

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOANNE CARTER-LEE : ORDER OF REVOCATION
_____ : DOCKET NO: 0708-267

At its meeting of June 5, 2008, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education dismissing Joanne Carter-Lee from her tenured position with the East Orange Board of Education for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of Joanne Carter-Lee*, Docket No. 250-9/07 (Commissioner's Decision, March 19, 2008). Carter-Lee currently holds a Teacher of Elementary School Grades 7-8 Science-Mathematics in Grades 7-9 certificate, issued in January 1978, a Teacher of Comprehensive Science certificate, issued in March 1978, a Learning Disabilities Teacher Consultant certificate, issued in May 1980, a Teacher of the Handicapped certificate, issued in April 1981, Teacher of Elementary School and Teacher of Nursery School certificates, both issued in October 1986, a Teacher of Mathematics certificate, issued in April 1991 and a Supervisor certificate, issued in July 1991.

This case originated on September 6, 2007, when the East Orange Board of Education certified tenure charges against respondent, Joanne Carter-Lee. Carter-Lee was employed as a Teacher of Mathematics. The district charged her with unbecoming conduct for leaving school during her lunch hour on January 16, 2003, and purchasing crack cocaine. Carter-Lee was arrested after she made the purchase.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Joann LaSala Candido

heard testimony on January 17, 2008. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on February 15, 2008.

In that decision, ALJ Candido found that on January 16, 2003, Carter-Lee left East Orange High School while school was in session and purchased crack cocaine. (Initial Decision, slip op. at 3-4). Carter-Lee was arrested shortly after the purchase. (initial Decision, slip op. at 4.) She entered a Pre-Trial Intervention Program (PTI). (Initial Decision, slip op. at 4.)

After considering the testimony, ALJ Candido found that Carter-Lee's conduct was unbecoming a teaching staff member. (Initial Decision, slip op. at 4-5). The ALJ found it immaterial that the possession occurred off school grounds or that Carter-Lee received PTI as the result of her arrest. (Initial Decision, slip op. at 4-5).

In considering the appropriate penalty, ALJ Candido noted that Carter-Lee's only mitigating evidence was her own "testimony of rehabilitation that was not corroborated by any witness or expert testimony." (Initial Decision, slip op. at 6). Thus, based on her review of the entire record, the ALJ concluded that the appropriate penalty for Carter-Lee's conduct was removal from her tenured position. (Initial Decision, slip op. at 6). In fact, the ALJ added that "respondent's actions and conduct in leaving her teaching position during school hours at 10:15 in the morning to purchase crack cocaine, and subsequently being arrested, are blatant examples of unbecoming conduct." (Initial Decision, slip op. at 6-7.)

In a decision dated March 19, 2008, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Carter-Lee. The Commissioner agreed with the ALJ that the local board had proven its case against Carter-Lee with

regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 1). Accordingly, the Commissioner affirmed Carter-Lee's removal from her tenured employment with the East Orange Board of Education and transmitted the matter to the State Board of Examiners pursuant to *N.J.A.C.* 6A:9-17.6 for appropriate action regarding Carter-Lee's certificates.

Thereafter, on July 17, 2008, the State Board of Examiners issued Carter-Lee an Order to Show Cause as to why her certificates should not be revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Carter-Lee the Order to Show Cause by regular and certified mail. Carter-Lee filed an Answer on August 11, 2008. In her Answer Carter-Lee stated that the tenure charges and the Commissioner's decision "speak for themselves." (Answer, ¶ 2.) In the remainder of her Answer, Carter-Lee argued that the facts of the case and her otherwise unblemished record did not justify the suspension or revocation of her certificates. (Answer, First and Second Separate Defenses.)

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on August 27, 2008, the Board sent Carter-Lee 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, Carter-Lee 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 her and the legal arguments tendered in her defense, the State Board of Examiners would determine if her offense warranted action against her certificates. Thereupon, the Board of

Examiners would also determine the appropriate sanction, if any. Carter-Lee was also offered the opportunity to testify before the Board with regard to the sanction issue.

Carter-Lee responded to the Hearing Notice on September 29, 2008. In that response, she claimed that although she had lost her tenured position, revoking her certificates was “extreme action.” (Hearing Response, p. 3.) She also reiterated her testimony at the tenure hearing regarding her rehabilitation, claiming that she had completed a treatment program in 2003, took daily medication and attended regular Narcotics Anonymous meetings. (Hearing Response, p. 3.) She stated that she was celebrating her five year anniversary of sobriety. (Hearing Response, p. 3.) Carter-Lee asked that if a sanction must be imposed, that the Board suspend, rather than revoke, her certificates. (Hearing Response, p. 3.) She did not testify before the Board.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Carter-Lee’s conduct and her subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of January 13, 2009, the State Board of Examiners reviewed the charges and papers Carter-Lee filed in response to the Order to Show Cause. After reviewing her response, the Board of Examiners determined that no material facts related to Carter-Lee’s offense were in dispute since she did not deny the allegations in the Order to Show Cause. Accordingly, her actions of leaving school during the day and purchasing crack cocaine constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Carter-Lee’s offense as set forth in the Order to Show Cause, represents just cause to act against her certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C.* 6A:9-17.5. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Certainly, Carter-Lee's conduct in leaving school during the day, purchasing crack cocaine and being arrested is a flagrant violation of her role model status as a teacher. "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.

Furthermore, although Carter-Lee has not been disqualified from public employment for her drug offense, the Criminal History Review statute, *N.J.S.A.* 18A:6-7.1 *et seq.*, is instructive in this case. The Legislature enacted the statute in 1986 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:6-7.1(b). 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 its schools 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.

Moreover, the fact that the incident occurred off school grounds is immaterial. It is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 *N.J.A.R.* 285 (1981).

Moreover, as noted above, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher's whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. *See In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County*, 1965 *S.L.D.* 159, *aff'd*, State Board of Education 1970 *S.L.D.* 448; *In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County*, 1971 *S.L.D.* 623.

[*In the Matter of the Tenure Hearing of Robert H, Beam*, 1973 S.L.D. 157, 163.]

Carter-Lee therefore cannot exclude her “out-of-school” behavior from this tribunal’s examination.

Notwithstanding Carter-Lee’s 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). Thus, the fact that, according to her uncorroborated submission, Carter-Lee has continued to pursue a drug treatment program, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to her certification. Rather, the Board can only look at mitigation evidence to counterbalance the serious charges against her. In this case, an otherwise unblemished record, unfortunately falls far short of what is required.

Accordingly, on January 13, 2009 the Board of Examiners voted to revoke Joanne Carter-Lee’s Teacher of Elementary School Grades 7-8 Science-Mathematics in Grades 7-9, Teacher of Comprehensive Science, Learning Disabilities Teacher Consultant, Teacher of the Handicapped, Teacher of Elementary School, Teacher of Nursery School, Teacher of Mathematics and Supervisor certificates. On this 23rd day of February 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore

ORDERED that the revocation of Carter-Lee's certificates be effective immediately. It is further ORDERED that Carter-Lee return her certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:

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

RRH:MZ: