

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS  
DONALD BARNES : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0910-150

At its meeting of January 7, 2010, the State Board of Examiners (Board) reviewed information it had received from the Office of Criminal History Review (OCHR) regarding Donald Barnes. OCHR reported that Barnes was accepted into a Pretrial Intervention program (PTI) in 2007 after being charged with Aggravated Assault, Possession of a Weapon, Obstructing the Administration of Justice and Resisting Arrest. Barnes holds a Teacher of the Handicapped certificate, issued in December 1996. Upon review of the above information, at its March 25, 2010 meeting, the Board voted to issue an Order to Show Cause to Barnes as to why his certificate should not be revoked.

The Board sent Barnes the Order to Show Cause by regular and certified mail on April 8, 2010. The Order provided that Barnes must file an Answer within 30 days. Barnes responded on May 7, 2010. In his Answer, Barnes claimed that the charges against him were “false and invalid” and the details of those charges were “vague.” (Answer, ¶ 3). Barnes stated that he agreed to PTI because it was a “less expensive vehicle to have the charges dismissed and that under no circumstances would I enter a plea of guilty to any of these invalid charges.” (Answer, ¶ 4). Barnes added that he did not understand how the Board could find his conduct, “which did not occur and which was dismissed,” as the basis for depriving him of his livelihood. (Answer, ¶ 5). In a certification attached to his Answer, Barnes added that in entering PTI, he made no admissions, did not engage in the conduct alleged and proceeded with PTI because he was assured there would be no future consequences or legal disadvantage. (Barnes Certification, ¶¶ 3, 4).

Since there were material facts in dispute, on June 3, 2010, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Upon motion by the

parties, Administrative Law Judge (ALJ) Tiffany Williams heard the matter on the papers through stipulated facts and written summations. The record closed on July 8, 2011 and the ALJ issued an Initial Decision on August 22, 2011. *In the Matter of the Certification of Donald Barnes*, Dkt. No. EDE 4692-10 (Initial Decision, August 22, 2011).

In that decision, ALJ Williams found that Barnes was employed as a Special Education teacher in Pleasantville from 1991 to 2003. (Initial Decision, slip op. at 2). In 2003 Barnes began working in the Lakewood school district as a Special Education teacher and head football coach. *Ibid.* On October 15, 2005, Barnes was at home with his friend, Major Finklin. *Id.* at 3. Finklin and Barnes had been drinking beer and tequila all night. *Ibid.* Barnes began yelling that people were trying to kill him for his insurance policy and grabbed a long serrated knife from the kitchen. *Ibid.* When he and Finklin struggled, Finklin was cut on his upper right arm. *Ibid.* Barnes locked himself and Finklin in the bedroom and prevented police from entering when they responded to a call from Barnes' wife. *Ibid.* Although Finklin was screaming that he was bleeding and needed medical attention, Barnes prevented police officers from entering the room. *Ibid.* After the police removed the bedroom door from its hinges, Barnes tried to force the unhinged door back onto the officers. *Ibid.* The officers eventually entered the room, where Barnes still struggled with them. *Ibid.* They were able to forcibly subdue him and handcuff him. *Ibid.* After Barnes was arrested, police found a folded up one-dollar bill on his person which contained a quantity of a whitish powder. *Id.* at 4. The bill tested positive for cocaine. *Ibid.* Barnes was suspended from his position in Lakewood and resigned, effective February 1, 2006. *Ibid.* Barnes was admitted into PTI on March 16, 2006 and completed PTI one year later. *Ibid.* Barnes was re-hired as a special education teacher by Pleasantville after completing PTI and has remained in its employ ever since. *Ibid.*

After assessing the evidence, ALJ Williams concluded that “the Board sufficiently proved by the preponderance of the credible evidence that Barnes’ conduct was unbecoming of a teacher and warrants revocation of his teaching certification.” *Id.* at 5. The ALJ found Barnes’ actions on

