

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

SHEA WARDWELL,	:	APPEAL NOS. C-100074
	:	C-100088
Plaintiff-Appellant,	:	TRIAL NO. A-0901454
vs.	:	<i>JUDGMENT ENTRY.</i>
OHIO STATE BOARD OF	:	
EDUCATION,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

In this administrative appeal, plaintiff-appellant Shea Wardwell challenges the revocation of his teaching license and pupil-activity supervisor permit by defendant-appellee Ohio State Board of Education. In his sole assignment of error, Wardwell contends that the trial court erred in affirming the board of education's decision revoking his teaching license and supervisor permit. For the reasons that follow, we affirm.

In March 2008, the Ohio Department of Education sent Wardwell a letter informing him of its intent to investigate whether it should suspend or revoke his license based on a student's allegation that Wardwell had subjected her to sexually explicit conversations, had exposed himself to her, and had engaged in other improper sexual conduct with her. Wardwell requested and was granted a hearing on the proposed action, and the hearing officer determined that the student's

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

allegations were well founded and recommended that Wardwell's license be revoked. Wardwell objected to the hearing officer's findings, and in response, the board of education voted to permanently revoke his license. Wardwell then appealed that determination to the Hamilton County Common Pleas Court, which in turn affirmed the permanent revocation.

The Facts

The complainant student alleged that Wardwell had engaged in graphic conversations about his sex life with the student, and that he had conveyed his desire to develop a sexual relationship with her. As this was occurring, the student began to display social problems and became withdrawn from her friends and family. As time went on, Wardwell escalated the abuse from sexually explicit words to physical sexual abuse when he tricked her into holding his penis. The student's relationships with her friends and family continued to deteriorate, and she became depressed, angry, and afraid, and she often suffered headaches and anxiety attacks. When the student finally disclosed the abuse, the within action was initiated.

After investigating the alleged abuse, a detective testified that Wardwell was lying and that the complainant was telling the truth. The detective interviewed Wardwell, who denied any wrongdoing. The detective opined that Wardwell was not telling the truth because his statements about his personal life were corroborated by the complainant's statements, and because, according to the detective, Wardwell's reactions to the investigation, as well as his nonverbal behavior during the interview, were not consistent with someone who was telling the truth. The detective also interviewed the complainant and testified that she had been telling the truth because of the specificity in her description of the events, because of her emotionally distressed state of mind, and because she had nothing to gain by bringing the allegations to light.

In an R.C. 119.12 administrative appeal, a common pleas court must determine whether the agency's order was supported by reliable, probative, and substantial evidence, and was in accordance with the law.² The court must give due deference to the agency's resolution of evidentiary conflicts and may not substitute its judgment for that of the agency on factual issues.³

On factual issues, an appellate court's review is limited to determining whether the trial court abused its discretion in finding that the agency's decision was supported by reliable, probative, and substantial evidence.⁴ But on questions of law, the court reviews de novo.⁵

In this appeal, Wardwell contends that the trial court abused its discretion in concluding that Wardwell had committed the acts alleged by the complainant. Not so. Wardwell attempts to bolster his position by relying upon his character witnesses, who testified that Wardwell was of high character and could be trusted. But none of these witnesses had any firsthand knowledge of the allegations against Wardwell—they only testified that, in their opinions, the allegations were untrue. This testimony was not directly probative of the underlying factual dispute, which involved whether Wardwell had engaged in inappropriate sexual conversations, advances, and contacts with the complainant. We also note that the agency's findings of fact should be deferred to by a reviewing court unless that court determines that the agency's findings are inconsistent, impeached by evidence of prior inconsistent statements, or otherwise unsupportable.⁶ This case turns on issues of fact, and the agency's order and the trial court's affirmance of that order

² *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St.3d 570, 571, 589 N.E.2d 1303; *Weaver v. Ohio Dept. of Job & Family Serv.*, 153 Ohio App.3d 331, 2003-Ohio-3827, 794 N.E.2d 92, ¶2.

³ *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St.2d 108, 111, 407 N.E.2d 1265; *Weaver*, supra, at ¶2.

⁴ *Pons v. Ohio State Med. Bd.*, 66 Ohio St.3d 619, 621, 1993-Ohio-122, 614 N.E.2d 748; *Weaver*, supra, at ¶3.

⁵ *Univ. Hosp., Univ. of Cincinnati College of Medicine v. State Emp. Relations Bd.* (1992), 63 Ohio St.3d 339, 343-344, 587 N.E.2d 835; *Weaver*, supra, at ¶3.

⁶ *VFW Post 8586 v. Ohio Liquor Comm.*, 83 Ohio St.3d 79, 1998-Ohio-181, 697 N.E.2d 655.

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were supported by reliable, probative, and substantial evidence. Based on the properly supported findings of fact made by the agency, the revocation of Wardwell's teaching license and supervisor permit was proper. The trial court's judgment is, accordingly, affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., SUNDERMANN and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on December 8, 2010

per order of the Court _____
Presiding Judge