

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
GARY BARBER : ORDER OF REVOCATION
_____ : DOCKET NO: 668-02/02-311

At its meeting of February 21, 2002, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on November 16, 2000, Gary Barber had pled guilty to charges of endangering the welfare of a child. On January 19, 2001, Barber was sentenced to three years' incarceration, fined, ordered to undergo DNA testing and to comply with the provisions of Megan's Law. Barber is currently the holder of a Teacher of Biological Science certificate issued in April 1981, a Teacher of Agriculture certificate issued in December 1981 and a Teacher of Vocational Education certificate issued in December 1981. Upon review of the above information, at that February meeting, the State Board of Examiners voted to issue Barber an Order to Show Cause.

The Board sent Barber the Order to Show Cause by regular and certified mail on April 8, 2002. The Order provided that Barber's Answer must be filed within 20 days. On April 26, 2002, his attorney filed a letter indicating that he would file a submission on Barber's behalf opposing the Order within the next few weeks. On March 7, 2003, the Board sent Barber's attorney a letter indicating that he had not filed a submission responding to the Order and allowing him an additional ten days to do so. No response has been filed by Barber or on his behalf.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Barber's guilty plea to endangering the welfare of a child constitutes conduct unbecoming a certificate holder. Since Barber did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1.¹ Since Barber's conduct, which was predicated on the

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.

same conviction as was set forth in the Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. Furthermore, 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). "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. There can be no dispute that Barber's criminal conviction for endangering the welfare of a child negates any claim she can have to being a role model for students. Moreover, Barber's acts are inexcusable for any individual, teacher or not. Thus, the only proper response to Barber's breach is revocation.

Accordingly, it is therefore ORDERED that Gary Barber's Teacher of Biological Science, Teacher of Agriculture and Teacher of Vocational Education certificates be revoked on this 8th day of May 2003. It is further ORDERED that Barber return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: January 27, 2005

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