

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
JAMES A COX, JR : ORDER OF REVOCATION

DOCKET NO. 307-06/95-114

At its meeting of June 15, 1995, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that James A. Cox., Jr., who holds a county substitute license issued from the Mercer County Office of Education, had been disqualified from public school employment pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Said disqualification was due to his 1989 conviction on charges of possession of marijuana and his 1990 conviction on charges of possession of cocaine. Mr. Cox also indicated on his county substitute application that he had not been convicted of a crime. The Commissioner denied the appeal of his disqualification.

At that meeting the State Board of Examiners voted that said convictions constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Cox by regular and certified mail on July 11, 1995. On August 15, 1995, an answer to the Order to Show Cause was received from Mr. Cox.

In the interim, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Certificates of Sheridan. The other is captioned, In the Matter of the Certificates of Vitola. Within these two cases, the State Board of Education determined that the hearing process before the State Board of Examiners need provide greater due process for certificate holders. During the pendency of the revisions to the State Board of Examiner' regulations regarding its

hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

Thereafter, pursuant to the newly recodified hearing process embodied in N.J.A.C. 6:11-3.6(a)1, on June 26, 1997, a hearing notice was mailed by regular and certified mail to Mr. Cox. Said notice explained that Mr. Cox was provided an opportunity to reply as to whether there were any material facts in contest regarding his convictions. It also explained that if it appeared not, upon review of the charges against him and the legal arguments tendered in his defense, the State Board would determine if Mr. Cox did engage in conduct unbecoming a teacher. Thereupon, the State Board of Examiners would also determined the appropriate sanction, if any, without an oral argument. Both copies of the order were returned indicating that Mr. Cox had moved and left no forwarding address.

On July 10, 1997, assistance was sought from New Jersey Motor Vehicle Services asking to provide a current address for Mr. Cox. On August 20, 1997 Motor Vehicle Services provided a current address for Mr. Cox and the hearing notice was resent to his current address on August 28, 1997. On September 17, 1997, a response to the hearing notice was received from James Cox.

Mr. Cox's Answer to the Order to Show Cause admits he was arrested on June 6, 1989 for possession of .50 grams of marijuana, which he notes was considered for personal use not for distribution. He states the condition of his release was one year's probation and a \$275 fine. He further admits that during his probation he tested positive for cocaine, for which he was given an additional fine of \$1,080. And two years' probation which has been satisfied through the courts. He states he then enrolled in a rehabilitation program and successfully completed a seven-day detoxification program. He submits that since completing his rehab program he has turned his

life around He avers that if there were any discrepancies in the filing or submission of his application, it was not done intentionally but as an oversight. He apologizes for any inconvenience that his oversight may have caused. His response to the hearing notice, resubmits the arguments tendered in answer to the Order to Show Cause. Additionally he submits six letter of character in support of his appeal before the State Board of Examiners.

At its November 20, 1997 meeting, the State Board of Examiners reviewed the charges against Mr. Cox as well as his responses to the Order to Show Cause and the hearing notice. By unanimous vote, the State Board of Examiners determined that no material facts related to Mr. Cox's offenses were in contest, and that the matter could therefore, proceed to a determination as to whether the charges levied in the Order to Show Cause constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners first noted that the instant hearing is not one that considers evidence of rehabilitation. See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, decided by the State Board of Examiners March 28, 1996, aff'd State Board of Education September 6, 1996. Therein, the State Board of Examiners held:

Neither does the language of this regulation [N.J.A.C. 6:11-3.6] support Petitioner's apparent contention that "new findings" includes evidence of rehabilitation or current ability to teach. See, e.g., In the Matter of the Revocation of the Teaching Certificate of James Noll by the State Board of Examiners, decided by the State Board of Examiners, February 7, 1990, citing Cox v. State Bd. of Examiners (App. Div. Docket No. A-3527-81T3)(November 18, 1983). Therein, it was determined that the purpose of the hearings conducted by the State Board of Examiners pursuant to N.J.A.C. 6:11-3.7(b)ii (now, N.J.A.C. 6:11-3.6(a)1) is 'to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth the Order to Show Cause, not to afford an opportunity to show rehabilitation. *Id.* at p. 4)

Hence, the State Board of Examiners did not consider Mr. Cox's statements concerning his alleged rehabilitation or occupations since his convictions, but instead focused on assessing

whether the criminal charges at issue, which Mr. Cox does not deny having committed, constitute conduct unbecoming a license holder.

School law cases have traditionally recognized the right of the State Board of Examiners to revoke license where the teacher was involved in criminal activities, even if said activities were not related to the classroom, see Cox v. State Board of Examiners (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981). The use of drugs and the possession of drugs are inconsistent with the State's policy to eliminate drug abuse in the schools, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. Misuse of dangerous drugs by students themselves, or by the role models to whom students look for guidance, will not be tolerated under any circumstances. In the Matter of the Certificate of Barbara Corwick, OAL Docket No. EDE 3562-87, State Board of Examiners decision (March 24, 1988).

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds respondent's convictions conduct unbecoming a license holder. The appropriate penalty for his unbecoming conduct is the revocation of respondent's licensure, particularly in light of Mr. Cox's dishonest misrepresentation on his application for a county substitute license wherein he failed to acknowledge his criminal history.

It is, therefore, further ORDERED that, the State Board of Examiners having reviewed the charges and having found that said charges warrant revocation, James A. Cox, Jr.'s county substitute license is hereby revoked on this 20th day of November, 1997.

It is further ORDERED that James A. Cox, Jr. return his license to the Secretary of the State Board of Examiners, Office of Licensing, CN 503, Trenton, NJ 08625-0503 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: February 10, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A.
18A:6-28.

IBG:KHK:br:Coxrv