

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
GERARD BATTLE : ORDER
_____ : DOCKET NO: 0304-120

At its meeting of February 25, 2003, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Gerard Battle from his tenured position with the State-Operated School District of the District of Jersey City (hereafter Jersey City) for charges of inefficiency and incapacity. In the Matter of the Tenure Hearing of Gerard Battle, Docket No. 394-8/98 (Commissioner's Decision, September 29, 1998.) Battle currently holds a Teacher of the Handicapped certificate.

This case originated on August 28, 1998 when the Jersey City Board of Education certified tenure charges against respondent, Gerard Battle. The district charged him with inefficiency and incapacity. Since Battle did not respond to the charges, in a decision dated September 29, 1998, the Commissioner of Education deemed each of the charges admitted. He therefore decided the matter on a summary basis pursuant to N.J.A.C. 6:24-1.4(e).

The Commissioner found that Battle did not demonstrate proficiency in his area of teaching, did not adequately assess the needs of his students or evaluate their progress, did not maintain proper control of the class, did not effectively organize and plan, did not utilize effective teaching techniques and did not improve his performance despite having a 90 day period in which to do so. (Commissioner's Decision, slip op. at 2). Accordingly, the Commissioner ordered Battle's removal from his tenured employment with the State-Operated School District of the City of Jersey City and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding Battle's certificate.

Thereafter, on February 25, 1999, the State Board of Examiners issued Battle an Order to Show Cause as to why his certificate should not be suspended or revoked. The Order was

predicated on the charges of incapacity and inefficiency that had been proven in the tenure hearing.

The Board mailed the Order to Show Cause to Battle by regular and certified mail on March 14, 1999. The Order provided that an Answer must be filed within 20 days. Battle filed an Answer on April 5, 1999. In his Answer Battle admitted that the district had brought tenure charges against him. He also admitted that he failed to respond to the charges against him and that he had lost his tenured position. (Answer, ¶¶ 1-6).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on May 5, 1999, the Board sent Battle a hearing notice by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, respondent 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 offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Battle responded to the Hearing Notice on May 26, 1999. In that response, he claimed that there would be no purpose served by revoking or suspending his certificate. Battle argued that he should be given the opportunity to work in another district where they might feel he was an excellent teacher. He also stated that he had performed satisfactorily in all his years as a teacher in Jersey City, but for the last two. (Hearing Response, pp. 2-3). Battle reiterated that since he had defaulted in the tenure proceeding, there were no proofs offered as to whether or not the charges were sufficient to warrant dismissal. He did concede, however, that since one must assume the charges were sufficient, dismissal was appropriate. (Hearing Response, p. 4). He argued though, that that did not necessarily mean that revocation should follow. Indeed, Battle

suggested that the standard for revocation was higher than that for dismissal since “[o]therwise every dismissal would result in the loss of a license to teach.” (Hearing Response, pp. 4-5). Battle then went through each of the tenure allegations and recounted the different ratings he had received on each of the factors. (Hearing Response, pp. 5-7). Finally, Battle renewed his contention that a higher standard should be applied in this matter and that there was no underlying proof upon which the Board of Examiners could rely in reaching its determination here. (Hearing Response, pp. 7-8).

On September 23, 1999, the Board of Examiners issued an Order of Revocation to Battle. He appealed that decision to the State Board of Education. On January 3, 2001 the State Board remanded the matter to the Board of Examiners with direction to transmit the case to the Office of Administrative Law for hearing. The matter was transmitted to the Office of Administrative Law on May 7, 2001. Administrative Law Judge (ALJ) Margaret Monaco heard the case on December 13, 2002 and the record closed on March 14, 2003.

In her decision, ALJ Monaco found that Battle’s actions in his last year of teaching constituted inefficiency as a teacher. The proofs showed that his performance steadily declined. Battle did not dispute these findings and attributed them to a sports gambling problem that he admitted to for the first time at the hearing. The ALJ further found that Battle presented persuasive evidence of his current gambling-free status. The ALJ further held that several factors militated against the revocation or suspension of Battle’s certificate. These included his 16 years of satisfactory or better evaluations with the district prior to the tenure charges. The ALJ found that Battle had demonstrated that his last year and a half with the district was an aberration in an otherwise unblemished and successful career. Accordingly, the ALJ concluded that Battle’s conduct did not rise to the level that warranted action against his teaching certificate. The ALJ therefore ordered the Order to Show Cause dismissed with prejudice.

At its meeting of September 25, 2003, the State Board of Examiners reviewed the ALJ's Initial Decision and the exceptions filed by the Deputy Attorney General representing the Board of Examiners in the case. The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. After a thorough review of the record, the Board of Examiners agrees with the ALJ that Battle has demonstrated that he can be an effective teacher. His sixteen years of excellent teaching far outweigh his last year and a half in which he clearly had a problem that he has now acknowledged and has resolved. Accordingly, the Board agrees with the ALJ that Battle should retain his certificate to teach.

Accordingly, it is therefore ORDERED that the Initial Decision in this matter is hereby adopted. It is further ORDERED that the Order to Show Cause issued to Gerard Battle is hereby dismissed with prejudice.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: October 16, 2003

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