

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DAVID B. BROWN : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-137

At its meeting of November 1, 2013, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding David B. Brown. The CHRU notified the Board that in 2008, Brown was convicted of Terroristic Threats. The CHRU notified the Board that, as a result of his conviction, Brown was also disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Brown currently holds a Teacher of Social Studies certificate, issued in October 1982 and a Student Personnel Services certificate, issued in March 1996.

Brown 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 December 6, 2013 to issue Brown an Order to Show Cause why his certificates should not be revoked.

The Board sent Brown the Order to Show Cause by regular and certified mail on December 11, 2013. The Order provided that Brown must file an Answer within 30 days. The certified mail copy was returned as "Unclaimed" and the regular mail copy was returned as "Undeliverable as Addressed." After securing a new address for Brown the Board re-sent the Order to Show Cause by regular and certified mail on March 11, 2014. The certified mail receipt was signed and returned and the regular mail copy was not returned. Brown did not file a response. Thereafter, on April 15, 2014, the Board sent Brown another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The

certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Brown did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on May 15, 2014, the Board sent Brown a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Brown 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. Brown was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as “Unclaimed” and the regular mail copy was returned as “Attempted-Not Known.” After securing another new address for Brown, on September 2, 2014 the Board re-sent the hearing notice to him by regular and certified mail. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Once again, Brown did not respond.

The threshold issue before the Board in this matter is whether Brown’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Brown failed to respond to the Order to Show Cause or the hearing notice, at its meeting of December 12, 2014, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Brown’s offense were in dispute since he never denied that he had been convicted of the offense charged and been subsequently disqualified.

Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C.* 6A:9B-4.7(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 Brown'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:9B-4.5. 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 crimes such as Terroristic Threats fall squarely within this category. The strong legislative policy statement is also 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. Moreover, 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 instance, Brown's conviction for Terroristic Threats demonstrates behavior that falls far short 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 Brown's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on December 12, 2014, the Board voted to revoke David B. Brown's Teacher of Social Studies and Student Personnel Services certificates. On this 23rd day of January 2015 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of David Brown's certificates be effective immediately. It is further ORDERED that Brown 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.