

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
STEPHEN R. SCHWEIZER : ORDER OF SUSPENSION
_____ : DOCKET NO: 1617-162

At its meeting of December 9, 2016, the State Board of Examiners (Board) reviewed information the Superior Court of New Jersey, Cape May County and the Criminal History Review Unit (CHRU) had forwarded regarding Stephen R. Schweizer. On June 13, 2016, after a jury trial, Schweizer was convicted of Resisting Arrest/Eluding-Creating a Risk of Death. On August 17, 2016, Schweizer was sentenced to four years in prison. Schweizer currently holds a Teacher of Social Studies certificate, issued in April 2002. Upon review of the above information, at its January 19, 2017 meeting, the Board voted to issue Schweizer an Order to Show Cause as to why his certificate should not be revoked.

The Board sent Schweizer the Order to Show Cause by regular and certified mail on January 23, 2017. The Order provided that Schweizer had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. Schweizer did not file a response.

Thereafter, on March 1, 2017, the Board sent Schweizer another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail and the regular mail copies were both returned as "Refused." After securing a new address for Schweizer, the Board re-sent that notice by regular and certified mail on April 20, 2017. The certified mail receipt was signed and returned and the regular copy was not returned. Schweizer did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on May 24, 2017, the Board sent Schweizer a hearing notice by regular and certified mail. The notice explained that the

allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, Schweizer was offered an opportunity to submit written arguments on the issue of whether the conduct as set forth in the Order to Show Cause provided just cause to take action against his certificate, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificate. Schweizer was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Schweizer responded in August 2017.

In his Hearing Response, Schweizer apologized for the incident and admitted he made a huge mistake “by getting behind the wheel after drinking.” (Hearing Response, p. 1). He explained that he got a flat tire less than a mile from his house and did not realize that there was a police officer behind him until he was about .3 miles from his house. (Hearing Response, p. 1). Schweizer explained that since the road was dark and had no shoulder it would be safer to drive home and pull into his driveway. (Hearing Response, p. 1). He said when he exited his vehicle, the officer ran at him at gun point and threw him to the ground. (Hearing Response, p. 1). He said he was compliant and the officer smashed his head into the concrete driveway. (Hearing Response, p. 1). He added that another officer arrived and started punching him in the face and that it was obvious he was not resisting. (Hearing Response, p. 1). Schweizer stated that the police officers lied at trial and that the charges against him were trumped up because the police could not justify their use of force against him. (Hearing Response, p. 1).

Schweizer said that he sustained two broken eye sockets, a broken nose, torn ligaments in his thumb, a severe concussion and neck and back disc bulges. (Hearing Response, p. 1). Schweizer stated that the officers did not have the audio on during the incident and that one

officer turned on her sound recorder after the incident was over. (Hearing Response, p. 2). Schweizer said that he did not accept Pretrial Intervention because he could not lie to a judge saying that he had committed Aggravated Assault, Resisting Arrest and Eluding. (Hearing Response, pp. 2-3). He stated that his sentence was downgraded by the judge because she did not believe he should be sentenced on a 2nd degree crime. (Hearing Response, p. 3). He noted that he was released from prison early after pleading guilty to a misdemeanor charge of resisting arrest. (Hearing Response, p. 3). Schweizer added that all three officers involved in his case no longer work for the police department. (Hearing Response, p. 3). Finally, he noted that prior to this incident he had never even had a brush with law enforcement. (Hearing Response, p. 3). He did not excuse his behavior of drinking and driving and assured the Board that this behavior would never happen again. (Hearing Response, p. 3).

The threshold issue before the Board in this matter is whether Schweizer's conduct and conviction constitute conduct unbecoming a certificate holder or other just cause. Since Schweizer failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, in determining whether Schweizer engaged in unbecoming conduct, at its meeting of December 8, 2017, the Board considered only the allegations in the Order to Show Cause and the information received from the New Jersey Superior Court and the CHRU. The Board concluded that no material facts related to Schweizer's offense were in dispute since he never denied that he engaged in the conduct alleged or was convicted and therefore determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.7(h)*. After reviewing the allegations, the Board found that Schweizer had engaged in unbecoming conduct.

The Board must now determine whether Schweizer's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificate pursuant to *N.J.A.C. 6A:9B-4.4*. The Board finds that it does.

The Board 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:9B-4.4*. "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. Moreover, 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this matter, Schweizer has a conviction for Resisting Arrest and Creating a Risk of Death, an offense which resulted in a prison sentence. That conviction leaves no doubt that some action against his certificate is warranted. However, his heretofore unblemished record and the fact that this behavior is unlikely to recur act towards mitigation of the most severe sanction. Apparently the judge thought so too, as she reduced his sentence and he was released from prison after four months. While Schweizer's conduct demonstrates behavior that falls short of a role model, the Board believes that, in this case, the appropriate sanction is a three-year suspension of Schweizer's teaching certificate.

Accordingly, on December 8, 2017, the Board voted to suspend Stephen R. Schweizer's Teacher of Social Studies certificate for a period of three years. On this 19th day of January 2018 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Schweizer's certificate be effective immediately. It is further ORDERED that Schweizer return his certificate to the Secretary of the State Board of Examiners, Office of

Certification and Induction, 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

RRH/MZ/th

Date of Mailing:

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