

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
RON S. TUITT : ORDER OF SUSPENSION
_____ : DOCKET NO: 1516-121

At its meeting of September 17, 2015, the State Board of Examiners (Board) reviewed a decision forwarded by the Commissioner of Education (Commissioner) that had dismissed Ron S. Tuitt from his tenured position as a teacher with the State-Operated School District of the City of Paterson (Paterson). *In the Matter of the Tenure Hearing of Ron S. Tuitt*, Docket No. 307-10/11 (Commissioner's Decision, April 18, 2013). Tuitt currently holds a Teacher of Elementary School Certificate of Eligibility, issued in May 1994 and a Teacher of Elementary School certificate, issued in August 1997.

This case originated when Paterson had certified tenure charges against Tuitt alleging unbecoming conduct and insubordination. Paterson alleged that, on one occasion, Tuitt had urinated in a garbage can in his classroom. Tuitt had also allegedly asked a school custodian to purchase a plastic urine bottle for him, which he then kept in his classroom. On numerous occasions, he would ask his second-grade students to close their eyes while he used the plastic urinal in his classroom. He would then have two students take the urinal to the boys' bathroom to empty it.

Paterson also alleged that Tuitt drove two students home on numerous occasions despite district policy that required teachers to obtain prior permission to do so; ignored directives from school administration to refrain from having students run personal errands for him and to stop using the elevator during fire drills; sent numerous emails to a student and his mother which were inappropriate and unprofessional; and had telephone communications with a student without permission.

In a Decision dated April 18, 2013 (which is incorporated herein by reference), the Commissioner concurred with the Administrative Law Judge's (ALJ) conclusion that Paterson had proven that Tuitt was guilty of unbecoming conduct and insubordination and that he violated district policies concerning conduct with students. The Commissioner found no basis to overturn the ALJ's credibility determinations, including the ALJ's finding that Tuitt's denial of urinating in a plastic bottle in the classroom and having the students dispose of the urine was not credible. The Commissioner found that Tuitt's "unbecoming conduct and insubordination were not the result of an isolated incident, but rather a pattern of outrageous conduct that is not appropriate in a school environment."

The Commissioner also agreed with the ALJ that Tuitt's egregious conduct warranted his dismissal from his tenured employment. Tuitt was dismissed from his tenured employment with Paterson as a result of the unbecoming conduct proven in the tenure proceeding and the Commissioner transmitted the matter to the Board for its review.

Tuitt appealed the Commissioner's Decision to the New Jersey Superior Court, Appellate Division, which, in a decision dated August 10, 2015, affirmed the Commissioner's decision to remove Tuitt from his tenured position. *In the Matter of the Tenure Hearing of Ron S. Tuitt*, Dkt. No. A-4422-12T3 (App. Div. August 10, 2015) (unpublished opinion).

Thereafter, on October 30, 2015, the Board issued Tuitt an Order to Show Cause as to why his certificates should not be revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Tuitt the Order to Show Cause by regular and certified mail on November 1, 2015. The Order provided that Tuitt's Answer was due within 30 days. Tuitt filed his Answer on November 30, 2015.

