

IN THE MATTER OF THE DENIAL OF THE :  
ISSUANCE OF A COUNTY SUBSTITUTE : STATE BOARD OF EDUCATION  
CERTIFICATE TO TRAVIS HANKS. : DECISION

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Decided by the State Board of Examiners, November 14, 2002

For the Petitioner-Appellant, Travis Hanks, pro se

For the Respondent-Respondent, Michael Walters, Deputy Attorney  
General (Peter C. Harvey, Attorney General of New Jersey)

On December 26, 2002, the Office of Licensing and Academic Credentials in the Department of Education forwarded to the State Board of Education's Appeals Office a letter dated December 10, 2002 from Travis Hanks (hereinafter "appellant"), which was addressed to the State Board of Examiners. The appellant's letter indicated that he was attempting to appeal pursuant to N.J.S.A. 18A:6-28 from a determination by the State Board of Examiners denying his application for a "substitute teacher's certificate." Attached to the appellant's letter was a letter dated November 20, 2002 from the Secretary of the State Board of Examiners notifying him that:

At its meeting on November 14, 2002, the State Board of Examiners reviewed the information that you had provided concerning your conviction for shoplifting. In addition, it reviewed information provided by the Office of Criminal History Review advising that you have been permanently disqualified pursuant to N.J.S.A. 18A:6-7.1 et seq. from employment in any school or institution under the supervision of the Department of Education as the result of your 1994 conviction for child abuse.

The Board unanimously voted to deny certification to [sic] because your child abuse conviction permanently disqualifies you from employment in any public school. If you are able to have this conviction expunged, you may then reapply for certification.

The letter instructed the appellant that “[a]ppeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.”

Also attached to the appellant’s letter was his application for a county substitute certificate; a letter dated March 2, 1998 from the Secretary of the Board of Examiners advising the appellant that the Board of Examiners had voted to vacate an Order to Show Cause issued in February 1996 so that there would be no further action to suspend or revoke his county substitute license; a letter dated November 21, 2001 from the Superintendent of the Irvington school district notifying the appellant that the Irvington Board had voted to place him on its “Substitute List” for the 2001-02 school year; a “letter of endorsement” dated November 6, 2002 from the Mayor of Irvington; a letter of recommendation dated January 17, 1996 from the Assistant Principal of the Myrtle Avenue Middle School indicating that the appellant had been employed by the Irvington Board as a substitute teacher for three years; and a copy of NJ Kidz Sunday Newspaper.

On January 6, 2003, the State Board Appeals Office acknowledged receipt of the appellant’s letter and notified him that it was being considered as a notice of appeal to the State Board of Education.

On January 9, 2003, the Deputy Attorney General representing the State Board of Examiners transmitted to the State Board of Education “all non-privileged documents and materials which comprise the record on appeal.” That record includes two items:

1) a memorandum dated November 14, 2002 from the Secretary of the State Board of Examiners to the members of that Board with information provided by the appellant attached, and 2) the November 20, 2002 letter from the Secretary of the Board of Examiners notifying the appellant that he was being denied “certification” because “your child abuse conviction permanently disqualifies you from employment in any public school.” The materials attached to the Secretary’s November 14 memorandum included a copy of the appellant’s application for a county substitute certificate; a memorandum from the Manager of the Criminal History Review Unit indicating that the appellant “was disqualified from employment by this office on September 15, 1995”; materials relating to the appellant’s activities in the community; and the appellant’s explanation regarding his shoplifting conviction in 2001, including a transcript of his trial.

After a thorough review of the record and the papers filed, we deny the appellant’s application for a county substitute certificate. However, we do so for the reasons expressed herein, and not for the reasons expressed by the State Board of Examiners.

Initially, we find that the procedure utilized in this case was not in accordance with our regulations. As we emphasized in In the Matter of the Issuance of a County Substitute Certificate to Karen Gaba, decided by the State Board of Education, November 3, 1999, a county substitute certificate, in contrast to a standard certificate, is issued by a county superintendent, rather than by the State Board of Examiners, and is not a teaching certificate.<sup>1</sup> Thus, in accordance with the terms of N.J.A.C. 6:11-4.5, the

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<sup>1</sup> A county substitute certificate is issued for a three-year period and authorizes day-to-day substitute teaching in the county which grants the certificate. N.J.A.C. 6:11-4.5.

appellant's application should have been submitted to the County Superintendent for review and approval.

