

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
THERESA GUERRIERE : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 1920-110

At its meeting of November 1, 2019, the State Board of Examiners (Board) reviewed information received from the Office of Student Protection (OSP) and the New Jersey Superior Court – Atlantic County Vicinage regarding Guerriere.

In August 2018, Guerriere was indicted for Theft by Deception – False Impression (3<sup>rd</sup> degree), Conspiracy – Agree/Engage in Conduct Constituting a Crime (3<sup>rd</sup> degree), and Unsworn Falsification (4<sup>th</sup> degree) after she received disaster relief funds by falsely claiming a property as a primary residence.

On July 11, 2019, Guerriere received an Order of Postponement and was entered into PreTrial Intervention Program for a period of 12 months and was required to complete 25 hours of community service and make restitution in the amount of \$7,900.

Guerriere holds a Teacher of Health and Physical Education, Teacher of Handicapped, and Teacher of Driver Education certificates. On December 13, 2019, the Board issued Guerriere an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Guerriere the Order to Show Cause by regular and certified mail. The Order provided that Guerriere’s Answer was due within 30 days. Guerriere filed her Answer on January 17, 2020.

In that Answer, Guerriere admitted that she was indicted for 3<sup>rd</sup> degree theft by deception, 3<sup>rd</sup> degree conspiracy to commit theft by deception, and 4<sup>th</sup> degree unsworn falsification. *See* Answer at ¶ 3. Guerriere, however, denied that she engaged in any of the alleged conduct or wrongdoing. *Id.* She asserted that she permanently resided in Brigantine, New Jersey at all times

relevant; she paid taxes there and used that address on her driver's license. *Id.* Furthermore, Guerriere admitted that she entered into PTI for 12 months, but she did not enter a guilty plea to any criminal charges. *Id.* at ¶ 4. She further offered 2 separate defenses.

Since there were material facts in dispute, on January 20, 2020, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. On January 26, 2022, Administrative Law Judge (ALJ) Tama B. Hughes (Judge Hughes) issued an Initial Decision in the case. *In the Matter of the Certificates of Theresa Guerriere*, Dkt. No. EDE 01212-20 (Initial Decision, January 26, 2022).

In the matter at OAL, the Board filed a motion for summary decision, asserting that there were no material facts in dispute as Guerriere's residency was determined at a hearing before the Honorable W. Todd Miller, ALJ (*IMO Theresa Guerriere v. Department of Community Affairs*, OAL Docket No. CAF 11204-15). Guerriere filed a cross motion indicating that the Board has no evidence that Guerriere knowingly submitted a fraudulent application to the State in order to receive Sandy relief funds.

Judge Hughes found that Judge Miller's ruling, as adopted by the Department of Community Affairs, is "controlling upon this tribunal on the issue of respondent's primary residence as of October 29, 2012, and her application for Sandy recovery funds for her Brigantine residence." *Id.* at p. 12-13. ALJ Hughes further found that it did not matter that the Board was not a party to the litigation before Judge Miller, but rather Guerriere had a "full and fair opportunity to litigate the issue and received a final judgment on the merits." *Id.* at p. 13. Accordingly, Judge Hughes determined that Guerriere is collaterally estopped from relitigating the issue of her residency as of October 29, 2012.

Based upon the determination that collateral estoppel applies, the Board argued that summary decision is warranted because Guerriere was found to have “material misrepresentations as to her primary residence to secure Sandy relief funds.” *Id.* Judge Hughes therefore found that Guerriere engaged in conduct unbecoming a teacher, such that revocation is appropriate. *Id.* at p. 13-16.

On February 2, 2022, Guerriere filed Exceptions to the Initial Decision. In those Exceptions, Guerriere argues that collateral estoppel and res judicata are not applicable in this matter because the issue before Judge Hughes is different than the issue decided by Judge Miller involving the DCA. *See* Exceptions at p. 19. First, the criminal charges in this matter were issued after Judge Miller’s hearing and ruling, so res judicata or collateral estoppel does not apply. *Id.* at p. 23. Further, the alleged criminal conduct involved purposeful or intentional conduct. *Id.* Accordingly, Guerriere states that the Board must prove that she intentionally made a material misrepresentation. *Id.* at p. 24. There is no evidence that her conduct was purposeful or intentional. Rather, based upon discussions and representations, Guerriere “reasonably believed that she qualified for the relief funds.” *Id.* Judge Miller’s determination is limited to the fact that Guerriere was not legally entitled to the relief funds for which she applied. *Id.* at p. 25.

