

#100-10 (OAL Decision: Not yet available online)

IN THE MATTER OF THE TENURE :
HEARING OF DAWN A. LEWIS, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
EAST ORANGE, ESSEX COUNTY. :
_____ :

SYNOPSIS

Petitioner certified tenure charges of unbecoming conduct against respondent – a tenured special education teacher in the district – based upon her arrest for DWI and indictment for alleged unlawful possession of a controlled dangerous substance (CDS) in April of 2009. Respondent subsequently was admitted into a pre-trial intervention (PTI) program regarding the charge of possession of a CDS, third degree. The petitioning Board sought dismissal of respondent from her tenured teaching position. Respondent contended that because the incident at issue occurred away from the school and out of the district, the penalty of dismissal is unnecessary and unwarranted.

The ALJ found that: it is uncontested that respondent was driving while intoxicated and that she was in possession of a CDS; the fact that possession of the CDS occurred off school premises has no bearing on the determination that the behavior underlying respondent’s arrest constituted conduct unbecoming; the petitioning Board had sustained its burden of proving that the respondent engaged in conduct unbecoming a teacher; and respondent’s entry into a PTI program does not negate the fact that she engaged in unbecoming conduct sufficiently flagrant to warrant dismissal. The ALJ determined that the nature and severity of the offense require that respondent be dismissed from her tenured teaching position.

Upon careful and independent review of the record, the Initial Decision of the OAL was adopted as the final decision in this matter, and the Commissioner directed that respondent be dismissed from her tenured position. A copy of this decision has been transmitted to the State Board of Examiners for action as that body deems appropriate.

<p>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.</p>

March 26, 2010

OAL DKT. NO. EDU 11406-09
AGENCY DKT NO. 234-9/09

IN THE MATTER OF THE TENURE :
HEARING OF DAWN A. LEWIS, : COMMISSIONER OF EDUCATION
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The record of this matter and the Initial Decision issued by the Office of Administrative Law (OAL) have been reviewed. Respondent requested and was granted an extension of time within which to file exceptions to the Initial Decision. Such exceptions and the District's reply thereto were fully considered by the Commissioner in reaching his determination herein.

Respondent excepts solely to the Administrative Law Judge's (ALJ) recommendation of a penalty of termination of employment in this matter, maintaining that such a sanction is unwarranted because: 1) the incident at issue took place outside of the school and the district where respondent was employed; 2) respondent has been employed by the District since September 1996 and there is no evidence of any prior blemish on her record prior to the incident at issue here; and 3) respondent has accepted responsibility for her actions and the interests of justice dictate that she deserves a second chance. (Respondent's Exceptions at 1-3)

Upon his reasoned review of the record, the Commissioner concurs with the Administrative Law Judge, for the reasons comprehensively presented in her decision, that the District has established its charge of unbecoming conduct/other just cause against respondent

and – finding respondent’s arguments to the contrary unpersuasive – that removal from her tenured position is the appropriate penalty here.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter. Respondent is hereby terminated from her position with the School District of the City of East Orange. This matter will be forwarded to the State Board of Examiners for action against respondent’s certificate(s) as that body deems appropriate.

IT IS SO ORDERED*

COMMISSIONER OF EDUCATION

Date of Decision: March 26, 2010

Date of Mailing: March 26, 2010

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*)