

BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	FINAL ORDER
Teaching License of:)	REVOKING LICENSES
)	
BRUCE JOSEPH TUBRÉ)	OAH Case No.: 121749

On February 7, 2005, the Teacher Standards and Practices Commission (“Commission”) issued its Notice of Opportunity for Hearing alleging that Bruce Joseph Tubré violated the terms of his probation when he consumed alcohol, operated a motor vehicle under the influence of intoxicants, and failed to make a written report to the Executive Director disclosing that he was arrested for DUII.

On February 23, 2005, Mr. Tubré requested a hearing. The Commission referred the matter to the Office of Administrative Hearings (“OAH”) for a contested case hearing which was held at the OAH on July 19, 2005. Mr. Tubré failed to appear at this hearing.

Based on Mr. Tubré’s failure to appear at the hearing, the Commission finds him in default and enters the following order based on the records and files of the Commission in this matter.

I. STATEMENT OF ISSUES

The issue is whether the Commission may revoke Mr. Tubré’s Oregon Standard Teaching License and Basic Administrative License pursuant to OAR 584-020-0040(4)(k)(gross neglect of duty) and OAR 584-020-0040(5)(e) (gross unfitness).

II. FINDINGS OF FACT

1. On April 29, 2003, Mr. Tubré submitted an application for a Standard Teaching License and Basic Administrative License to the Commission, and responded affirmatively to character questions 8, 9, and 10. The Commission issued a notice to Mr. Tubré, proposing to deny his application, and suspending his right to apply for a license. Mr. Tubré subsequently requested a hearing and provided complete information to the Commission in support of his fitness to serve as an educator. (Exhibit A3, Stipulation of Facts, Order of Reprimand and Probation, March 5, 2004.)

2. On March 5, 2004, after review of the matters alleged, the Commission agreed to issue Mr. Tubré the licenses, subject to four years of probation during which time Mr. Tubré was to obtain treatment for his alcohol dependency and submit to the Executive Director of the Commission reports of his compliance with an aftercare treatment plan. Mr. Tubré was to provide these reports every six months. The terms of the probation also

specified that Mr. Tubré was to conduct himself as a law-abiding citizen and report in writing within ten days to the Executive Director of any arrest or citation for any felony, misdemeanor, major traffic violation or violation of criminal probation, and was to comply with the Standards for Competent and Ethical Performance of Oregon Educators under OAR Chapter 584, division 020. (Exhibit A3, Stipulation of Facts, Order of Reprimand and Probation, March 5, 2004.)

3. The terms of the probation also specified that violation of any of its terms would constitute an independent basis for the Commission to revoke Mr. Tubré's licenses after first providing Mr. Tubré with notice and opportunity for hearing. (Exhibit A3, Stipulation of Facts, Order of Reprimand and Probation, March 5, 2004.)

4. On January 1, 2005, Mr. Tubré consumed alcohol in violation of the terms of his probation with the Commission which required him to abstain from the consumption of alcohol for four years beginning in March 5, 2004. (Exhibit A4, OJIN print out, Linn County Circuit Court.)

5. On January 1, 2005, Mr. Tubré violated the terms of his probation when he engaged in an act constituting criminal conduct by operating a motor vehicle under the influence of intoxicants in Linn County, Oregon. (Exhibit A4, OJIN print out, Linn County Circuit Court.)

6. On January 1, 2005, Mr. Tubré violated the terms of his probation when he failed to make a written report to the Executive Director of the Commission disclosing that he was arrested for DUII, on January 1, 2005, in Linn County, Oregon. (Exhibit A4, OJIN print out, Linn County Circuit Court.)

7. On February 7, 2005, the Commission issued and served by certified mail on Mr. Tubré, a Notice of Opportunity for Hearing and Notice of Contested Case Rights and Procedures. This Notice was served on Mr. Tubré at the last known address he had provided to the Commission (Exhibit A1, Notice of Opportunity for Hearing; Notice of Contested Case Rights and Procedures, February 7, 2005; Exhibit A6, TSPC data base print out for Tubré.)

8. On June 30, 2005, the OAH issued a Notice of Hearing stating that a contested case hearing would be held on July 19, 2005. This Notice was served by first class and certified mail on Mr. Tubré. (Notice of Hearing, dated June 20, 2005.)

9. On July 19, 2005, a contested case hearing on the matter was convened. Mr. Tubré failed to appear.

III. CONCLUSIONS OF LAW

1. Mr. Tubré's violation of his probation when he consumed alcohol constitutes gross neglect of duty in violation of OAR 584-020-0040(4)(k).

2. Mr. Tubré's conduct constituted gross neglect of duty when he was arrested for operating a motor vehicle under the influence of intoxicants in Linn County Oregon on January 1, 2005, in violation of OAR 584-020-0040(5)(e) and constituted gross neglect of duty in violation of OAR 584-020-0040(4)(k).

3. Mr. Tubré violated the terms of his probation when he failed to make a written report to the Executive Director of the Commission disclosing that he was arrested for DUII on January 1, 2005. This misconduct constitutes gross neglect of duty in violation of OAR 584-020-0040(4)(k).

4. Notification by certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service. Such notice is effective even though it is not received by the person to be notified. *Stroh v. SAIF*, 261 Or 117 (1972).

5. A prima facie case for license denial has been made on the record in this case, and the evidence in the record persuades the Commission of the facts necessary to revoke Mr. Tubré's license. ORS 183.415(5); OAR 137-003-0670.

IV. ORDER

The Standard Teaching License and the Basic Administrative License of Bruce Joseph Tubré are REVOKED.

DATED this 8 day of August, 2005.



Victoria Chamberlain, Executive Director,
Teacher Standards and Practices Commission

Notice: You are entitled to judicial review of this order. Filing a Petition for Reconsideration or Rehearing shall be a condition of judicial review of any Final Order of the Commission pursuant to OAR 584-019-0045. If the Commission does not act on your petition for reconsideration or rehearing, the petition shall be deemed denied the 60th day following the date the petition was filed. ORS 183.482. In such case, a petition for judicial review shall be filed within 60 days only following this date. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals