

April 7, 2005

Ms. Rosa Sarduy

Re: In the Matter of the Certificates of Rosa Sarduy
Docket No. 0405-133

Dear Ms. Sarduy:

As you are aware, the State Board of Examiners issued an Order to Show Cause to you, by which the Board is seeking to revoke or suspend your teaching certificates. The Order was predicated on the decision of the State Board of Education that affirmed the decision of the Commissioner of Education removing you from your tenured teaching position. As your response to the Order to Show Cause, you provided documentation showing that you had filed a pro se appeal of the State Board of Education's decision with the Appellate Division. Accordingly, at its meeting of March 31, 2005, the State Board of Examiners reviewed your submission, which it deemed a motion to stay the certification matter pending the resolution of the appeal, pursuant to *N.J.A.C. 6A:9-17.21*. After careful review of the matter, for the reasons that follow, the Board denied the motion and directed you to file your Answer to the Order to Show Cause.

In determining whether to grant a stay of a matter, the State Board of Examiners relied on the standards established in *Crowe v. DeGioia*, 90 *N.J.* 126 (1982), which are incorporated in *N.J.A.C. 6A:9-17.21(b)*:

1. The moving party will suffer irreparable harm if the requested relief is not granted;
2. The legal right underlying the moving party's claim is settled;
3. The moving party has a likelihood of prevailing on the merits of the underlying claim; and
4. When the equities and interests of the parties are balanced, the moving party will suffer greater harm than the other party if the requested relief is not granted.

In applying the *Crowe v. DeGioia* test to this case, the State Board of Examiners finds that a stay is not warranted. Indeed, your sole reason for requesting that this matter be held in abeyance is that your tenure case is on appeal. The Board noted in particular that you failed to meet the second and third tests set forth above, to wit, your rights in this matter are not settled and there is little likelihood that you will prevail on the merits in your appeal, as the Administrative Law Judge assigned to the tenure matter, the Commissioner of Education and the State Board of Education found that your actions constituted unbecoming conduct warranting your removal from your tenured position.

Further, the State Board of Examiners noted that the proven charges against you in the tenure matter were extremely serious. For that reason, and because you do not meet the standards for a stay, the Board will not stay its case pending resolution of the appeal.

As the State Board of Examiners will not hold its case in abeyance, you are directed to file a written Answer to the Order to Show Cause admitting or denying the facts set forth in it. You must answer each paragraph in the Order to Show Cause specifically. A general denial will not be accepted. Send your Answer to the State Board of Examiners at P.O. Box 500, Trenton, New Jersey, 08625-0500. It must be filed with the State Board of Examiners within thirty (30) days of the date of mailing of this decision.

If you do not file an Answer within thirty (30) days from the mailing date of this Order to Show Cause, the State Board of Examiners will consider revoking or suspending your certificates based solely on the information that it now possesses.

Sincerely,

Michael K. Klavon, Acting Secretary
State Board of Examiners

MKK/AGL/sarduyrosa-deny stay

By certified and regular mail

Date of mailing:

This matter may be appealed to the State Board of Education pursuant to *N.J.A.C. 6A:4-1 et seq.*