

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
EUGENE T. McCORMICK : ORDER OF REVOCATION
_____ : DOCKET NO. 331 - 02/96 - 97

At its meeting of February 29, 1996, the State Board of Examiners reviewed the information received from the Office of Criminal History Review concerning Eugene T. McCormick, indicating that Mr. McCormick was convicted in May, 1989 on charges of possession of cocaine. In February 1995, Mr. McCormick was also convicted on charges of possession of marijuana/hash. Mr. McCormick holds a New Jersey Teacher of Music license. Pursuant to N.J.S.A.18A: 6-7.1 et. seq., and as a result of such offenses, Mr. McCormick was disqualified from service in any public school in the State. Mr. McCormick did not appeal his disqualification to the Commissioner of Education.

At the February 29, 1996 meeting, the State Board of Examiners voted to issue an Order to Show Cause to Mr. McCormick based on his convictions and disqualification. The Order to Show Cause was mailed to Mr. McCormick by regular and certified mail on March 26, 1996. On April 16, 1996 an Answer to the Order to Show Cause was received from John M. Caruso, Esq., on behalf of his client Eugene McCormick.

Two State Board of Education decisions 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 State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which material facts are not in dispute. 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.

Pursuant to the revised N.J.A.C. 6:11-3.6, on July 1, 1997, a hearing notice was mailed by certified mail to Mr. Caruso. A regular mail copy was forwarded to Mr. McCormick. Pursuant to N.J.A.C. 6:11-3.6(a)1, said notice explained that, it appearing that no material facts were in dispute, Mr. McCormick was provided an opportunity to offer legal argument on the issue of whether his conviction constituted conduct unbecoming a teacher.

A second hearing notice was mailed to both Mr. Caruso and Mr. McCormick on August 15, 1997 advising them that they had an additional ten (10) days in which to respond to the hearing notice. On September 3, 1997, a response to the hearing notice was received from Mr. Caruso on behalf of Mr. McCormick.

Mr. McCormick's August 20, 1997 response to the hearing notice admits his criminal offenses, but avers that he has been rehabilitated and should no longer be disqualified pursuant to N.J.S.A. 18A: 6-7.1. While admitting the 1989 charge, he submits that the more recent charge listed as February 1995 actually occurred on March 17, 1994. He claims that since that time, he has been without criminal violations and has remained alcohol and drug free for over three and one-half years. He relies on the letters of recommendation from various community leaders, his pastor, professors and employers, submitted with previous appeals, to support his claim of rehabilitation. He updates the record on his current employment status as a drug and alcohol counselor, and submits a packet of recent course transcripts. He implores the State Board of Examiners to allow him to work in the teaching profession again.

By way of Response to the Order to Show Cause, Mr. Caruso, on behalf of Mr. McCormick, submits the same information as did Mr. McCormick in his August, 1997 response,

but additionally, offers his own personal recommendation on the character and rehabilitation of his client.

Upon independent review of the charges and the legal arguments offered on his behalf, the State Board of Examiners, at its meeting of October 9, 1997 found that no material facts related to Mr. McCormick's offenses were in contest, and that the matter could, therefore, proceed to a determination as to whether the charges levied against him in the Order to Show Cause constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

At that meeting, the State Board of Examiners first noted that the instant hearing is not one which 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, aff'd Appl Div. September, 1997. 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, in this proceeding, the State Board of Examiners did not consider Mr. McCormick's statements concerning his alleged rehabilitation, but instead focused on assessing whether the criminal charges at issue, which Mr. McCormick 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 licenses 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, and the fact that he remains disqualified pursuant to N.J.S.A. 18A:6-7.1, 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 license as a Teacher of Music.

It is, therefore, ORDERED that, the State Board of Examiners having reviewed the charges and having found that Mr. McCormick remains disqualified from service in the public schools pursuant to N.J.S.A. 18A:6-7.1, said charges warrant revocation of Eugene McCormick's Teacher of Music license. Said license is hereby revoked on this 9th day of October 1997.

It is further ORDERED that Eugene McCormick return his license to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary

State Board of Examiners

Date of Mailing: November 19, 1997

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

IBG:KKH:br:McCormickrv