

#184-11

IN THE MATTER OF THE TENURE :
HEARING OF GEORGE H. FRIERY, JR., : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF : DECISION
BRIDGEWATER-RARITAN REGIONAL, :
SOMERSET COUNTY. :

SYNOPSIS

In January 2010, the petitioning Board certified charges of conduct unbecoming against respondent – a tenured Spanish teacher – for allegedly engaging in illegal sexual contact and interaction with a 15 year old student, which resulted in his arrest and charges on two counts of Endangering the Welfare of a Child. The Board sought to dismiss petitioner from his tenured position. Counsel for the respondent requested that the tenure charges be held in abeyance pending the disposition of the criminal charges against him.

In April 2011, the Board filed a motion for summary decision, reporting that respondent had, *inter alia*, entered a plea agreement whereby he was sentenced to 364 days in the Somerset County Jail and parole supervision for life, and been ordered to be subjected to the requirements of Megan’s Law. Subsequently, counsel for respondent responded to the motion stating that the Superior Court had issued a Corrected Judgment of Conviction indicating that Mr. Friery must resign his position and forfeit his teaching license subject to Megan’s Law. Accordingly, counsel pointed out that the Board’s tenure charges are now moot.

Upon review, the Commissioner concurred that the Order of the Superior Court directing respondent to resign his position and forfeit his certificate renders the Board’s tenure charges moot. Accordingly, the tenure charges were dismissed and the matter was transmitted to the State Board of Examiners for effectuation of the Court’s Order.

<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>

May 18, 2011

AGENCY DKT NO. 8-1/10

IN THE MATTER OF THE TENURE :
HEARING OF GEORGE H. FRIERY, JR., : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF : DECISION
BRIDGEWATER-RARITAN REGIONAL, :
SOMERSET COUNTY. :

For the District, Nicholas Celso, III, Esq., Schwartz, Simon, Edelstein & Celso

For Respondent, Edward Cridge, Esq., Wills, O'Neill & Mellk

This matter was opened before the Commissioner of Education on January 15, 2010, through the certification of tenure charges of unbecoming conduct against George H. Friery, Jr., a tenured teacher, by the School District of Bridgewater-Raritan Regional, Somerset County.

The Commissioner directed Respondent, by notice dated January 15, 2010, sent both certified and regular mail, to file an Answer to the tenure charges. By letter dated January 19, 2010, Edward Cridge, Esq. entered representation on behalf of respondent and requested that – as respondent was a defendant in a concurrent criminal proceeding arising from the same allegations as those contained in the tenure charges – pursuant to *Ott v. Board of Education of the Township of Hamilton*, 160 N.J. Super. 333 (App. Div. 1978), the tenure charges be held in abeyance pending the disposition of criminal charges pending against respondent.

On April 5, 2011, counsel for the District filed a Motion for Summary Decision reporting that:

[o]n or about March 18, 2011, Mr. Friery entered into a plea agreement wherein he pled guilty to Endangering the Welfare of a Child in the 3rd degree and Endangering the Welfare of a Child in the 4th degree and was sentenced to serve 364 days [in the] Somerset County Jail and parole supervision for life....Additionally, Mr. Friery was ordered to be subject to the requirements of Megan's Law, to register pursuant to *N.J.S.A. 2C:14-3b* and to pay monetary penalties. (District's Summary Decision Motion at 4)

The District alleges that based on respondent's admission of guilt on these charges – which involved conduct directly related to his employment, as the victim of the criminal acts was a minor female student – respondent must forfeit his employment with the Board pursuant to *N.J.S.A 2C:51-2* based on the underlying criminal charges. (*Id.* at 6-7) The District, therefore, requests that Commissioner enter summary decision directing respondent's removal from his employment with the District.¹ (*Id.* at 8)

By letter dated April 12, 2011, counsel for respondent replied to the District's motion stating that on March 23, 2011 the Superior Court of New Jersey, Somerset County, issued a Corrected Judgment of Conviction, which counsel attached to his letter. Such document specifically indicates that the defendant must resign as a teacher at Bridgewater Raritan High School and must forfeit his teaching license subject to Megan's law. Counsel points out that “as Mr. Friery's plea agreement required the forfeiture of his teaching certificate, it would appear as though the tenure charges certified by the Board of Education in this matter are moot.”

Upon review, the Commissioner concurs with counsel for respondent that the Order of the Superior Court directing respondent to resign his position and forfeit his certificate

¹ The Commissioner is compelled to note that pursuant to the amendment made to *N.J.S.A. 2C:51-2, P.L. 1995, c. 250*, the Commissioner of Education lacks jurisdiction to order forfeiture.

renders the District's tenure charges against him moot and, therefore, such charges are hereby DISMISSED.

This matter shall be transmitted to the State Board of Examiners to ensure effectuation of the Court's Order.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 18, 2011

Date of Mailing: May 18, 2011

² 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*)