Guerriere also argues that summary judgment should not be granted where the matter requires a determination of a state of mind or intent. *Id.* at p. 25. The Board’s motion should have been denied as a matter of law. *Id.* at p. 26.

Additionally, Guerriere argued that Judge Hughes incorrectly stated that she was arguing the Board had a higher burden of proof in this matter than the matter before Judge Miller. Guerriere asserts that this demonstrates that Judge Hughes did not understand Guerriere’s arguments. *Id.* at p. 27. Additionally, Guerriere states that Judge Hughes erroneously found that she presented no

new evidence and failed to permit Guerriere to offer character evidence or evidence in mitigation of the penalty. *Id.* at p. 30-33.

On March 11, 2022, the DAG representing the Board filed a reply to Guerriere's exceptions. The reply states that Judge Hughes properly applied the criteria for determination of collateral estoppel. *See Reply* at p. 9. First, the issue in both the DCA proceeding and in this matter are the same – whether Guerriere's primary residence was in Brigantine, New Jersey at the time of Hurricane Sandy. *Id.* Judge Miller determined that Guerriere received disaster relief by falsely claiming a property as primary residence. *Id.*

Additionally, in determining whether the matter decided by Judge Miller was the same as that before Judge Hughes, courts should look for significant overlap of evidence or argument, among other factors. *Id.* at p. 10. The fact finder in Judge Miller's matter and the instant matter would have considered the exact same testimony, evidence and arguments. *Id.* at p. 10-11. Moreover, Guerriere had a full opportunity to litigate the matter before Judge Miller. *Id.* at p. 12.

The DAG also asserts that the Board does not have to prove Guerriere violated the criminal code or that she had the requisite *mens rea*. *Id.* at p. 14. The Board had to prove by a preponderance of credible evidence that Guerriere misrepresented her primary residence as Brigantine when she applied for Sandy funds. *Id.* at p. 15. Finally, the DAG asserted that there are numerous cases where revocation of certificate is appropriate in instances of fraudulent claims. *Id.* at p. 18-19.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of October 28, 2022<sup>1</sup>, the Board reviewed the Initial Decision,

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<sup>1</sup> There were delays in the Board's consideration of the Initial Decision in this matter resulting from Board member recusals and lack of quorum, as well as consideration of proposals to resolve this matter short of the initial decision.

Exceptions and Reply Exceptions. After full and fair consideration of the Decision and other submissions, the Board voted to adopt the Initial Decision.

“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. 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). In this case, Judge Hughes correctly noted that the facts underlying Guerriere’s conduct were established at the DCA hearing before Judge Miller and, pursuant to collateral estoppel, govern the Board’s decision-making here. Judge Miller found that Guerriere received Sandy relief funds after she falsely claimed Brigantine was her primary residence. Guerriere’s intent behind the filing is not relevant to the determination that she claimed the property as a primary residence and sought and obtained relief funds based upon that claim. Furthermore, the Board agrees with Judge Hughes that Guerriere’s behavior constituted unbecoming conduct which warrants a severe penalty, consistent with the Board’s precedential case law relating to submission of fraudulent claims. See *IMO Certificates of Eloise Stewart*, 10796-16, State Bd. of Exam’rs (July 27, 2017); *IMO Certificates of Shauna E. Morgan*, Dkt. No. 1314-190, State Bd. of Exam’rs (June 28, 2019); and *IMO Certificate of David Toler*, EDE 5946-02, State Bd. of Exam’rs (October 28, 2004). Consequently, the Board finds that revocation is the appropriate response in this matter and therefore adopts the Initial Decision.

Accordingly, on October 28, 2022, the Board voted to adopt the Initial Decision and ordered to revoke Guerriere’s certificates. On this 9<sup>th</sup> day of December 2022, the Board formally adopted its written decision to adopt the Initial Decision, and it is therefore ORDERED that

Theresa Guerriere's Teacher of Health and Physical Education, Teacher of Handicapped, and Teacher of Driver Education certificates are hereby revoked, effective immediately. It is further ORDERED that Guerriere return her 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.

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Rani Singh, Secretary  
State Board of Examiners

RS/KAG/cf

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.