

DHPL #2-97
SB #6-97

IN THE MATTER OF THE DISQUALIFI- :
CATION FROM SCHOOL EMPLOYMENT : STATE BOARD OF EDUCATION
OF C.W.R., JR. : DECISION

Decided by the Deputy Commissioner of Education, January 3, 1997

Decision on motion by the State Board of Education, April 2, 1997

For the Petitioner-Appellant, Bucceri & Pincus (Mary J. Hammer, Esq., of Counsel)

C.W.R. (hereinafter "petitioner"), who was employed as a teacher by the Leonia School District, was disqualified by the Office of Criminal History Review of the Department of Education from continued employment in the State's schools after a criminal history record review conducted pursuant to N.J.S.A. 18A:6-7.1 revealed that he had been convicted of possession of marijuana following an arrest in October 1986. Petitioner sought to overturn his disqualification on the basis of rehabilitation.

In a letter decision dated January 3, 1997, the Deputy Commissioner of Education upheld the disqualification,¹ concluding that petitioner had failed to

¹ We note that N.J.S.A. 18A:4-33 authorizes the Commissioner to "designate an assistant commissioner as deputy commissioner with full power to act in his place and stead during any absence or inability of the commissioner and at such other times as the commissioner may designate." Such authority expressly includes assignment by the Commissioner of the "hearing and determination of controversies and disputes which may arise under the school laws...." N.J.S.A. 18A:4-34.

demonstrate clear and convincing evidence of his rehabilitation as required by N.J.S.A. 18A:6-7.1.

Petitioner filed the instant appeal to the State Board of Education, along with a motion to supplement the record with additional letters of recommendation. On April 2, 1997, we granted petitioner's motion.

After a thorough review of the record, including the additional documents submitted by petitioner, we reverse the decision of the Deputy Commissioner. We find that petitioner has demonstrated clear and convincing evidence of his rehabilitation.

N.J.S.A. 18A:6-7.1 provides, in pertinent part:

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act if the individual has affirmatively demonstrated to the Commissioner of Education clear and convincing evidence of his or her rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

1. The nature and responsibility of the position which the convicted individual would hold;
2. The nature and seriousness of the offense;
3. The circumstances under which the offense occurred;
4. The date of the offense;
5. The age of the individual when the offense was committed;
6. Whether the offense was an isolated or repeated incident;
7. Any social conditions which may have contributed to the offense;
8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

Petitioner's submissions include a number of letters of recommendation attesting to his character. Petitioner's supervisor at his position in Leonia praises him as "an excellent teacher, caring about both the students and history. He, in fact, has taken on many out-of-classroom assignments, such as advisor to the Environmental Club and supervisor of our new after school Weight Room, that have greatly added to the quality of life at Leonia High School. Furthermore, I have always found [petitioner] to be totally professional and of high moral character and, again, would have no reservations about recommending him for a teaching position at Leonia High School." An observation report of petitioner's teaching abilities relates that he "has begun as a teacher of History at the high school in fine fashion. He is enthusiastic about his subject, and students respond to his enthusiasm with their own."

Petitioner's supervisor at a security company praises him as a "stable, hard working, dedicated, prudent, mature individual" who has "demonstrated an ability to perform his duties in a way that has brought credit to both him and our organization." The mayor of Hamilton Township, New Jersey commends petitioner as a "mature responsible adult."

Petitioner was 21 at the time of his arrest in 1986, and indicates that he had just completed two years of active duty in the Army. He subsequently graduated from Trenton State College in 1992 and earned a master's degree from the University of Connecticut in 1995. There have been no further arrests.

We find that further penalization of this individual is neither a just result nor warranted under the terms of the statute. Given the uncontradicted evidence in the

record, we conclude that petitioner has demonstrated clear and convincing evidence of his rehabilitation pursuant to N.J.S.A. 18A:6-7.1(e). Accordingly, we reverse the decision of the Deputy Commissioner disqualifying petitioner from service in the schools of New Jersey as a teacher.

June 4, 1997

Date of mailing _____