Furthermore, any appeal from a determination by the County Superintendent to deny issuance of a county substitute certificate must be made to the Commissioner of Education. See In the Matter of the Denial of Issuance of a Certificate to Otto Krupp, decided by the State Board of Education, May 7, 2003. Ordinarily we would remand a matter such as this to the Commissioner. However, we find it unnecessary to do so in this case. As the ultimate administrative decision-maker in matters arising under the school laws, Matter of Tenure Hearing of Tyler, 236 N.J. Super. 478, 485 (App. Div. 1989), certif. denied, 121 N.J. 615 (1990); Dore v. Board of Educ., 185 N.J. Super. 447, 452 (App. Div. 1982), we have reviewed the record, which, as previously indicated, includes the appellant's application for a county substitute certificate and his submissions to the Board of Examiners in support of his application.

After careful review, we find that the Board of Examiners' decision is not supported by the evidence in the record it had before it. In fact, there was absolutely nothing in the record before that Board to indicate that the appellant was convicted of "child abuse." The memorandum from the Manager of the Criminal History Review Unit states only that the appellant "was disqualified from employment by this office on September 15, 1995." Nonetheless, in her memorandum of November 14, 2002, the Secretary of the Board of Examiners informed the members of that Board that the appellant had been disqualified from school employment "based on a 1994 conviction for child abuse." Also, in her letter of November 20, 2002, the Secretary notified the appellant that the Board of Examiners had reviewed information provided by the Office

of Criminal History Review advising that he had been permanently disqualified from school employment as a result of a 1994 conviction for child abuse and that the Board of Examiners had voted to deny his application for a county substitute certificate as the result of that conviction. That being the case, the Board of Examiners' decision cannot be sustained.

However, as stated previously, we find that it is not necessary to remand this matter to the Commissioner in order to resolve it. In December 1995, a letter decision was issued by the Deputy Commissioner arising from a criminal history record review of the appellant's background as required by N.J.S.A. 18A:6-7.1. That decision upheld the appellant's disqualification from school employment.<sup>2</sup> In the decision, the Deputy Commissioner related that the appellant had been "charged on October 20, 1993 with Aggravated Assault, later amended to Simple Assault with evidence on record of bodily injury."<sup>3</sup> Travis Hanks v. New Jersey State Department of Education, decided by the Deputy Commissioner of Education, December 15, 1995, slip op. at 1. The Deputy Commissioner observed that the appellant had pleaded guilty to simple assault on March 20, 1995, and he concluded that the appellant had not established his rehabilitation by clear and convincing evidence as then permitted by N.J.S.A.

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<sup>2</sup> We note that the record certified to us by the Board of Examiners did not include a copy of the Deputy Commissioner's decision.

<sup>3</sup> Prior to amendment in 1998, N.J.S.A. 18A:6-7.1 included as a disqualifying offense "simple assault involving the use of force which results in bodily injury." In his decision, the Deputy Commissioner noted that the criminal complaint indicated that the appellant had caused bodily injury to the victim, his 13-year-old cousin, by beating her with an electrical cord. Although N.J.S.A. 2C:24-4, "Endangering welfare of children," and N.J.S.A. 9:6-3, "Cruelty and neglect of children," specifically target abusive conduct directed at a child, the appellant was not convicted of those crimes.

18A:6-7.1.<sup>4</sup> Consequently, he affirmed the determination of the Office of Criminal History Review that the appellant was disqualified from employment in the public schools of New Jersey.

On February 20, 1996, the Deputy Commissioner declined to reconsider his decision. The appellant filed an appeal with the State Board of Education. That appeal was dismissed as a result of the appellant's failure to file notice of his appeal within the statutory time limit. In the Matter of the Denial of the Issuance of a County Substitute Certificate to Travis Hanks, decided by the State Board of Education, November 6, 1996.

Thus, on the basis of his conviction for simple assault, the appellant was disqualified from employment in the public schools of New Jersey. Inasmuch as a county substitute certificate authorizes an individual to serve solely as a day-to-day substitute in the public schools of the county in which the certificate is issued, an individual who is disqualified from employment in the public schools pursuant to N.J.S.A. 18A:6-7.1 cannot be employed under a county substitute certificate. Hence, the fact that the appellant has been disqualified under the statute mandates denial of his application for a county substitute certificate.

July 2, 2003

Date of mailing \_\_\_\_\_

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<sup>4</sup> N.J.S.A. 18A:6-7.1 was amended in 1998 to eliminate the provision permitting an individual convicted of a disqualifying offense to demonstrate rehabilitation.