

SBE #0304-201
SB # 10-05

IN THE MATTER OF THE REVOCATION :
OF THE TEACHING CERTIFICATE : STATE BOARD OF EDUCATION
OF THOMAS CARNEY BY THE : DECISION
STATE BOARD OF EXAMINERS. :

Decision by the State Board of Examiners issued on February 1, 2005

Decision on motion by the State Board of Education, July 6, 2005

For the Appellant, Starkey, Kelly, Bauer & Kenneally
(Dina R. Khajezadeh, Esq., of Counsel)

For the Respondent, Patricia M. O'Neill, Deputy Attorney General
(Peter C. Harvey, Attorney General of New Jersey)

On January 2, 2004, the State Board of Examiners issued and on March 5, 2004 mailed to appellant Thomas Carney an Order to Show Cause why his certification as a Teacher of Health and Physical Education should not be revoked or suspended. The Order alleged that, although appellant had been employed as a supervisor by the Board of Education of the City of Lakewood, the fall report had indicated that he did not possess certification which qualified him to serve as a supervisor. The Order further alleged that, while the document presented to the school district indicated that the appellant had received certification to serve as a supervisor in January 2002, the computer screen printed by the Department of Education's Office of Licensure and Credentials indicated that he was only certified as a Teacher of Health and Physical

Education and that the certificate number on the document presented by appellant to the school district was the number for a Teacher of Elementary School certificate issued to another individual in August 2001. The Order stated that the State Board of Examiners found that appellant's alleged conduct in presenting a fraudulent certificate to the district provided just cause to consider revoking or suspending his certification and ordered appellant to show cause why his teaching certification should not be revoked or suspended.

On May 20, 2004 counsel representing appellant filed an answer on his behalf.

In his answer, appellant stated, inter alia:

4. Through inadvertence, neglect and a failure to continue to stay personally involved with the process, certain errors have occurred which Mr. Carney must assume responsibility for.

5. Therefore, Mr. Carney accepts responsibility for the improper actions as specified in the Order to Show Cause dated March 5, 2004 signed by Joan E. Brady, Secretary of the New Jersey State Board of Examiners.

6. At the same time, he asks the Board of Examiners to take into consideration his excellent credentials and record prior to this incident. He also asks the State Board to recognize that he has terminated his relationship with the Lakewood Board of Education. He further asks the Board of Examiners to consider a suspension rather than a revocation of his license so that he can workout [sic] some personal family problems and be allowed to be returned to the teaching profession at sometime [sic] in the future.

7. Mr. Carney is agreeable to a suspension with a requirement of counseling in order to retain his license and possibly return to the teaching profession at sometime [sic] in the future. There is no question that Mr. Carney was a talented, well-respected teacher and hopefully this one (1) incident for which he is taking responsibility will not cause him to be forever barred from the teaching profession.

Answer to Order to Show Cause, at 1-2.

On September 21, 2004, the appellant supplemented his answer with two letters of recommendation.

The Board of Examiners reviewed the information before it and:

determined that no material disputes existed relating to Carney's conduct since he never denied that he was not entitled to a Supervisor certificate. Moreover, he never alleged that anyone else had forged his documentation. Indeed, Carney was the one to submit the fraudulent document to his employing district.

State Board of Examiners' Decision, slip op. at 2.

In that the State Board of Examiners found that there were no material facts in dispute, it made its decision in the matter on the basis of the papers, and no evidentiary hearing was held. On this basis, the Board of Examiners determined that appellant had presented a bogus certificate in order to obtain employment. Id. It further found that the papers established that the Office of Licensing and Credentials had no record of ever having issued supervisory certification to the appellant nor had he contended that it had. Id. Stressing that the certification system ensures the public that each certificate holder is qualified for the position in which he serves and that any certificate fraudulently obtained demeans the value of all certificates and harms the integrity of the system, the Board of Examiners found that appellant's conduct presented just cause to act against his teaching certification. Id.

Thus, the Board of Examiners concluded that the only remaining issue was the imposition of the appropriate sanction. Id. Pointing to the fact that the Board of Examiners had revoked the certification of an individual where a "legitimately-held" certificate had been altered to secure employment in an area in which the individual was not certified, the Board of Examiners found that this case presented similar concerns.

Id. at 2-3. Concluding that “[a] teacher who knowingly presents fraudulent documentation indicating that he holds a certificate that, in fact, he does not and is not qualified to possess” does a great disservice to his school district and has no place in any New Jersey classroom, the Board of Examiners directed that appellant’s certification be revoked. Id. at 3 (emphasis added).

The appellant filed the instant appeal to the State Board of Education on March 1, 2005. On April 22, 2005, he filed a motion to supplement the record on appeal, which the State Board denied on July 6, 2005.

On appeal, the appellant argues that revocation of his teaching certification cannot be sustained because the Board of Examiners arrived at its conclusion in the absence of either an admission that he had knowingly submitted a false document or a hearing establishing that fact.

After reviewing the arguments of counsel and the record developed thus far, we reverse the decision of the State Board of Examiners and remand this matter to the Board of Examiners for a hearing. As set forth above, the Board of Examiners’ determination that revocation was appropriate in this case was based on its conclusion that appellant knowingly presented fraudulent documentation to the district. However, careful review of the answer filed on behalf of appellant by his attorney shows that he did not make any admission that he knew the document was fraudulent when he submitted it. The fact that appellant admitted in his answer that he was responsible for “certain errors that occurred” because of his “inadvertence, neglect, and a failure to continue to stay personally involved in the process” cannot be construed as an admission that he knowingly submitted a fraudulent document. That being the case, it

cannot be concluded on the basis of the papers that appellant knowingly submitted a fraudulent document, and revocation of his certification on that basis cannot be sustained. We therefore reverse the Board of Examiners' decision and remand the matter for further proceedings consistent with our decision.

The appellant's request for oral argument is denied as not necessary for a fair determination of this matter. N.J.A.C. 6A:4-3.2.

November 2, 2005

Date of mailing _____