

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSEPH WINKELRIED : ORDER OF REVOCATION
_____ : DOCKET NO: 1112-131

At its meeting of November 1, 2011, the State Board of Examiners (Board) reviewed information received from the Atlantic County Prosecutor's Office and the Central Regional School District (CRSD) indicating that on November 16, 2009, Joseph Winkelried pled guilty to two counts of Assault By Motor Vehicle and was sentenced to two years' probation. The Board voted to issue Winkelried an Order to Show Cause at its meeting of December 16, 2011. The Division of Criminal Justice subsequently provided the Board with information that on January 18, 2011, Winkelried pled guilty to the downgraded offense of Wandering after having initially been charged with Conspiracy and Possession of CDS with Intent to Distribute. On that same date, Winkelried signed a Consent Order and was ordered to forfeit his public employment and was forever barred from all future public employment. Winkelried currently holds a Teacher of Social Studies certificate, issued in June 1990, and a Student Personnel Services certificate, issued in July 2004. Upon review of the updated information, at its June 21, 2012 meeting, the Board voted to issue Winkelried an Amended Order to Show Cause.

The Board sent Winkelried the Amended Order to Show Cause by regular and certified mail on June 25, 2012. The Order provided that Winkelried must file an Answer within 30 days. Winkelried responded on July 19, 2012. In that Answer, Winkelried denied that he had been convicted of Assault By Motor Vehicle but stated that he had pled guilty to two counts of Simple Assault.¹ (Answer, ¶ 3). He

¹ Although Winkelried denied that he had committed Assault By Motor Vehicle and stated that he pled guilty to simple assault, *N.J.S.A. 2C:12-1* is titled Assault. One of the types of assaults enumerated in the statute is Assault By Auto. Specifically, *N.J.S.A. 2C:12-1(c) (1)* states: A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

also admitted that he entered into the Consent Order on January 18, 2011.² (Answer, ¶ 5). He admitted that he had been sentenced to two years' probation. (Answer, ¶ 4). Winkelried also filed some affirmative defenses claiming, among other things, that the Amended Order to Show Cause involved allegations or conduct that did not warrant revocation; that it did not set forth a cognizable charge; that it was inaccurate, incomplete and disregarded critical evidence; that suspension or revocation of his teaching certificates was unwarranted due to mitigating circumstances and other factors regarding his employment history and teaching performance and because he had already been disciplined by virtue of his resignation from his teaching position. (Answer, Separate Defenses ¶¶ 1-4, 8).

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on July 24, 2012, the Board sent Winkelried a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Winkelried was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Amended 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 determined 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 Winkelried's offenses warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Winkelried was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. After submitting a request that the matter be transmitted to the Office of Administrative Law, which was denied, and receiving an extension of time in which to respond, Winkelried submitted a Hearing Response on September 14, 2012.

In his response, Winkelried stated that throughout his tenure with CRSD, he remained in good standing at all times and "had a proven track record as a teacher, guidance counselor and coach." (Hearing Response, ¶ 6). He added that he had an unblemished record, his evaluations were consistently good and that he had been nominated for Teacher of the Year on four different occasions. (Hearing

² In his Answer to the original Order to Show Cause, Winkelried acknowledged that the date on the Consent Order, January 18, 2010, was a clerical error and instead should have read January 18, 2011. (Answer to Order to Show Cause, ¶ 4, fn. 1).

Response, ¶ 6). Winkelried noted that he was involved in a motor vehicle accident in June 2009 and that the charges of Assault By Auto were later downgraded to a disorderly person's offense. (Hearing Response, ¶¶ 7-8). He stated that he successfully completed his two year probation and paid all applicable fines. (Hearing Response, ¶ 8). Winkelried also acknowledged that he was criminally indicted on a different matter in July 2009 and that the charges were resolved in January 2011 when he agreed by Consent Order to resign his teaching position and permanently forgo any future public employment in the State of New Jersey. (Hearing Response, ¶¶ 9-11). He added that the charges were amended to a disorderly persons offense for which he entered a guilty plea and paid all fines. (Hearing Response, ¶ 11). Winkelried stated that after his indictment and throughout 2011 he attended and successfully completed outpatient and inpatient rehabilitation programs and regularly attended NA meetings, which he continues to do. (Hearing Response, ¶ 12). In the remainder of his Hearing Response, Winkelried detailed his decision to pursue a new career as a drug and alcohol counselor. (Hearing Response, ¶¶ 14-18). He added that "the revocation of my New Jersey teaching certifications could significantly impair my ability to achieve my goal of completing the drug and alcohol counseling certification program and securing the certification." (Hearing Response, ¶ 20). In addition to his Hearing Response, Winkelried requested to appear before the Board.

In testimony before the Board, Winkelried's attorney noted that the events which led to Winkelried's resignation were petty criminal offenses and misdemeanors. She also noted that Winkelried had fulfilled his probation successfully and had no other convictions. She stated that Winkelried has turned his life around in two years and had "served his time," urging the Board to suspend and not revoke his certificates. In his testimony, Winkelried acknowledged that his issues were substance related and noted that he understood the events that led to his current situation. He added that he was getting his license to work as a counselor and had a 4.0 GPA in his program. Winkelried said he now works with mental health and substance issues and that when he runs into former students he is encouraged by how he is received. He noted that he was embarking on a path of correction and believed in second chances.

The threshold issue before the Board in this matter is whether Winkelried's convictions and consent order barring him from holding public employment in the State of New Jersey constitute conduct unbecoming a certificate holder. At its meeting of April 12, 2013, the Board considered the allegations in the Amended Order to Show Cause, Winkelried's Answer, Hearing Response and testimony. The Board determined that no material facts related to Winkelried's offense were in dispute since he admitted that he had been convicted of the charges³ and was permanently barred from public employment. 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 Amended Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Winkelried's convictions and subsequent bar from public employment, as set forth in the Amended Order to Show Cause, provide just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

The Board 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.

Moreover, it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. See *Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 *N.J.A.R.* 285 (1981). Winkelried has conviction for two offenses where his behavior was affected by his admitted substance abuse. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificates. *In re Grossman*, 127 *N.J. Super.* 13, 30 (App. Div. 1943), cert. denied 65 *N.J.* 292 (1974).

³ See Footnote 1.

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 (1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). In this matter, Winkelried's conviction for Assault By Motor Vehicle resulted in probation and his conviction for Wandering in a permanent bar from public employment. Although Winkelried has a wealth of experience, the fact remains that he has two convictions. Moreover, his subsequent public employment ban militates in favor of revocation. 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 barred from teaching in a public school be permitted to continue to hold himself out as a teacher. The Commissioner has long held that teachers serve as role models for their students. Clearly, Winkelried's convictions indicate that his actions here are not those of a role model. Indeed, the prosecutor agreed, seeking that Winkelried forfeit his teaching position and be forever barred from holding public employment. Thus, the Board believes that the only appropriate sanction in this case is the revocation of Winkelried's certificates.

Furthermore, notwithstanding Winkelried'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). Thus, the fact that Winkelried has completed his probation requirements, has been in rehabilitation programs and is seeking to become a certified alcohol and drug counselor, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on April 12, 2013, the Board voted to revoke Winkelried's Teacher of Social Studies and Student Personnel Services certificates. On this 16th day of May 2013 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Joseph Winkelried's

certificates be effective immediately. It is further ORDERED that Winkelried 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.

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.

RRH:MZ:th