In that Answer, Tuitt vehemently denied that he ever “urinated in any container in the presence of any student at any time.” (Answer, ¶ 1). He also stated that he never asked any student to empty a urinal in the bathroom for him, calling those allegations “clear fabrications.” (Answer, ¶ 3). Tuitt admitted that he did ask a school custodian to purchase a urinal for him, but that he kept it in his van in case of emergency. (Answer, ¶ 3). He also added that the allegations regarding his urination in class were improbable given the fact that no student ever reported such an incident, that his size made the insertion of a urinal into his pants next to impossible, that he had a co-teacher in his classroom for at least one year and that he also had a classroom aide whose arrival and departure times were irregular. (Answer, ¶ 3). Tuitt cited to an article that was written about him in 2007 that “provides the reader a clear indication that some of the alleged charges brought against [me] were allowances and accommodations made as a result of [my] medical condition and were practices well known to the District certainly dating back to at least February 21, 2007.” (Answer, ¶ 4). Tuitt claimed that the real driving force behind the tenure allegations was his new building principal, Dr. James, and he cited to her testimony which denoted “a bias, contempt and arrogance that is appalling in a school Principal....” (Answer, ¶ 4). He also noted that James knew that he was using the elevator during fire drills, had students assisting him after school and that he was driving those students the two blocks home. He added that, nevertheless, James gave him an evaluation that contained many “outstanding” ratings and yet she later used these factors to form the basis of some of the tenure counts alleging unbecoming conduct and insubordination. (Answer, ¶ 4). Tuitt also alleged that James and Captain James Smith, the district’s executive director of security, “misrepresented the facts to enable the generation of their false allegations; distortion of the truth, told outright lies, manipulated and intimidated staff, parents and students, and generally, abused their authority.” (Answer, ¶ 5). While Tuitt admitted to having one accident in his classroom, he noted that it

occurred at the end of the school day, after students had already been released. (Answer, ¶ 5). Tuitt added that Smith told him after the incident that it was an “accident/non-incident” but then denied that he had responded to Tuitt in that manner when he testified at Tuitt’s tenure hearing. (Answer, ¶ 5). Tuitt argued that if both Smith and James actually believed, as they testified, that he had exposed his penis in order to urinate into the trash can, and had done so in the proximity of students, he would have never been allowed to teach for the additional two months he remained in the classroom. (Answer, ¶ 5). Tuitt also contended that once Smith acknowledged during his investigation that Tuitt’s urination into the trash can was an accident, James came up with a new issue to use against him: the carrying of his crutches by students to the handicapped bathroom. (Answer, ¶ 5). Tuitt also maintained that it was inconceivable that he could urinate in front of students and have them transport the urine over a period of five years and no one ever questioned or confronted him about it. (Answer, ¶ 5). He noted that the ALJ ignored the custodian’s testimony that she never approached students to see what they were carrying, never identified the students, never smelled the liquid, never asked him what he was having the students carry, never once reported any suspicions to a supervisor and still allowed her grandson to go to Tuitt’s room each morning before school. (Answer, ¶ 5). Tuitt noted that he was a caring teacher who was loved by many of his students. (Answer, ¶ 9). He denied that his certificates should be revoked and asked that he be allowed to continue to contribute to education via computer. Tuitt also asked to appear before the Board. (Answer, ¶ 10).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on January 6, 2016, the Board sent Tuitt a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Tuitt was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause provided just cause to take action against his certificates as well as arguments with regard to the appropriate sanction in

the event that the Board determined to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Tuitt's offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Tuitt was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Tuitt filed a written response on January 25, 2016. Tuitt also asked to appear before the Board.

In his Hearing Response, Tuitt reiterated, with more specificity, his response to the tenure charges that had been brought against him and which he had previously addressed in his Answer. (Hearing Response, pp. 1-5). He argued that the parties that brought the charges "did so based on contrived evidence and misinformation...." (Hearing Response, p. 1). Tuitt also outlined his many accomplishments in the district during his years of teaching and noted that he was one of the most requested teachers in his school "by administrators and peers as well as parents." (Hearing Response, p. 1). He stressed that the conduct of which he was accused (urinating in front of students) never happened and that he had a co-teacher in his room during the year in question. (Hearing Response, p. 2). Tuitt also spoke of his devotion to his students throughout his years of teaching, including starting an informal breakfast program for those who were hungry. (Hearing Response, p. 3). He stressed his belief that, even despite a debilitating illness, he still had much to contribute and requested that the Board not take his license away. (Hearing Response, pp. 4-5).

