodson, at Bell Middle School where respondent taught the seventh grade.³ The findings of facts noted the following:

7. On September 4, 2013, a student complained to Dr. Dodson that respondent told the student, who arrived late for class, in front of the class, to "Wipe that stupid smirk off your face." When Dr. Dodson asked respondent about this comment, respondent admitted he told the student to "Wipe that silly smile off your face." The Commission concluded that either statement constituted unprofessional conduct, and respondent showed by his tone and nature of the statement a lack of respect and disregard for the student's dignity.

8. After speaking about the incident with respondent, Dr. Dodson memorialized it in a brief letter to respondent and indicated in this letter no further action against respondent would be taken. The letter was not to be placed in respondent's personnel file. Respondent, as the Commission found, responded disproportionately to Dr. Dodson's letter to him. He first accused Dr. Dodson in an email

³ Dr. Dodson is referenced as "Dr." in the Commission's decision although in other materials he is not referred to as "Dr."

to Dr. Dodson of harassment and attempting to sabotage respondent's career. He advised Dr. Dodson to never approach him without setting up a conference and threatened to report Dr. Dodson if he continued his "harassment."

9. The next week, on a Saturday, outside of school hours, respondent sent to Dr. Dodson's private cell phone a text threatening to "destroy" Dr. Dodson's career due to the informal letter. Respondent texted, "In God's name I am pleading with you not to fuck with me this year," and "Your leadership and management style sucks for lack of a better word." He asked Dr. Dodson to send him a written apology by Monday. Dr. Dodson reprimanded respondent on October 18, 2013, for this communication and instructed him to not send any derogatory or threatening messages by phone or email.

10. On March 11, 2014, the District informed respondent he was not being re-elected as a teacher for the next calendar year. The next day, respondent sent to the members of the school board, and the entire Bell Middle School staff an email detailing his grievances. After the email, human resources placed respondent on paid administrative leave for the remainder of the school year.

11. Shortly after being placed on leave, respondent began to send Dr. Dodson text messages and emails daily, between March through May 2014, including email containing vulgar language insulting Dr. Dodson and threatening him. On one day, respondent sent Dr. Dodson 134 text messages, including a message where he referenced pulling Dr. Dodson's "balls through his ass and jamming them in his throat." Another such message, which the Commission quoted in its decision without alteration, reads as follows:

How's your charge against me with the District Attorney's Office coming along? Two SDUSD police officers visited me to inform me you are trying to get me e you fairing on administrative leave? LOL! DFEH charge against you has already been filed with SDUSD. I am working on a detailed 30 page PERB charge against you in preparation for the eventual section 1983 federal lawsuit. I have to take my time filing the PERB charge so I can SLAM DUNK your pretty sissy panty boy ass all the way to the U.S. Supreme Court! Then I will show you who is the SLAM FUNK MASTER! You pissant, motherfucking, miscreant piece of rabid DOG SHIT!!! FICK YOU!

arrested on a felony. Is that true! If so God will strike you and destroy you likewise! You WILL NOT succeed in any evil machinations against me. How ar

Make sure you read your district email and complete my STULL Evaluation immediately according to the STULL Act before the end of . . .

. . . immediately according to the STULL Act before the end of June least you are in gross violation. The BOGUS evaluations you caused Marco to enter in my PD 360 account in violation of my contract has already gotten you in BIG SHIT. Now, bury yourself in that BIG SHIT and ROT! Punk ass motherfucking ASSWIPE!

Education Code 44663 mandates that my STULL Evaluation and Assessment "shall be reduced to writing and a copy thereof shall be transmitted to the certifi

12. As a result of these messages, District counsel sent respondent a cease and desist letter. The District then obtained a restraining order against respondent after he failed to comply with the cease and desist letter. Respondent, however, continued to send Dr. Dodson messages, and respondent was charged with one count of violating a court order and six counts of harassment and convicted after a jury trial in July 2015. The Commission did not consider the conviction in its decision to revoke his certificate and deny his application because conviction documents were not submitted into the record. In this proceeding, complainant also did not submit the judgment of conviction from the trial court, but did submit into the record the Appellate Division's Statement of Decision affirming the judgment of conviction. Respondent expunged the conviction pursuant to Penal Code section 1203.4, according to the Commission in its investigation report on March 15, 2019. Complainant also did not submit evidence relating to respondent's 2000 domestic battery conviction. The Commission, however, in its investigation report noted that on March 15, 2019, this conviction was also expunged pursuant to Penal Code 1203.5.

