

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
KENNETH WILBURN : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 530-06/99-223

At its meeting of June 17, 1999, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on May 11, 1998, Kenneth Wilburn had pled guilty to two counts of 2<sup>nd</sup> degree misconduct in office. On January 13, 1999, Wilburn was sentenced to eight years' confinement in a New Jersey State prison, ordered to surrender his teaching certificates and fined. As a result of his conviction, Wilburn was also forever disqualified from holding any office or position of honor, trust or profit in this state or any of its administrative or political subdivisions pursuant to N.J.S.A. 2C:51-2. Wilburn is currently the holder of Teacher of Physical Education and Teacher of Elementary School certificates. Upon review of the above information, at that June meeting, the State Board of Examiners voted to issue an Order to Show Cause to Respondent.

The Board sent Wilburn the Order to Show Cause by regular and certified mail on July 29, 1999. The Order provided that an Answer to the Order must be filed within 20 days. Wilburn did not respond to the Order to Show cause although the certified mail return receipt was signed and returned.

Thereafter, on December 28, 1999, the Board of Examiners provided Wilburn with an additional ten days to file a response to the Order to Show Cause. He was advised that if he did not respond, the allegations in the Order to Show Cause would be deemed admitted and the State Board of Examiners would proceed to a decision on revocation or suspension based on the evidence before it. Once again although the certified mail receipt was returned, Wilburn did not respond to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Wilburn's guilty plea to misconduct in office constitutes conduct unbecoming a certificate holder. Since Wilburn did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since Wilburn's conviction is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against Wilburn's certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. Teachers in the State of New Jersey "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. Wilburn's acts of misconduct in office were serious enough to warrant a lengthy jail sentence and led the prosecutor and the Court to seek the permanent forfeiture of Wilburn's ability to hold public office. His actions are not those of an individual who should be entrusted with instructing children or serving as a role model. Obviously, the prosecutor and the sentencing judge agreed.

Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Bd. of Educ., 130 N.J.L. 369, 371 (S. Ct. 1943), *aff'd*. 131 N.J.L. 326 (E & A 1944). In this instance, in addition to incarceration, Wilburn's acts of misconduct in office were so egregious as to warrant his removal and permanent bar from public office. Indeed, the judge felt compelled to order Wilburn to surrender his teaching certificates.

Although the State Board of Examiners is the sole administrative authority with the power to revoke teaching certificates, N.J.S.A. 18A:6-38, the judge's order in this regard further demonstrates the necessity of keeping Wilburn out of a classroom forever.

Accordingly, it is therefore ORDERED that Kenneth Wilburn's Teacher of Physical Education and Teacher of Elementary School certificates be revoked on this 11th day of May, 2000. It is further ORDERED that Wilburn return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

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Secretary  
State Board of Examiners

Date of Mailing: October 11, 2000

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

IBG:MZ:kb: Kenneth Wilburn