

C #322-02L
SB # 38-02

ANDREW T. CARRINGTON,	:	
	:	
PETITIONER-APPELLANT,	:	STATE BOARD OF EDUCATION
V.	:	
	:	DECISION
BOARD OF EDUCATION OF THE CITY	:	
OF PLEASANTVILLE, ATLANTIC COUNTY,	:	
	:	
RESPONDENT-RESPONDENT.	:	
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Decided by the Acting Commissioner of Education, August 27, 2002

For the Petitioner-Appellant, Melissa R. Vance, Esq.

For the Respondent-Respondent, DeCotiis, Fitzpatrick, Gluck & Cole
(Avis Bishop-Thompson, Esq., of Counsel)

On June 11, 2002, Andrew T. Carrington (hereinafter "petitioner"), the Chief School Administrator for the Pleasantville School District, filed a petition of appeal with the Commissioner of Education challenging the action by the Board of Education of the City of Pleasantville (hereinafter "Board") placing him on a two-week administrative leave with pay, effective May 20 through June 3, 2002. The petitioner sought a declaration that the Board's action was illegal, improper and arbitrary. The Board filed a motion to dismiss the petition, contending that the matter became moot on June 3, 2002, when the petitioner resumed his duties.

On August 27, 2002, the Acting Commissioner granted the Board's motion and dismissed the petition. The Acting Commissioner explained:

Here, petitioner's appeal was filed subsequent to his return from an administrative leave during which he was neither deprived of his position nor any rights, salary or benefits to which he can assert he was legally entitled. Consequently, there is no relief which can be accorded him. Notwithstanding petitioner's attempt to categorize this matter as an exception to the mootness doctrine, the Commissioner finds no strong public interest, no support for petitioner's contention that there is a strong likelihood of repetition or any other compelling reason for deviation from the general rule against adjudicating moot issues.

To the extent that the relief sought by petitioner, at this point in time, could be construed as a request for declaratory judgment, i.e., a proclamation that the Board's placement of him on a paid administrative leave was an illegal or improper act, petitioner has not satisfied the requirements necessary for such a ruling. Pursuant to N.J.A.C. 6A:3-2.1, a petitioner may request the Commissioner to issue a declaratory ruling with respect to rights, responsibilities, and status arising under a particular statute or regulation within the Commissioner's jurisdictional purview. Petitioner here has advanced no statute or regulation which he claims as a foundational basis for such a ruling. Pursuant to my discretion under N.J.A.C. 6A:3-2.1, I decline to entertain a declaratory judgment request....

Acting Commissioner's Decision, slip op. at 2-3.

The petitioner filed the instant appeal to the State Board, arguing that the matter is not moot. The petitioner maintains, inter alia, that the Board's action "impugn[ed] his reputation, and impact[ed] his chances for future employment." Appeal Brief, at 3. He contends that a finding in his favor "would expunge his record." Id.

After a careful review of the papers filed by the parties on appeal and with respect to the motion to dismiss, we reverse the Commissioner's decision. In so doing, we acknowledge the well-settled doctrine that controversies which have become moot

or academic ordinarily will be dismissed. Oxford v. New Jersey State Bd. of Educ., 68 N.J. 301 (1975). “[F]or reasons of judicial economy and restraint, courts will not decide cases in which the issue is hypothetical, a judgment cannot grant effective relief, or the parties do not have concrete adversity of interest.” Cinque v. Dept. of Corrections, 261 N.J. Super. 242 (App. Div. 1993), quoting Anderson v. Sills, 143 N.J. Super. 432, 437 (Ch. Div. 1976).

In this case, however, we conclude that the issue presented is not purely hypothetical. Although the petitioner retained his position and did not suffer any reduction in his salary or benefits, we agree with him that, as a result of the Board’s action, he has suffered and continues to suffer harm to his professional reputation and, concomitantly, to his livelihood and economic opportunities. See Bower v. State, 135 N.J.L. 564 (Sup. Ct. 1947) (the stigma of an arrest and conviction did not become moot simply because service of the sentence had been completed); Connell v. Shoemaker, 555 F.2d 483 (5th Cir. 1977) (suit challenging sanctions imposed by commanding officer of Army base against owners of rental housing was not moot even after sanctions had been lifted since imputation of bigotry implicit in those sanctions could not but harm the appellants’ reputations and their livelihoods¹).

The consequences of the Board’s action in this instance are not conjectural or insubstantial. The petitioner holds the high-exposure position of Chief School Administrator in the district, and the administrative leave, which was imposed against him in a closed session meeting of the Board, was subsequently reported with great speculation in the press. See Petitioner’s Brief in Opposition to Motion to Dismiss,

¹ The Court in Connell viewed the “collateral consequences” ensuing from the sanctions as analogous to those resulting from a criminal conviction.

Exhibit A. In the absence of an explanation from the Board, the inference is inescapable that its action was taken for disciplinary reasons, thereby causing harm to the petitioner's reputation. Under these circumstances, we conclude that the collateral consequences of the Board's action are sufficient to negate mootness.

Accordingly, we reverse the Acting Commissioner's decision to dismiss the petition and remand this matter to him for further proceedings.

May 7, 2003

Date of mailing _____