

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE LICENSES OF : STATE BOARD OF EXAMINERS  
ANTHONY ZITELLI : ORDER OF REVOCATON  
\_\_\_\_\_ : DOCKET NO. 318 - 10/95 - 107

At its meeting of October 19, 1995, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that Anthony Zitelli, who holds a Teacher of Physical Education Certificate of Eligibility with Advanced Standing and a Teacher of Health and Physical Education Certificate of Eligibility with Advanced Standing, was convicted on charges of endangering the welfare of a child. He was sentenced to three (3) years probation, seventy-five (75) hours of community service and fines.

At that meeting, the State Board of Examiners voted that said conviction constituted grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Zitelli by regular and certified mail on February 1, 1996. On February 20, 1996, an answer to the Order to Show Cause was received from Mr. Zitelli.

Thereafter, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Certificates of Sheridan. The other is captioned, In the Matter of the Certificates of Vitola. Within these two cases, the State Board of Education determined that the State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which materials facts are not in dispute. During the pendency of the revisions to the State Board of Examiner' regulations regarding its hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

Pursuant to the newly recodified hearing provisions of N.J.A.C. 6:11-3.6(a)1, on July 9, 1997 a hearing notice was mailed by regular and certified mail to Mr. Zitelli. Said notice explained that, it appearing that no material facts were in dispute, Mr. Zitelli was provided an opportunity to offer legal argument on the issue of whether his conviction constituted conduct unbecoming a teacher.

On July 28, 1997, a response to the hearing notice was received from Mr. Zitelli.

Mr. Zitelli's response to the hearing notice raises the following points:

Mr. Zitelli submits the incident in question did not occur while he was teaching at either Harding Township or Boonton Township schools, nor during his employment with the Parsippany-Troy Hills district as a coach. He avers that when he was teaching, he conducted himself as a teacher. Accordingly, he claims, a suspension of his licenses is the appropriate sanction until his probation is over. Mr. Zitelli's Answer to the Order to Show Cause admits he was convicted and sentenced to the offense noted above, and that the 75 hours of community service have been completed. He also notes he surrendered his teacher license when he was sentenced. It is his understanding that his licenses are suspended during the period of his probation and that they will be restored to him once his probation is completed.

At its meeting of October 9, 1997, the State Board of Examiners reviewed the charges against Mr. Zitelli as well as his responses to both the Order to Show Cause and the hearing notice. After its review, the State Board of Examiners determined that no material facts related to Mr. Zitelli's conviction were in contest, and that the matter could, therefore, proceed to a determination as to whether the charges levied against him in the Order to Show Cause constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

Initially, it is necessary to address Mr. Zitelli's statement that he surrendered his teaching licenses when he was sentenced and that he expected them to be restored when he completes probation. The State Board of Examiners was not a party to the court proceeding, so it is unable to comment on what occurred therein regarding his license. Notwithstanding whatever action the court may have taken regarding his licenses, only the State Board of Examiners is vested with the authority to determine if a license should be revoked or suspended. N.J.S.A. 18A:6-38.

The State Board of Examiners in preceding case law has addressed respondent's argument that his offense, debauching the morals of a child, did not touch or concern his employment as a teaching staff member. In State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981), the respondent contended that his offense, murder committed while he was under the influence of drugs, was also not one that involved pupils or others at the school, or the performance of his teaching duties. Therein, it was determined:

In the determination of issues affecting the security of tenured teachers in their positions and their holding of teaching certificates, the private lives of teachers, separate from their school duties, have frequently been considered legitimate concerns. In this regard, the Commissioner held in the case captioned, In the Matter of the Tenure Hearing of Robert H. Beam, 1973, S.L.D. 157, at 163:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. The teaching profession is chosen by individuals who must comport themselves as models for young minds to emulate. This heavy responsibility does not begin at 8:a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County, 1965 S.L.D. 159, aff'd State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H.

Stokes, School District of the City of Rahway, Union County, 1971 S.L.D. 623.

The Commissioner of Education as well as the State Board of Education have affirmed this concept often. In this regard, see, e.g., In the Matter of the Tenure Hearing of Paula Grossman, et al., 1972 S.L.D. 144 aff'd App. Div. 127 N.J. Super 13 (App. Div. 1974); In the Matter of the Tenure Hearing of John Gish, 1980 S.L.D., (decided by the Commissioner of Education October 27, 1980); In the Matter of the Tenure Hearing of Ernest Tordo, 1974 S.L.D. 97.

The Commissioner expounded on this proposition in the case captioned, In re Tenure Hearing of Jacque Sammons, 1972 S.L.D. 302, 321:

Teachers mold the habits and attitudes of their pupils and these pupils learn “\*\*\* not only what they are taught by the teacher, but what they see, hear, experience, and learn about the teacher.

Thus, despite where the offense occurred, offenses involving the welfare of children touch, concern and violate the lofty position of trust held by teaching staff members.

By virtue of holding a teaching license, the respondent has been entrusted by the State with the care and custody of school children. Tenure Hearing of Sammons, supra, The respondent has, however, by his conduct, violated that most sacred trust. He has impermissibly endangered a minor. Such comportment is so foreign to the expectations of the deeds and actions of a professional certificated teacher - or of any person - that it raises doubts as to the continued performance of that person in the classroom. Tenure of Blasco, OAL Dkt. EDU 3842-79 (July 15, 1980), mod. Comm’r of Ed. (August 28, 1980), mod. St. Bd. of Ed. (Feb. 4, 1981). The public must be assured that the respondent will no longer be given access to children as a teacher.

Accordingly, the State Board of Examiners finds respondent’s conviction conduct unbecoming a license holder. The appropriate penalty for his unbecoming conduct is the revocation of respondent’s teaching licenses.

It is, therefore, ORDERED that Anthony Zitelli's Teacher of Physical Education Certificate of Eligibility with Advanced Standing and Teacher of Health and Physical Education Certificate of Eligibility with Advanced Standing are hereby revoked on this 9<sup>th</sup> day of October, 1997.

It is further ORDERED that Anthony Zitelli return his licenses to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

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Secretary  
State Board of Examiners

Date of Mailing: November 19, 1997

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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