

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
TIMOTHY YURCHAK : ORDER OF REVOCATION
_____ : DOCKET NO: 0809-228

At its meeting of June 22, 2009, the State Board of Examiners reviewed information from the Hudson County Prosecutor's Office indicating that Timothy Yurchak pled guilty in January 2009 to charges of Theft and Conspiracy. In April 2009, Yurchak was sentenced to three years' probation and ordered to forfeit his public employment. Yurchak currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in July 2007. Upon review of the above information, at its July 28, 2009, meeting, the State Board of Examiners voted to issue Yurchak an Order to Show Cause.

The Board sent Yurchak the Order to Show Cause by regular and certified mail on August 13, 2009. The Order provided that Yurchak must file an Answer within 30 days. Yurchak filed an Answer on September 11, 2009. In that Answer, Yurchak admitted that he pled guilty to Theft and Conspiracy, but averred that the conspiracy charge was not true and was a better alternative to a trial, which might have resulted in his imprisonment. (Answer, ¶ 4.) In the remainder of his Answer, Yurchak explained that the theft happened before he began his teaching career. (Answer, ¶ 6.) Yurchak said he became addicted to Percocet, but overcame his addiction before he started student teaching. (Answer, ¶ 6.) He added that there was no evidence against him and that his conviction was a result of his own confession. (Answer, ¶ 6.) Yurchak stated that he was working towards becoming a certified alcohol and drug counselor and wanted to retain his certificates so that he could use his experience to help others. (Answer, ¶ 6.) Finally, he added that his charges were expungeable and that he hoped to retain his

certificates so that he might “one day have the option of utilizing them after expungement.” (Answer, ¶ 6.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on October 22, 2009, a hearing notice was mailed by regular and certified mail to Yurchak. The notice explained that it appeared that no material facts were in dispute. Thus, Yurchak 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. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Yurchak was also provided the opportunity to appear before the Board to testify on the sanction issue.

Yurchak responded on November 18, 2009. In his response, Yurchak repeated his account of admitting to stealing Percocet from a pharmacy where he used to work, even though there was no evidence against him other than hearsay. (Hearing Response, p. 1.) He claimed that he had overcome his addiction before he began student teaching and “was never involved with drugs or theft as a teaching professional.” (Hearing Response, p. 1.) He added that he pled guilty to conspiracy even though there was no foundation to the charge, because “the plea presented a better alternative than a trial which may have resulted in my imprisonment.” (Hearing Response, p. 1.)

Yurchak also detailed his rehabilitation, stating that he had accumulated 84 hours of Certified Alcohol and Drug Counselor classes. (Hearing Response, p. 2.) He noted that he was working two part-time jobs to make ends meet and that he had “diligently met all the requirements of probation.” (Hearing Response, p. 2.)

Yurchak also asked for leniency in regard to his certificates stating that “Although I am ready to accept suspension, I am hoping that you’ll reconsider revocation.” (Hearing Response, p. 3.) He emphasized his desire to share his experiences with today’s youth and noted that only a teacher “wized by practical knowledge” could reach “unreachable” students. (Hearing Response, p. 3.)

In his testimony before the Board, Yurchak reiterated that these actions happened while he was still in college, that he regrets his behavior and lives with the humiliation. He stated that he never was involved with drugs when he was a teacher and told the truth to prosecutors so that he could act with integrity. He added that he has regained his self-respect even though he lost everything else. Finally, he reminded the Board that he hoped to have his record expunged in the future and was working toward becoming a drug counselor.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether the conduct underlying Yurchak’s conviction and resultant forfeiture of public office constitute conduct unbecoming a certificate holder. At its meeting of March 25, 2010, the State Board of Examiners reviewed the allegations in the Order to Show Cause, Yurchak’s responses and his testimony. The Board of Examiners determined that no material facts related to Yurchak’s offense were in dispute since he never denied that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether the conduct underlying Yurchak’s conviction and resulting forfeiture of public office, as set forth in the Order to Show

Cause, represent just cause to act against his certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

The State Board of Examiners 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:9-17.5*. “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, it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 *N.J.A.R.* 285 (1981). In this case, Yurchak has a conviction for a crime involving theft of drugs. A teacher’s behavior outside the classroom may be relevant in determining that person’s qualifications and continued fitness to retain his certificates. *In re Grossman*, 127 *N.J. Super.* 13, 30 (App. Div. 1943), cert. denied 65 *N.J.* 292 (1974).

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, Yurchak’s conviction for Theft and Conspiracy demonstrates behavior that warrants revocation. Additionally, the Board agrees with the court’s conclusion that Yurchak’s actions make him unsuitable to retain public office. The Commissioner has long held that teachers serve as role models for their students. Clearly, Yurchak can no longer claim that status.

Furthermore, notwithstanding Yurchak's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See *In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 N.J.A.R. 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Yurchak has completed his probation requirements and is seeking to become a certified alcohol and drug counselor, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on March 25, 2010, the Board of Examiners voted to revoke Timothy Yurchak's Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing. On this 29th day of April 2010 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Yurchak's certificate be effective immediately. It is further ORDERED that Yurchak return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, 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

Date of Mailing:

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