

DHPL #480-96
SB # 85-96

IN THE MATTER OF THE DISQUALIFI- : STATE BOARD OF EDUCATION
CATION FROM SCHOOL EMPLOYMENT : DECISION
OF W.W. :

Decided by the Deputy Commissioner of Education, November 1, 1996

For the Petitioner-Appellant, W.W., pro se

W.W. (hereinafter "petitioner"), who was employed as a custodian for a private school operated by Cerebral Palsy of New Jersey, was disqualified by the Office of Criminal History Review of the Department of Education from continued employment in the State's schools when a fingerprint search conducted pursuant to N.J.S.A. 18A:6-7.1 revealed three convictions following arrests between June 1991 and May 1993 for possession and distribution of controlled dangerous substances. Petitioner sought to overturn his disqualification on the basis of rehabilitation.

In a letter decision dated November 1, 1996, the Deputy Commissioner of Education upheld the disqualification,¹ concluding that petitioner had failed to

¹ We note that N.J.S.A. 18A:4-33 authorizes the Commissioner to "designate an assistant commissioner as deputy commissioner with full power to act in his place and stead during any absence or inability of the commissioner and at such other times as the commissioner may designate." Such authority expressly includes assignment by the Commissioner of the "hearing and determination of controversies and disputes which may arise under the school laws...." N.J.S.A. 18A:4-34.

demonstrate clear and convincing evidence of his rehabilitation as required by N.J.S.A. 18A:6-7.1. The Deputy Commissioner stressed in so doing that petitioner's criminal history was "extremely serious and relatively recent."

Petitioner, acting pro se, filed the instant appeal to the State Board.

We note initially that petitioner has submitted letters in support of his appeal which were not included in the record before the Deputy Commissioner. Although petitioner has not filed a motion to supplement the record on appeal, N.J.A.C. 6:2-1.9, given petitioner's pro se status, we have supplemented the record sua sponte and have considered those letters in determining this matter. While those submissions reveal that petitioner is making significant progress towards rehabilitation, we affirm the decision of the Deputy Commissioner disqualifying petitioner from service in the schools of New Jersey, particularly in light of the fact that his recent convictions include Possession with Intent to Distribute Controlled Dangerous Substances Within 1,000 Feet of School Property and that the drugs at issue in that case were heroin and cocaine. Given the recent nature and extreme seriousness of petitioner's disqualifying offenses, see N.J.S.A. 18A:6-7.1(e)(2), we are unable to conclude at this time that petitioner has affirmatively demonstrated clear and convincing evidence of his rehabilitation.

Accordingly, we affirm the decision of the Deputy Commissioner disqualifying petitioner from service as a custodian in the schools of New Jersey. We note in so doing that nothing in our decision herein precludes petitioner from reapplying to the Office of Criminal History Review once additional time has passed and seeking a

determination from the Commissioner that he is qualified for school employment on the basis of rehabilitation.

Jean D. Alexander abstained.

January 8, 1997

Date of mailing _____