13. In its March 17, 2017 decision, the Commission found respondent's profanity-laced text to Dr. Dodson in March 2014, extremely hostile and inappropriate, for any professional setting, and it constituted unprofessional conduct. Further, the Commission found the text displayed respondent's explosive personality, his inability to restrain his emotions, and his refusal to comport his behavior to professional standards of communication one would expect between a teacher and his superior.

14. In addition to finding that respondent engaged in unprofessional conduct regarding his communications to Dr. Dodson, the Commission also found that respondent engaged in unprofessional conduct with regard to his interactions with several students. The first incident is described above and occurred in September 2013. The second incident occurred on February 4, 2014, when a campus police officer observed respondent try to pull a backpack away from a student, who was holding onto it. Other students witnessed the incident. A third incident involved respondent calling a student in front of the class, on March 14, 2014, an "ass" or "jackass." The student's parents complained, and a conference was held with respondent, the student's parents, and the school principal. The Commission found the statement to evidence disrespect for a seventh grade student.

APPELLATE DIVISION'S STATEMENT OF DECISION

15. In affirming the judgment of conviction on November 1, 2017, for electronic harassment under Penal Code section 653m, subdivision (b), and violating a court order in violation of Penal Code section 116, subdivision (a)(4), the Superior Court, Appellate Division, cites emails that the Commission did not reference in its 2017 decision, but which complainant cites in the statement of issues in this matter. They include the following emails respondent sent to Mr. Dodson:

"You picked the wrong probationary teacher to fuck with."

"In your face, n_____!"

"[I want to] whip [the principal]'s ass and put him in his corner."

"[I have] bleach to make your high yellow skin white, a swiping disease infested cess pit vermin."

"Fuck you and burn in hell."

16. The court further notes in its decision that in May 2014 alone respondent sent the principal more than 50 text messages with threatening, vulgar language including: "to Saint motherfucking vermin and piece of foul black turd. Jackass. Adult that likes to eat shit will definitely throw up when it visits a cess pit to eat shit. Figure that out." In violation of a court order issued at his arraignment in November 2014 to not contact Dr. Dodson, respondent sent a number of emails to Dr. Dodson including this email the court cited in its decision: "Now you see why you are a clueless fucktard and jack ass? So I am ready and not moving on with my life as your punk-ass bitch motherfucking brainless, clueless piece of shit is recommending, how dare you."

EMAIL COMMUNICATION RESPONDENT SENT IN 2017-2018

17. Between January 2017 and January 11, 2018, as mentioned earlier, respondent sent a series of email messages to the Deputy Attorney General who was prosecuting the disciplinary action against him before the Office of Administrative Hearings and the Commission's staff counsel. Complainant submitted these emails to show that respondent continued to engage in vulgar and threatening communications, similar to the communications he sent to Dr. Dodson, both shortly before the disciplinary hearing was held and after the Commission's 2017 decision. Overall, respondent's emails can fairly be characterized as expressions of his anger at various persons involved in the legal proceedings against him, and his frustration that things did not go his way. These emails are not considered as a basis to warrant cause for denial of respondent's application because the Committee did not reference them in

its findings of fact warranting denial of respondent's application. (Ed. Code, 44242.5, subds. (a)-(d).)⁴ But they are considered as evidence that respondent sent vulgar and threatening email communications both while his matter was pending before OAH, and after the Commission's decision through January 11, 2018.

18. The emails contain disturbing language with personal attacks and threats against both attorneys with some kind of unspecified consequence. In one email respondent wrote: "Attempting to criminalize me and make me the big, bad, scary and threatening teacher, when [I AM NOT], will definitely backfire on both of you!" In another email he wrote: "Back off. . . I have cautioned you REPEATEDLY!!!" Respondent repeated the "back off" threat in another email.

