

SBE #CR004-09/02
SB # 50-02

IN THE MATTER OF THE DENIAL :
OF THE ISSUANCE OF A TEACHING : STATE BOARD OF EDUCATION
CERTIFICATE TO OTTO KRUPP. : DECISION

Decided by the State Board of Examiners, September 26, 2002

For the Petitioner-Appellant, Otto Krupp, pro se

For the Respondent-Respondent, Sarah Crowley, Deputy Attorney
General (Peter C. Harvey, Acting Attorney General of New Jersey)

Appellant in this matter is appealing from a determination made by the State Board of Examiners to deny him issuance of certification to teach mathematics.¹ The basis for the Board of Examiners' determination was that, although appellant had provided evidence that he had been rehabilitated following his conviction for first degree murder and had demonstrated that he had functioned well while incarcerated, insufficient time had passed for him to demonstrate that he could function effectively outside of confinement. In making its determination, the Board of Examiners stressed that, while appellant was seeking certification in order to be employed by the Department of Corrections, the Board of Examiners did not have the authority to issue a limited or restricted certificate. Hence, if the Board of Examiners were to issue a certificate to appellant, he would be certified to teach in any secondary school.

¹ The decision of the State Board of Examiners indicates that it acted to deny appellant's application as a "Teacher of Secondary School Mathematics." We note that under the regulations currently in effect, the State Board of Examiners does not issue any such certification. See N.J.A.C. 6:11-6.2.

However, while the Board of Examiners was not willing to issue appellant a certificate at the time of its determination, it noted that he could reapply for certification at a future date once his rehabilitation outside of confinement could be more compellingly demonstrated.

After reviewing the record, we remand this matter to the Commissioner of Education so that he may determine under the applicable law whether the State Board of Examiners' decision to deny appellant's application for the issuance of certification was proper. In doing so we are aware that the written decision mailed to appellant by the Board of Examiners indicated that an appeal of the decision could be made to the State Board of Education pursuant to N.J.S.A. 18A:6-28. However, that statute provides that an appeal to the State Board by a party aggrieved by a determination of the Commissioner of Education must be taken within thirty days "in the manner prescribed by the rules of the board." The regulations governing appeals to the State Board provide that final decisions of the State Board of Examiners are appealable to the State Board of Education as of right, but define such decisions as "[a]ny decision of the State Board of Examiners pertaining to the revocation or suspension of a certificate..." N.J.A.C. 6A:4-1.1(a)(2). Hence, as it has long been established, any appeal from a determination made by the State Board of Examiners to deny the issuance of certification must be made to and decided by the Commissioner of Education pursuant to the original jurisdiction conferred on him by N.J.S.A. 18A:6-9 to hear and determine all controversies and disputes arising under the school laws except those governing higher education. In the absence of any change in the statutory framework that establishes the jurisdiction of the Commissioner to determine all controversies arising

under the school laws or in the procedural regulations which we have adopted to govern appeals to the State Board, we find no basis that would justify departing from our comprehensive system of appeals as it has been effectuated up until this point. In re Masiello, 25 N.J. 590 (1958).

In remanding this matter to the Commissioner, we note that the Board of Examiners rendered its decision under the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., and that it did not consider the effect of N.J.S.A. 18A:6-7.1 on the question of whether certification should be issued to appellant. Accordingly, in making his determination, the Commissioner will have to resolve the issues relating to the application of N.J.S.A. 18A:6-7.1.

May 7, 2003

Date of mailing _____