

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
KEVIN JORDAN : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0506-287

At its meeting of June 8, 2006, the State Board of Examiners reviewed information received from the Cinnaminson Township Clerk indicating that on January 2, 2003, the Cinnaminson Municipal Prosecutor had charged Kevin Jordan with lewdness, contrary to the provisions of N.J.S.A. 2C:14-4a. On June 19, 2003, Jordan pled guilty to disorderly conduct and was fined and ordered to undergo counseling. He was also given a 90 day suspended jail sentence. Upon review of the above information, at its July 20, 2006 meeting, the State Board of Examiners voted to issue Jordan an Order to Show Cause. Jordan currently holds a Teacher of Elementary School Certificate of Eligibility With Advanced Standing, issued in August 2000 and a Teacher of Elementary School certificate, issued in July 2001.

The Board sent Jordan the Order to Show Cause by regular and certified mail on July 26, 2006. The Order provided that Jordan's Answer was due within 30 days. Jordan filed his response on December 4, 2006. In that Answer, Jordan stated that the allegations spoke for themselves and were not proof of unbecoming conduct. (Answer, ¶¶ 1-5).

The Board of Examiners transmitted the matter to the Office of Administrative Law (OAL). Administrative Law Judge Jeff Masin heard testimony on August 23, 2007. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on December 6, 2007. *In the Matter of the Certificates of Kevin Jordan*, Dkt. No. EDE 00460-07 (Initial Decision, December 6, 2007).

In that decision, ALJ Masin noted that, several times, Jordan had masturbated in front of the lone employee, a female, while he was the sole customer in a men's clothing store. (Initial

Decision, slip op. at 2-5.) Although Jordan testified that he thought he had her consent, the female employee testified that she had not liked what he did and told him so on a previous occasion. (Initial Decision, slip op. at 2-5.) Jordan's therapist, Dr. Fred Chase, also testified that after treating Jordan, he was convinced these incidents represented aberrational behavior and that Jordan was deeply regretful. (Initial Decision, slip op. at 6.) Dr. Chase further opined that Jordan's prognosis was excellent for not repeating the conduct. (Initial Decision, slip op. at 6.) The doctor expressed no concern that Jordan was a teacher. (Initial Decision, slip op. at 6.)

ALJ Masin found that the female employee never invited or encouraged Jordan to act as he did: "He may have thought she did, or may have hoped she did, and her failure to alert the police after the first incident may have encouraged him to believe she would not mind a second event, but I am convinced that what we have is an individual who decided, for his own possibly unfathomable reasons, to foist his own sexual activity on an unwilling victim." (Initial Decision, slip op. at 8.) The ALJ noted that the real question of the case was whether Jordan's lewd behavior of several years before precluded him from retaining his teaching certificates. (Initial Decision, slip op. at 8.)

After considering all the testimony and the case law, ALJ Masin determined "that the drastic revocation of Mr. Jordan's certificates is unwarranted." (Initial Decision, slip op. at 9.) The ALJ found that even though Jordan's behavior was "obnoxious" there was no evidence that he had "any likelihood of inflicting such improprieties upon his students." (Initial Decision, slip op. at 9.) The ALJ stated that he was "convinced by a preponderance of the credible evidence that Jordan does not pose a threat and that his misconduct is remote enough that it will not disserve his status as a role model for his students." (Initial Decision, slip op. at 10.) ALJ Masin

therefore concluded that no sanction needed to be imposed and he dismissed the Order to Show Cause. (Initial Decision, slip op. at 10.)

The Deputy Attorney General (DAG) representing the Board of Examiners filed Exceptions to the Initial Decision and Jordan filed Reply Exceptions. In her Exceptions, the DAG argued that the ALJ acknowledged that Jordan engaged in conduct unbecoming a teacher. (Exceptions, pp. 1-2.) The DAG further argued that ALJ Masin erred in relying on Dr. Chase's testimony to dismiss the Order to Show Cause since he was not a qualified expert in treating sexual predators and possessed "no specific knowledge as to how respondent's behavior may impact his abilities as a teacher." (Exceptions, p. 2.) The DAG therefore claimed that Jordan's actions "clearly warrant some level of action upon his certificates." (Exceptions, p. 4.) In his Reply Exceptions, Jordan argued that in rendering his decision, the ALJ fully and carefully considered Jordan's behavior and the potential impact of that behavior on his teaching position. (Reply Exceptions, p. 2.) Jordan reiterated that Judge Masin determined that Jordan's "behavior of several years ago was wholly unrelated to his employment, and had no impact whatsoever upon his ability or fitness to continue as a teacher. (Reply Exceptions, p. 2.) Moreover, Jordan claimed that since he met with Dr. Chase on six occasions, the doctor had "ample opportunity to thoroughly diagnose Respondent, and form a prognosis with respect to his psychological condition and behavior." (Reply Exceptions, p. 2.) Thus, according to Jordan, since the ALJ determined that Jordan's ability and fitness to teach were unaffected by his past actions, the ALJ was correct in dismissing the Order to Show Cause. (Reply Exceptions, p. 3.)

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of January 17, 2008, the State Board of Examiners reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of all the

submissions, the Board voted to reject the Initial Decision. There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings. However, credibility is not at issue in this matter. Jordan has not denied that, at a minimum, he exposed himself in full sight of an unwilling witness. His behavior leaves no doubt that he clearly has engaged in conduct unbecoming a teacher, one of the grounds for revocation or suspension of a teaching certificate. *N.J.A.C. 6A:9-17.5*. Accordingly, the remaining decision for this Board is one of penalty.

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*. 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). “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. The Board of Examiners agrees with the ALJ that Jordan’s conduct warrants condemnation. Where the Board and the ALJ part company is the decision of the appropriate response to Jordan’s breach. Jordan’s acts of public masturbation are inexcusable for any individual, teacher or not. While he may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Jordan argues that he should retain his certificates since the incident occurred off school grounds. It is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were

unrelated to the classroom. See *Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 *N.J.A.R.* 285 (1981).

Moreover, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher's whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See *In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County*, 1965 *S.L.D.* 159, *aff'd*, State Board of Education 1970 *S.L.D.* 448; *In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County*, 1971 *S.L.D.* 623.

[*In the Matter of the Tenure Hearing of Robert H. Beam*, 1973 *S.L.D.* 157, 163.] Jordan therefore cannot exclude his "out-of-school" behavior from this tribunal's examination.

Notwithstanding Jordan's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See *In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 *N.J.A.R.* 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Jordan has taught successfully in another

district, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on January 17, 2008 the Board of Examiners voted to revoke Jordan's Teacher of Elementary School Certificate of Eligibility With Advanced Standing and Teacher of Elementary School certificate. On this 21st day of February 2008 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Kevin Jordan's certificates be effective immediately. It is further ORDERED that Jordan return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

---

Robert R. Higgins, Secretary  
State Board of Examiners

**Date of Mailing: FEBRUARY 28, 2008**

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