Respondent numerous times in these emails referred to the DAG and staff counsel as "wicked" and "evil," with the words capitalized for effect. He referred to the Commission's staff counsel as a "vile human being" whose soul was "damned." In an email dated February 6, 2017, to both attorneys, respondent "prayed" that they "BOTH suffer a thousandfold, the pain and suffering you have visited upon me. GOD, my CREATOR, will stop you!" He added that their "kind of evil and wickedness is what is destroying the great fabric of the American tapestry." "I pray that you will get everything bad, evil and wicked that you have directed at me, ten-thousand fold in return!" Respondent, further, referred to the DAG as a "slime bucket" in a February 28,

⁴ Respondent in his application stated he was convicted of a misdemeanor and detailed his criminal history and some of the issues connected with his employment at Bell Middle School in an amended letter of explanation to the Commission dated May 21, 2021. The Committee of Credentials thus had authority to commence an initial review of respondent's application. (Ed. Code, 44242.5, subd. (b).)

2017, email, and advised her to “Pack you [sic] thing and RESIGN IMMEDIATELY. . . !!!” He also referred to the administrative law judge hearing the matter as a “crooked weasel and poor excuse for an ALJ.”

19. In an email on January 17, 2017, he accused them of unethical conduct. He didn’t specify the conduct. He earlier advised the DAG that he will not participate in the hearing, which he stated was a “kangaroo court.”⁵

20. After respondent received the Commission’s 2017 decision, respondent directed an email dated September 3, 2017, to the administrative law judge, the DAG and staff counsel referring to them as “essentially criminal coconspirators.”

Respondent’s Testimony and Evidence

21. Respondent’s testimony, and a letter he sent to the Commission dated May 21, 2021, are summarized as follows:

Respondent was born in Nigeria and came to this country in 1987. He is currently attending law school and expects to graduate in 2024. In 2000, he obtained a bachelor’s degree from the University of Phoenix in business management and masters’ degrees in business administration and international business in 2002 and 2023, respectively.

⁵ Respondent in the January 18, 2017, email also stated that “unethical and corrupt-minded lawyers” like them had respondent declared a vexatious litigant to stop him from filing three viable lawsuits. He also identified the judges who made this determination to be “corrupt.”

22. Respondent said he has a passion for teaching, and he is committed to working in the profession. From 2004 to 2014, respondent worked practically full time as a substitute teacher at various school districts in San Diego County and taught "at risk youth" in juvenile facilities. He said principals loved his work ethic and encouraged him to teach. He had no issue with colleagues or students. He finally obtained his credential to teach through the University of San Diego.

23. After substitute teaching for years, respondent obtained a contract to teach at Bell Middle School as a probationary teacher. At first he said everything went well, but that changed, he said, when he challenged the school for not giving him a contract. He had been working for six months with little pay.

Through the teacher's union he retained counsel and a contract. Respondent said Lamont Jackson, who was the school human resources director at the time, was "livid" and "all hell broke loose" because he got this contract. He said Mr. Jackson and Dr. Dodson began to build a case against him to remove him as a teacher. Respondent stressed that they just wanted him out of the classroom based on false allegations. In response to a question posed to him by complainant, respondent said after he got the contract the principal became "the devil." He noted that Mr. Jackson visited his classroom and accused respondent of being a bad teacher. Respondent said he objected to Mr. Jackson coming to his classroom. He told him to not come to his classroom and threatened to sue Mr. Jackson. At the same time, respondent commented that legally the school district did not have to have reasons to non-reelect him as a teacher, but they developed reasons.

24. Regarding the backpack incident, respondent testified the administration set him up and used the student to target him. He justified his behavior because he said the student had a neck chain the student should not have been wearing. He

added that Dr. Dodson used the incident as a basis for non-reelecting him as a teacher. Respondent also said police were called to investigate the incident and after talking to him, cleared him. To prove this, respondent submitted a document captioned "Departmental Report" with a report date of October 7, 2013. The document appears to be a school campus police report regarding the "necklace incident," not the "backpack" incident per respondent's testimony on cross examination. The document clears respondent of this incident, as a matter of criminal conduct, deeming the charge "unfounded."

25. Respondent submitted a letter from a student, JL, apparently from the student involved in the necklace incident. In this letter, JL apologized for not respecting respondent before the class.

26. Respondent stated that when he was escorted by security to leave the school, his heart sank. He explained that he put over a decade into his career in education, including getting credentialed through the University of San Diego, and wanting to pursue a doctorate in education. Respondent further felt the students would be shortchanged by having substitute teachers.

27. After his non-reelection, and before the Commission revoked his credential to teach on March 19, 2017, respondent worked as a substitute teacher for other school districts. He had no issues during this time working as a substitute teacher.

28. Respondent was asked what he learned from the incident. He said by the time he left Bell Middle School, he was a basket case and exhausted. He recognizes now he was suffering from a deep depression. Respondent added that as a term of his criminal probation, he took an anger management course and benefited from the

course and the books the course recommended. Respondent said he learned ways to express feelings in a healthy manner and how to cope with stress.

29. Respondent was asked how he can assure the Commission that he would not engage in the same behavior again, and he said if he is not happy about something, he would address it in a healthy manner. He added that "what happened with Dodson" was a madness and injustice against him, and he reached a breaking point. In questions posed to him on cross-examination, respondent did not deny he made the statements documented in emails he sent to Dr. Dodson, but said these statements were cherry picked and he doesn't understand why the Commission would make "a big deal" about them. He also stated "everything" in the statement of issues is a "distortion," and what happened with the necklace in particular was a "planned thing" with the school administration. He said the year before the incident, this student was in his classroom and he had no problems with the student. Respondent further added that it seemed to him that the administration was instigating the student.

30. Respondent explained further when asked what he would do if he were able to go back in time, he "might" have said things with more "tact," but he feels the statements he made were justified because Dr. Dodson was "filth." He further stated he did not think he made a mistake by sending the emails, but he would not send them now because he is more knowledgeable about the system. At the same time, he said he is in a better place mentally now. He added that he completed anger management courses in 2015 in connection with his criminal probation and found what he learned meaningful.

31. Regarding the emails respondent sent to the DAG and the Commission's counsel, among others, respondent said he wanted the Commission to know he was being railroaded, he was representing himself, the language was protected speech

under the First Amendment, and he was expressing himself the way people do based on his culture in Nigeria. He believes the DAG and staff counsel were in a conspiracy to railroad him and suppress the truth, and the DAG did so because respondent is a black man from a foreign country. Respondent commented further that the administrative law judge was part of this conspiracy.

32. Respondent said that the Commission does not need to be concerned about him based on these emails because they happened seven years ago and given the time that has passed, he doesn't understand why we are dealing with the emails now. He explained that these emails represented his mindset at the time because his life was ruined.

33. Respondent testified that if his credential is granted, he would substitute teach again because being in the education environment is his passion. In addition, he noted his commitment to helping others, which included sending money to an orphanage, helping pay tuition for young adults, and developing a non-profit.

34. Respondent called as a character witness Charles Guthrie. Mr. Guthrie is an attorney and represented respondent in the criminal proceeding discussed in this matter and considers respondent a friend. He has known respondent for about four years.

Mr. Guthrie considers respondent to be a person of very good character, honest, trustworthy, intelligent, and a person of very high ethics. He would trust respondent to teach his children. He added that he does not believe respondent received fair treatment.

35. Respondent also submitted into the record the following documents: a screen shot of a webpage of a non-profit organization he is developing, a research

project paper he submitted in connection with a course he took in education at the University of California San Diego titled "Common Core Aligned Practices and Performance Assessments for History Teachers" from May 2014, and his curriculum vitae.

Parties' Arguments

36. Complainant argued in closing that respondent's application should be denied based on the 2017 revocation of respondent's certificate, his conduct in 2013 and threatening communications with Dr. Dodson, and his 2015 conviction for harassment. Complainant stated that the facts adjudicated in the Commission's decision were fully litigated and respondent had the opportunity to challenge them at hearing but chose not to participate. Complainant cites *People v. Sims*, supra, for the principal that respondent may not collaterally attack the factual findings in that decision.

