

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
LUTHER GIBBS : ORDER OF REVOCATION
_____ : DOCKET NO: 565-05/00-284

At its meeting of May 11, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Luther Gibbs was convicted in 1999 on a count of felony attempting to elude police, a third degree crime. Gibbs also had an earlier conviction for possession of felony stolen property. As a result of such conviction, Gibbs was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.*

Gibbs did not appeal the disqualification before the Commissioner of Education. Upon review of the above-mentioned information, the State Board of Examiners voted to issue Gibbs an Order to Show Cause at its meeting of May 11, 2000. Gibbs currently holds a County Substitute certificate issued through the Union County Office of Education.

The Board mailed Gibbs the Order to Show Cause by regular and certified mail on June 23, 2000. Neither copy was returned. The Order provided that an Answer must be filed within 20 days. Gibbs did not respond to the Order and on November 2, 2000 was given an additional ten days to respond. The Board received his response on November 9, 2000.

In his Answer, Gibbs talked about his teaching experiences in urban schools and stated how fulfilling he found teaching. He also attached various letters of recommendation to his Answer. (Answer, p.1.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on July 2, 2001, the Board mailed a hearing notice to Gibbs. The notice explained that since it appeared no material facts were in dispute, Gibbs was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate

holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Gibbs filed a response to the hearing notice on July 27, 2001. In that response he claimed that he was convicted of eluding the police for failing to pull over immediately when a campus security guard signaled him. Gibbs also stated that he had no contraband of any kind and that that incident (as well as his prior conviction) occurred before he became a teacher. (Hearing Response, p.1.)

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Gibbs' disqualifying offenses constitute conduct unbecoming a certificate holder.

At its meeting of October 1, 2001, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Gibbs' offenses were in dispute since he never denied that he had committed the offenses nor did he deny that he had been disqualified because of them. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether Gibbs' disqualification, which was predicated on the same offenses as were set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 *et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed

to be a danger to them. Included in that category are individuals who commit felonies, including eluding the police. This strong legislative policy statement is in accord with the Commissioner's long-standing policy of holding teachers to a higher standard: "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." Tenure of Sammons, 1972 S.L.D. 302, 321.

In this case, Gibbs has a conviction for eluding the police, a felony. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificate. In re Grossman, 127 N.J. Super. 13, 30 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E&A 1944). Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Gibbs' disqualification from service in the public schools of this State because of his conviction for felony eluding the police provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Thus, because the Legislature considers Gibbs' offenses so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Gibbs' County Substitute certificate. See In the Matter of the Revocation of

the Teaching Certificate of Patricia Rector, Agency Dkt. No. 19-02 (St Bd. of Education, August 7, 2002) (affirming the decision of the State Board of Examiners to revoke Rector's teaching certificate on the basis of her disqualification pursuant to N.J.S.A. 18A:6-7.1.)

Moreover, notwithstanding Gibbs' contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding 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).

Accordingly, it is therefore ORDERED that Luther Gibbs' County Substitute certificate be revoked on this 1st day of October 2001. It is further ORDERED that Gibbs return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: March 6, 2003

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