

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ROGER FITZGERALD : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-236

At its meeting of June 10, 2004, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on February 6, 2003, Roger Fitzgerald had pled guilty to charges of endangering the welfare of a child-child pornography. On October 16, 2003, Fitzgerald was sentenced to two years' probation with counseling. He was also barred from having contact with children under 16 other than family members. Fitzgerald currently holds a Teacher of Social Studies certificate, issued in June 1986, a Principal/Supervisor Certificate of Eligibility, issued in July 1994, a Principal/Supervisor certificate, issued in March 1998 and a School Administrator Certificate of Eligibility, issued in November 1999. Upon review of the above information, at its June 10, 2004 meeting, the State Board of Examiners voted to issue Fitzgerald an Order to Show Cause.

The Board sent Fitzgerald the Order to Show Cause by regular and certified mail on July 27, 2004. The Order provided that Fitzgerald's Answer was due within 30 days. Both copies were returned as undeliverable and the Motor Vehicles Commission could not provide a current address for him. The Board then published the Order in two New Jersey newspapers on August 14 and 17, 2005. Fitzgerald did not respond to the published notices.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Fitzgerald's guilty plea to endangering the welfare of a child-child pornography constitutes conduct unbecoming a certificate holder. At its meeting of November 3, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no material facts related to Fitzgerald's offense were in dispute since he had never denied that he had been convicted of the offense. 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. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Fitzgerald's offense as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds 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. 6A:9-17.5*. “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. Fitzgerald’s act of endangering the welfare of a child is inexcusable for any individual, teacher or not.

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 (Sup. Ct. 1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). In this instance, Fitzgerald’s conviction for child pornography is sufficiently “flagrant” to warrant the revocation of his teaching certificates.

Accordingly, it is therefore ORDERED that Roger Fitzgerald’s Teacher of Social Studies certificate, Principal/Supervisor Certificate of Eligibility, Principal/Supervisor certificate and School Administrator Certificate of Eligibility be revoked on this 3rd day of November 2005. It is further ORDERED that Fitzgerald return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: DECEMBER 2, 2005

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