

COPY



**STATE OF OHIO  
COUNSELOR AND SOCIAL WORKER BOARD**

ADJUDICATION ORDER  
in the Matter of:

Thomas R. Stipek  
PO Box 223  
North Olmsted, Ohio 44070

IN THE MATTER OF THE ELIGIBILITY OF THOMAS R. STIPEK TO BE LICENSED  
AS A SOCIAL WORKER IN THE STATE OF OHIO.

THE MATTER OF THOMAS R. STIPEK CAME BEFORE THE OHIO COUNSELOR  
AND SOCIAL WORKER BOARD AT ITS JULY 1998 MEETING.

**FINDINGS, ORDER, AND JOURNAL ENTRY**

This matter came for consideration after a Notice of Opportunity for Hearing was issued to Thomas R. Stipek by the Counselor and Social Worker Board on May 27, 1997. This Notice of Opportunity was published in a newspaper in North Olmsted, Ohio for three consecutive weeks beginning in December 1997. Mr. Stipek phoned the Counselor and Social Worker Board and requested a hearing. An administrative hearing was held on May 19, 1998, at 10:00 a.m. in the offices of the Ohio Counselor and Social Worker Board, 77 S. High Street, Columbus, Ohio 43266, pursuant to Chapter 119 and Section 4757 of the Ohio Revised Code. The State was represented by Assistant Attorney General Jonathan M. Bowman. Mr. Stipek was not present.

The Board has reviewed the Hearing Officer Report and Recommendations prepared in this case following the administrative hearing. Mr. Stipek has also filed Objections to the Hearing Officer Report and Recommendations and they have been reviewed by the Board. The Board adopts in their entirety the Findings of Fact and Conclusions of Law in the Hearing Officer Report and Recommendations. A copy of the Hearing Officer Report and Recommendations is attached to this Adjudication Order. The Board also adopts the recommendation of the Hearing Officer, that based on the facts of this case, Mr. Stipek's license to practice social work (S-9040) in the State of Ohio should be revoked.

THEREFORE, it is hereby ORDERED that for the reasons outlined in this ORDER and in the attached Hearing Officer Report and Recommendations which is hereby incorporated, by reference, into this ORDER, the license of Thomas R. Stipek (S-9040) to practice as a Social Worker in the State of Ohio is revoked.

Motion carried by order of the Counselor and Social Worker Board.

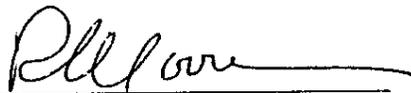
It is hereby certified by this Board that the above language is incorporated into the Board's journal in this matter.

### APPEAL RIGHTS

Pursuant to Section 119.12 of the Ohio Revised Code, you may appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to the court in the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State of Ohio Counselor and Social Worker Board and the appropriate Court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

By Order of the State of Ohio Counselor and Social Worker Board.



ROBERT L. MOORE  
Chairman

Certified Mail Receipt # 2 337 619 452

### Certification

I hereby certify that a true and accurate copy of this Adjudication Order of the State of Ohio Counselor and Social Worker Board was mailed return receipt requested to Thomas R. Stipek this 21st day of July 1998.

Beth Farnsworth  
Beth Farnsworth  
Executive Director

7/21/98  
Date

2 337 619 452  
Certified Mail Number  
Return Receipt Requested

STATE OF OHIO

RECEIVED

COUNSELOR AND SOCIAL WORKER BOARD JUN 22 '98

COUNSELOR AND SOCIAL  
WORKER BOARD

IN THE MATTER OF THE  
LICENSURE OF

REPORT AND RECOMMENDATION OF  
HEARING EXAMINER

Thomas R. Stipek

AS A SOCIAL WORKER  
IN THE STATE OF OHIO

June 17, 1998

FOR THE APPLICANT:

HEARING EXAMINER:

FOR THE BOARD:

No appearance

Ronda S. Shamansky  
245 East Gay Street  
Columbus, Ohio 43215-3210  
614/224-9078

Jonathan M. Bowman  
Assistant Attorney General  
Health & Human Services Section  
30 E. Broad St., 26th Floor  
Columbus, Ohio 43215  
614/466-8600

