

SBE #0405-180
SB # 20-05

IN THE MATTER OF THE DENIAL OF :
CERTIFICATION AFTER REVOCATION : STATE BOARD OF EDUCATION
OF OTTO KRUPP. : DECISION

Decision by the State Board of Examiners issued on March 18, 2005

For the Petitioner-Appellant, Otto Krupp, pro se

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

The appellant, Otto Krupp, filed an appeal to the State Board of Education from a determination made by the State Board of Examiners to deny his application for certification as a teacher of mathematics. The Board of Examiners determined that since the appellant had been permanently disqualified from service in the public schools of New Jersey as a result of his conviction for murder in 1981, N.J.S.A. 18A:6-7.1, such disqualification provided just cause to deny his application for certification.

In reviewing this matter, we cannot ignore the fact that an identical procedural scenario presented itself to us in an appeal filed by this appellant in November 2002 from a decision issued by the State Board of Examiners in October 2002 to deny an application he had filed for certification after revocation. In a decision rendered on May 7, 2003, we remanded that matter to the Commissioner of Education:

...so that he may determine under the applicable law whether the State Board of Examiners' decision to deny the appellant's application for the issuance of certification was

proper. In doing so we are aware that the written decision mailed to the appellant by the Board of Examiners indicated that an appeal of the decision could be made to the State Board of Education pursuant to N.J.S.A. 18A:6-28. However, that statute provides that an appeal to the State Board by a party aggrieved by a determination of the Commissioner of Education must be taken within thirty days "in the manner prescribed by the rules of the board." The regulations governing appeals to the State Board provide that final decisions of the State Board of Examiners are appealable to the State Board of Education as of right, but define such decisions as "[a]ny decision of the State Board of Examiners pertaining to the revocation or suspension of a certificate...." N.J.A.C. 6A:4-1.1(a)(2). Hence, as it has long been established, any appeal from a determination made by the State Board of Examiners to deny the issuance of certification must be made to and decided by the Commissioner of Education pursuant to the original jurisdiction conferred on him by N.J.S.A. 18A:6-9 to hear and determine all controversies and disputes arising under the school laws except those governing higher education. In the absence of any change in the statutory framework that establishes the jurisdiction of the Commissioner to determine all controversies arising under the school laws or in the procedural regulations which we have adopted to govern appeals to the State Board, we find no basis that would justify departing from our comprehensive system of appeals as it has been effectuated up until this point. In re Masiello, 25 N.J. 590 (1958).

State Board of Education's Decision of May 7, 2003, slip op. at 2-3. See also In the Matter of the Denial of the Issuance of a Teaching Certificate to William J. Tierney, decided by the State Board of Education, September 3, 2003.

For the same reasons, the appellant's current appeal from the State Board of Examiners' decision issued on March 18, 2005 to deny his application for certification should have been taken to the Commissioner of Education.¹ As we stressed in our decision of May 7, 2003, any appeal from a determination by the State Board of

¹ We note that the Board of Examiners again advised 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." State Board of Examiners' Decision, slip op. at 6.

Examiners to deny the issuance of certification must be made to and decided by the Commissioner pursuant to the original jurisdiction conferred on him by N.J.S.A. 18A:6-9.

Accordingly, we remand this matter to the Commissioner for a determination of whether the Board of Examiners' decision to deny the appellant's application for the issuance of certification was proper.

Arcelio Aponte and Frederick J. LaGarde, Jr. abstained.

August 3, 2005

Date of mailing _____