

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
VINCENT AJAYI : ORDER OF SUSPENSION
_____ : DOCKET NO: 1617-121

At its meeting of December 9, 2016, the State Board of Examiners (Board) reviewed a tenure decision regarding Vincent Ajayi, a tenured teacher in State-Operated School District of the City of Newark (Newark). Pursuant to *N.J.S.A.* 18A:6-16, the tenure matter captioned *In the Matter of the Arbitration Between State-Operated School District, City of Newark and Vincent Ajayi*, Dkt. No. 338-11/15 (Arbitrator’s Decision, May 31, 2016), was referred to the Board by the Arbitrator the Department of Education had assigned to hear the case.

The State-Operated School District of the City of Newark (Newark) had certified tenure charges of unbecoming conduct, corporal punishment and other just cause against Ajayi. In his Decision (which is incorporated herein by reference), the Arbitrator concluded that Newark had met its burden of proof on all five charges it brought and that Ajayi was guilty of corporal punishment and conduct unbecoming a teacher. (Arbitrator’s Decision, slip op. at 45). The Arbitrator found that on March 27, 2014, Ajayi had a physical altercation with a student, A.H. *Id.* at 34. Apparently, an object, possibly a piece of candy or a juice box, had been thrown in the classroom and had hit Ajayi. *Ibid.* Ajayi asked A.H. whether he had thrown it and he responded “no.” *Ibid.* Ajayi asked A.H. for the object and he refused to turn it over. *Ibid.* While the Arbitrator could not find consistent testimony “as to the genesis of what had occurred that led to the physical altercation,” it was clear that Ajayi “put his hands on A.H. and began to push him towards the door.” *Ibid.* Thereafter, a physical confrontation occurred. *Id.* at 34-35.

The Arbitrator also found that Ajayi had been previously admonished by the administration in November 2013 for putting his hands on students. *Id.* at 36. The memo Ajayi’s principal sent to him then stated “Twice in the last three days, we have met to discuss complaints from students.” *Ibid.* Those complaints included Ajayi grabbing a student and twisting her arm and another student telling the Principal that Ajayi yoked him up when he refused to turn over a basketball. *Ibid.* The Arbitrator

concluded that Ajayi “has a temper and that temper has to be controlled.” *Ibid.* The Arbitrator also found that Ajayi had attended various training sessions for dealing with disruptive and challenging student behaviors “but apparently he forgot what was addressed in the training sessions.” *Id.* at 37. Furthermore, the Arbitrator disputed Ajayi’s claims of self-defense, noting that “There was no threatening physical injury to others; there was no possession of a need to obtain a weapon or other dangerous object, and the protection of persons or property because he was in a Science lab is far-fetched.” *Id.* at 41.

Having reviewed the entire record, the Arbitrator found that Newark had met its burden of proof and he therefore sustained the tenure charges against Ajayi. *Id.* at 41-43. Ajayi was dismissed from his tenured employment with Newark as a result of the charges proven in the tenure proceeding. *Id.* at 45. The Arbitrator transmitted the matter to the Board for its review.

Ajayi currently holds a Teacher of Physical Science Certificate of Eligibility, issued in August 2003, a Teacher of Students With Disabilities Certificate of Eligibility, issued in March 2006, a Teacher of the Handicapped certificate, issued in August 2006 and Teacher of Physics and Teacher of Physical Science certificates, both issued in August 2013. After reviewing the above information, at its January 19, 2017 meeting, the Board voted to issue an Order to Show Cause to Ajayi 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 Ajayi the Order to Show Cause by regular and certified mail on January 24, 2017. The Order provided that Ajayi’s Answer was due within 30 days. After receiving an extension of time for his submission, Ajayi filed his Answer on April 10, 2017.

In that Answer, Ajayi admitted the allegations in the Order to Show Cause “inasmuch as those allegations are findings by the Arbitrator” but reserved his right to argue mitigation as to the findings. (Answer, ¶¶ 4-8). He neither admitted nor denied that the Board had just cause to consider revoking his certificates and left the Board to its proofs. (Answer, ¶¶ 9-10). In “Separate Defenses in Mitigation Against Revocation” Ajayi noted his excellent career record

with Newark since 2001; argued that the Board failed to state a sufficient claim upon which to base revocation; stated that an investigation by the New Jersey Division of Children and Families, Institutional Abuse Investigation Unit (IAIU) into the incident determined that physical abuse/substantial risk of physical injury/environment injurious to health and welfare was not established; and claimed that the Arbitrator's decision presented some evidence of uncertainty and confusion. (Answer, Separate Defenses, ¶¶ 1-4). Ajayi therefore requested that the Board dismiss the charges or, in the alternative, consider a penalty less severe than revocation.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on August 1, 2017, the Board sent Ajayi a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Ajayi 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 Ajayi's offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Ajayi was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Ajayi filed a written response on August 11, 2017. Ajayi also asked to appear before the Board.

