

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
KEVIN RICARDO : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 1011-175

At its meeting of May 12, 2011, the State Board of Examiners (Board) reviewed information received from the Hudson County Prosecutor's Office and the Office of Criminal History Review (OCHR) indicating that respondent Kevin Ricardo pled guilty in February 2011 to Aggravated Assault with Bodily Injuries. As a result of the conviction, Ricardo was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Ricardo currently holds a Teacher of Elementary School in Grades K-5 Certificate of Eligibility, issued in March 2004, and Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 certificates, both issued in October 2006. Ricardo did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of June 16, 2011 to issue Ricardo an Order to Show Cause why his certificates should not be revoked.

The Board sent Ricardo the Order to Show Cause by regular and certified mail on June 20, 2011. The Order provided that Ricardo must file an Answer within 30 days. Ricardo responded on July 7, 2011. In that Answer, Ricardo admitted his guilty plea but insisted that he pled guilty only because his three witnesses refused to appear in court since they were in this country illegally. (Answer, p.1). Ricardo stated that he had "little choice" but to agree to a crime he did not commit after "many months of failed subpoenas." (Answer, p. 1). He added that he finished his mandatory anger management classes and had filed to lower the duration of his probationary period. (Answer, p. 1). Ricardo noted that he was an excellent teacher and detailed some of his volunteer work. (Answer, p. 1). He asked the Board not to revoke the certificates he had worked so hard to obtain. (Answer, p.1). Finally, Ricardo also attached letters attesting to his character and accomplishments.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on July 22, 2011 the Board sent Ricardo a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Ricardo 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, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his disqualifying offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Ricardo was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Ricardo submitted a written response on September 8, 2011. He also asked to appear before the Board.

In his written response, Ricardo reiterated the claims he made in his Answer regarding his witnesses' refusal to testify in court despite having been subpoenaed, thereby forcing him to plead guilty to a crime he did not commit. (Hearing Response, p. 1). Ricardo elaborated that the incident in question began when new neighbors allowed their dog to defecate in his driveway and refused to clean up the dog waste after Ricardo told them to do so. (Hearing Response, p. 1). The neighbor told Ricardo she would "get him" and got a cousin to testify falsely that Ricardo committed assault. (Hearing Response, p. 1). Ricardo noted that he had lived in the same house for over thirty years and that the new people who moved onto the block were a "bad crowd" (sic). (Hearing Response, p. 2).

In his testimony, Ricardo explained that his current predicament began two years ago with the dog "incident" involving his neighbor. He stated that when he was walking to the bank down the street to retrieve some money for a vacation the next day, the police arrested him for assaulting his neighbor's child. Ricardo claimed that the allegations were nonsense and that the police did not want to hear his side of the story. As he had indicated previously in his written submissions, his witnesses did not appear in court to testify on his behalf so he had no choice but to plead guilty. Ricardo stated that the prosecutor told him he might be willing to dismiss Ricardo's probation early in February 2012. Ricardo also added

that he has never had any issues before and that this same neighbor was recently arrested for breaking and entering.

The threshold issue before the Board in this matter is whether Ricardo's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. At its meeting of December 16, 2011, the Board considered the allegations in the Order to Show Cause, Ricardo's Answer, Hearing Response and testimony. The Board determined that no material facts related to Ricardo's offense were in dispute since he never denied that he had been convicted of the offense charged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Ricardo's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

In enacting the Criminal History Review statute, *N.J.S.A. 18A: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. Individuals convicted of a crime such as Aggravated Assault, whether by jury verdict or guilty plea, fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students. "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. Clearly, Ricardo's conviction indicates his actions here are not those of a role model.

The strong policy statement on the part of the Legislature set forth in *N.J.S.A. 18A:6-7.1(b)* also offers guidance to the Board as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in 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. Thus, because the Legislature considers Ricardo's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Ricardo's certificates.

Accordingly, on December 16, 2011, the Board voted to revoke Kevin Ricardo's Teacher of Elementary School in Grades K-5 Certificate of Eligibility and his Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 certificates. On this 19th day of January 2012 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Kevin Ricardo's certificates be effective immediately. It is further ORDERED that Ricardo return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.