In testimony before the Board, Tuitt's mother, Julie Hines, noted that when he was removed from his classroom, it took Paterson approximately 10 months to file tenure charges and that was the first time Tuitt knew what he was accused of doing. She also indicated that Tuitt's co-teacher could not appear at his tenure hearing because she had been transferred and was afraid of further punitive action. She also pointed out the lack of student corroboration in

Tuitt's case and noted that the second student to testify against Tuitt admitted that he learned of events from the first student and did not directly witness anything himself. Hines also testified that her son gave his heart and soul to his school for 14 years and that the district helped him at first but things changed when James took over. She indicated that her son was deep in debt for legal fees from fighting the district and that he needed to re-engage from a professional and emotional standpoint and as a means to help his financial future.

Tuitt testified about his career in education after having first worked as a journalist. He talked about how each year became more joyful and that students were learning and liking it even though he had been told "it was impossible to teach these kids." He noted that guidance counselors and other teachers would send troubled kids to him and that he was saddened that he was now fighting to keep his license rather than helping children. Tuitt added that he was nominated as Teacher of the Year three times and that he overcame several physical handicaps. He also mentioned the food program he created for hungry students and noted his belief that education went beyond the child in the classroom. Tuitt stated that no matter what he did he "could do nothing right" for Dr. James. Finally, he noted his belief that students need male role models and he still had much to offer.

Charles Ferrer, Tuitt's former union representative testified that when Tuitt explained about his accident to Smith, Smith stated there was "no issue there." Ferrer stated that he knew what Paterson could do to people and that many teachers wanted to speak on Tuitt's behalf at the tenure hearing, but after one teacher was transferred in a perceived act of punishment, all of the others declined. Ferrer noted that Tuitt was not just a good teacher, he was a great teacher. Ferrer said that he had to come and speak to the Board about his friend because he saw and hated what was done to him. Ferrer added that Tuitt helped students get into great universities and that he was capable of doing so much more.

Tuitt's attorney, William F. Koy, also spoke on his behalf. Koy noted he was a former superintendent and stated that he had not met any individual more concerned about teaching than Tuitt. Koy indicated that he wholeheartedly endorsed Tuitt, whom he said was a great teacher, coach and human being who should be allowed to continue to teach.

The threshold issue before the Board in this matter, therefore, is whether Tuitt's conduct constitutes conduct unbecoming a certificate holder. At its meeting of November 1, 2016, the Board considered the allegations in the Order to Show Cause as well as Tuitt's Answer, Hearing Response and testimony. The Board determined that it was constrained by collateral estoppel to accept the facts as found in the tenure hearing and therefore no material facts related to Tuitt's offense were in dispute. *See In the Matter of the Certificates of Richard Barnes-Bey*, Dkt. No. 1314-194 (Bd. Of Examiners September 17, 2015) (Collateral estoppel applies to facts established in a prior tenure hearing for Board revocation proceedings). Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Tuitt's conduct, as set forth in the Order to Show Cause and proven in the tenure hearing, represents just cause to act against his certificates pursuant to *N.J.A.C. 6A:9B-4.5*. The Board finds that it does.

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-4.4*. In this case the record established that Tuitt, by admission, had an accident in school that occurred after hours and resulted in him urinating in a classroom trashcan and partially on the floor. The record also indicated that Tuitt, may have at one time, asked two students to dispose of some liquid, which was alleged to be urine, in the boys' bathroom. Tuitt's conduct, if taken at face value, demonstrated his unfitness to continue in his tenured position in Paterson. It is well settled that unfitness to teach 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). Here, however, Tuitt's testimony and evidentiary submissions, including five years of positive evaluations prior to the year Dr. James became principal, have demonstrated mitigation to such a degree that the Board is convinced that the appropriate response is a suspension of his certificates.

Accordingly, on November 1, 2016, the Board voted to suspend Ron S. Tuitt's Teacher of Elementary School Certificate of Eligibility and his Teacher of Elementary School certificate for a period of three months, effective immediately. On this 9th day of December 2016 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Tuitt's certificates be effective immediately. It is further ORDERED that Tuitt return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, 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

RRH/MZ/th

Date of Mailing:

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