

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN TATE : ORDER OF REVOCATION
_____ : DOCKET NO: 719-05/02-325

At its meeting of May 9, 2002, the State Board of Examiners reviewed information it had received from the Division of Criminal Justice indicating that respondent John Tate had pled guilty on May 14, 2001, to two counts of 2nd degree sexual assault and two counts of 4th degree sexual contact. The charges arose from Tate's work with the Youth Advocate Program, where he served as a counselor. On November 2, 2001, the court sentenced Tate to five years in State prison on the sexual assault convictions and 18 months in State prison on the sexual contact convictions, to be served concurrently. The court ordered Tate to serve his time at the Adult Diagnostic Treatment Center at Avenel because his conduct was repetitive and compulsive. Tate was also subject to the registration, notification, address verification and DNA provisions of Megan's Law. The court also ordered him to forfeit his teacher's certificate and social worker's licenses. Tate currently holds a Supermarket Careers Certificate of Eligibility. Upon review of the above-mentioned information, the State Board of Examiners voted to issue Tate an Order to Show Cause at its meeting of May 9, 2002.

The Board sent the Order to Show Cause to Tate by regular and certified mail on December 19, 2002. He did not return either copy. The Order provided that an Answer must be filed within 20 days. Tate filed an Answer on January 7, 2003.

In his Answer, Tate asserted that he pled guilty to the criminal charges against him because the prosecutor's office had threatened him and he wanted to spare the alleged victims the further trauma of having to testify. (Answer, p. 1-2.) He also claimed that his case was on appeal and was likely to be overturned. He therefore argued that the Board of Examiners should not suspend or revoke his certificate at this time since it would be premature. (Answer, p.4.) Tate also noted that he had served as a teacher without blemish or personal or professional infractions. (Answer, p. 1.)

Thereafter, pursuant to N.J.A.C. 6:11- 3.6(a)1, on March 4, 2003, the Board of Examiners sent Tate a hearing notice by regular and certified mail.¹ The notice explained that since no material facts appeared in dispute, Tate 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 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. Tate filed a response to the hearing notice on March 25, 2003. In that response he reiterated that he had not had a fair trial and that his criminal case was on appeal. (Hearing Response, p. 2.) He also claimed that the conduct for which he was incarcerated was not related to his professional responsibilities. He added that his duties and responsibilities as an educator were not at issue. (Hearing Response, pp. 1-2.)

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Tate's offense and subsequent conviction constitutes conduct unbecoming a certificate holder. At its meeting of June 12, 2003, the State Board of Examiners reviewed the charges and papers Tate 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 Tate's offense were in dispute since he admitted he had been convicted. 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 Tate's conviction, represents just cause to act against his 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

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 *et seq.* Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

other just cause. N.J.A.C. 6:11-3.4. Teachers of the State of New Jersey “are professional employees to whom the people have entrusted the care and custody of ... school children.” Tenure of Sammons, 1972 S.L.D. 302, 321. There can be no argument that Tate has, by his heinous conduct, violated that most sacred trust. The court deemed it imperative that Tate no longer have access to children as a teacher. In fact, that court also agreed that Tate should be removed from society as a whole for an extended period.

Moreover, it is irrelevant that Tate’s behavior did not arise as a result of his teaching responsibilities. A teacher’s behavior outside the classroom may be relevant in determining that person’s qualifications and continued fitness to retain his certificate. In re Grossman, 127 N.J. Super. 13, 30 (App. Div. 1974), certif. denied, 65 N.J. 292 (1974). 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).

The New Jersey State Board of Examiners has a responsibility to protect New Jersey’s school children from predators like Tate. The only way to fulfill that obligation is to ensure that, as a teacher, he will never set foot in a New Jersey classroom again.

Accordingly, it is therefore ORDERED that John Tate’s Supermarket Careers Certificate of Eligibility be revoked on this 12th day of June 2003. It is further ORDERED that Tate return his 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.

Michael K. Klavon, Secretary
State Board of Examiners

Date of Mailing: November 5, 2004

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