

EDU # 7696-92
SBE #189-07/92-61
SB # 86-96

IN THE MATTER OF THE REVOCATION :
OF THE TEACHING CERTIFICATES OF : STATE BOARD OF EDUCATION
MARY ANN BAUER. : DECISION

Decided by the State Board of Examiners, September 26, 1996

For the Petitioner-Respondent, William C. Brown, Deputy Attorney General
(Peter Verniero, Attorney General of New Jersey)

For the Respondent-Appellant, John C. Caufield, Esq.

On September 26, 1996, the State Board of Examiners issued a decision in which it revoked the teaching certificates of Mary Ann Bauer (hereinafter "appellant") for unbecoming conduct. That decision was mailed to the parties on October 23.

On November 22, 1996, counsel for appellant filed an unsigned notice of appeal with the State Board. On December 10, 1996, the counsel for the State Board advised appellant's counsel that he was required to file a substitution of attorney since he had not been the attorney of record below, along with a signed notice of appeal. On December 17, appellant's counsel filed a substitution of attorney and a signed notice of appeal. On December 23, the briefing schedule was placed in abeyance at the request of appellant's counsel in order to allow him the opportunity to obtain the record in this matter. On April 22, 1997, the counsel for the State Board notified appellant's counsel that since he had had sufficient time to secure the record, the briefing schedule was

being reestablished and his appeal brief was due on May 14. At the request of appellant's counsel, the due date was extended to May 21.

Appellant, however, failed to file a brief by that date. By letter dated May 27, 1997, the counsel for the State Board notified appellant's counsel that no appeal brief had been filed and that this matter was therefore being referred to the Legal Committee of the State Board for consideration of his failure to perfect the appeal. Counsel for appellant has still failed to file a brief in support of the appeal, 1½ months after the extended deadline for such filing and more than five weeks after he was notified of such failure. Nor did counsel for appellant respond to that notice or provide any explanation for his failure to file a brief until late yesterday afternoon when he indicated in a certification addressed to the State Board of Examiners that he had recently married and purchased a home "which needed substantial improvement prior to occupancy." He explains that "but for the foregoing there could have been a satisfactory brief completed and filed."

An attorney who is "of counsel" to the firm representing appellant indicates in a certification that "the cases cited by the Attorney General's Office and the Administrative Law Judge were not readily available in the public law school libraries available to counsel....The precedent cases were not only difficult to locate—or even to locate libraries with sufficient professional longevity to be of assistance—as there is not only no index but several (at least three) different types of compilation series." He adds that he was "severely hobbled by the ongoing relocation of [his] office and dispatch of closed files for which there was no longer room to storage in transit and then to a more permanent site....If the foregoing were not bad enough, I was struck by two debilitating

but separate viruses during February-March and March-April before finally being felled for five weeks by a severe (despite medication) series of out of season allergy problems.”

We conclude that the belated explanation offered by counsel for the appellant does not in any way excuse or justify his failure to file an appeal brief for 1½ months after the filing deadline—which had been extended at his request—or to request a further extension for such filing. Consequently, we dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6:2-1.12(a). See Paszamant v. Board of Education of the Borough of Highland Park, decided by the State Board of Education, April 1, 1992, aff’d, Docket #A-4812-91-3 (App. Div. 1993).

July 2, 1997

Date of mailing _____