

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

DR. ERIC J. SMITH,  
COMMISSIONER OF  
EDUCATION,

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

Appellant,

CASE NO. 1D10-6050

v.

GILBERT P. FAUBLAS,

Appellee.

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Opinion filed September 22, 2011.

An appeal from the Education Practices Commission.  
Dane Gilbert, Officer.

Margaret O'Sullivan Parker, Deputy General Counsel, Florida Department of  
Education, Tallahassee, for Appellant.

Mark F. Kelly of Kelly & McKee, P.A., Tampa, for Appellee.

PER CURIAM.

We affirm without discussion the issues raised by the Commissioner of  
Education on direct appeal regarding the final order of the Education Practices  
Commission temporarily revoking the educator's certificate held by the appellee,  
Gilbert Faublas. However, we reverse based on the issue raised by Mr. Faublas on

cross-appeal regarding the retroactive application of sections 1012.795 and 1012.315, Florida Statutes (2008). We find that the Legislature did not intend for those sections to apply retroactively, and that retroactive application of those sections violates constitutional principles. See Presmy v. Smith, No. 1D10-5291 (Fla. 1st DCA September 16, 2011). Accordingly, we find that the Education Practices Commission lacked authority to apply the statute retroactively, and we reverse the final order and remand for further proceedings consistent with this opinion.

AFFIRMED IN PART; REVERSED IN PART.

VAN NORTWICK, WETHERELL, and ROWE, JJ., CONCUR.