

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
KEVIN A. MORENO : ORDER OF REVOCATION
_____ : DOCKET NO: 1617-263

At its meeting of April 13, 2018, the State Board of Examiners (Board) reviewed information received from the New Jersey Superior Court-Morris Vicinage and the Criminal History Review Unit (CHRU) regarding Kevin A. Moreno. On April 24, 2017, Moreno pled guilty to Resisting Arrest/Eluding-Causing Risk of Physical Injury, Aggravated Assault-On Law Enforcement Officer-Bodily Injury and Throwing Bodily Fluid at Law Enforcement Officer. On June 2, 2017, he was sentenced to two years' probation, fined and ordered to submit to random drug and alcohol testing. The CHRU notified the Board that, as a result of his conviction, Moreno was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Moreno currently holds a Substitute Credential, which expires in July 2019.

Moreno did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of May 24, 2018 to issue Moreno an Order to Show Cause as to why his credential should not be revoked.

The Board sent Moreno the Order to Show Cause by regular and certified mail on May 29, 2018. The Order provided that Moreno had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. Moreno did not file a response.

Thereafter, on July 9, 2018, the Board sent Moreno another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The

certified mail receipt was signed and returned and the regular mail copy was not returned. Moreno did not file a response.

Thereafter, pursuant to *N.J.A.C.* 6A:9B-4.6(e), on July 30, 2018, the Board sent Moreno a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, Moreno 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 found just cause to take action against his credential. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his offense warranted action against his credential. Thereupon, the Board would also determine the appropriate sanction, if any. Moreno was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Moreno did not file a response.

The threshold issue before the Board in this matter is whether Moreno's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Moreno failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C.* 6A:9B-4.6(c). Consequently, at its meeting of December 17, 2018, the Board considered only the allegations in the Order to Show Cause and the information received from the Superior Court and the CHRU. The Board concluded that no material facts related to Moreno's offense were in dispute since he never denied that he had engaged in the conduct alleged and therefore determined that summary decision was appropriate in this matter.

N.J.A.C. 6A:9B-4.6(h). After reviewing the allegations, the Board found that Moreno had engaged in unbecoming conduct.

The Board must now determine whether Moreno's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his credential pursuant to *N.J.A.C.* 6A:9B-4.4. The Board finds that they do.

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. Individuals convicted of crimes such as Resisting Arrest/Eluding-Causing Risk of Physical Injury, Aggravated Assault-On Law Enforcement Officer-Bodily Injury and Throwing Bodily Fluid at Law Enforcement Officer fall squarely within this category. The strong legislative policy statement is also in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students. "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 instance, Moreno's conviction demonstrates behavior that falls far short of a role model.

The strong policy statement on the part of the Legislature set forth in *N.J.S.A.* 18A:6-7.1(b) also offers guidance to the Board as to the appropriate sanction 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 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, because the Legislature and the Commissioner consider Moreno's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his credential.

Accordingly, on December 17, 2018, the Board voted to revoke Kevin A. Moreno's Substitute Credential. On this 24th day of January 2019, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Moreno's credential be effective immediately. It is further ORDERED that Moreno return his credential 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 the provisions of *N.J.S.A.* 18A:6-38.4.