**FINDINGS OF FACT:**

1. The hearing on this matter was held on Tuesday, May 19, 1998 commencing at approximately 10:00 a.m. in the offices of the Counselor and Social Worker Board, 77 South High Street, Columbus, Ohio. The Board was represented by Jonathan Bowman. The licensee, Thomas Stipek, did not appear. The hearing allowed the opportunity for direct and cross examination of witnesses, the submission of documents, and for arguments to be made. Counsel for the State indicated that Mr. Stipek had expressed the desire to submit a written statement, and the State proposed that the record be left open for seven days so that he could do so, with the State having seven days to respond to Mr. Stipek's written statement following its submission. Mr. Stipek did submit his written statement following the hearing, and it is now made a part of this record as Respondent's Exhibit 1. The State did not submit a rebuttal.
  
2. The Board has proposed disciplinary action against Mr. Stipek's social work license for an alleged violation of the Ohio Revised Code pertaining to the practice of social work. The Board alleges that on or about September 25, 1992 in the Belmont County Court, Mr. Stipek was found guilty of a misdemeanor involving sexual imposition with a minor, and that the conviction arose from his employment with Belmont County Student Services. (State's Exhibit 1) The Board cites R.C. 4757.36(A)(7) in support of its authority to suspend, revoke, or otherwise restrict a license of a social worker who has been convicted of a misdemeanor committed in the scope of his or her professional practice. (State's Exhibit 1).
  
3. According to the testimony of the Board's investigator and records custodian, William L. Hegarty, the Board first attempted to notify Mr. Stipek of the charges against him through a Notice of Opportunity for Hearing dated May 27, 1997. (State's Exhibit 2) However, the letter was returned to the Board by the post office, indicating that Mr. Stipek was no longer at that address and that a forwarding order had expired. The Board then published its Notice of Opportunity for Hearing in a newspaper in North Olmsted, the area of Mr. Stipek's last known address. (State's Exhibits 3, 4, and 5) Mr. Hegarty testified that Mr. Stipek then called the Board office and supplied his

current address. At that time, Mr. Stipek indicated that he wanted a hearing, and after consulting with its counsel, the Board decided to offer Mr. Stipek a hearing despite the fact that his thirty days to request one had expired. Mr. Stipek was given notice of the initial hearing date, notice of a continuance of that date, and notice of the hearing ultimately held on May 19, 1998. (State's Exhibits 6, 7, and 8.)

4. At the hearing, the State introduced into evidence State's Exhibits 1 through 14. These documents demonstrate that Mr. Stipek was convicted following a lengthy jury trial of sexual imposition, a misdemeanor, in the Belmont County Court, Western Division. He was sentenced to sixty days in jail, and required to pay costs of \$1,185.49. (State's Exhibits 9, 10)
  
5. At the criminal trial, the prosecution called YYYYYY, who testified that during the 1990-1991 school year, she was the president of Teen Institute, an anti-alcohol, anti-drug group at Union Local High School. (State's Exhibit 11, pp. 2-3)<sup>1</sup> The documents indicate that YYYYYY's date of birth was March 4, 1975, which means that at the time of the incident in question, she had just turned sixteen years old. (State's Exhibit 9) One of the advisors to the Teen Institute group was Thomas Stipek. (State's Exhibit 11, p. 2) YYYYYY testified at the criminal trial that after some of the Teen Institute meetings, Mr. Stipek would take her into the school nurse's office for counseling by herself, and that he would lock the door and tell her to relax on the couch. (State's Exhibit 11, pp. 3-4) She testified that at those times, Mr. Stipek would bring up issues that upset her, such as suggesting to her that her parents had divorced because her father didn't like her. (State's Exhibit 11, p. 3) YYYYYY testified that Mr. Stipek always initiated these sessions, and that she never asked him for his help or to talk to him. (State's Exhibit 11, p. 4) She also testified that her mother did not know about these counseling sessions. (State's Exhibit 11, p. 4)

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<sup>1</sup>Because several of the witnesses who testified at the criminal trial were minors, their names will not be used in this report. Instead, the victim will be referred to as "YYYYYY," as she was called in the State's Notice of Opportunity for Hearing, and other minors will be called by similar abbreviations.

