

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
LALELEI B. KELLY : ORDER OF REVOCATION
_____ : DOCKET NO: 1011-221

At its meeting of November 1, 2011, the State Board of Examiners (Board) reviewed information the Middlesex County Prosecutor's Office and the Criminal History Review Unit had forwarded regarding Lalelei B. Kelly. After being charged with Theft by Deception, Kelly was accepted into a Pretrial Intervention program (PTI). As a condition of PTI, Kelly signed a Consent Order in which she agreed that she "will never seek nor accept employment in any New Jersey public school or public school system." Kelly currently holds Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 Certificates of Eligibility, both issued in August 2009 and Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 certificates, both issued in November 2009. Upon review of the above information, at its December 16, 2011 meeting, the Board voted to issue Kelly an Order to Show Cause.

The Board sent Kelly the Order to Show Cause by regular and certified mail on January 26, 2012. The Order provided that Kelly had 30 days to respond. Kelly filed a response on February 27, 2012.

In that Answer, Kelly admitted that she was charged with Theft By Deception but added that the charges did not result in a conviction. (Answer, ¶ 2(e)(iv)). She added that she was admitted into PTI for a 12 month term with three conditions, one of which was the Consent Order she signed. (Answer, ¶2(e)(v)). She added that the Consent Order also specified that it "shall not be construed to limit defendant[']s ability to seek or obtain public employment in any

other jurisdiction.” (Answer, ¶ 2(e)v). Kelly also argued that “the terms of the Consent Order were not to result in the revocation, suspension, sanctions or limitations of my certificates.” (Answer, ¶ 2(e)(v)). Kelly maintained that the Consent Order was a PTI supervisory condition that she did not violate and that it did not state that her certificates would be revoked or suspended. (Answer, ¶¶ 3(b), 3(c)). She further argued that revoking or suspending her certificates would have an adverse effect on her future employment and would be in contravention of the Consent Order which did not limit her ability to seek or obtain public employment in other jurisdictions. (Answer, ¶ 3(d)).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on March 20, 2012, the Board sent Kelly a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Kelly was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against her certificates. It also explained that upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Kelly’s offenses warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Kelly was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Kelly’s attorney requested to appear before the Board and appeared at a sanction hearing on June 21, 2012. In his appearance, Kelly’s attorney notified the Board that her criminal case was on appeal and he was seeking to have her Consent Order modified or vacated. He asked the Board to hold the certification matter in abeyance until the criminal appeal was resolved and the Board granted the request. On August 14, 2014, the Appellate Division affirmed the trial court’s denial

of Kelly's motion to vacate the Consent Order. Kelly was provided with another opportunity to testify before the Board at its meeting of October 23, 2014, but she did not appear.

The threshold issue before the Board in this matter is whether Kelly's conduct and her signing a Consent Order in which she agreed she would "never seek nor accept employment in any New Jersey public school or public school system" constitutes conduct unbecoming a certificate holder. At its meeting of December 12, 2014, the Board considered the allegations in the Order to Show Cause and Kelly's Answer. The Board determined that no material facts related to Kelly's offense were in dispute since she never denied that she had been admitted into PTI after being charged with Theft By Deception and had signed a Consent Order prohibiting her from public school employment in New Jersey. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Kelly's conduct and signed Consent Order, as set forth in the Order to Show Cause, provide just cause to act against her certificates pursuant to *N.J.A.C. 6A:9B-4.5*. The Board finds that they do.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9B-4.5*. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this matter, Kelly's conduct leading to her

being charged with Theft By Deception and admitted into PTI, is inappropriate and demonstrates that she is unfit as a role model. Moreover, her signature on a Consent Order wherein she agreed never to seek or accept employment in a New Jersey public school or public school system, effectively prohibits her from public school employment in this state. As this Board has acknowledged in disqualification cases pursuant to *N.J.S.A. 18A:6-7.1 et seq.*, an individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Thus, although Kelly does not have a statutory disqualification, her court-affirmed Consent Order accomplishes the same purpose and the Board believes that the only appropriate sanction in this case is the revocation of her certificates. Kelly's argument that her Consent Order does not provide for the revocation or suspension of her certificates is without merit as only the Board has the statutory authority to so act. *N.J.S.A. 18A:6-38*. Moreover, her claim that the revocation of her New Jersey certificates would have a chilling effect on her ability to seek public school employment elsewhere and contravenes the Consent Order is similarly irrelevant as the Board only has jurisdiction and control over certification in this state.

Accordingly, on December 12, 2014, the Board voted to revoke Lalelei B. Kelly's Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 Certificates of Eligibility and her Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 certificates. On this 23rd day of January 2015 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Kelly's certificates be effective immediately. It is further ORDERED that Kelly

return her certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.