

New Jersey Commissioner of Education

Decision

Antoine Gayles,

Petitioner,

v.

Board of Education of the Township of
Hillside, Union County,

Respondent.

Synopsis

Petitioner – who is currently on involuntary paid administrative leave – sought reinstatement to his position as Superintendent of Schools in the respondent Board’s school district. Petitioner initially filed a motion for emergent relief which was denied by the Commissioner on March 18, 2019. The Commissioner’s decision denying emergent relief directed that the matter “shall continue at the OAL with such proceedings as the parties and the ALJ deem necessary to bring it to closure.”

The ALJ found, *inter alia*, that: a telephone conference between the parties was convened following the Commissioner’s March 18th denial of the motion for emergent relief for the purpose of determining whether further proceedings are necessary to bring this matter to closure; counsel for both parties agreed at that time that the motion for emergent relief was concluded and that the matter was therefore moot. The ALJ concluded in his Initial Decision that the denial of the request for emergent relief rendered the entire matter moot, and recommended dismissal of the petition with prejudice.

Upon review, the Commissioner rejected the Initial Decision and remanded the matter to the OAL for further proceedings. In so doing, the Commissioner noted, *inter alia*, that the petitioner still appears to have a dispute with the Board as to his entitlement to the position of Superintendent of Schools, and – though relief was not granted in an emergent manner – the claims alleged in the petition should be addressed at a hearing on the merits. Accordingly, the matter cannot be dismissed as moot.

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.

May 2, 2019

New Jersey Commissioner of Education

Decision

Antoine Gayles,

Petitioner,

v.

Board of Education of the Township of
Hillside, Union County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed by petitioner pursuant to *N.J.A.C.* 1:1-18.4, and the Board's reply thereto.¹

In this matter, petitioner seeks reinstatement to his position as Superintendent of Schools in the respondent's District. Petitioner filed a motion for emergent relief, which the Commissioner denied on March 18, 2019. The matter continued at the OAL, and the Administrative Law Judge (ALJ) entered an Initial Decision dismissing the matter as moot.

Petitioner's exceptions do not address the ALJ's finding that this matter is moot, and instead seek to overturn the denial of emergent relief. Such arguments will not be considered, as the Commissioner has already issued a decision denying petitioner's application for emergent relief. The Commissioner notes that the petitioner still appears to have a dispute with the Board as to his entitlement to the position of Superintendent of Schools. Although relief

¹ Petitioner filed a response to the Board's reply. Such a filing is not contemplated by *N.J.A.C.* 1:1-18.4, so it will not be considered by the Commissioner.

was not granted in an emergent manner, the claims alleged in the petition should be addressed at a hearing on the merits. As such, this matter cannot be dismissed as moot.

Accordingly, the Initial Decision of the OAL is rejected, and this matter is remanded to the OAL for further proceedings.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: May 2, 2019
Date of Mailing: May 2, 2019



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 02910-19

AGY REF NO. 45-2/19

ANTOINE GAYLES,

Petitioner,

v.

**BOARD OF EDUCATION OF THE TOWNSHIP
OF HILLSIDE,**

Respondent.

William F. Koy, Esq., for Petitioner

Allan C. Roth, Esq., for Respondent (Ruderman & Roth, LLC, attorneys)

Record Closed: March 6, 2019

Decided: March 22, 2019

BEFORE **THOMAS R. BETANCOURT, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner filed a motion for Emergent Relief with the Office of Controversies and Disputes in the New Jersey Department of Education (DOE). The contested matter was transferred to the Office of Administrative Law (OAL), pursuant to N.J.A.C. 1:6A-12.1, where it was filed on February 28, 2019, to be heard on an emergent basis.

Petitioner seeks reinstatement to his position as Superintendent of Schools in the Respondent school district. Petitioner is currently on involuntary paid administrative leave.

The District filed a motion for declaratory ruling with the Commissioner of DOE on March 1, 2019, pursuant to N.J.A.C. 6A:3-2.1. By letter to the undersigned dated March 5, 2019, counsel for the District requested that declaratory ruling motion be consolidated with the within matter. That request cannot be considered at the present time as the Commissioner has not transferred the matter to the OAL.

The motion for emergent relief was heard on March 6, 2019. By Order dated March 6, 2019, the undersigned denied the motion for emergent relief. The Commissioner of Education issued a Final Decision, adopting the Order entered by the undersigned and stated in said Final Decision: "This matter shall continue at the OAL with such proceedings as the parties and the ALJ deem necessary to bring it to closure."

Accordingly, a telephone conference was convened on March 20, 2019 to discuss what further proceedings, if any, might be necessary. Counsel for Petitioner and Respondent agreed that the motion for emergent relief was concluded and that the matter is now moot.

LEGAL ANALYSIS AND CONCLUSION

In Betancourt v. Trinitas Hosp.,² 415 N.J. Super. 301, 08, the New Jersey Supreme Court defines mootness as follows:

"We first set forth the principles that inform a consideration of claims of mootness. Mootness is a threshold justiciability determination rooted in the notion that judicial power is to be exercised only when a party is immediately threatened with harm. Jackson v. Dep't of Corr. 335 N.J. Super. 227, 231, 227, 762 A.2d 255 (App.Div.

² The litigants in this matter are not related to the undersigned.

2000), certif. denied, 167 N.J. 630, 772 A.2d 932 (2001). "A case is technically moot when the original issue presented has been resolved, at least concerning the parties who initiated the litigation." DeVesa v. Dorsey, 134 N.J. 420, 428, 634 A.2d 493 (1993) (Pollock, J., concurring) (citing Oxford v. N.J. State Bd. of Educ., 68 N.J. 301,303, 344 A.2d. 769 (1975)). To restate, "'an issue is "moot" when the decision sought in a matter, when rendered, can have no practical effect on the existing controversy.'" (citations omitted).

As the denial of the request for relief has rendered the matter moot there is no further proceedings necessary to bring this matter to closure.

Based upon the foregoing, I **CONCLUDE** that the instant matter is moot and should be **DISMISSED** with prejudice.

ORDER

It is hereby **ORDERED** that the above captioned matter is **DISMISSED** with prejudice.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



March 22, 2019 _____

DATE

THOMAS R. BETANCOURT, ALJ

Date Received at Agency

Date Mailed to Parties:
