

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN V. BRANDEMARTE : ORDER OF REVOCATION
_____ : DOCKET NO: 735-12/02-320

At its meeting of December 12, 2002, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that John V. Brandemarte was convicted in 1996 for bank robbery. As a result of that conviction, Brandemarte was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Brandemarte did not challenge the accuracy of his criminal history before the Commissioner of Education. Brandemarte currently holds a Teacher of Social Studies certificate issued in October 1973. Upon review of the above information, at that December meeting the State Board of Examiners voted to issue Brandemarte an Order to Show Cause.

The Board sent Brandemarte the Order to Show Cause by regular and certified mail on January 24, 2003. Brandemarte filed his Answer on February 9, 2003. In that Answer, Brandemarte admitted that the charges in the Order to Show Cause regarding his crime were true and accurate. (Answer, ¶¶ 1-4.) Brandemarte claimed that he had no alibi or excuses for what he did and acknowledged that it was morally and legally reprehensible. He added that he believed he had paid the price and was now a much better person. (Answer, ¶ 5.) In the remainder of his Answer Brandemarte discussed his crime and the rehabilitation efforts he had made since then. (Answer, ¶ 6.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on March 27, 2003, the Board mailed Brandemarte a hearing notice by regular and certified mail.¹ The notice explained that since it appeared no material facts were in dispute regarding his conviction, Brandemarte was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 *et seq.* Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Brandemarte responded to the hearing notice on April 14, 2003.

In that response, Brandemarte acknowledged that there were no documents he could present nor any argument he could make to prove that robbing banks was not conduct unbecoming a certificate holder. He again stated that he had paid his debt to society, having served for six years in a federal minimum-security prison. He argued that he would be a more effective teacher now since he could provide valuable guidance to students. (Hearing Response, p.1.)

The issue before the State Board of Examiners in this matter, therefore, is whether Brandemarte's conviction and disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represent just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that they do.

At its meeting of June 12, 2003, the State Board of Examiners reviewed the charges and papers Brandemarte filed in response to the Order to Show Cause. After review of those responses, the Board of Examiners determined that no material facts related to Brandemarte's offense were in dispute. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 et seq. in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. Individuals convicted of a crime such as bank robbery fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of acts of violence by teaching-staff members. "Teachers... are professional employees to whom the people have entrusted the care and custody

of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment.” Tenure of Sammons, 1972 S.L.D. 302, 321.

In this case, Brandemarte has a conviction for a series of crimes that involved theft and inflicting the fear of violence on others. A teacher’s behavior outside the classroom may be relevant in determining that person’s qualifications and continued fitness to retain his certificate. In re Grossman, 127 N.J. Super. 13, 30 (S. Ct. 1943), aff’d., 131 N.J.L. 326 (E&A 1944). Unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff’d., 131 N.J.L. 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Brandemarte’s disqualification from service in the public schools of this State because of his conviction for bank robbery provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Thus, because the Legislature considers Brandemarte’s offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Brandemarte’s Teacher of Social Studies certificate.

Moreover, notwithstanding Brandemarte’s contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is “to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation.” See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff’d., App. Div. Dkt. No. A-1246-96T5 (September 9,

1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990).

Accordingly, it is therefore ORDERED that John Brandemarte's Teacher of Social Studies certificate be revoked on this 12th day of June 2003. It is further ORDERED that Brandemarte return his certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Secretary
State Board of Examiners

Date of Mailing: November 5, 2004

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