

EDU #3857-97N
DHP # 230-98
SB # 53-98

IN THE MATTER OF THE DISQUALIFI- :
CATION FROM SCHOOL EMPLOYMENT : STATE BOARD OF EDUCATION
OF J.G. : DECISION

Decided by the Commissioner of Education, February 27, 1998

For the Petitioner-Appellant, Ronald M. Gutwirth, Esq.

J.G. (hereinafter "appellant"), who was employed as a custodian by the State-operated School District of Newark, was disqualified from continued employment in the State's schools by the Office of Criminal History Review of the Department of Education after a criminal history record review conducted pursuant to N.J.S.A. 18A:6-7.1 revealed that he had been convicted of second-degree murder in 1966. The appellant appealed his disqualification to the Commissioner of Education, contending that he was rehabilitated.¹

On February 27, 1998, the Commissioner of Education upheld the disqualification, concluding that the appellant had failed to demonstrate clear and convincing evidence of his rehabilitation under the standard set forth in N.J.S.A. 18A:6-7.1 as then in effect.

¹ We note that petitioner's criminal history record review was conducted prior to the 1998 amendment to N.J.S.A. 18A:6-7.1, which eliminated rehabilitation as a basis for challenging a disqualification determination. The statute as amended now provides that an individual convicted of any of the offenses specified therein "shall be permanently disqualified" from school employment as the result of such

The appellant filed the instant appeal to the State Board of Education.

By letter dated October 6, 1998, the Director of the State Board Appeals Office notified counsel for the appellant that the Legal Committee of the State Board had determined that it was necessary to supplement the record on appeal pursuant to N.J.A.C. 6:2-1.9 with additional documents in order to determine whether the appellant had affirmatively demonstrated his rehabilitation. The appellant was therefore directed to supplement the record with: “1) any additional court documents, records and transcripts, including, but not limited to, a copy of the court’s sentencing memo following appellant’s conviction for second-degree murder in 1966, 2) documentation and further information regarding the appellant’s contention that Franklin Gilchrist pleaded guilty during the trial, 3) an explanation of and any additional documentation relating to the robbery charges (subsequently dismissed) which were filed against the appellant in November 1965 when he was charged with murder, and 4) any other documents regarding the circumstances surrounding the murder charge, trial and conviction.”

Counsel for the appellant was further advised that “[a]lthough the appellant may not relitigate his conviction in these proceedings, the requested information is relevant to ‘[t]he nature and seriousness of the offense,’ N.J.S.A. 18A:6-7.1(e)(2), a factor which must be considered by the State Board in determining whether the appellant has demonstrated his rehabilitation under the statute.”

Counsel for the appellant submitted supplemental materials to the State Board in April 1999.

conviction. Consequently, rehabilitation is no longer available as a mechanism to abrogate the effect of a disqualifying offense.

After a thorough review of the record as supplemented, we affirm the decision of the Commissioner. Although the appellant continues to deny his involvement in the crime that led to his conviction for second-degree murder, his guilt is not at issue in these proceedings, and we find nothing in the supplemented record that would mitigate the gravity of that offense.

We therefore affirm the decision of the Commissioner disqualifying the appellant from school employment.

June 2, 1999

Date of mailing _____