Complainant stated that respondent did not show he has changed since the hearing and decision revoking his certificate. He has the burden of proof to show he is rehabilitated and failed to present such evidence. Complainant disputes respondent's contention that his email communications are protected speech, noting that First Amendment Protections have their limits, citing *People v. Hernandez* (1991) 231 Cal.App.3d 1376, and other cases which have held that protection of persons from harassment and annoyance curtail First Amendment protections. Complainant also cited *Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc.* (1986) 42 Cal.3d 1157 and *Alexander v. State Board of Examiners* (1991) 231 Cal.App.3d 92, for the proposition that certain statements can be used in judicial proceedings.

Complainant disagreed with respondent's assertion that the Commission lacks jurisdiction regarding the emails sent in January 2017 through January 2018. Complainant, however, commented that if jurisdiction is an issue, the communications show that respondent did not change after 2015.

With regard to Causes for Denial Two and Three, respondent's lack of qualifications and acts of moral turpitude, complainant asserted the issue here is respondent's fitness to teach. Complainant cited the factors under *Morrison v. State Bd. of Education* (1969) 1 Cal.3d 214 ("*Morrison*"), which relate to the fitness to teach. Respondent, complainant argued, has engaged in a pattern of misconduct, and lacks appreciation regarding the nature of his communications, which indicate respondent is unfit to teach.

37. Respondent in closing stated he does not contest that cause exists under the First Cause for Denial, but contests that cause exists under the Second and Third Causes for Denial in part because the 2000 and 2015 convictions have been expunged under Penal Code section 1203.4, and the Commission may not consider them as a basis to deny respondent's application. Respondent asserted that rules and statutes under which the Commission operates do not allow for the Commission to impose discipline based on a conviction that has been expunged, unlike other agencies which have such authority. Respondent cited this language in 1203.4 for his view here: "the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which they have been convicted," and thus respondent should have no consequence to this licensing matter due to the expunged convictions.

Respondent further cited by analogy, for his argument that the convictions should not be considered under Business and Professions Code section 480, which he conceded does not apply to the Commission. Section 480 now does not permit a

licensing agency operating under the Department of Consumer Affairs to consider an expunged conviction to deny a license with certain exceptions.

Respondent additionally argued regarding his 2017 emails that they are protected speech and also can't be used against him to deny his application. He cited respondent's attacks on the competence and ethics of the attorneys and judge specifically.

Respondent argued nonetheless the Commission lacks jurisdiction under the Education Code because certain things need to occur before the Commission may have jurisdiction to pursue denial of a certificate.

With regard to the First Amendment issue respondent raised, respondent disagrees that the cases complainant cites apply to the facts in his case.

The bottom line for respondent is that, applying the "*Morrison*" factors, respondent showed he is fit to teach. The incidents at issue are now remote in time and respondent "testified credibly" he is not the person he was eight or nine years ago. He said he would handle things differently now. Respondent, further, has a long track record of teaching without incident.

LEGAL CONCLUSIONS

1. Once an administrative agency presents evidence that supports the denial of an application for licensure, the burden falls upon the applicant to demonstrate rehabilitation and fitness to hold the license. The standard of proof is a preponderance of the evidence. (Evid. Code, §§ 115, 500.)

Cause Exists to Deny Respondent's Application Certificate

2. Complainant alleges that cause exists to deny respondent's application for a certificate under three different categories: Respondent had a certification document revoked, he lacks qualifications, and he committed acts of moral turpitude. These causes are analyzed in the order presented in the pleading.

3. Cause exists under the First Cause for Denial to deny respondent's application for a certificate pursuant to Education Code section 44345, subdivision (f). This section authorizes the Commission to deny an application of an individual who had a certification document revoked. Here, the Commission, effective March 17, 2017, revoked respondent's Preliminary Single Subject Teaching Credential.

In revoking his certification, as discussed above, the Commission made these factual findings:

First, in a single day, respondent sent 134 texts to Dr. Dodson's cell phone. In one text he sent on a Saturday, respondent threatened to destroy Dr. Dodson's career. He wrote: "In God's name I am pleading with you not to fuck with me this year." He demanded that Dr. Dodson send him a written apology by Monday. Respondent also wrote subsequently to Dr. Dodson ". . . , You pissant, motherfucking, miscreant piece of rabid DOG SHIT!!! FICK YOU!" He also called Dr. Dodson a "Punk ass motherfucking ASSWIPE!" Dr. Dodson stated in one communication respondent referenced pulling Dr. Dodson's "balls through his ass and jamming them in his throat."

