

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
PETER LORIA : DECISION ON MOTION
_____ : DOCKET NO. 520-04/99-207M

At its meeting of February 24, 2000, the State Board of Examiners voted to revoke Peter Loria's Teacher of English certificate. The revocation was based upon Loria's unbecoming conduct that included his failure to teach effectively or to discipline and control his students. See I/M/O the Certificate of Peter Loria, Docket No. 520-04/99-207 (February 24, 2000). Loria is appealing from the Board of Examiners' decision to the State Board of Education.

While that appeal is pending, Loria has moved for a stay of the Board of Examiners' decision pursuant to N.J.A.C. 6:2-2.2. The Board of Examiners considered Loria's motion at its meeting of September 21, 2000. In his motion, Loria argues that the Board of Examiners committed reversible error by not allowing him to present evidence of rehabilitation in his revocation hearing. In fact, he argues that the Board denied him the right to a hearing at all. Loria has not argued, however, that he fully meets the standards for a stay set forth in Crowe v. DeGioia, 90 N.J. 126 (1982). According to the court in Crowe, a party seeking a stay must demonstrate a clear probability of success on the merits, that the stay is necessary to prevent irreparable harm, that the probability of harm to others is outweighed by the harm to the movant if a stay is not granted and that the public interest will not be adversely affected by such a stay. Id. at 132-34.

The burden is on the applicant to establish the right to a stay and "to doubt is to deny." Harrison v. Floyd, 26 N.J. Super. 333, 347 (Chan. Div. 1953). Here, Loria argues that he did not have an opportunity to show what he has accomplished since he lost his tenure in the State-

Operated School District of the City of Newark. He further maintains that the State Board of Examiners inappropriately denied him a hearing.

After a thorough review of the papers submitted in support of the motion as well as the reply thereto, the Board of Examiners denies Loria's motion for a stay of its previous decision. The Board of Examiners finds that Loria does not satisfy the criteria for obtaining a stay. He cannot demonstrate a likelihood that he will prevail on the merits before the State Board of Education since the law regarding revocation proceedings is clear and well-established. Crowe v. DeGioia at 133. Notwithstanding Loria's protestations to the contrary, a revocation proceeding is not the proper context for considering an individual's rehabilitation. The purpose of that proceeding, rather, is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff'd App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990). Thus, Loria's efforts to teach successfully in other venues, while a step in the right direction, have no bearing on the decision the Board of Examiners made with regard to his certification. See Cox v. State Bd. of Examiners, App. Div., Dkt. No. A-3527-81T3 (November 18, 1983).

Furthermore, Loria cannot prevail on his claim that he was denied a right to a hearing. The law is clear that the Board of Examiners can conduct a hearing based on the written record when there are no material facts in dispute. N.J.A.C. 6:11-3.6(a)(1). In response to the Order to Show Cause, Loria admitted that he was dismissed from his tenured employment as a result of tenure charges proven at hearing. He never raised any material facts before his revocation

proceeding thereby compelling an evidentiary hearing. Thus, he clearly cannot prevail on this issue on appeal.

Moreover, there is no irreparable harm to Loria's livelihood since he has not demonstrated that he cannot secure alternative employment. Furthermore, even if Loria can prove harm, that harm can be redressed through damages and is therefore not irreparable. Finally, the Board of Examiners' duty to safeguard the integrity of the teaching profession by revoking the certificate of an individual who has demonstrated a disregard for his responsibilities, clearly outweighs Loria's interest in returning to work at this time.

Accordingly, it is on this 21st day of September, 2000 ORDERED that Peter Loria's Motion for a Stay of the Board of Examiners' decision revoking his Teacher of English certificate be denied.

Secretary
State Board of Examiners

Date of Mailing: October 30, 2000

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