

#229-12 (OAL Decision: Not yet available online)

MARTIN STEVENS, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
CITY OF BRIDGETON, CUMBERLAND :
COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner challenged the respondent Board's determination that he had not satisfied requirements for graduation, and therefore could not march in the processional or otherwise participate in high school graduation ceremonies in June 2012. The Board had based its determination on the fact that petitioner had accumulated 38 absences during his junior year which caused him to lose two credits each in English Literature and Health & Physical Education; he also failed Algebra 2 in his junior year. Additionally, petitioner failed to finish the district's summer credit completion program following his junior year, which would have enabled him to make up the credits he had lost. Petitioner contended that many of his 38 absences were for legitimate medical reasons and that he planned to attend the summer credit completion program and would have finished it had he not been unjustly incarcerated on charges that were ultimately resolved in his favor.

The ALJ found, *inter alia*, that: a local board of education is vested with broad discretionary powers over the schools within its jurisdiction, and – pursuant to *N.J.A.C. 6A:8-5.1* – has the authority to prescribe graduation requirements for a State-endorsed diploma; respondent Board has implemented a promotion/retention policy that requires a student to accumulate 130 credits in order to graduate and a pupil attendance policy that provides that any student who has accumulated a total of fourteen or more absences, either excused or unexcused, in a full year must attend the summer credit completion program to make up the missing credits; the Board does not dispute that the petitioner in this case was unable to attend summer credit completion because he was incarcerated; petitioner was entirely credible in his testimony; however, petitioner's unjustified incarceration does not excuse him from complying with the attendance requirements of the school district; and petitioner presented no testimony or evidence to establish that the actions and conduct of the Board were arbitrary, capricious or unreasonable. Accordingly, the ALJ concluded that the petition in this matter must be dismissed.

Upon full consideration, the Deputy Commissioner – to whom this matter was delegated pursuant to *N.J.S.A. 18A:4-33* – concurred with the ALJ for the reasons comprehensively detailed in the Initial Decision, which he adopted 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.

June 8, 2012

OAL DKT. NO. EDU 3172-12
AGENCY DKT. NO. 24-2/12

MARTIN STEVENS, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CITY OF BRIDGETON, CUMBERLAND :
 COUNTY, :
 :
 RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (“OAL”) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner.¹ The Board of Education did not file exceptions.

In his exceptions, the petitioner argues that the Administrative Law Judge (ALJ) erroneously found that the Board was not arbitrary, capricious or unreasonable when it determined that he did not have enough credits to graduate in June 2012.² Petitioner takes exception to the ALJ’s finding that he did not present any evidence to contradict the Board’s testimony and evidence that he accumulated 38 absences during his junior year causing him to lose two credits in both English Literature 11 and Health & Physical Education 11. The petitioner maintains that he provided a doctor’s note that described his medical condition and the need for continued treatment over the past few years. Additionally, the petitioner takes exception to the ALJ’s finding that the petitioner did not dispute or provide any testimony or

¹ The record contains no transcript from the hearing conducted at the OAL on April 30, 2012.

² Although petitioner was seeking to overturn the Board’s determination that he did not have enough credits to graduate in June 2012, when the petitioner filed his petition of appeal on February 1, 2012, he did not file a motion for emergent relief.

evidence to contradict the fact that he did not complete the summer credit completion program following his junior year. The petitioner argues that he explained that he did not complete the summer program because after three days of attending the program he was incarcerated for 10 days. In his exceptions, the petitioner also reiterates the arguments outlined in his original petition of appeal concerning his absences and the credits that he was not able to make up during the summer program. Therefore, the petitioner contends that the Initial Decision should be rejected, and he should be given the opportunity to make up the seven days he missed in credit completion so that he can walk in the June 2012 graduation ceremony.

Upon a comprehensive review of the record in this matter, the Deputy Commissioner – to whom this matter was delegated pursuant to *N.J.S.A. 18A:4-33* – concurs with the ALJ's determination that the Board was not arbitrary, capricious or unreasonable when it decided that the petitioner has not earned enough credits to graduate in June 2012. The Deputy Commissioner also finds petitioner's exceptions unpersuasive, largely reflecting arguments and objections previously raised before the ALJ and clearly taken into account by him in weighing the testimony and evidence.

Accordingly, the Initial Decision is adopted as the final decision in this matter for the reasons stated therein and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.³

DEPUTY COMMISSIONER OF EDUCATION

Date of Decision: June 8, 2012

Date of Mailing: June 8, 2012

³ Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.