

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATION : STATE BOARD OF EXAMINERS
OF : APPLICATION FOR CERTIFICATION
OTTO KRUPP : AFTER REVOCATION
_____: DOCKET NO. 0405-180

At its meeting of September 26, 2002, the State Board of Examiners reviewed an application Otto Krupp had submitted for certification as a Teacher of Secondary School Mathematics. Krupp had previously held that certificate, but the Board of Examiners had revoked it on June 11, 1981, following Krupp's conviction for murder. *New Jersey State Board of Examiners v. Otto Krupp*, 3 *N.J.A.R.* 285 (1981). In 2002, after his release from prison, Krupp sought certification following revocation. Pursuant to the regulation then in effect, *N.J.A.C.* 6:11-3.6(g), Krupp had to provide the Board of Examiners with information as to the circumstances leading to the revocation of his prior certificate and demonstrate rehabilitation that warranted the issuance of a new one.

The Board of Examiners also applied the provisions of the Rehabilitated Convicted Offender's Act (hereafter RCOA), *N.J.S.A.* 2A:168A-1 *et seq.*, to Krupp's case. Pursuant to that Act, an applicant for a license or certificate of authority or qualification to engage in the practice of a profession or business cannot be disqualified or discriminated against based up a prior conviction unless the "conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought." *N.J.S.A.* 2A:168A-2. In order to make that determination, the licensing authority looks at several factors:

- a. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying;
- b. Nature and seriousness of the crime;
- c. Circumstances under which the crime occurred;
- d. Date of the crime;
- e. Age of the person when the crime was committed;

- f. Whether the crime was an isolated or repeated incident;
- g. Social conditions which may have contributed to the crime;
- h. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision. Ibid.

Applying the RCOA to Krupp's application, the Board of Examiners determined that while Krupp had submitted substantial evidence of his rehabilitation while incarcerated, he had not demonstrated like rehabilitation vis-à-vis his life outside of confinement. Although Krupp had indicated that he sought to continue teaching within the correctional system, the Board of Examiners noted that it did not have the authority to issue a limited or restricted certificate. Accordingly, the Board of Examiners denied Krupp's application for certification after revocation.

Krupp appealed from the Board of Examiners' decision and, after a remand from the State Board of Education, on May 21, 2003, the Commissioner transferred the case to the Office of Administrative Law (OAL). *In the Matter of a Denial of a Teaching Certificate to Otto Krupp*, Dkt. No. EDU 5196-03 (May 10, 2004). Both Krupp and the Board of Examiners filed motions for summary decision. Administrative Law Judge (ALJ) Ken R. Springer heard oral argument on April 2, 2004, and closed the record on that date. He issued his Initial Decision on May 10, 2004.

In that decision, ALJ Springer concluded that Krupp was "statutorily disqualified from holding a teaching certificate, which would allow him to teach in the public schools or in correctional facilities." (Initial Decision, slip op. at 6.) As to the issue of rehabilitation, ALJ Springer determined that Krupp had achieved satisfactory rehabilitation, since his crime had occurred twenty-six years before and appeared to have been an isolated crime of passion. (Initial Decision, slip op. at 7.) ALJ Springer also noted, "[w]ith respect to repentance and atonement, the evidence weighs heavily in Krupp's favor." (Initial Decision, slip op. at 7.) The ALJ further held

that if rehabilitation “were the only impediment to issuance of a teaching certificate, then Krupp would surely qualify.” (Initial Decision, slip op. at 8.) He noted, however, that because of a 1998 amendment to *N.J.S.A.* 18A:6-7.1, which precluded individuals convicted of certain crimes, including murder, from establishing rehabilitation, those individuals, like Krupp, were permanently disqualified from employment and service in New Jersey’s public schools and any facility under the supervision of the Department of Education. (Initial Decision, slip op. at 8-9.) In Krupp’s case, those facilities would include educational institutions operated by the Department of Corrections or the Juvenile Justice Commission. (Initial Decision, slip op. at 9-10.) Finally ALJ Springer rejected Krupp’s bid for a teaching certificate that would limit him to teaching in correctional facilities. (Initial Decision, slip op. at 11.) As the ALJ correctly noted, current state regulations established a standard instructional certificate that authorized its holder to teach children in any public school. (Initial Decision, slip op. at 11.) Thus, although Krupp might have no stated desire to teach in a traditional public school, his certificate would have no like limitation. (Initial Decision, slip op. at 11.) Accordingly, the ALJ denied Krupp’s application for relief. (Initial Decision, slip op. at 11.)

