

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
PHYLLIS R. SMITH : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-177

At its meeting of December 12, 2014, the State Board of Examiners (Board) reviewed information the Middlesex County Prosecutor's Office had forwarded regarding Phyllis R. Smith. On September 2, 2014, Smith was accepted into a Pretrial Intervention program (PTI) for 2 years following her guilty plea to Aggravated Assault after having initially been charged with Robbery, Aggravated Assault, Unlawful Possession of a Weapon, Possession of a Weapon for Unlawful Purposes and Impersonation of a Law Enforcement Officer. According to the Criminal Complaint, during a road rage incident, Smith falsely identified herself as a law enforcement officer, entered the victim's vehicle and assaulted her, took the victim's purse and its contents and stabbed the victim multiple times with a pen. Smith currently holds a Teacher of Preschool Through Grade 3 Certificate of Eligibility, issued in December 2007. Upon review of the above information, at its January 23, 2015 meeting, the Board voted to issue Smith an Order to Show Cause as to why her certificate should not be revoked.

The Board sent Smith the Order to Show Cause by regular and certified mail on February 2, 2015. The Order provided that Smith had 30 days to respond. Smith filed an Answer on February 26, 2015. In that Answer, Smith stated that the notice was "overwhelming and shocking as to your details..." (Answer, p. 1). She added that she was "pleading not guilty and requesting that my certification not be revoked, due to illegal actions." (Answer, p. 1). Smith noted that her rights "have been violated again" and denied all of the allegations. (Answer, p. 1). Finally, Smith added that she was forwarding "these false allegations and illegal notification to higher authorities as well as my attorney." (Answer, p. 1).

Since there were material facts in dispute, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. On September 14, 2015, the Administrative Law Judge assigned to the case returned it to the Board after Smith failed to appear for a telephone status conference or respond to any communications. Pursuant to *N.J.A.C. 1:1-3.3*, the ALJ had provided Smith with 13 days to submit an explanation for her nonappearance. Smith did not submit an explanation or otherwise respond to that notice. At its meeting of December 10, 2015, the Board voted not to retransmit the matter to OAL.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on December 16, 2015, the Board sent Smith a hearing notice by regular and certified mail. Smith 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 determined to take action against her certificate. It also explained that upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Smith's offenses warranted action against her certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Smith was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Neither the certified mail copy nor the regular mail copy was returned. Once again, Smith did not respond.

The threshold issue before the Board in this matter is whether Smith's conduct constitutes conduct unbecoming a certificate holder. Since Smith failed to respond to any communications from the OAL or to the Board's hearing notice, at its meeting of March 3, 2016, the Board considered only the allegations in the Order to Show Cause as well as Smith's Answer. The Board determined that since Smith provided only a general denial but did not address the

Board's specific allegations, summary decision was appropriate in this matter. *N.J.A.C.* 6A:9B-4.6(h).

The Board must now determine whether Smith's conduct, as set forth in the Order to Show Cause, provides just cause to act against her certificate pursuant to *N.J.A.C.* 6A:9B-4.4. The Board finds that it does.

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:9B-4.4. "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). Smith's conduct in impersonating a law enforcement officer and then violently attacking another driver during a road rage incident is without doubt, egregious behavior. Smith's actions clearly demonstrate that she is not fit to be a role model. The Board therefore concludes that the only appropriate response to Smith's breach is the revocation of her teaching certificate.

Accordingly, on March 3, 2016, the Board voted to revoke Phyllis R. Smith's Teacher of Preschool Through Grade 3 Certificate of Eligibility. On this 14th day of April 2016 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Smith's certificate be effective immediately. It is further ORDERED that Smith return her certificate to the Secretary of the State Board of Examiners, Office of Certification and

Induction, 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.