

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ROSSIE KEARSON : ORDER OF REVOCATION
_____ : DOCKET NO: 550-02/00-231

At its meeting of February 24, 2000, the State Board of Examiners reviewed information from the Office of Criminal History Review indicating that Rossie Kearson was convicted on January 23, 1998, on charges of theft by deception in the third degree contrary to the provisions of N.J.S.A. 2C:20-4. Kearson had participated in a scheme masterminded by Dr. Carl Lichtman, a psychologist from Bergen County, in which Lichtman would file insurance claims for psychological services that he allegedly (but never actually) rendered to State employees. Kearson was one such employee who signed a false claim and received a percentage of the monies Dr. Lichtman received from the State Health Benefits Program.

As a result of his conviction, Kearson was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 et seq. Kearson did not appeal the disqualification before the Commissioner of Education. Upon review of the above information, at that February, 2000 meeting the State Board of Examiners voted to issue Kearson an Order to Show Cause.

The Order to Show Cause was mailed to Kearson by regular and certified mail on April 3, 2000. Kearson responded to the Order on April 24, 2000. In that Answer, Kearson admitted the allegations in the Order except that he stated that the \$11,804 assessed against him was not entirely a fine, but rather contained elements of restitution. (Answer, ¶ 4). In addition, Kearson explained that he did challenge the applicability of N.J.S.A. 18A:6-7.1 in New Jersey Superior Court, Chancery Division. (Answer, ¶ 5). He also stated that he was remorseful about his involvement with Lichtman and had been a model citizen prior to that time. Kearson argued that

he did not use school time or assets to accomplish the theft and that he fully cooperated with prosecutors. He said that he relied upon their assurances that he would be allowed to teach again. (Answer, at p.2).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on April 28, 2000, the Board of Examiners mailed Kearson a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding his offense, Kearson had an opportunity to submit written arguments as to whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Kearson responded on May 25, 2000. In that response, Kearson reiterated his belief that he should be allowed to continue teaching. He stated that the term “conduct unbecoming a teacher” is vague and should be applied in this case with “full consideration of the surrounding circumstances.” (Hearing Response, at p.2). Kearson also asked the Board of Examiners to consider his case in view of his long unblemished record, his remorse and rehabilitation. (Hearing Response, at p. 2).

At its meeting of September 21, 2000, the State Board of Examiners reviewed the charges and papers Kearson filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Kearson’s offense were in dispute.

The issue before the State Board of Examiners in this matter, therefore, is whether Kearson’s conviction for theft by deception and his subsequent disqualification, which was

predicated on the same offense, represent just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that they do.

Unbecoming conduct is a broadly defined term which includes “any conduct, which has a tendency to destroy public respect for [public] employees and confidence in the operation of [public] services.” Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998). In the educational arena, a teacher’s fitness cannot be measured solely by his academic ability to perform the teaching function. In Re Tenure Hearing of Grossman, 127 N.J. Super. 13 (App. Div. 1974), certif. Den. 65 N.J. 292 (1974).

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 et seq., in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. According to the statute, any individual convicted of “a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes” falls squarely within this category. N.J.S.A. 18A:6-7.1(c)(2). In this case, Kearson’s disqualification represents a legislative conclusion that the behavior in which he engaged renders him unfit for contact with public school children. The Board of Examiners agrees. Kearson has a conviction for a crime that involved dishonesty and theft. Accordingly, the State Board of Examiners finds that Kearson’s disqualification from service in the public schools of this State because of his conviction for theft by deception is conduct unbecoming and provides just cause to take action against his certificate.

The strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense warrants his preclusion from service in the public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person

who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Because the Legislature considers Kearson's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for his disqualification is the revocation of his certificate to teach.

Moreover, notwithstanding Kearson's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff'd App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990).

Additionally, Kearson's claim that he cannot be disqualified since the State agreed not to pursue a forfeiture action against him in his criminal trial is misplaced. The prosecutor in Kearson's criminal case had the discretion whether or not to seek the forfeiture of Kearson's ability to ever hold "a position of honor, trust or profit" in this State. N.J.S.A. 2C:51-2(d). Conversely, the disqualification statute at issue here, N.J.S.A. 18A:6-7.1, operates automatically as a matter of law. Thus, any assurances Kearson may have received in his criminal trial as to forfeiture are of no effect here.

Accordingly, it is therefore ORDERED that Rossie Kearson's Teacher of Elementary School Certificate be revoked on this 21st day of September 2000. It is further ORDERED that Kearson return his certificate 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.

Secretary
State Board of Examiners

Date of Mailing: November 9, 2000

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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