

#350-11 (OAL Decision: Not yet available online)

BARRY E. STATON, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE BOARD : DECISION
OF EXAMINERS, :
RESPONDENT. :
_____ :

SYNOPSIS

Pro-se petitioner – formerly a Teacher of the Handicapped, whose teaching certificate was revoked by consent in 2007 after the New Jersey State Board of Examiners (Board of Examiners) issued an Order to Show Cause following petitioner’s failure of two drug tests in which he tested positive for cocaine – appealed the revocation of his certificate. Respondent agreed in 2009 to allow petitioner, who had presented evidence of rehabilitation related to his drug problem, to apply for certification after revocation on condition that he meet current certification requirements at the time of his application. Subsequently, petitioner filed the instant petition which sought to overturn the 2007 revocation because in order to be reinstated under the present regulatory scheme, he would need to return to school to meet the current the requirements for certification as a teacher of students with disabilities.

The ALJ found that petitioner’s appeal was not timely filed pursuant to *N.J.A.C. 6A:9-17.20(a)*, which requires that a motion to reconsider a Board of Examiner’s decision must be filed no later than 15 days from the mailing date of the decision, which in this case was in June 2007. Accordingly, the ALJ granted the Board of Examiner’s motion for summary decision and dismissed the petition.

The Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, finding that the time within which petitioner could have applied for reconsideration of the 2007 revocation has expired, and that petitioner may not be recertified unless he satisfies the current requirements for a teacher of students with disabilities endorsement. Accordingly, the petition was dismissed.

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.

August 31, 2011

OAL DKT. NO. EDU 935-11
AGENCY DKT. NO. 697-11/10

BARRY E. STATON, :
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 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
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 NEW JERSEY STATE BOARD : DECISION
 OF EXAMINERS, :
 :
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 _____ :

Upon review of the record of this matter and the Initial Decision of the Office of Administrative Law,¹ the Commissioner concludes that 1) the time within which petitioner could have applied for reconsideration of the 2007 revocation of his certification as a teacher of the handicapped has expired and 2) petitioner may not be recertified unless he satisfies the current requirements for a teacher of students with disabilities endorsement.

Accordingly, the Commissioner adopts the Initial Decision – which granted respondent’s motion for summary disposition and dismissed the petition – as the final decision in this case.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 31, 2011
Date of Mailing: August 31, 2011

¹ Neither party filed exceptions.

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)