6. YYYYYYY testified that in April 1991, Mr. Stipek took her for a walk by the football field and told her about a letter that he was writing to his girlfriend. (State's Exhibit 11, pp. 4-5) According to YYYYYYY's testimony at the criminal trial, Mr. Stipek told her explicit details about his sexual relationship with his girlfriend. (State's Exhibit 11, p. 5) He also told YYYYYYY that he wanted to break up with his girlfriend and that he "just wanted to be inside of her." (State's Exhibit 11, p. 3) They went to sit on the bleachers, and because YYYYYYY did not have a coat on, Mr. Stipek put his coat around her. (State's Exhibit 11, pp. 4-5) YYYYYYY testified that as he put his coat around her, Mr. Stipek reached inside her shirt and put his hand on her breast. (State's Exhibit 11, pp. 4-5) She testified that he left his hand there for about five minutes and that during that time, she was "too scared to move and too scared to think." (State's Exhibit 11, p. 5)
  
7. YYYYYYY testified at the criminal trial that she initially did not tell anyone about this incident, that she was afraid to go out or be around anyone else, and that she spent a lot of time in her room at home. (State's Exhibit 11, p. 5) She didn't want to spend time with her family, and she had trouble concentrating at school, worrying about trying to avoid Mr. Stipek. (State's Exhibit 11, p. 5) Eventually, when friends noticed that YYYYYYY seemed irritable, emotional, and tearful, she disclosed to them that Mr. Stipek had touched her breast and rubbed her thigh, and they encouraged YYYYYYY to see the school's guidance counselor about it. (State's Exhibit 11, pp. 26-27, 32-33, 35-36) After this was disclosed, the school notified Children's Services of the incident and Mr. Stipek was asked not to come back to the school. (State's Exhibit 11, p. 63)
  
8. At the criminal trial, the State also called James Norman, YYYYYYY's Spanish teacher, who testified that on three or four occasions, he received notes saying that YYYYYYY was wanted by the psychologist for counseling, and that he would let her out of class on those occasions. (State's Exhibit 12, pp. 330-331) Mr. Norman testified that once, Mr. Stipek came to the door of his classroom asking to take YYYYYYY out of class. (State's Exhibit 12, pp. 330-331) Mr. Norman testified that eventually, YYYYYYY asked him "if a note is sent for me to go have counseling, could you please lie for me and tell them I'm taking

a test and can't come?" (State's Exhibit 12, p. 331) He testified that he asked her what the problem was, and that she tearfully told him "I just don't want to be around that man." (State's Exhibit 12, pp. 331-332) He agreed that he would refuse to let her out of class. (State's Exhibit 12, pp. 331-332)

9. YYYYYY's mother testified at the criminal trial that she was unaware that Mr. Stipek was counseling her daughter, but that in the fall of 1990, YYYYYY mentioned that there was a man at school she did not like because he touched her too much. (State's Exhibit 12, pp. 21, 24) She testified that she told YYYYYY that some people are just more "touchy-feeling," and that she should tell the man that she didn't like it and ask him not to do it anymore. (State's Exhibit 12, p. 24) She also testified that around this time, she noticed a drastic change in YYYYYY's behavior, going from being an outgoing teenager to one who spent more and more time alone in her room at home. (State's Exhibit 12, p. 21) At the time of the trial, YYYYYY was in counseling with Everett Mace, the school psychologist at Union Local High School. Mr. Mace testified that YYYYYY had told him that since this incident, she felt as though she cannot trust people and becomes angry with men easily. (State's Exhibit 12, p. 74)
  
10. The prosecution at the criminal trial also presented the testimony of two other girls who attended Union Local High School during the relevant time period and had some contact with Mr. Stipek. The jury was instructed that any other acts of the defendant that these witnesses testified about were not to be used to prove Mr. Stipek's character, but that such evidence could only be considered for the limited purpose of showing the defendant's motive or plan in committing the acts that he was charged with at the trial. (State's Exhibit 11, pp. 84-85) One witness, XXXXX, age seventeen, testified that she began counseling with Mr. Stipek because she had a drinking problem. (State's Exhibit 11, p. 77) She testified that her counseling began in a group, later changing to individual counseling, and that Mr. Stipek would get students out of class to counsel them. (State's Exhibit 11, p. 78) XXXXX testified that Mr. Stipek would sit in front of her and put his hands on her legs, sometimes rubbing up and down her thighs, and would say things that upset her. (State's Exhibit 11, pp. 78-

79) On one occasion, she testified that Mr. Stipek took her down a dirt road outside the school and told her about his desire to break up with his girlfriend. (State's Exhibit 11, pp. 78-79) He told her that he didn't want to see his girlfriend anymore, but that she "would go to bed," and asked this student's advice about what he should do. (State's Exhibit 11, pp. 78-79) XXXXX testified that her parents had requested the group counseling sessions, but that they were not aware of the individual counseling sessions. (State's Exhibit 11, p. 84)

11. The other Union Local student called as a witness by the prosecution was ZZZZZ, who testified that she spoke with Mr. Stipek on one occasion in the school office. (State's Exhibit 11, p. 40) He was looking at a girl in a bikini in a teen magazine and commented to her that she would look good in a bikini and that he liked "what goes into a bikini." (State's Exhibit 11, p. 40) She testified that his comment made her feel "nervous, odd." (State's Exhibit 12, p. 40)
12. Mr. Stipek testified at his criminal trial, and that testimony is consistent with the information presented in his written statement submitted to the Board following the hearing. Mr. Stipek maintains that YYYYYY lied under oath, and that he never touched her breast nor said sexually explicit things to her nor to any of the other witnesses. (State's Exhibit 12, pp. 298, 304-306) With respect to ZZZZZ, the witness who testified that he said suggestive comments about the bikini, Mr. Stipek testified that he merely said "that would look good on you," and that he meant it as a compliment. (State's Exhibit 12, p. 318) In his testimony, Mr. Stipek characterized YYYYYY's problems as much more severe, including significant depression and even a suicide threat. (State's Exhibit 12, pp. 299-302) However, he testified that he never notified YYYYYY's parents nor the school's guidance counselor that he was counseling her. (State's Exhibit 12, pp. 314-317) He explained that he thought she was just expressing frustration and did not have an actual plan to commit suicide. (State's Exhibit 12, p. 303)
13. At the trial, Mr. Stipek called approximately 30 character witnesses such as former teachers and classmates, his mother and sister, and employees of Shadyside High School, another school where he was also

employed. (State's Exhibit 11, 12) Each witness's testimony was essentially the same: that Mr. Stipek was an affectionate kind of person, that they had never seen him touch someone in an inappropriate manner, and that he had a reputation in the community of being truthful and trustworthy. There was also testimony that Mr. Stipek was a member of the Charismatic movement in the Catholic Church, and that Charismatics tend to interact more closely with one another, including more touching and hugging. (See, e.g. State's Exhibit 11, pp. 102-104) Finally, several witnesses who were in the counseling profession testified about how touch can be used therapeutically in a counseling relationship. However, on cross-examination, each and every witness acknowledged that they had never seen Mr. Stipek counseling YYYYYY nor XXXXX, that it would not be an appropriate counseling technique to touch a client's breast, and that such touching was not part of the Charismatic religious movement.

14. Mr. Stipek also testified at the trial that YYYYYY had attended a Teen Institute regional meeting after the time of the alleged incident, and that "a lot of the time, she followed [him] around." He testified that near the end of the meeting, YYYYYY sat with him on the bleachers and put her head on his shoulder. Stipek testified that this made him uncomfortable and he moved away, that she put her head back, that he moved away again, and that finally she left. (State's Exhibit 12, pp. 307-308) Mr. Stipek presented a witness, Student Services Counselor Leginia Guindon, who testified that she attended the meeting and saw YYYYYY put her head on Mr. Stipek's shoulder. (State's Exhibit 12, pp. 251-252) However, on cross-examination, she admitted that she didn't hear their conversation and that it was "quite possible" that YYYYYY was asking Mr. Stipek for more supplies that were being used at the meeting. (State's Exhibit 12, p. 254) This comports with YYYYYY's testimony earlier in the trial that at the regional meeting, she ran out of name stickers for the students, and that she went to where Mr. Stipek was sitting and whispered a question whether he knew if there were any more. (State's Exhibit 11, pp. 19-21) In addition, Ms. Guindon testified that she thought it was unusual that YYYYYY was organizing the registration, but didn't really participate in the meeting. (State's Exhibit 12, p. 252) She said that YYYYYY explained to her that she had to leave early because she had Driver's Ed., but that she never did leave the meeting, and

instead that she "just sort of hung around in the background all day."  
(State's Exhibit 12, p. 252)

