

EDE # 80-06
SBE # 0506-145
SB # 16-07

IN THE MATTER OF THE REVOCATION OF :
THE CERTIFICATE OF JULIETTE KERSAINT :
BY THE STATE BOARD OF EXAMINERS. :
STATE BOARD OF EDUCATION
DECISION

Decided by the State Board of Examiners, June 7, 2007

For the Respondent-Appellant, Wills, O'Neill & Mellk
(Edward Cridge, Esq., of Counsel)

For the Petitioner-Respondent, Patricia O'Neill, Deputy Attorney General
(Anne M. Milgram, Attorney General of New Jersey)

The decision of the State Board of Examiners is affirmed for the reasons expressed therein. In so holding, the State Board rejects the assertion of appellant that the Administrative Law Judge (ALJ) "in making his credibility findings, . . . applied an improper presumption of incredibility to [appellant's] testimony based upon her status as a party." Appeal brief, at 1. When assessing the appellant's credibility in his decision, the ALJ, after noting Kersaint's party status, specifically delineated the basis for finding her testimony not to be credible:

Her testimony at times blamed the administration, other teachers, students, or others, for some of the mistakes she made. At other times, her testimony was inconsistent. For example, she gave an impassioned statement how she would never leave a student who was injured. She also testified that the student with [an] injured arm left her office, instead of staying to wait for his mother. She also offered no logical explanation for

having the door locked and the lights off while she was alone in the nurse's office.

Initial Decision, slip op. at 17.

With regard to the incident in which a teacher, Karen Borrelli, was unable to get an inhaler from the nurse's office for a student having an asthma attack, the ALJ added:

[Appellant's] version of this incident does not appear to be credible. It does not make sense that she would be working in the office with the lights off doing paperwork and not hear someone knocking on the door. She also did not recall whether the door was locked or not. There does not appear to be any logical reason for the door to be locked when she is doing paperwork. As previously indicated, I have found the testimony of Karen Borrelli to be credible. Therefore, **I FIND**, the [appellant] was in her office with the lights off, shades drawn, and either refused to answer the door, or was asleep and did not hear the knocking on the door.

Id. at 20.

Read in its entirety, it is clear that the ALJ's decision provided an appropriate basis for finding that appellant's testimony was not credible and conformed with the legal requirements for assessing credibility of witness testimony.

October 17, 2007

Date of mailing _____