

#139-11

IN THE MATTER OF THE TENURE :
HEARING OF MICHAEL HARPER, : COMMISSIONER OF EDUCATION
NEW JERSEY STATE DEPARTMENT OF : DECISION
CORRECTIONS, MID-STATE :
CORRECTIONAL FACILITY. :
_____ :

SYNOPSIS

The New Jersey State Department of Corrections filed tenure charges of conduct unbecoming a public employee against respondent, a tenured teacher, and sought to terminate his employment at the Mid-State Correctional Facility. Neither respondent nor any attorney acting on his behalf filed an answer to the petition following notice pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4.

The Commissioner concluded that the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant termination of the respondent from his tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from his tenured position with the Department, and forwarded a copy of this decision to the State Board of Examiners for action against respondent’s certificate as that body deems appropriate.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

April 1, 2011

AGENCY DKT NO. 44-2/11

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HEARING OF MICHAEL HARPER, : COMMISSIONER OF EDUCATION
NEW JERSEY STATE DEPARTMENT OF : DECISION
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For the N.J. State Department of Corrections, Dianne Moratti, DAG

No appearance by or on behalf of Michael Harper

This matter was opened before the Commissioner of Education on February 18, 2011 through the certification of tenure charges of conduct unbecoming a public employee by the New Jersey State Department of Corrections (hereinafter “Department”) against Michael Harper, a tenured teacher assigned to the Mid-State Correctional Facility. The Commission seeks Mr. Harper’s dismissal from his position.

By notice dated February 18, 2011, the Commissioner directed respondent, via both certified and regular mail – the certified green card, signifying delivery, having been returned to the Department on February 24, 2011 – to file an Answer to the tenure charges against him. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3 and 6A:3-5.4*, an individual against whom tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed

period would, absent granting of an extension for good cause shown, result in the charges being deemed admitted by the charged employee. Because no reply has been received from respondent, or any attorney on his behalf, in response to the Department's charges, each count of the charges against respondent is deemed to be admitted.

The Commissioner has reviewed the tenure charges certified against respondent by the Department and the statement of evidence in support of those charges, which specify:

Charge One

N.J.A.C. 4A:2-2-3(a)6: Conduct unbecoming an employee.

N.J.A.C. 4A:2-2.3(a) 11: Other sufficient cause

Human Resource Bulletin 84-17 as amended (C-11): Conduct unbecoming an employee.

Charge Two

Human Resource Bulletin 84-17 as amended (E-1); Violation of a rule, regulation, policy, procedure order or administrative decision.

Charge Three

Human Resource Bulletin 84-17 as amended (D-4): Improper or unauthorized contact with an inmate, undue familiarity with inmates, parolees, their families, or friends.

The specific allegations for each of these charges is identical and reads as follows:

The Special Investigation Division has learned that on or around 1/14/2011, you met ex-MSCF inmate Gerald Snyder SBI#354525D (on ISP) at your residence in Browns Mills, New Jersey. This was the fifth such meeting at your residence since the inmate was released on ISP (Intensive Supervision Program). SID has also learned that the inmate gave his phone number to you while he was a Teacher's Aide of your's (sic) at Mid-State Correctional Facility. You subsequently called him upon release. You also provided contraband to the inmate while he was incarcerated. At your residence, you had the ex-inmate perform construction work for you. Further, you had sexual contact with said ex-inmate at your residence.

Deeming such charges to be admitted, and noting that respondent has failed to respond to the allegations against him, the Commissioner finds that the Department has

demonstrated that respondent is guilty of conduct unbecoming and other just cause warranting the Department's requested penalty of respondent's termination from his position.

Accordingly, summary decision is hereby granted to the Department, and respondent Michael Harper is hereby terminated from his position with the New Jersey Department of Corrections, Mid-State Correctional Facility effective with the filing date of this decision.¹ A copy of this decision shall be forwarded to the State Board of Examiners for action against respondent's certificate(s) as it deems appropriate.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 1, 2011

Date of Mailing: April 1, 2011

¹ Pursuant to *N.J.A.C.* 6A:3-1.14(c), Commissioner decisions are deemed filed three days after the date of mailing to the parties.

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36. (*N.J.S.A.* 18A:6-9.1).