October 15, 2005 “violent and maniacal, as evidenced by the severity of Finklin’s wounds and the extensive blood that was documented in the residence after the altercation.” *Ibid.* ALJ Williams further found that Barnes’ action in barricading himself and Finklin in a locked room, thereby thwarting police intervention, as well as his possession of cocaine made the finding of his unbecoming conduct a *fait accompli*. *Ibid.* Although the ALJ acknowledged that Barnes had a long, blemish-free career other than this one incident, she noted that “nevertheless, the severity of his conduct on the night in question was so egregious as to cast doubt on his fitness to serve as a teacher.” *Id.* at 7. She therefore concluded that Barnes’ certificate should be revoked. *Ibid.* Both parties submitted Exceptions in the case.

In his Exceptions, Barnes argued that the ALJ ignored that his actions on October 15, 2005 did not touch on his employment; he further claimed that the prosecutor recognized this by not forcing Barnes to forfeit his public employment as a condition of PTI. (Exceptions, pp. 2-6). Barnes further opined that the ALJ should have employed equity in this case since he had fully completed the provisions of PTI and now had “clean hands.” (Exceptions, pp. 7-8). Barnes also argued that the ALJ had given no weight to the fact that his record could have been expunged after he completed PTI. (Exceptions, pp. 8-9). Finally, Barnes requested that if the Board did decide to revoke his certificate, it would stay its decision pending his appeal. (Exceptions, p. 9).

In her Reply Exceptions, the Deputy Attorney General (DAG) representing the Board argued that Barnes was incorrect in his claim that the ALJ should have considered the prosecutor’s determination that Barnes’ offense did not touch on his employment. (Reply Exceptions, pp. 1-3). The DAG argued that the prosecutor is not charged with determining Barnes’ fitness to teach but rather that the Board has that sole responsibility. (Reply Exceptions, p. 2). The DAG further noted that Barnes’ conduct outside of school was also subject to scrutiny since “conduct unbecoming” covered a broad range of behavior. (Reply Exceptions, pp. 2-3). The DAG claimed that Barnes’ completion of PTI and unblemished subsequent performance in Pleasantville were beyond the scope

of the hearing, which was merely to allow the certificate holder the opportunity to counter the charges in the Order to Show Cause. (Reply Exceptions, pp. 3-4). The DAG argued that Barnes had not done that but merely relied on his successful completion of PTI and his performance in Pleasantville. (Reply Exceptions, p. 4). Finally, the DAG countered Barnes' expungement argument, noting that he had not had his record expunged and that the Order to Show Cause was premised on the conduct underlying his arrest and not the arrest itself. (Reply Exceptions, pp. 4-5).

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of September 22, 2011, the Board reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of the Decision, the Board voted to adopt the Initial Decision.

As noted above, ALJ Williams concluded that Barnes' conduct on the night of October 15, 2005, although an aberration in an otherwise unblemished career, was egregious enough to warrant the revocation of his teaching certificate. (Initial Decision, slip op. at 7). The Board agrees. Barnes has clearly engaged in conduct that negates his status as a role model for students. Moreover, Barnes offered nothing by way of mitigation of his conduct. Rather, he focused only on his successful completion of PTI, which is a necessary prerequisite to having the charges dismissed, and his spotless record in Pleasantville, which should be the very least he should establish.

Furthermore, notwithstanding Barnes' 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 Barnes may have a stellar record post arrest, while a step in

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

Accordingly, on September 22, 2011, the Board voted to adopt the Initial Decision to revoke Barnes' teaching certificate. On this 1st day of November 2011, the Board of Examiners formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that Donald Barnes' Teacher of the Handicapped certificate be hereby revoked effective immediately. It is further ORDERED that Barnes return his certificate 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.

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Robert R. Higgins, Secretary  
State Board of Examiners

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to *N.J.S.A.* 18A:6-38.4.