
THOMAS MOLICA

v.

WILLIAM SAYRE
PEQUANNOCK TOWNSHIP
BOARD OF EDUCATION,
MORRIS COUNTY

BEFORE THE SCHOOL
ETHICS COMMISSION

OAL Dkt. No. EEC 11703-13
Docket No. C07-13

FINAL DECISION

PROCEDURAL HISTORY

This matter arises from a complaint filed on February 13, 2013, by Thomas Molica, alleging that William Sayre, President of the Pequannock Township Board of Education, violated the School Ethics Act (“Act”), N.J.S.A. 18A:12-21 et seq. Specifically, complainant asserts that the respondent violated N.J.S.A. 18A:12-24.1(e) and (j). A letter dated February 25, 2013 notified the respondent that charges against him were filed with the Commission and advised that he had 20 days to answer the complaint. This letter also advised the parties that the Commission did not have jurisdiction to review any claim alleging a violation of school policy or Election Law as those violations are not cognizable under the Act. On March 28, 2013, respondent’s attorney requested and was granted additional time to file a responsive pleading. Respondent filed a Motion to Dismiss in lieu of an Answer on April 1, 2013, alleging that the complaint was frivolous. Complainant filed a response to said allegation on April 25, 2013.

By letter dated May 7, 2013, the Commission notified the complainant and respondent that this matter was scheduled for discussion before the Commission on May 28, 2013, in order to make a determination regarding the respondent’s Motion to Dismiss and allegation of frivolousness. At its meeting on May 28, 2013, the Commission voted to deny the respondent’s Motion to Dismiss the allegation that the respondent violated N.J.S.A. 18A:12-24.1 (e) and (j). The Commission found that the complaint not frivolous, in accordance with the standard set forth at N.J.A.C. 6A:28-1.2. Pursuant to N.J.A.C. 6A:28-10.8(a), the Commission voted to transmit to the Office of Administrative Law for plenary hearing after the respondent filed his Answer with the Commission, which he did on July 11, 2013.

On July 24, 2013, in accordance with N.J.A.C. 6A:28-10.7(c)2, the matter was transmitted to the Office of Administrative Law for hearing as a contested case. The Administrative Law Judge, assigned to the matter, conducted a plenary hearing on February 11 & 14, 2014 and issued her Initial Decision April 17, 2014, concluding that the complainant failed to sustain his burden of proof that the respondent violated N.J.S.A. 18A:12-24.1 (e) and (j) and dismissed the matter.

The Decision was electronically transmitted to the Commission on the same date. Because the 45-day statutory period for issuing a final decision would expire on June 1, 2014, the Commission requested a 45-day extension of time for issuing its decision to allow the Commission, which meets only one day each month, to receive and review the full record of the matter, including exceptions and reply arguments on April 25, 2014. An Order granting the Extension was executed on April 29, 2014, extending the date for the Final Decision to July 16, 2014. Pursuant to N.J.A.C. 1:1-18.4, the complainant filed his exceptions to the Initial Decision on May 5, 2014 and the respondent submitted his reply exceptions on May 14, 2014.

The Commission reviewed the record of this matter, the Initial Decision of the ALJ, the exceptions and the reply thereto. At its meeting of May 27, 2014, the Commission adopted the conclusions of the ALJ and dismissed the complaint.

ANALYSIS

In a matter where the complainant alleges only violations of the Code of Ethics for School Board Members, the complainant bears the burden of factually proving any violations of the Code in accordance with the standards set forth at N.J.A.C. 6A:28-6.4(a). See also, N.J.S.A. 18A:12-29(b).

The Commission recognizes that often matters turn on the credibility of witnesses. In this regard, the Commission must give deference to the credibility determinations of the ALJ. “The reason for this rule is that the administrative law judge, as a finder of fact, has the greatest opportunity to observe the demeanor of the involved witnesses, and, consequently, is better qualified to judge their credibility.” In the Matter of Tenure Hearing of Tyler, 236 N.J. Super. 478, 485 (App. Div.), cert. denied, 121 N.J. 615 (1989).” Upon review of the record, the Commission hereby concludes that the ALJ’s credibility determinations in this matter must be given deference and her findings based on those determinations cannot be overturned.

Moreover, upon careful and independent review, the Commission finds that the record supports the ALJ’s conclusion that the complainant failed to meet his burden of proving by a preponderance of the credible evidence that the respondent violated N.J.S.A. 18A:12-24.1 (e) and (j) as alleged in the complaint. N.J.A.C. 6A:28-10.9(b). Although the complainant contends in his exceptions that the ALJ misjudged the testimony and the documentary evidence, the Commission determines that the findings issued by the ALJ provide a sufficient basis for her conclusions and recommendations. In this connection, the Commission recognizes that “the ultimate determination of the agency and the ALJ’s recommendations must be accompanied by basic findings of fact sufficient to support them.” State, Dept. of Health v. Tegnazian, 194 N.J. Super. 435 at 442, 443. The purpose of such findings “is to enable a reviewing court to conduct an intelligent review of the administrative decision and determine if the facts upon which the order is grounded afford a reasonable basis therefore.” (Id. at 443) Here, the Commission finds that the ALJ fairly summarizes the testimony and evidence. Because the Commission determines that the ALJ’s factual findings provide a reasonable basis for her conclusions, there is no cause to disturb her decision.

DECISION

For the foregoing reasons, the Commission accepts the findings of fact and conclusions of the Administrative Law Judge and adopts the Initial Decision of the ALJ, dismissing the complaint. This decision is a final decision of an administrative agency. Therefore, it is appealable only to the Superior Court--Appellate Division pursuant to New Jersey Court Rule 2:2-3(a).

Robert W. Bender, Chairperson

Mailing Date: June 25, 2014

Resolution Remanding Decision – C07-13

Whereas, the School Ethics Commission transmitted this matter on July 24, 2013, to the Office of Administrative Law for a plenary hearing, which was conducted on February 11 and 14, 2014; and

Whereas, the Administrative Law Judge concluded in her Initial Decision that based on credible evidence and testimony the complaint should be dismissed; and

Whereas, the Commission considered the entire record as well as the exceptions and reply thereto filed in response to the ALJ's decision; and

Whereas, at its meeting of May 27, 2014, the Commission determined to adopt the Initial Decision of the ALJ; and

Whereas, at its meeting on June 24, 2014, the Commission finds that the within decision accurately memorializes its adoption of the Initial Decision;

Now Therefore Be It Resolved, the Commission hereby adopts the within decision and directs it staff to notify all parties to this action of the decision.

Robert W. Bender, Chairperson

I hereby certify that this Resolution was duly adopted by the School Ethics Commission at it public meeting on June 24, 2014.

Joanne M. Restivo
Interim Executive Director
School Ethics Commission