

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
BESSIE HOLMAN : ORDER OF DISMISSAL
_____ : DOCKET NO: 0304-235

At its meeting of February 21, 2002, the State Board of Examiners reviewed a settlement forwarded by the Commissioner of Education in which Bessie Holman had agreed to resign from her tenured position with the State-Operated School District of the City of Newark (Newark). *In the Matter of the Tenure Hearing of Bessie Holman*, Docket No. 70-3/01 (Commissioner's Decision, August 15, 2001). Holman currently holds a Teacher of Nursery School certificate, issued in February 1981 and a Teacher of Elementary School certificate, issued in April 1982.

This case originated on March 12, 2001, when Newark certified tenure charges against Holman. The district charged her with unbecoming conduct and corporal punishment for allegedly hitting one student with a plastic keychain holder and another student over the head with an umbrella. The Division of Youth and Family Services (DYFS) had investigated both incidents. DYFS did not substantiate physical abuse in the first instance although it did have concerns about Holman's conduct. DYFS substantiated abuse in the second instance.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL) on April 9, 2001. Prior to hearing, the parties settled the matter. The Commissioner approved the settlement on August 15, 2001. Holman agreed to resign from her tenured position and the district agreed to withdraw the tenure charges. Accordingly, the Commissioner dismissed the matter and transmitted the case to the State Board of Examiners for appropriate action regarding Holman's certificates.

Thereafter, on February 21, 2002, the State Board of Examiners issued Holman an Order to Show Cause as to why her certificates should not be suspended or revoked. The Order was predicated on DYFS' substantiation of physical abuse.

The Board sent Holman the Order to Show Cause by regular and certified mail on April 8, 2002. The Order provided that Holman's Answer was due within 20 days. Holman filed an Answer on April 22, 2002. In her Answer, Holman denied the allegations that she had ever hit a child in the head with an umbrella. (Answer, ¶ 3). She also stated that of the 12 students DYFS interviewed in connection with the incident, only two alleged that they saw something happen. (Answer, ¶ 3). Holman added that those two students were friends of the victim and had been previously sent to the Principal's office numerous times for disciplinary problems. (Answer, ¶ 3). In the remainder of her Answer, Holman added that she had resigned from her tenured position with Newark and that her 120 day suspension without pay prompted severe economic difficulties. (Answer, ¶ 4). She also noted that when she signed the settlement she added a statement that "she was in no way admitting any wrongdoing." (Answer, ¶ 4).

After reviewing Holman's Answer, the Board of Examiners transmitted the matter to the OAL for hearing. ALJ Sandra Ann Robinson heard testimony on November 23 and 24, 2004 and on March 1, 2005. The ALJ closed the record on May 2, 2005 and issued her Initial Decision on May 31, 2005. *In the Matter of the Certificate of Bessie Holman*, Docket No. EDE 5950-02 (Initial Decision, May 31, 2005).

In that decision, the ALJ held that the Board of Examiners had not presented a preponderance of evidence demonstrating that Holman had hit the student on the head with an umbrella or that she used corporal punishment. (Initial Decision, slip op. at 20.)

Rather, ALJ Robinson found that Holman had tried verbally to get the student to stop playing with his umbrella and poking two female students before she physically intervened by taking the umbrella away and putting it in a closet. (Initial Decision, slip op. at 21.) The ALJ determined that Holman had acted properly in protecting the other students and had therefore not violated the prohibition against corporal punishment found in N.J.S.A. 18A:6-1. (Initial Decision, slip op. at 22-23.) These findings, coupled with Holman's unblemished record led the ALJ to conclude, "there is an absence of conduct unbecoming, in the matter against Respondent, and therefore a suspension or revocation of her teaching certificates is not warranted." (Initial Decision, slip op. at 24.) Accordingly, ALJ Robinson ordered the Order to Show Cause dismissed with prejudice. (Initial Decision, slip op. at 24.)

The Deputy Attorney General (DAG) representing the Board of Examiners filed exceptions to the decision and Holman's attorney responded. The DAG's exceptions focused on factual inaccuracies supporting the ALJ's credibility findings, such as whether the student was hit with the umbrella once or twice, whether the student had cried after the incident and whether the student's father was aware of the incident on the day it happened or several days later. (Exceptions, pp.2-3.) Holman's response focused on the reasonableness of the ALJ's findings, noting the majority of the students in the classroom never saw Holman strike the student; rather they only saw her take the student's umbrella away after he had been poking other students with the umbrella. (Reply, pp. 3-4, 6-7.)

The Board of Examiners considered the Initial Decision, the exceptions and Holman's response at its meeting on July 21, 2005. After a thorough review of all the submissions, the Board voted to adopt the Initial Decision in its entirety. As the ALJ had

the ability to view the witnesses and evaluate their credibility, the Board of Examiners will defer to that assessment. Furthermore, the Board of Examiners agrees that the evidence was conflicting and did not weigh in favor of a finding of unbecoming conduct.

Accordingly, it is therefore ORDERED that the Initial Decision issued in this matter be adopted in its entirety on this 21st day of July 2005. It is further ORDERED that the Order to Show Cause in this matter be dismissed with prejudice.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: AUGUST 18, 2005

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