

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JUAN BORJA : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-177

At its meeting of October 28, 2010, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review (OCHR) indicating that respondent Juan Borja was convicted in January 2010 of Filming etc, Without Consent of Another in violation of N.J.S.A. 2C:14-9b. As a result of the conviction, Borja was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Borja currently holds a Teacher of Spanish Certificate of Eligibility, issued in December 1998, a Teacher of Spanish certificate, issued in July 2001 and a Teacher of English As a Second Language certificate, issued in July 2004.

Borja did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of December 9, 2010 to issue Borja an Order to Show Cause why his certificates should not be revoked.

The Board sent Borja the Order to Show Cause by regular and certified mail on December 16, 2010. The Order provided that Borja must file an Answer within 30 days. The certified mail copy was returned as unclaimed. The regular mail copy was not returned. Borja did not file a response. Thereafter, on January 24, 2011, the Board sent Borja another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail receipt was signed and returned and the regular mail copy was not returned. Borja did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 14, 2011, the Board sent Borja a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Borja 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, as well as arguments with regard to the appropriate sanction in the event that the Board found just

cause to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his disqualifying offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Borja was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Borja submitted a written response on February 24, 2011. He did not ask to appear before the Board.

In his response, Borja stated that he had worked as a teacher for 10 years and had been an outstanding educator. (Hearing Response, p. 1). He claimed that teaching was his vocation and added that “it’s sad that I can not (*sic*) use my skills, experience, expertise, the Master’s degree I just finished. (Hearing Response, p. 1). I love education, and it’s sad that I can’t teach anymore.” (Hearing Response, p. 1). Borja noted that all he could do was plea for forgiveness. (Hearing Response, p. 1). He stated that he had received a lot of therapy over the past two years and was in a very different place now. (Hearing Response, p. 1).

The threshold issue before the Board in this matter is whether Borja’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. At its meeting of May 12, 2011, the Board considered the allegations in the Order to Show Cause and Borja’s Hearing Response. The Board determined that no material facts related to Borja’s offense were in dispute since he never denied that he had been convicted of the offense charged. Thus, the Board 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 Board must now determine whether Borja’s conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that they do.

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 poor role models. Individuals convicted of a crime such as Filming etc. Without Consent of Another 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, Borja's actions here are not those of a role model.

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 Board 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 Borja's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Borja's certificates.

Finally, notwithstanding Borja'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 Borja has undergone therapy and has also sought the help of spiritual advisors, while steps in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on May 12, 2011, the Board voted to revoke Juan Borja's Teacher of Spanish Certificate of Eligibility and his Teacher of Spanish and Teacher of English As A Second Language

certificates. On this 16th day of June 2011 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Juan Borja's certificates be effective immediately. It is further ORDERED that Borja 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:6-38.4.