

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
FRANK BUTTICH : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-171

At its meeting of April 3, 2003, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on September 4, 2001, Frank Buttich had pled guilty to charges of criminal attempt, sexual assault. On November 15, 2002, Buttich was sentenced to six years in prison and fined. The court also ordered Buttich to comply with the provisions of Megan's Law, including community supervision for life. Buttich currently holds Teacher of Social Studies and Teacher of English certificates, issued in June 1972, and a Principal/Supervisor certificate, issued in June 1982. Upon review of the above information, at its April 3, 2003, meeting, the State Board of Examiners voted to issue Buttich an Order to Show Cause.

The Board sent Buttich the Order to Show Cause by regular and certified mail on July 14, 2004. The Order provided that Buttich's Answer was due within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Buttich filed his response on August 9, 2004. In that Answer, he stated that he never actually enticed, lured or sexually assaulted a child but, rather, was the subject of a government sting. (Answer, ¶ 3). Buttich claimed that his aberrant behavior in this instance was due to many factors including a recent divorce, depression, mounting finances and a series of failed relationships. (Answer, ¶ 3.) Buttich also expressed remorse for his behavior and stated that his actions were inexcusable. (Answer, ¶ 4.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on August 31, 2004, the Board of Examiners sent Buttich a hearing notice by regular and certified mail. The notice explained that

since it appeared no material facts were in dispute, he 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 Buttich's offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Buttich did not return either copy of the hearing notice, nor did he submit a reply.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Buttich's conviction for criminal attempt, sexual assault constitutes conduct unbecoming a certificate holder. At its meeting of December 9, 2004, the State Board of Examiners reviewed the charges and papers Buttich filed in response to the Order to Show Cause. After review of Buttich's submissions, the Board of Examiners determined that no material facts related to his offense were in dispute since he admitted that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Buttich's offense, as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. It finds 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. 6A:9-17.5*. "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. Buttich's acts of attempted sexual assault are inexcusable for any individual, teacher or not. While Buttich may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 N.J.L. 369, 371 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). In this instance, no one can argue that Buttich's offense renders him unfit to serve in New Jersey's schools. Indeed, the Court recognized that fact when it ordered him to forfeit his public employment and forever barred him from holding a public position.

Accordingly, it is therefore ORDERED that Frank Buttich's Teacher of Social Studies, Teacher of English and Principal/Supervisor certificates be revoked on this 9th day of December, 2004. It is further ORDERED that Buttich return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: FEBRUARY , 2005

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