

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
NICHOLAS ARMINIO : ORDER OF REVOCATON
_____ : DOCKET NO. 310 – 06/95-154

Mr. Arminio is the holder of a Teacher of Health and Physical Education license.

At its meeting of June 15, 1995, the State Board of Examiners reviewed information received from the Office of the Ocean County Prosecutor concerning Nicholas Arminio's October, 1994 entrance into a Pretrial Intervention Program (PTI). Mr. Arminio had been charged with sexual contact and official misconduct in his capacity as a physical education teacher. A condition of Mr. Arminio's entrance into the Pretrial Intervention Program was the surrender of his New Jersey teaching license. At that meeting the State Board of Examiners voted that the charges constituted sufficient grounds for issuing an Order to Show Cause. Nicholas Arminio was served with said Order to Show Cause by regular and certified mail on or about July 11, 1995. The Order provided that if Nicholas Arminio desired to file an Answer to said Order such answer must be filed within twenty (20) days. On July 31, 1995, an Answer to the Order to Show Cause was received from Michael M. Chiarella, Esq. on behalf of his client Nicholas Arminio.

Mr. Armino's Answer stated in one sentence that he requests a full hearing with respect to the revocation of his New Jersey teaching certificate.

On July 9, 1997, a hearing notice was mailed by certified mail to Mr. Chiarella. A regular mail copy was forwarded to Nicholas Arminio. The notice advised Mr. Chiarella and Mr. Arminio that after review of his Answer, it appeared that no material facts were in dispute regarding the allegations contained in the Order to Show Cause. He was advised that he was

provided an opportunity to submit written argument as to whether the allegations as set forth in the Order to Show Cause constitute cause to act against his teaching licensure. Both Mr. Arminio and his counsel were also advised that if, after review of the facts and legal arguments, the State Board of Examiners determines that the allegations lead the Board to conclude it should act against his licensure, the Board would also determine the appropriate sanction. On July 30, 1997 and again on August 29, 1997, a response to the hearing notice was received from Mr. Chiarella on behalf of Nicholas Arminio.

Mr. Chiarella's July 30, 1997, response stated that the criminal charges, which caused him to enter the Pre-Trial Intervention Program, were dismissed and there was no admission of guilt or punishment. By letter dated August 15, 1997, the Secretary of the State Board of Examiners advised Mr. Chiarella that, before the Board of Examiners could act on the Order to Show Cause issued on June 15, 1995 in this matter, it required official court documentation that the criminal case against Mr. Arminio was dismissed. Mr. Chiarella was provided a twenty (20)-day period to submit documentation of discharge of the criminal proceedings against his client.

Mr. Chiarella's August 29, 1997 letter included a copy of the Order of Dismissal filed by the Court on November 2, 1994. The Order of Dismissal indicated that the indictment/accusation against Nicholas Joseph Arminio was for two counts of criminal sexual contact. It stated that, "***having been terminated from the P.T.I. Program on 11/1/93 and having shown good cause for re-enrollment", Mr. Arminio apparently satisfactorily completed PTI, and thus, the Judge dismissed on November 2, 1994 the accusation/indictment.

By letter dated March 24, 1998, the Secretary of the State Board of Examiners acknowledged receipt of the responses tendered by Mr. Chiarella on Mr. Arminio's behalf. At the direction of the State Board of Examiners, which reviewed the responses submitted by Mr.

Chiarella at its February 26, 1998 meeting, the Secretary of the Board also reminded Mr. Chiarella that the basis for the issuance of the State Board of Examiners' Order to Show Cause was the Prosecutor's requirement that Mr. Arminio surrender his teaching license as a condition to gain entrance into PTI, and not the criminal offense that caused him to apply for PTI. She noted that, consequently, it is of no import that his client completed PTI. The Secretary to the State Board of Examiners also indicated to Mr. Chiarella that she was directed by the State Board of Examiners to extend to Mr. Arminio another opportunity to respond to the Order to Show Cause in a manner which addresses the basis for the Order. Thus, Mr. Chiarella was provided a twenty (20) day period to address on behalf of Mr. Arminio whether the Prosecutor's demand that Mr. Arminio be removed from the teaching profession before he could enter PTI constitutes cause to take action on his teaching licenses. The Secretary to the State Board of Examiner's letter was mailed by certified mail. No response has been received from Mr. Chiarella on behalf of Nicholas Arminio.

The record of this case includes information from Steven M. Janosko, Supervising Assistant Prosecutor of the Office of the Ocean County Prosecutor, concerning Mr. Arminio's October, 1994 entrance into PTI based on charges of two counts of criminal sexual contact and official misconduct in his capacity of physical education instructor. The letter from the Office of the Ocean County Prosecutor makes plain that a condition of Mr. Arminio's entrance into PTI was the surrender of his New Jersey Teaching license, the original of which was attached to the Prosecutor's letter. Because neither Mr. Arminio nor his counsel has responded in any meaningful way to the allegations set forth in the Order to Show Cause, the State Board of Examiners deems as admitted the fact that he was required to surrender his teaching licensure as a condition of entrance into PTI. Hence, the issue before the State Board of Examiners is

whether the fact that he was required to surrender his teaching licensure as a condition of entrance into PTI provides cause to act against Mr. Arminio's licensure pursuant to N.J.A.C. 6:11-3.6. As noted above, there was no response filed on behalf of Mr. Arminio to the hearing notice, so that the State Board Examiners did not have the benefit of his position on whether the conduct was improper.

By virtue of holding a teaching license, the respondent has been entrusted by the State with the care and custody of school children. Tenure Hearing of Sammons, 1972 S.L.D. 302, 321. In the judgment of the Ocean County Prosecutor, who demanded that Mr. Arminio surrender his teaching licensure as a condition of allowing Mr. Arminio's entrance into PTI, Mr. Arminio has, by his conduct, violated that most sacred trust. In the assessment of the Ocean County Prosecutor, who had knowledge of the facts underlying the indictment, the respondent will no longer be given access to children as a teacher. Mr. Arminio agreed to give up his right to teach in this state in order to avoid a trial on the criminal charges. The State Board of Examiners can do no less than to assure that Mr. Arminio is no longer a member of the teaching profession in New Jersey.

Accordingly, the State Board of Examiners finds Nicholas Arminio's having surrendered his teaching licensure as a condition of entrance into PTI provides just cause to act to revoke his licensure. The State Board of Examiners so finds having deemed as admitted the allegations set forth in the Order to Show Cause issued on June 15, 1995 in this matter.

It is therefore, ORDERED that, Nicholas Joseph Arminio's teaching license as a Teacher of Health and Physical Education is hereby revoked on this 18th day of June, 1998.

It is further ORDERED that, Nicholas Joseph Arminio return his teaching certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: July 23, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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