15. The documents submitted by Mr. Stipek indicate that Mr. Stipek appealed his conviction to the Belmont County Court of Appeals, claiming six assignments of error and asking for the reversal of his conviction. (Respondent's Exhibit 1) The Court of Appeals rejected all six of his alleged errors, and affirmed his conviction. (Respondent's Exhibit 1) Mr. Stipek then petitioned the Ohio Supreme Court to hear his case, on the grounds that his criminal trial was set for a time outside the statutory speedy trial limits and that the trial court did not set forth valid reasons why it was granted a continuance which set the trial for approximately two months after the originally scheduled date. (Respondent's Exhibit 1) The Ohio Supreme Court declined to hear the case, allowing the conviction to stand.
  
16. Mr. Stipek indicates in his written statement that he did not have the time to appear for his Board hearing in Columbus. He also indicates that he has chosen not to renew his license, that he hasn't worked in social work for a while, and that he doesn't plan to return to work in the field. (Respondent's Exhibit 1) He also presents ten points that challenge the accusations made against him at the criminal trial, and reiterates his claim that he is not guilty of the crime he was convicted of. (Respondent's Exhibit 1)

### DISCUSSION

The evidence is clear and unequivocal that Thomas Stipek was convicted of sexual imposition, a misdemeanor, and that it arose out of his counseling relationship with his client, YYYYYY. On this objective fact alone, the Board has the authority to take whatever action it deems appropriate against his license, pursuant to R.C. 4757.36(A)(7).

Although Mr. Stipek maintains his innocence, it is not an appropriate inquiry at this point to determine whether or not Mr. Stipek *should* have been convicted of this crime. He was convicted by a jury that found him guilty beyond a reasonable doubt, the most stringent burden of proof, following a lengthy criminal trial. It is not the role of this hearing officer nor

of the Board to second-guess the jury, which had the ability to observe the testimony of all of the witnesses first-hand and judge their credibility accordingly. The jury is clearly in the best position to do this. Moreover, Mr. Stipek had the benefit of zealous representation at the criminal trial, and the additional benefit of an appellate court's review of his conviction.

However, even I were to consider Mr. Stipek's reasons for why he should not have been convicted, I do not find any of his arguments persuasive. (Respondent's Exhibit 1) I cannot find any reason in the record to suspect that YYYYYY, a teenage girl, would come forward to testify in a criminal trial about matters that are likely very embarrassing to her, facing the defendant and subjecting herself to cross-examination by his counsel, if the allegations were not true. This was a criminal trial; not a civil suit for harrassment. It appears that YYYYYY had nothing to gain for herself by testifying against Mr. Stipek. At the trial, Mr. Stipek's counsel presented no evidence that suggested that YYYYYY's credibility was suspect or that she had any kind of bias or vendetta against him that might cause her to want to testify falsely against him. Moreover, the testimony of YYYYYY's Spanish teacher and her mother tend to corroborate YYYYYY's testimony that this incident did occur.

Because this incident occurred in the scope of Mr. Stipek's professional practice as a social worker, and because it involved a minor, I recommend that his license be revoked.

#### **CONCLUSION OF LAW**

I conclude that Mr. Stipek was convicted of sexual imposition, a misdemeanor, arising out of his practice as a social worker. R.C. 4757.36(A)(7) therefore gives the Board the authority to revoke his license to practice social work.

#### **RECOMMENDATION**

For the reasons detailed in this report, I recommend that the Board revoke Thomas Stipek's license to practice social work.

Ronda S. Shamansky  
Ronda S. Shamansky  
Hearing Examiner