In addition, the Commission found that respondent engaged in unprofessional conduct regarding several interactions he had with students. First, on the first day of class, September 13, 2013, respondent told a student, who arrived later for class, either "Wipe that stupid smirk off your face," or "Wipe that silly smile off your face." Next, on

February 4, 2014, respondent tried to pull a backpack away from this student, who was holding onto it in front of other students. And on March 14, 2014, respondent called a student an “ass” or “jackass” in front of other students.

4. In the Second Cause for Denial, complainant alleges that respondent lacks the qualifications prescribed by the law prescribed by law or regulations adopted by the Commission. (Ed. Code, § 44435, subdivision (a).) The analysis of this cause requires application of the “*Morrison*” criteria, as discussed immediately below, and the findings made in this decision under the First and Third Causes for Denial. After considering the “*Morrison*” criteria, as discussed below, cause exists to deny respondent’s application because he lacks the qualifications to serve as a teacher.

5. In the Third Cause for Denial complainant alleges that cause exists to deny respondent’s application for a credential because he engaged in acts of moral turpitude. The Commission may deny the application of a person who commits acts of moral turpitude. (Ed. Code, §§ 44421, 44345, subd. (e).) The determination whether conduct constitutes moral turpitude requires a fact-specific analysis of the conduct. In *In re Kelley* (1990) 52 Cal.3d 487, concerning the question when crimes involve acts of moral turpitude, the court stated:

Conviction of some crimes establishes moral turpitude per se. These include crimes involving an intent to defraud as well as extremely repugnant crimes such as murder.

[Citations.] Convictions for drunk driving [Fn. Omitted], however, do not per se establish moral turpitude. Therefore if moral turpitude exists in this case, it must be based on the particular circumstances surrounding the convictions.

[*Id.*, at p. 494.]

6. Applying this analysis to the evidence of record in this matter, cause exists to find that respondent engaged in conduct constituting moral turpitude.

Respondent was convicted of electronic harassment in violation of Penal Code section 653m.⁶ The conduct documented in the Superior Court's appellate decision constitutes acts of moral turpitude. Respondent's argument that the Commission may not consider this conviction because it was expunged under Penal Code section 1203.4 is rejected. Education Code section 44008 specifically authorizes the Commission to consider a conviction expunged under this section.

7. In affirming his conviction, the appellate court recited specific facts supporting the conviction, including the emails detailed above. Their ugly and vulgar nature speak for themselves. Further, the court notes, *on one day*, respondent sent 50 vulgar and threatening emails to Dr. Dodson. Such abusive, threatening, and vulgar communications, contrary to respondent's argument, are not protected under the First Amendment. His right to petition the school district, like the right of free speech, is not absolute. (*People v. Hernandez, supra*; *Wolfgram v. Wells Fargo Bank* (1997) 53 Cal.App.4th 43, 56.)

⁶ Penal Code section 653m, subdivision (a), reads as follows: "Every person who, with intent to annoy, telephones or makes contact by means of an electronic communication device with another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor. . . ."

8. Respondent's text messages to Dr. Dodson on a Saturday, as found earlier in this decision, also constitutes acts of moral turpitude. They involved threatening and abusive text messages, and 134 texts respondent sent to Dr. Dodson on one day.

9. With regard to respondent's 2000 convictions for domestic battery and violating stay away orders, no conclusions on this record can be made regarding them. Complainant did not offer evidence of the domestic battery conviction, or the stay away orders, or the facts and circumstances surrounding them.

10. With regard to his conduct towards the students as found above, it is not found that respondent's conduct constituted acts of moral turpitude.

Application of the *Morrison* Factors and Evaluation of Rehabilitation

11. With causes to deny respondent's application having been found, the inquiry now requires evaluating respondent's fitness to teach pursuant to the "*Morrison*" criteria. An individual can be removed from the teaching profession only upon a showing that his retention in the profession poses a significant danger of harm to either students, school employees, or others who might be affected by his actions as a teacher. (*Morrison, supra*, 1 Cal.3d at p. 235.) The "*Morrison*" criteria are embodied in California Code of Regulations, title 5, section 80302. The factors include the extent to which the conduct has adversely affected students, fellow teachers, or the educational community and the degree of impact; the proximity or remoteness in time of the conduct; the type of certificate held; the extenuating or aggravating circumstances surrounding the conduct; the praiseworthiness or blameworthiness of the motives resulting in the conduct; the probability that the questioned conduct will recur; the extent to which adverse action may have a chilling effect upon the

constitutional rights of the person involved or on other certificated persons; and the publicity or notoriety given to the conduct.

12. Applying these criteria to the evidence of record in this matter, it is found that respondent would pose a significant risk of harm to students and school staff if he were returned as a teacher to the classroom, and he is unfit to serve as a teacher accordingly. This conclusion is reached for these reasons: First, respondent offered no assurance he would not repeat the type of threatening, disturbing, and vulgar communications he engaged in with the school principal, Dr. Dodson, if he were criticized or instructed at a school in a way he did not like. It is clear from his testimony that respondent is not chastened by the disturbing things he wrote; he does not see any problem with the texts and emails he sent Dr. Dodson, among others. In his testimony he tried to justify them by a misplaced belief that the First Amendment absolutely protected his right to send the text and emails he sent, he had to do what he did because he was faced with a situation caused by Dr. Dodson, and he was expressing himself in a culturally appropriate way. Only reluctantly, and only after repeated questions, did respondent express some half-hearted regret for his texts. He said he could have used more "tact" in his communications, and he is in a different place now. His assertion that his response was situational due to his treatment is contradicted by the abusive and threatening emails he sent to the DAG who prosecuted the disciplinary action against him and Commission counsel between January 2017 and January 2018. These abusive emails are similar in tone to the texts respondent sent to Dr. Dodson, and they were sent after he was convicted of electronic harassment. It suggests, for purposes of evaluating whether he is rehabilitated and now fit to serve as a teacher, that respondent has not gained any meaningful insight into his conduct in 2013 and 2014. Fully acknowledging the

wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.)

As additional factors under "*Morrison*", respondent's conduct had an adverse effect on Dr. Dodson and administrators at the middle school. Respondent placed Dr. Dodson in fear of his personal safety, as evidenced by the District's need to get a restraining order against respondent. Here, it is noted that respondent violated the restraining order. He also disregarded Dr. Dodson's personal dignity and the personal dignity of several students as found above.

13. In terms of the aggravating factors complainant cites in the statement of issues, a number apply to respondent: He has a history of prior adverse action, as found above; there were multiple instances of misconduct; and he showed indifference towards the consequence of his misconduct, in particular the emails he sent to Dr. Dodson, as discussed immediately above. Respondent also continued to send disturbing communications to Dr. Dodson even after he was reprimanded and advised not to send such communications, and after the court ordered him not to communicate with Dr. Dodson. His emails to the DAG and Commission counsel in 2017 through 2018 also show respondent's unwillingness to curtail his use of disturbing and vulgar emails. It is not found that his conduct harmed a child, the public, or the educational system.


14. As mitigating factors, respondent's conduct occurred in 2013 and 2014; he has taught as a substitute teacher on long term assignments without incident, his convictions have been expunged per Penal Code section 1203.4, he completed in 2015 anger management courses in connection with his criminal probation, and he is committed to volunteer work to help others. But these considerations are insufficient to conclude that any disposition less than denial is warranted given respondent's lack

of remorse, and insight, into the disturbing messages he sent to Dr. Dodson and others at Bell Middle School, and his lack of sufficient evidence of rehabilitation.

ORDER

Respondent Cornelius O. Ogunsalu's application for a Single Subject Teaching Credential is denied.

DATE: September 5, 2023



[Abraham M. Levy \(Sep 5, 2023 13:34 PDT\)](#)

ABRAHAM M. LEVY

Administrative Law Judge

Office of Administrative Hearings