The Commissioner reviewed the Initial Decision and rendered his decision on June 24, 2004. *In the Matter of a Denial of a Teaching Certificate to Otto Krupp*, Agency Dkt No. 151-5/03 (Commissioner’s Decision, June 24, 2004). In reviewing the matter before him, the Commissioner concurred with the ALJ that Krupp was “properly denied a New Jersey teaching certificate.” (Commissioner Decision, slip op. at 18.) The Commissioner rejected Krupp’s contention that he was entitled to certification because he had satisfied the criteria of the RCOA. (Commissioner Decision, slip op. at 18.) The Commissioner reiterated the ALJ’s conclusion that “application for teaching certificates, establishment of requirements for their issuance, revocation and suspension is within the jurisdictional purview of the Board of Examiners[.]” (Commissioner Decision, slip op. at 18.) Furthermore, the Commissioner noted that the RCOA provided no independent authorization for the issuance of a license or certificate, but rather, precluded licensing authorities from discriminating against applicants based solely on prior convictions. (Commissioner Decision, slip

op. at 19.) Moreover, after analyzing the RCOA and its relationship with the disqualification statute, *N.J.S.A. 18A:6-7.1*, the Commissioner concluded that since the 1998 amendments to the latter reflected the Legislature's belief that certain crimes, including murder, related adversely to employment in the public schools, *N.J.S.A. 18A:6-7.1* is exempt from the dictates of the RCOA. (Commissioner Decision, slip op. at 21.) Consequently, the Commissioner affirmed the ALJ's holding that pursuant to *N.J.S.A. 18A:6-7.1*, Krupp was "precluded from employment in any entity under the auspices of the Department of Education and the State Board of Education, rendering the award of certification to him a legal impossibility." (Commissioner Decision, slip op. at 22.) Finally, the Commissioner disagreed with the ALJ's determination that Krupp had demonstrated sufficient rehabilitation. (Commissioner Decision, slip op. at 22.) Instead, the Commissioner concurred with the Board of Examiners' conclusion that insufficient time had passed for Krupp to demonstrate the ability to function effectively outside confinement. (Commissioner Decision, slip op. at 22.) The Commissioner determined that the ALJ's conclusion was immaterial here, however, because Krupp was statutorily disqualified from holding a New Jersey teaching certificate. (Commissioner Decision, slip op. at 22.) Accordingly, the OAL Initial Decision was adopted as modified. (Commissioner Decision, slip op. at 23.)

On October 6, 2004, the State Board of Education affirmed the Commissioner's decision for the reasons expressed therein. *In the Matter of the Denial of the Issuance of a Teaching Certificate to Otto Krupp*, Dkt. No. SB 32-04 (October 6, 2004).

On January 20, 2005, the State Board of Examiners considered Krupp's latest application for certification after revocation. In this application, Krupp opined that "not being in the community a sufficient amount of time is the crux of the issue here." (Application, p.1.) He noted that he had been teaching in the community from 1998 until his release in 2001 through a special work release program. (Application, p.1.) He stated that he had been conducting anger management courses at the New Jersey Training School for Boys from 2000 until the present. (Application, pp.1-2.) Krupp outlined additional work experience and community involvement as well as summarizing

some of the testimonials he had attached to his application. (Application, pp.2-3.) He also spoke of the circumstances leading up to the revocation of his teaching certificate and his extensive effort to better his self-awareness through counseling and studying. (Application, pp.3-4.)

Despite its lengthy and complex procedural history, the simple issue to be decided here: is whether Otto Krupp is eligible for certification. The resolution of this matter is equally straightforward as the Commissioner has determined and the State Board has affirmed that, pursuant to *N.J.S.A.* 18A:6-7.1, Krupp is permanently disqualified from teaching in any institution or agency under the supervision of the Department of Education.

In enacting the Criminal History Review statute, *N.J.S.A.* 18A:6-7.1 *et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. Certainly, convicted murderers fall squarely within this category. *N.J.S.A.* 18A:6-7.1c(1). This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers serve as role models for their students. Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Krupp's disqualification from service in the public schools of this State because of his conviction for murder provides just cause to deny his application for certification after revocation.

Moreover, although Krupp's application was submitted pursuant to *N.J.A.C.* 6A:9-17.10, the regulation governing application for certification after revocation, that regulation necessarily yields the same result to this inquiry. In listing the conditions that an applicant must satisfy in applying for certification, the regulation only allows the evidence of rehabilitation for conviction of those crimes that are not disqualifying under *N.J.S.A.* 18A:6-7.1 *et seq.* Additionally, pursuant to *N.J.A.C.* 6A:9-17.10(c)6, the Board of Examiners shall not issue a new certificate to any candidate who is barred from teaching for any reason.

Although Krupp has submitted extensive evidence of his rehabilitation, that presentation is immaterial here. The strong policy statement on the part of the Legislature set forth in *N.J.S.A.* 18A:6-7.1 offers guidance to the State Board of Examiners as to the appropriate result in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to possess a certificate that authorizes such service. Thus, because the Legislature considers Krupp's offense so significant, the State Board of Examiners believes that to fulfill its responsibility in protecting the public school children of New Jersey, the only appropriate outcome in this case is the denial of Krupp's application for certification after revocation.

Accordingly, it is therefore ORDERED that Otto Krupp's application for certification after revocation be denied on this 20th day of January 2005.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: March 2005

Appeals may be made to the State Board of Education pursuant to the provisions of *N.J.S.A.* 18A:6-28.