In his Hearing Response, Ajayi stated that, prior to the 2013-14 school year when he was transferred to the Cleveland Elementary School, he had spent the balance of his career teaching special education students. (Hearing Response, p. 1). He added that he found the transition to teaching mainstream middle school students to be difficult and challenging. (Hearing Response, pp. 1-2). Ajayi noted that certain students exhibited negative behavior on a regular basis,

including A.H., who had assaulted Ajayi in October 2014. (Hearing Response, p. 2). Ajayi admitted to the Board that he made some poor decisions during the incident in question and had learned from the experience. (Hearing Response, pp. 2-3). He emphasized that the IAIU “specifically established that no children were injured as a result of the ...incident” and that no medical attention was “indicated, administered or even required.” (Hearing Response, pp. 3-4). Ajayi maintained that he understood that the Arbitrator’s decision was final as to his employment in Newark and stated that he did not intend to retry his case before the Board. (Hearing Response, p. 4). He argued, however, that there were certain elements of ambiguity contained within the Arbitrator’s decision which should militate in favor of mitigation, including the Arbitrator’s admission that he could not identify the genesis of what led to the interaction between Ajayi and A.H. (Hearing Response, pp. 4-5). Ajayi maintained that that uncertainty “was the crux of the entire case,” as he admitted to placing his hands on A.H. but claimed that it was done in self-defense. (Hearing Response, p. 5). He also stressed that the prior incidents referenced in the Principal’s memo “were not significantly detailed in the arbitrator’s decision as they were not developed to any degree at the hearing.” (Hearing Response, p. 5). Accordingly, Ajayi argued that “there is nothing to indicate that those were anything more than unsupported allegations from students who were not subjected to any questioning whatsoever” and asked the Board to consider that in imposing a less serious penalty than revocation. (Hearing Response, pp. 5-6).

Ajayi emphasized the financial hardships his loss of employment had imposed upon his family and the catastrophic effect the loss of his certificates would have upon his future ability to earn a living. (Hearing Response, pp. 6-7). He also stressed his more than 10 years of service as an educator and his exemplary and unblemished record prior to being transferred to Cleveland

Elementary School. (Hearing Response, pp. 7-12). Ajayi also included two character reference letters which attested to his community service. (Hearing Response, p. 12). In summary, Ajayi noted how the present matter had been mentally, physically and emotionally catastrophic for him. (Hearing Response, p. 12). He asked the Board to take into account the mitigation evidence he had presented as well as consider that the present circumstances were aberrational. (Hearing Response, p. 13). He expressed his remorse and asked the Board to balance his exceptional career against his single error in judgment in assessing a penalty and requested that a period of license suspension be imposed in lieu of revocation. (Hearing Response, p. 13).

In testimony before the Board, Ajayi stated that he was apologetic for what happened and deeply regretted his actions. He also took full responsibility for the incident. Ajayi admitted his professional error in judgment and added that he knew he deviated from normal rules and procedures. He noted that he never saw teaching as a job, but rather as a passion. He added that his mother taught him to take care of others and that serving the needs of others leads to a meaningful life. Ajayi stated that two teachers were inspirational to him growing up and he noted that he had tried to inspire and motivate his students as well. Ajayi appealed to the Board for a second chance and promised that the mistakes he had made in the past would never be repeated.

Ajayi's attorney, Joseph J. Fusella, also spoke on his behalf. Fusella noted that Ajayi's conduct was his first transgression of any kind and the first time he had been subject to discipline. He added that Ajayi was not accused of punching, kicking, slapping or striking any student and that no child was injured in the incident or required any medical attention. Fusella also explained that the student at issue here had previously been suspended for several days for punching and kicking Ajayi and, while that was not a justification, it put the events in context.

He also emphasized that Ajayi taught very challenging students and that he had had an exemplary record for the prior 10 years. Fusella added that Ajayi performed a lot of work at his church and acted as a pastor. Fusella also emphasized the devastating impact revocation would have on Ajayi's ability to make a living. He added that Ajayi was extremely remorseful and would never intentionally hurt a child. Finally, Fusella noted that Ajayi had a lot to offer and wanted a second chance.

The threshold issue before the Board in this matter, therefore, is whether Ajayi's conduct constitutes conduct unbecoming a certificate holder. At its meeting of January 19, 2018, the Board considered the allegations in the Order to Show Cause as well as Ajayi'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 Ajayi'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 Ajayi'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 Ajayi had a physical altercation with a student after he was hit with an object and pushed the student toward the classroom door. However, Ajayi's testimony and submissions, indicate that he is remorseful for his actions and

accepts responsibility for his behavior. The Board therefore is convinced that, given Ajayi's long teaching career, the appropriate response in this matter is an 18-month suspension of his certificates.

Accordingly, on January 19, 2018, the Board voted to suspend Vincent Ajayi's Teacher of Physical Science and Teacher of Students With Disabilities Certificates of Eligibility and his Teacher of the Handicapped, Teacher of Physics and Teacher of Physical Science certificates for a period of 18 months. On this 1st day of March, 2018 the Board voted to adopt its formal written decision and it is therefore ORDERED that Ajayi's certificates are hereby suspended for a period of 18 months, effective immediately. It is further ORDERED that Ajayi 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:
via certified and regular mail

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