

STATE BOARD OF EXAMINERS DKT. NO. 1112-131
AGENCY DKT NO. 6-6/13A

IN THE MATTER OF THE :
REVOCATION OF THE CERTIFICATES : COMMISSIONER OF EDUCATION
OF JOSEPH WINKELRIED BY THE : DECISION
STATE BOARD OF EXAMINERS. :

Order of Revocation by the State Board of Examiners, May 23, 2013

For the Respondent-Appellant, Aileen M. O’Driscoll, Esq.

For the Petitioner-Respondent State Board of Examiners, Fredrick H. Wu, Deputy Attorney General (John J. Hoffman, Acting Attorney General of New Jersey)

The Commissioner has reviewed the record and the papers filed in connection with appellant Joseph Winkelreid’s appeal of the State Board of Examiners’ Order of May 23, 2013, revoking his Teacher of Social Studies and Student Personnel Services Certificates. On appeal, the appellant maintains that the Board’s decision to revoke his certificates was arbitrary, capricious and unreasonable. Specifically, the appellant argues that the record contains no evidence that the Board conducted any analysis or considered the underlying circumstances concerning the nature of the conduct at issue, other than the fact that the appellant was convicted for assault by motor vehicle and wandering, and that he consented to a permanent bar from public employment. The appellant further maintains that if he was afforded a hearing before the Office of Administrative Law (OAL), he would have been given the opportunity to present testimony and better identify the underlying mitigating circumstances related to his convictions. Therefore, the appellant maintains that the Board’s decision to revoke his

certifications should be reversed, or in the alternative, the Commissioner should issue an order remanding this matter for a full hearing before the OAL.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute his judgment for that of the Board so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. Further, the Board's decision should not be disturbed unless the appellant demonstrates that it is arbitrary, capricious, or unreasonable. *N.J.A.C. 6A:4-4.1(a)*.

After full consideration of the record and all submissions, the Commissioner finds that the record adequately supports the Board's determination that the appellant engaged in unbecoming conduct and that the revocation of the appellant's certificates was the appropriate penalty. It is undisputed that in November 2009 the appellant pled guilty to two counts of Assault by Motor Vehicle. Thereafter – in January 2011 – the appellant entered into a consent order, wherein he pled guilty to the offense of Wandering¹ and agreed to resign from his teaching position, and be permanently barred from holding public employment in the State of New Jersey. The Board's characterization of appellant's behavior as unbecoming conduct necessitating the removal of his certificates – based upon guilty pleas from two separate incidents – and the fact that the appellant's conduct resulted in a ban from all public employment in the State, is fully consistent with applicable law.

Moreover, the appellant was afforded the necessary due process before his certificates were revoked. Although the matter was not transmitted to the OAL², the appellant was given an opportunity to submit a written brief for the Board's consideration and he also

¹ The appellant was originally charged with Conspiracy and Possession of CDS with intent to distribute.

² The Board exercised its discretion under *N.J.A.C. 6A:9-17.7* and determined that it was not necessary to transmit the matter to the OAL because there were no material facts in dispute.

appeared before the Board and was able to present evidence on mitigating circumstances in accordance with *N.J.S.A. 52:14B-9(c)*. As a result, there is nothing in the record to suggest that the Board's decision was arbitrary, capricious or unreasonable, and as a result the Commissioner finds no basis upon which to disturb the decision of the State Board of Examiners.

Accordingly, the decision of the State Board of Examiners is affirmed for the reasons expressed therein.³

COMMISSIONER OF EDUCATION

Date of Decision: December 16, 2013
Date of Mailing: December 16, 2013

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.