

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
KENNETH LUMPKIN : ORDER OF REVOCATION
_____ : DOCKET NO: 622-04/01-269

At its meeting of April 5, 2001, the State Board of Examiners reviewed information the Office of Criminal History Review had sent indicating that Kenneth Lumpkin was convicted in Florida in 1971 on charges of possession of marijuana. As a result of such conviction, Lumpkin was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 et seq. Lumpkin did not challenge the accuracy of his criminal record before the Commissioner of Education. Lumpkin currently holds a County Substitute certificate issued through the Morris County Office of Education. In addition he was applying for a Teacher of Social Studies Certificate of Eligibility through the Provisional Teacher Program/Alternate Route. Upon review of the above information, at that April meeting the State Board of Examiners voted to issue Lumpkin an Order to Show Cause against his County Substitute certificate and to block issuance of his Teacher of Social Studies Certificate of Eligibility.

The Board sent Lumpkin the Order to Show Cause by regular and certified mail on July 19, 2001. The Order provided that an Answer must be filed within 20 days. Lumpkin responded to the Order on July 22, 2001. In that response Lumpkin admitted to all the charges in the Order to Show Cause. In addition, he explained that he was in the process of expunging his Florida record. Before Florida would do that however, Lumpkin had to expunge a minor fraud charge he had incurred in New Jersey in 1971. (Answer, ¶ 7.) By letter dated August 3, 2001 the Board notified Lumpkin that it would hold the matter in abeyance until December 31, 2001 so that he could obtain the expungement for the disqualifying offense. He was directed to advise the Board

by the date as to the status of the expungement. Lumpkin did not respond to the Board by that date.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on January 16, 2002, the Board sent Lumpkin a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding Lumpkin's offense, he 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. On April 5, 2002, Lumpkin advised the Board's staff by telephone that he was still pursuing the expungement of his New Jersey offense.

Since Lumpkin did not respond to the hearing notice other than to state he had not yet obtained an expungement, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process. At its meeting of May 9, 2002, the State Board of Examiners reviewed the charges and papers Lumpkin filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Lumpkin's offense were in dispute.

The issue before the State Board of Examiners in this matter, therefore, is to determine whether Lumpkin's disqualification, which was predicated on the same drug offense as was 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. In 1989 the Legislature specifically amended the statute to include all convictions concerning controlled dangerous substances as disqualifying offenses. See, N.J.S.A. 18A:6-7.1b. This amendment was a clear recognition on the part of the Legislature that individuals with such drug convictions should not be permitted to be in contact with school-aged children. The consistent and long standing policy of this State is to eliminate the use of illegal drugs. See, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. To that end, the State and the schools herein have engaged in extensive educational efforts to warn the citizenry of the perils of illicit drugs. See, In the Matter of the Certificate of Barbara Corwick, OAL Dkt. No. EDE 3562-87, State Board of Examiners decision (March 24, 1988) Those who violate this deep-rooted policy, *whether by the use of drugs or their manufacture and distribution*, endanger the public welfare; they cannot be entrusted with the responsibility of caring for school aged pupils. Accordingly, the State Board of Examiners finds that Lumpkin's disqualification from service in the public schools of this State because of his conviction for possession of marijuana 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 license 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. Because the Legislature considers Lumpkin's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for

his disqualification is the revocation of his certificate to teach. 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.)

Accordingly, it is therefore ORDERED that Kenneth Lumpkin's County Substitute certificate be revoked on this 9th day of May 2002. It is further ORDERED that Lumpkin return his certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, 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: June 17, 2003

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