

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
11 EDC 01445

Louis A Hrebar,)
Petitioner,)
)
vs.)
)
North Carolina State Board of Education,)
Respondent.)

DECISION

This matter came on to be heard before Administrative Law Judge Beecher R. Gray on June 7, 2012, in Raleigh, North Carolina.

For Petitioner: Louis A. Hrebar, *pro se*
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Charlotte, NC 28217

For Respondent: Tiffany Y. Lucas, Esq.
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FINDINGS OF FACT

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing and each stipulated on the record that notice was proper.
2. Prior to August 4, 2010, Petitioner held a teaching license issued by the North Carolina State Board of Education. On or about August 4, 2010, Petitioner submitted an application to have his North Carolina teaching license renewed.
3. Petitioner indicated on his application that he previously had been convicted of a crime and that his South Carolina teaching license previously had been revoked. Petitioner has been convicted in South Carolina of trespassing for entering into a university library without a proper identification card to access the library. An Order of Permanent Revocation obtained from the South Carolina State Board of Education revealed that at the time of Petitioner's trespass arrest, he had pornographic websites open on a university computer. The Order also stated that an investigation revealed that Petitioner had violated his employing school district's internet policy by accessing pornographic websites on a school computer. In his North Carolina license renewal application--despite being asked for a statement giving full details and explanation concerning his license revocation and/or criminal conviction--Petitioner did not disclose that he had accessed pornographic websites either at the university library or at his former school.

4. Petitioner was called in to be interviewed by the Superintendent's Ethics Committee in November 2010. The Superintendent's Ethics Committee is made up of professional educators appointed by Superintendent June Atkinson to review applications for a teaching license where the applicant has indicated that he or she has a prior conviction or has had a license revoked or suspended by any state or governing body. Petitioner was interviewed by members of the Committee and initially told the Committee that he had been convicted of trespassing and that--because of his failure to report his arrest to his principal and the resulting violation of his contract--his South Carolina teaching license had been revoked. Petitioner then was asked why he had not told the Committee or mentioned in his renewal application that he had been accused of accessing pornographic websites both at the college library and in his classroom. Petitioner admitted the conduct but stated that he had not disclosed it because he was embarrassed and had since abstained from such conduct.
5. The Ethics Committee recommended to Superintendent Atkinson that Petitioner's teaching license be revoked based on Petitioner's conduct and violations of the standards of professional conduct for educators in the State of North Carolina.
6. Petitioner admitted at the hearing in this matter that he accessed pornographic websites both at the college library and in his classroom and that he failed to disclose such in his application to renew his North Carolina teaching license.
7. The State Board of Education may revoke or deny a teaching license for fraud, material misrepresentation or concealment in the application for the license. 16 N.C.A.C. 6C.0312(a)(1)
8. The State Board of Education may revoke or deny a teaching license for conviction, as an adult, of a crime if there is an adverse relationship between the underlying crime and the continuing ability of the person to be an effective teacher. 16 N.C.A.C. 6C.0312(a)(3)
9. The State Board of Education may revoke or deny a teaching license if another state has revoked the applicant's teaching license. 16 N.C.A.C. 6C.0312(a)(7)
10. The State Board of Education also may revoke or deny a teaching license for any illegal, unethical, or lascivious conduct if there is an adverse relationship between that conduct and the continuing ability of the person to be an effective teacher. 16 N.C.A.C. 6C.0312(a)(8)
11. Within weeks of being hired by the Rock Hill School District Three (South Carolina) as a teacher in 2008, Petitioner was arrested for trespass at the Winthrop University library and ultimately convicted. There is no dispute that at the time of Petitioner's arrest, he had pornographic websites open on a university computer.
12. There is no dispute that Petitioner was found to have accessed inappropriate websites using his school computer in a classroom lab that potentially could be accessed by students. It is undisputed that Petitioner failed to fully disclose the circumstances

surrounding his criminal conviction for trespassing and the revocation of his South Carolina teaching license on his application to renew his North Carolina teaching license.

