

MOHAMED EL-HEWIE, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 BERGEN COUNTY VOCATIONAL :
 SCHOOL DISTRICT, BERGEN COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

This case consolidates two appeals filed by petitioner subsequent to an April 2008 Commissioner decision dismissing an earlier appeal in which Mohamed El-Hewie contested the non-renewal of his employment as an alternate route provisional teacher of mathematics at the end of his 10 month, non-tenured contract for the 2005-06 school year, claiming that the respondent Board violated laws and regulations governing provisional teachers, and discriminated against him. The instant petition alleges that respondents colluded to commit fraud to terminate his employment, conspired to deprive petitioner of his rights as a provisional teacher, and failed to properly administer the provisional teacher mentoring program; the instant petition is one of many actions that petitioner has filed against the Board, Board members, and staff. Respondents filed a motion for summary judgment requesting dismissal based on the doctrines of collateral estoppel and res judicata.

The ALJ found, *inter alia*, that: the facts raised by petitioner in the instant petition simply re-argue his earlier position of improper renewal and deprivation of civil rights; the merits of his argument are neither new nor different than those raised in the appeal that was dismissed in April 2008; petitioner does not have the right to file a new petition based on the same facts because his initial appeal on those facts was dismissed without prejudice; and petitioner has already availed himself of the only proper procedural mechanism available to him – *ie*, an appeal to the Appellate Division of the New Jersey Superior Court, which was filed August 21, 2008. The ALJ concluded that the issues in the instant case are identical to – or arise entirely out of – those in the petitioner’s earlier appeal and, therefore, the principles underlying the doctrines of res judicata, collateral estoppel, and the entire controversy doctrine apply. The ALJ granted the respondents’ motion to dismiss, and ordered the consolidated appeal dismissed with prejudice.

Upon careful and independent review of the record, the Commissioner concurred with the ALJ and adopted the Initial Decision of the OAL as the final decision in this matter.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

November 13, 2008

OAL DKT. NOS. EDU 5251-08 AND EDU 7507-08
AGENCY DKT. NOS. 84-3/08 AND 105-2/08
(CONSOLIDATED)

MOHAMED EL-HEWIE, :
 :
 PETITIONER, :
 :
 V. :
 :
 ROBERT ALOIA, THOMAS KLEMM :
 AND JACK DRAKEFORD, :
 :
 RESPONDENTS. :
 :
 AND : **COMMISSIONER OF EDUCATION**
 :
 MOHAMED EL-HEWIE, : **DECISION**
 :
 PETITIONER, :
 :
 V. :
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 BOARD OF EDUCATION OF THE :
 BERGEN COUNTY VOCATIONAL :
 SCHOOL DISTRICT, :
 BERGEN COUNTY, ET AL. :
 :
 RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions to the Initial Decision.

Upon a full review of the record, the Commissioner fully concurs with the Administrative Law Judge that these consolidated matters are appropriately dismissed pursuant to the principles of res judicata, collateral estoppel, and the entire controversy doctrine.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter for the reasons comprehensively presented therein and the instant petitions of appeal are hereby dismissed with prejudice.

IT IS SO ORDERED*

COMMISSIONER OF EDUCATION

Date of Decision: November 13, 2008

Date of Mailing: November 13, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008. c. 36*