

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
SAWSAN LABIB : DECISION ON MOTION
_____ : DOCKET NO. 531-06/99-227M

At its meeting of May 11, 2000, the State Board of Examiners voted to suspend Sawsan Labib's Teacher of the Handicapped certificate for a period of 2 years, effective that date. The suspension was based upon Labib's chronic and excessive absenteeism. See I/M/O the Certificate of Sawsan Labib, Docket No. 531-06/99-227 (May 11, 2000). Labib is appealing from the Board of Examiners' decision to the State Board of Education.

While that appeal is pending, Labib 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 Labib's motion at its meeting of September 21, 2000. In her motion, Labib argues that she 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, Labib argues that she will be irreparably harmed if her teaching certificate is suspended pending appeal because she will lose her livelihood. She also claims that the issue in this case should not be whether her absences adversely affected her students, but rather whether her conduct justified the deprivation of her certificate.

After a thorough review of the papers submitted in support of the motion as well as the reply thereto, the Board of Examiners denies Labib's motion for a stay of its previous decision. The Board of Examiners finds that Labib does not satisfy the criteria for obtaining a stay. She has not demonstrated a likelihood that she will prevail on the merits before the State Board of Education. Crowe v. DeGioia at 133. Moreover, there is no irreparable harm to her livelihood as she claims, because the Board of Examiners did not **revoke** her teaching certificate, thus denying her the permanent ability to pursue her teaching career. She also has not demonstrated that she cannot secure alternative employment. Furthermore, even if Labib can prove harm, that harm can be redressed through damages and is therefore not irreparable. Finally, the Board of Examiners' responsibility to safeguard the integrity of the teaching profession by suspending an individual who has demonstrated a disregard for the welfare of her students through her chronic and excessive absenteeism, clearly outweighs Labib's interest in returning to work at this time.

Accordingly, it is on this 21st day of September, 2000 ORDERED that Sawsan Labib's Motion for a Stay of the Board of Examiners' decision suspending her Teacher of the Handicapped certificate be denied.

Secretary
State Board of Examiners

Date of Mailing: October 30, 2000

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