13. The South Carolina State Board of Education issued an Order of Permanent Revocation of Petitioner's teaching license on February 9, 2010.
14. In this case, Petitioner has applied to have his teaching license renewed and has admitted conviction for criminal activity involving conduct unbecoming a teacher. Petitioner also has admitted to other unethical, lascivious, or inappropriate conduct resulting in the permanent revocation of his teaching license in the State of South Carolina. Teachers in this State are expected to be role models for their students. Petitioner's past behavior simply does not demonstrate the kind of character and conduct expected of any employee, much less the higher standard expected of teachers. Parents are entitled to have their children entrusted to individuals of the highest moral character and personal conduct.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. The burden is on Petitioner to demonstrate by a preponderance of the evidence that the State Board of Education erred in denying his request for a teaching license. Peace v. Employment Security Commission, 349 N.C.315, 507 S.E. 2d 272 (1988)
3. Petitioner's conduct as outlined above, including the conduct leading to a criminal trespass conviction; the accessing of pornographic and other inappropriate websites on university and school computers resulting in an order of permanent revocation of his teaching license in South Carolina; and a failure to disclose fully the circumstances surrounding Petitioner's previous criminal conviction and revocation of license, render him unfit to receive a license at this time to teach the children of this State. Teachers are required in this State, both by Rule and by case law, to maintain the highest level of ethical and moral standards and to serve as a positive role model for children. 16 N.C.A.C. 6C.0602(b)(2); Faulkner v. New Bern-Craven Board of Education, 311 N.C. 42, 59, 316 S.E.2d 281, 291 (1984)
4. As our Supreme Court observed in Faulkner:

Our inquiry focuses on the intent of the legislature with specific application to teachers who are entrusted with the care of small children and adolescents. We do not hesitate to conclude that these men and women are intended by parents, citizenry, and lawmakers alike to serve as good examples for their young charges. *Their character and conduct may be expected to be above those of the average individual not working in so sensitive a relationship as that of teacher to pupil.* It is not inappropriate

or unreasonable to hold our teachers to a *higher standard of personal conduct*, given the youthful ideals they are supposed to foster and elevate.

Id. (emphasis added)

5. Petitioner's conduct bears a "reasonable and adverse relationship" to Petitioner's ability to perform any of his professional functions in an effective manner.
6. Petitioner's conduct is not consistent with the high standards of conduct expected of teachers in this State. See Faulkner v. Board of Education, 311 N.C. 42, 316 S.E.2d 281 (1984)
7. Respondent did not act arbitrarily or capriciously in revoking Petitioner's license to teach in North Carolina.
8. Respondent did not and has not unlawfully deprived Petitioner of any property to which he is entitled.
9. Respondent has not prejudiced the rights of Petitioner nor acted arbitrarily or capriciously.

Based on the foregoing, the undersigned makes the following:

DECISION

Respondent's decision to deny the teaching license renewal application submitted by Petitioner on or about August 4, 2010 is supported by the evidence and is **AFFIRMED**.

NOTICE

The Agency that will make the final decision in this contested case is the North Carolina State Board of Education.

The Agency is required to give each party an opportunity to file exceptions to the decision and to present written arguments to those in the Agency who will make the final decision. N.C. Gen. Stat. § 150-36(a). The Agency is required by N.C. Gen. Stat. § 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorneys of record and to the Office of Administrative Hearings.

In accordance with N.C. Gen. Stat. § 150B-36 the Agency shall adopt each finding of fact contained in the Administrative Law Judge's decision unless the finding is clearly contrary to the preponderance of the admissible evidence. For each finding of fact not adopted by the agency, the agency shall set forth separately and in detail the reasons for not adopting the finding of fact and the evidence in the record relied upon by the agency in not adopting the finding of fact. For

each new finding of fact made by the agency that is not contained in the Administrative Law Judge's decision, the agency shall set forth separately and in detail the evidence in the record relied upon by the agency in making the finding of fact.

This the 27th day of July, 2012.

Beecher R. Gray
Administrative Law Judge