

JOHN CAUCINO, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 NEW JERSEY STATE DEPARTMENT OF : DECISION
 EDUCATION, OFFICE OF CRIMINAL :
 HISTORY, AND MONMOUTH COUNTY :
 VOCATIONAL SCHOOL DISTRICT, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner challenged the decision by the respondents to permanently disqualify him from employment in any position with a school or other educational institution under the supervision of the Department of Education because of petitioner's 1995 federal felony conviction for bank fraud under 18 *U.S.C.A.* §1344. Petitioner contended that the federal offense to which he pled guilty is not one of the criminal convictions requiring permanent disqualification under *N.J.S.A.* 18A:6-7.1. The Department moved for summary decision, contending that there were no material facts in dispute and that it was entitled to prevail as a matter of law. Petitioner opposed the motion.

The ALJ found that there were no material facts in dispute, and that the matter was ripe for summary disposition. The ALJ stated the sole issue in this matter to be the legal question of the applicability of *N.J.S.A.* 18A:6-7.1(c)2 to petitioner's conviction under 18 *U.S.C.A.* §1344. The ALJ determined that petitioner was convicted under a statute of the United States that is similar to *N.J.S.A.* 2C:20-4, for a crime substantially equivalent to theft by deception: a disqualifier as a third degree crime under *N.J.S.A.* 18A:6-7.1(c)2. The ALJ concluded that the Department properly disqualified the petitioner from employment; granted summary decision to the Department; and dismissed the Amended Petition.

Upon a full and independent review of the record in this matter, the Commissioner concurred with the findings and conclusions of the ALJ. Accordingly, the Initial Decision of the OAL was adopted for the reasons stated therein and the instant Petition of Appeal was dismissed. The record of this matter was forwarded to the State Board of Examiners for action as that body deems appropriate.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

OAL DKT. NO. EDU 6213-04
AGENCY DKT. NO. 242-7/04

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions to the Initial Decision.

Upon his full and independent review of the record in this matter, the Commissioner agrees with the Administrative Law Judge's determination that petitioner's 1995 federal felony conviction for bank fraud under 18 *U.S.C.A.* §1344 is substantially equivalent to *N.J.S.A.* 2C:20-4, a third degree crime, thus disqualifying him from school or other educational employment pursuant to *N.J.S.A.* 18A:6-7.1.

Accordingly, the Initial Decision of the OAL is adopted for the reasons clearly stated therein and the instant Petition of Appeal is hereby dismissed. The record of this matter is being forwarded to the State Board of Examiners for action as that body deems appropriate.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: April 15, 2005

Date of Mailing: April 15, 2005

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*