

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
THOMASINA LEMON : ORDER OF REVOCATION
_____ : DOCKET NO: 645-10/01-296

At its meeting of October 1, 2001, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Thomasina Lemon from her tenured position with the State-Operated School District of the City of Newark (hereafter “Newark”) for charges of unbecoming conduct. In the Matter of the Tenure Hearing of Thomasina Lemon, Docket No. 163-5/95 (August 1, 1997.) Lemon currently holds a Teacher of Elementary School certificate.

This case originated on May 4, 1995 when Newark certified tenure charges against respondent, Thomasina Lemon. The district charged her with unbecoming conduct for allegedly using corporal punishment against her students and for excessive absenteeism.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) MaryLouise Lucchi-McCloud heard testimony on several days between June and December 1996. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on August 1, 1997.

After considering all the testimony, ALJ Lucchi-McCloud found that the case turned solely on the credibility of the witnesses. Judge Lucchi-McCloud found that Lemon had engaged in many instances of corporal punishment including striking a student with a ruler, placing her hands on another student’s neck, leaving fingernail marks, and forcefully grabbing students by the arm. (Initial Decision, slip op. at 24).

In addition the ALJ found that Lemon repeatedly ignored directives to leave her classroom door unlocked, received numerous unsatisfactory evaluations and had not complied with mandated deadlines for the submission of her lesson plans, registers and other administrative requests for information. (Initial Decision, slip op. at 24-25.) Finally, the Judge found that Lemon had a history of excessive absenteeism since she was absent 20.5 days in the 1990-91 school year, 35 days in the 1991-92 school year, 27 days in the 1992-93 school year and 43 days in the 1993-94 school year. (Initial Decision, slip op. at 25.)

Judge Lucchi-McCloud held that Newark had proven the tenure charges against Lemon by a preponderance of the credible evidence. The Judge clarified that Lemon's interactions with certain of her students did rise to the level of corporal punishment notwithstanding that the injuries to the students may not have been serious. Moreover, the ALJ found that Lemon's increasing absences did impede the educational goals of the district. The ALJ therefore concluded that Newark had demonstrated that the charge of unbecoming conduct of a teaching staff member brought against Lemon was true and warranted Lemon's removal from her tenured position. (Initial Decision, slip op. at 25-28.)

In a decision dated September 17, 1977, the Commissioner of Education affirmed the ALJ's conclusion as to the excessive absenteeism, insubordination and corporal punishment charges against Lemon.¹ The Commissioner agreed with the ALJ that the local board had proven its case against Lemon with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 40). The Commissioner

found that Lemon's "apparently sound teaching record and her extended employment within the District" did not outweigh the gravity of her offenses. (Commissioner's Decision, slip op. at 40). Accordingly, the Commissioner affirmed Lemon's removal from her tenured employment with Newark and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding Lemon's certificate. Lemon appealed the Commissioner's decision to the State Board of Education, which affirmed his decision on February 6, 1998. Lemon then appealed from the State Board of Education's decision to the Appellate Division of the Superior Court of New Jersey. The Appellate Division affirmed Lemon's dismissal from her tenured position. In the Matter of the Tenure Hearing of Thomasina Lemon, Docket No. A-4018-97T3 (App. Div. Nov 4, 1999.)

Thereafter, on October 1, 2001, the State Board of Examiners issued an Order to Show Cause to Lemon as to why her certificate should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board of Examiners mailed the Order to Show Cause to Lemon by regular and certified mail on April 5, 2002. The Order provided that an Answer must be filed within 20 days. Lemon filed an Answer on April 30, 2002. In her Answer Lemon admitted that the district had brought tenure charges against her. She also admitted that she had been dismissed from her tenured employment and that the Commissioner had affirmed that dismissal. (Answer, ¶¶ 3-5). In the remainder of her Answer, Lemon added

¹ The Commissioner dismissed those tenure charges involving inefficiency since the district did not follow proper notification procedures as outlined in N.J.S.A. 18A:6-11; the dismissal of these charges did not affect the outcome of the tenure case. (Commissioner's Decision, slip op. at 37.)

that she had already been punished for her conduct by losing her tenured position and that she had had successful employment subsequent to her dismissal. (Answer, ¶ 7.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on May 16, 2002, the Board of Examiners sent Lemon a hearing notice by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, Lemon was offered an opportunity to submit written arguments on the issue of 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 her and the legal arguments tendered in her defense, the State Board of Examiners would determine if her offense warranted action against her certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Lemon responded to the Hearing Notice on June 20, 2002. In that response, Lemon claimed that her certificate should not be suspended since the Commissioner had dismissed some of the tenure charges against her. Moreover, Lemon argued that one of the children who testified against her acknowledged that she was a good teacher. (Hearing Response, p.1.) Lemon further argued that many of her unsatisfactory evaluations were the result of an ongoing dispute she had with her new building principal and that in her 27 years of prior experience she had always had satisfactory evaluations. (Hearing Response, p.2.). Finally, Lemon reiterated that she had been punished enough by losing her tenured position and that she had successfully continued to teach after she left Newark. (Hearing Response, p.3.)

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Lemon's conduct and her subsequent loss of tenure constitute

conduct unbecoming a certificate holder. At its meeting of September 26, 2002, the State Board of Examiners reviewed the charges and papers Lemon filed in response to the Order to Show Cause. After reviewing her response, the Board of Examiners determined that no material facts related to Lemon's offense were in dispute since she admitted the charges on the Order to Show Cause. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1

The State Board of Examiners must now determine whether Lemon's offense as set forth in the Order to Show Cause, represents just cause to act against her certificate 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. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E & A 1944). "Teachers... 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. There can be no dispute that Lemon's attempt to discipline her students through corporal punishment negates any claim she can have to self-restraint. Moreover, her excessive absenteeism was disruptive to her students' ability to learn in a consistent manner. Finally, her continual insubordination and disregard of administrative directives is not the hallmark of a teacher who should

remain in the classroom. Thus, the only proper response to Lemon's breach is revocation.

Accordingly, it is therefore ORDERED that Thomasina Lemon's Teacher of Elementary School certificate be revoked on this 26th day of September 2002. It is further ORDERED that Lemon return her certificate to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: January 28, 2004

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