

TROY JACKSON, :  
PETITIONER, : COMMISSIONER OF EDUCATION  
V. : DECISION  
STATE-OPERATED SCHOOL DISTRICT :  
OF THE CITY OF CAMDEN, :  
CAMDEN COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner alleged that his removal from the position of vice-principal in respondent's school district was a violation of the tenure statute. Petitioner had been appointed to the position of "acting" vice-principal in August 2010, and subsequently to the position of vice-principal in January 2012. He did not acquire the provisional administrative certificate required for the position of vice-principal until May 2012. In June 2013, petitioner was reassigned to a teaching position during a district reduction in force (RIF). Petitioner contends that he is tenured as a vice-principal. The respondent asserted that petitioner had not acquired tenure in the position of vice-principal in the district. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue, and the matter is ripe for summary judgment; under the tenure statute, *N.J.S.A.* 18A:28-5, a teaching staff member must hold the standard certificate and serve the required number of years to attain tenure; the petitioner herein worked for less than one year under a provisional certificate as part of his required residency, and had not yet completed the requirements for the standard certificate; therefore, petitioner had not been granted tenure as a vice-principal because he did not hold the standard administrative certificate required for that position. Accordingly, the ALJ determined that the respondent district is entitled to summary judgment as a matter of law, and ordered the petition dismissed.

Upon comprehensive review, the Commissioner concurred with the ALJ's finding that petitioner has not earned tenure as a vice-principal in respondent's district. The Commissioner clarified that tenure can be achieved through service under a provisional certificate, but only if the candidate satisfies all requirements for the standard certificate prior to termination from the position for which tenure is sought. Petitioner in this case had not yet completed the required two-year State-approved residency program when the district implemented a RIF and reassigned him to a teaching position. Accordingly, petitioner did not earn tenure as a vice-principal in the Camden school district. Summary decision was granted in favor of the respondent, and the petition was dismissed.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

April 10, 2014

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Before the Commissioner is petitioner’s claim that his removal from the position of vice-principal was a violation of the tenure statute. Upon review of the record and Initial Decision of the Office of Administrative Law (OAL),<sup>1</sup> the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner had not earned tenure as a vice-principal in respondent’s district. He was consequently not entitled to remain in the position of vice-principal after a district reduction in force (RIF) precipitated his reassignment to a teaching position.

It is undisputed that although petitioner was appointed as an “acting” vice-principal in August 2010, and subsequently as a vice-principal in January 2012, he did not acquire the provisional administrative certificate required for the position of vice-principal until May 2012. In June 2013, thirteen months after petitioner obtained the provisional certificate, he was reassigned to a teaching position.

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<sup>1</sup> Neither party filed exceptions to the Initial Decision.

In *Anson v. Bridgeton Bd. of Educ.*, 1972 S.L.D. 638, the State Board of Education determined that tenure can be achieved through service under a provisional certificate only so long as the teacher satisfies specific conditional requirements of the provisional certificate.<sup>2</sup> Subsequent cases have held that, while service under provisional or emergency certificates may be counted toward the total amount of service required for tenure in a district, this is only the case where an employee obtains a permanent certificate in the same field prior to the termination of his or her employment. *Breitwieser v. State-Operated School Dist. of Jersey City*, 286 N.J. Super. 633, 644-45 (App. Div. 1996); *Raymond Ruiz v. Board of Education of the Borough of Fort Lee, Bergen County*, Commissioner Decision No. 109-12R, decided March 26, 2012.

To serve in the position of vice-principal in New Jersey, an employee must earn an administrative certificate with a principal endorsement. N.J.A.C. 6A:9-12.3(b). N.J.A.C. 6A:9-12.5(e) sets out the requirements for that credential. A candidate must first obtain a provisional certificate, which petitioner did. N.J.A.C. 6A:9-12.5(e)(1). Then a candidate must “[c]omplete a two-year State-approved residency program while employed under provisional principal certification in a school or district.” N.J.A.C. 6A:9-12.5(e)(2). [Emphasis added.]

Petitioner had not satisfied the latter requirement when the RIF occurred and he was reassigned to a teaching position. His service as a vice-principal in the district under the proper certificate for his position had not lasted the requisite two years for tenure upon promotion pursuant to N.J.S.A. 18A:28-6, and he had not satisfied all requirements for a standard

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<sup>2</sup> That holding is in keeping with [N.J.A.C. 6A:9-6.1](#), which instructs that a standard certificate – the only permanent certificate – is issued only to candidates who have met *all requirements* for state certification.

certificate prior to his termination from the vice-principal position. Thus, petitioner did not earn tenure as a vice-principal in respondent's district.

Accordingly, summary disposition is granted in favor of respondent and the petition is dismissed.

IT IS SO ORDERED.<sup>3</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 10, 2014

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<sup>3</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36. (*N.J.S.A.* 18A:6-9.1)