

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
HENRY KOMOROWSKI : ORDER OF REVOCATION
_____ : DOCKET NO: 714-05/02-315

At its meeting of May 9, 2002, the State Board of Examiners reviewed a decision the Commissioner of Education had forwarded that had dismissed Henry Komorowski from his tenured position with the State-Operated School District of the City of Jersey City (hereafter Jersey City) for charges of unbecoming conduct. In the Matter of the Tenure Hearing of Henry Komorowski, Dkt. No. 275-9/99 (Commissioner's Decision, July 27, 2000.) Komorowski currently holds a Teacher of Elementary School Certificate of Eligibility, a Teacher of Industrial Arts certificate of Eligibility and Teacher of Industrial Arts and Teacher of Elementary School certificates.

This case originated when Jersey City certified tenure charges against respondent, Henry Komorowski. The district charged him with unbecoming conduct allegedly for repeatedly discussing with his fifth grade gifted and talented class methods to torture and kill L.S., a student in the class.

On September 27, 1999, the Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Mumtaz Bari-Brown heard testimony on several days in January and February 1999. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on June 8, 2000.

In that decision ALJ Bari-Brown found that Komorowski had participated in several discussions with his fifth grade class about ways of torturing and/or killing one particular student, L.S. The discussions included cutting his body apart with a saw, shooting him with a gun, using a flamethrower, sticking a sword into him, guillotining him, clubbing him and drawing and quartering him. (Initial Decision, slip op. at 8-9).

After considering all the testimony, ALJ Bari-Brown found that Komorowski's conduct was improper. She also held that his conduct encouraged an environment in which violence was considered acceptable. The ALJ therefore concluded that the Board had demonstrated that the

charge of unbecoming conduct of a teaching staff member it had brought against Komorowski was true. (Initial Decision, slip op. at 9-13).

In considering the appropriate penalty, the Judge examined Komorowski's unblemished teaching record. That mitigating factor, however, did not outweigh Komorowski's improper conduct. (Initial Decision, slip op. at 14). Thus, based on her review of the entire record, the ALJ concluded that Komorowski's breach was too substantial to allow for his continued employment in the district. (Initial Decision, slip op. at 14). Consequently, the ALJ ordered Henry Komorowski dismissed from his tenured employment.

In a decision dated July 27, 2000, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Komorowski. The Commissioner agreed with the ALJ that the local board had proven its case against Komorowski with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 20-21). The Commissioner found that Komorowski had breached his responsibilities as a teacher. (Commissioner's Decision, slip op. at 21). Accordingly, the Commissioner affirmed Komorowski's removal from his tenured employment with Jersey City and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding Komorowski's certificates.¹ Komorowski appealed the decision to the State Board of Education, which affirmed the Commissioner's decision on December 6, 2000. Komorowski then appealed from the State Board's decision to the Superior Court of New Jersey, Appellate Division, which affirmed the decision. In the Matter of the Tenure Hearing of Henry Komorowski, Dkt. No. A-2486-00T2 (App. Div. March 4, 2002.)

Thereafter, on May 9, 2002, the State Board of Examiners issued Komorowski an Order to Show Cause as to why his certificates should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

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.

The Board sent Komorowski the Order to Show Cause by regular and certified mail on December 3, 2002. The Order provided that Komorowski had to file an Answer within 20 days. Komorowski filed an Answer on December 18, 2002. In his Answer Komorowski admitted that the district had brought tenure charges against him. He also stated that the ALJ had found that he did not intend to harm L.S. or incite violence among his students. (Answer, ¶¶ 3-5). In the remainder of his Answer, Komorowski added that he did not have a clue that “the comments and discussions could be psychologically and emotionally harmful to young and impressionable students.”

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on March 3, 2003, the Board sent Komorowski a hearing notice by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, Komorowski 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, upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Komorowski responded to the Hearing Notice on March 27, 2003. In that response, Komorowski claimed that revocation was too harsh a penalty in this case. (Hearing Response, pp. 6-10.). He also stated that there was no evidence indicating that he actually harmed his students. He also added that he had no malicious intent or ill will toward his students. (Hearing Response, p.10.) Komorowski also stated that he was an asset to his school. (Hearing Response, pp.10-14.)

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Komorowski’s conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of May 8, 2003, the State Board of Examiners reviewed the charges and papers Komorowski filed in response to the Order to Show Cause. After reviewing his

response, the Board of Examiners determined that no material facts related to Komorowski's offense were in dispute since he admitted the conduct. Thus, Komorowski has not denied the charges in the Order to Show Cause. Accordingly, his actions regarding class discussions as to how to kill a student constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Komorowski's offense as set forth in the Order to Show Cause, represents just cause 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 Komorowski's behavior in these class discussions negates any claim that he can have to being a role model for students. Discussing violent ways to kill students clearly is not an appropriate topic for class discussion. Moreover, Komorowski's inability to recognize the potential damage these discussions could inflict upon impressionable minds is worrisome at best and speaks volumes about his lack of judgment. This immaturity does not belong in a classroom. Thus, the only proper response to Komorowski's breach is revocation.

Accordingly, it is therefore ORDERED that Henry Komorowski's Teacher of Elementary School Certificate of Eligibility, Teacher of Industrial Arts Certificate of Eligibility and Teacher of Industrial Arts and Teacher of Elementary School certificates be revoked on this 8th day of May 2003. It is further ORDERED that Komorowski 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: November 17, 2004

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