

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATION : STATE BOARD OF EXAMINERS  
OF : APPLICATION FOR CERTIFICATION  
NICHOLAS ARMINIO : AFTER REVOCATION  
\_\_\_\_\_ : DOCKET NO. 001-05/99

At its meeting of May 13, 1999, the State Board of Examiners reviewed an application submitted by Nicholas Arminio requesting certification as a Teacher of Health and Physical Education. Arminio had previously held that certification in New Jersey, but had surrendered it as a condition of entrance into a Pre-Trial Intervention (PTI) program. Arminio had been charged with two counts of criminal sexual conduct and official misconduct in his capacity as a physical education instructor.

The Board of Examiners had revoked Arminio's certificate on June 18, 1998, because it was a condition of his entrance into PTI that he no longer have access to children as a teacher. In the Matter of the License of Nicholas Arminio, Docket No. 310-06/95-154, p. 4 (Bd. of Examiners, June 18, 1998). The Board of Examiners found it persuasive that the Ocean County Prosecutor, who had knowledge of the facts underlying the indictment, required Arminio to give up his right to teach in this state in order to avoid criminal prosecution. Id. at 4. In fact, the Prosecutor sought the Board of Examiners' cooperation in ensuring that Arminio was "stricken from the roles of certified teachers in the State of New Jersey." Letter from Ocean County Supervising Assistant Prosecutor Steven M. Janosko to State Board of Examiners, dated May 1, 1995. Moreover, since Arminio had never responded to the allegations in the Order to Show Cause, the Board did not have the benefit of his views regarding his conduct. Id. at 3-4.

Arminio is now seeking certification after revocation. Pursuant to N.J.A.C. 6:11-3.6(g), Arminio must provide information to this tribunal as to the circumstances leading to the revocation of his prior certificate and demonstrate rehabilitation that warrants the issuance of a new one.

Furthermore, although Arminio is not a convicted offender (having gone through PTI), the provisions of the Rehabilitated Convicted Offender's Act, N.J.S.A. 2A:168A-1 et seq., are instructive in this case as well. Pursuant to that Act, an applicant for a license or certificate of authority or qualification to engage in the practice of a profession or business cannot be disqualified or discriminated against based upon a prior conviction unless the "conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate

is sought.” N.J.S.A. 2A:168A-2. In order to make that determination, the licensing authority looks at several factors:

- a. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying;
- b. Nature and seriousness of the crime;
- c. Circumstances under which the crime occurred;
- d. Date of the crime;
- e. Age of the person when the crime was committed;
- f. Whether the crime was an isolated or repeated incident;
- g. Social conditions which may have contributed to the crime;
- h. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision. Ibid.

Looking at both the statutory criteria as a guide and reviewing the less stringent requirements of N.J.A.C. 6:11-3.6(g), it is clear that Arminio is not a viable candidate for certification.

After a thorough review of Arminio’s submissions, the Board of Examiners determines that he has not adequately demonstrated rehabilitation. Nowhere does Arminio address the conduct that led to the revocation of his certificate, as required by the regulation. While he uses phrases such as “poor judgment” and “made mistakes,” he has not told this Board what led the Ocean County Prosecutor to ask that he be permanently barred from the teaching profession. Without such information, the Board of Examiners cannot rightly assess whether such conduct is likely to be repeated.

Moreover, in the report filed by Arminio’s psychologist, it is clear that Arminio did not provide full disclosure of events as they unfolded. He told his psychologist that his license had been revoked “without warning,” a patent falsehood. Letter of Dr. Wm. Dennis Coffey, dated March 17, 1999, p.1. He also told his doctor that because the Board of Examiners had received no response from him, it “had to revoke his license.” Ibid. His characterization of the Board’s actions is disingenuous at best. If the Board “had to revoke” Arminio’s certificate, it was because of the conditions of his PTI, not because he failed to respond to the Order to Show Cause. The tenor of

Arminio's submissions portrays him as the victim, while ignoring the effect his actions had on the real victim, his student.

Finally, the Prosecutor in this case demanded and Arminio agreed that Arminio's entrance into PTI must be preceded by a surrender of his teaching certificate. Obviously, the Prosecutor felt compelled to keep Arminio out of New Jersey's classrooms and to bar him from the teaching profession. That determination weighs heavily in our decision-making. Thus, while that factor alone does not preclude the eventual issuance of a new certificate to Arminio, in the absence of other compelling circumstances or a showing of compliance with N.J.A.C. 6:11-3.6(g)'s requirements, this Board finds no basis upon which to overturn that determination.

This Board must be ever mindful of its primary duty: to protect New Jersey's schoolchildren. By continuing to keep Nicholas Arminio out of our State's classrooms, it has fulfilled that obligation today.

For the foregoing reasons, the application of Nicholas Arminio for certification as a Teacher of Health and Physical Education after revocation, is hereby DENIED this 13<sup>th</sup> day of May, 1999.

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Secretary  
State Board of Examiners

Date of Mailing: July 9, 1999

Appeals may be made to the Commissioner of Education pursuant to the provisions of N.J.S.A. 18A:6-9.

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