

STATE BOARD OF EXAMINERS DKT. NO. 0708-164
AGENCY DKT NO. 1-2/12A

IN THE MATTER OF THE :
REVOCATION OF THE CERTIFICATE : COMMISSIONER OF EDUCATION
OF RICHARD DECKERT BY THE : DECISION
STATE BOARD OF EXAMINERS. :

Order of Revocation by the State Board of Examiners, December 2, 2009

For the Respondent-Petitioner, Richard Deckert, *pro se*

For the Petitioner-Respondent State Board of Examiners, Geoffrey N. Stark,
Deputy Attorney General (Jeffrey S. Chiesa, Attorney General of New Jersey)

The Commissioner¹ has thoroughly reviewed the record and the papers filed in connection with respondent's appeal of the State Board of Examiners' Order of December 2, 2009, revoking his Teacher of the Handicapped Certificate (certificate).

On November 19, 2008, the petitioner entered a guilty plea for Assault by Automobile, *N.J.S.A.* 39:4-50, and Driving While Intoxicated, *N.J.S.A.* 39:4-50, stemming from a motor vehicle accident where an occupant in the petitioner's car was killed, and he was sentenced to a four-year term of incarceration. On May 14, 2009, the Board of Examiners sent the petitioner an Order to Show Cause why his certificate should not be suspended or revoked. The petitioner filed an Answer on June 29, 2009. The Board of Examiners sent the petitioner a hearing notice on July 10, 2009, and on July 29, 2009, the petitioner's mother provided a response to the Board of Examiners.

The Board of Examiners voted to revoke petitioner's certificate at a meeting on October 22, 2009, finding that his convictions constituted conduct unbecoming a teacher. The

¹ This matter has been delegated to the Deputy Commissioner pursuant to *N.J.S.A.* 18A:4-33.

written decision was mailed to the petitioner on December 2, 2009 and re-sent to the petitioner on December 15, 2009.² On March 1, 2012, the petitioner filed a Petition of Appeal challenging the decision of the Board of Examiners.³

Upon such review, the Commissioner finds that the petitioner's March 1, 2012 petition was not timely filed in accordance with *N.J.A.C.* 6A:4-2.2. Pursuant to *N.J.A.C.* 6A:4-2.2., "[a]ppeals from final decisions of the Board of Examiners shall be filed within 30 days of the filing date of the decision from which appeal is taken." Moreover, under *N.J.A.C.* 6A:4-2.3(a), "[a] decision of the State Board of Examiners ... shall be deemed filed three days after the date of mailing to the parties." It is undisputed that on December 15, 2009, the Board of Examiners mailed its decision revoking the petitioner's certification, and as such the decision was deemed filed on December 18, 2009. As a result, the time for filing the appeal expired on January 18, 2010. It was not until two years later that the petitioner filed his appeal of the Board of Examiners' decision revoking his certification – well beyond the 30 day requirement contained in *N.J.A.C.* 6A:4-2.2.⁴ Accordingly, the petition of appeal is hereby dismissed as untimely.

IT IS SO ORDERED.⁵

DEPUTY COMMISSIONER OF EDUCATION

Date of Decision: August 7, 2012

Date of Mailing: August 7, 2012

² It is not clear from the record why the decision was re-sent to the petitioner.

³ By letter dated January 3, 2012 addressed to the Commissioner of Education, the petitioner expressed an interest in appealing the Board of Examiner's decision. Thereafter the petitioner filed a petition dated February 7, 2012. The petition however did not include proof of service on the Attorney General's Office in accordance with *N.J.A.C.* 6A:4-2.4(a). On March 1, 2012, the petitioner filed a petition that complied with *N.J.A.C.* 6A:4-2.4.

⁴ In his reply brief the petitioner recognized that his appeal was untimely, and stated that he had no justification for the delay.

⁵ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, c. 36.