

IN THE MATTER OF	:	NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF	:	STATE BOARD OF EXAMINERS
GARY HOLMAN	:	ORDER OF REVOCATION
_____	:	DOCKET NO: 0809-131

At its meeting of October 16, 2008, the State Board of Examiners reviewed information received from the Passaic County Prosecutor's Office and the Office of Criminal History Review indicating that respondent Gary Holman pled guilty in October 2007 to one count of Theft By Deception. As a result of the conviction, Holman was sentenced to five years probation. He also was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Holman currently holds a Teacher of Law Enforcement Certificate of Eligibility, issued in November 2005, an Elementary School Teacher in Grades K-5 Certificate of Eligibility, issued in August 2006, a Teacher of the Handicapped Certificate of Eligibility, issued in May 2007, and an Elementary School Teacher in Grades K-5 Provisional certificate, issued in September 2007.

Holman did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Holman an Order to Show Cause at its meeting of January 13, 2009.

The Board sent Holman the Order to Show Cause by regular and certified mail on January 14, 2009. The Order provided that Holman must file an Answer within 30 days. Holman filed an Answer on February 9, 2009.

In his Answer, Holman admitted that he made a "horrible error in judgment four years ago and I cannot dispute, hide or deny the fact." (Answer, p. 1.) He also claimed that he was trying to make amends for his past by "teaching young men to do the right thing, even if it hurts." (Answer, p. 1.) Holman asserted that his crime "wasn't against a student or child" and did not involve drugs or violence. (Answer, p. 2.) He also noted that he had been making

“restitution payments and following the order of the court and society.” (Answer, p. 2.) Finally, he stated that he could still make a difference in the lives of others. (Answer, p. 2).

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on February 27, 2009, the Board sent Holman a hearing notice by regular and certified mail. The certified mail receipt was signed and returned and the regular mail copy was not returned. The notice explained that it appeared that no material facts were in dispute and Holman 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 the conduct underlying his offense and resulting disqualification warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Holman was also provided the opportunity to appear before the Board to testify on the sanction issue. Holman did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Holman’s conviction and subsequent disqualification constitutes conduct unbecoming a certificate holder. Since Holman failed to respond to the hearing notice, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process.

At its meeting of July 28, 2009, the State Board of Examiners reviewed the charges and papers Holman 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 Holman’s offense were in dispute since he did not deny that he had committed the offense nor did he deny that he had been disqualified because of it. Thus, the Board of Examiners determined that summary decision was

appropriate in this matter. *N.J.A.C.* 6A:9-17.7(h). It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether the conduct underlying Holman's conviction and disqualification, as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that it does.

In enacting the Criminal History Review statute, *N.J.S.A.* 18A:6-7.1 *et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be dishonest and poor role models. Individuals convicted of a crime such as Theft By Deception fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students. "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. Clearly Holman's actions here are not those of a role model.

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). In this case, Holman has a conviction for a crime involving dishonesty. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his/her certificate. *In re Grossman*, 127 *N.J. Super.* 13, 30 (Sup. 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 Bd. of Educ.*, 130 N.J.L. 369, 371 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944).

The strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1(b) 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 Holman's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Holman's teaching certificates.

Moreover, notwithstanding Holman'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).

Accordingly, on July 28, 2009 the Board of Examiners voted to revoke Gary Holman's Teacher of Law Enforcement Certificate of Eligibility, Elementary School Teacher in Grades K-5 Certificate of Eligibility, Teacher of the Handicapped Certificate of Eligibility, and his Elementary School Teacher in Grades K-5 Provisional certificate. On this 17th day of September 2009 the Board of Examiners voted to adopt its formal written decision and it is

therefore ORDERED that the revocation of Gary Holman's certificates be effective immediately. It is further ORDERED that Holman return his 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: