

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

Bonnie Aleman,

Petitioner,

V.

North Carolina State Board of
Education, North Carolina Department
of Public Instruction

Respondent.

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
NO. 12 EDC 07293

DECISION

This matter came on to be heard before Administrative Law Judge Eugene Cella on March 8, 2013 in Charlotte, North Carolina.

APPEARANCES

For the Petitioner: Bonnie Aleman, Pro se
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For the Respondent: Tiffany Y. Lucas
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FINDINGS OF FACT

1. Petitioner applied for a license to teach in North Carolina on or about March 5, 2012. On her license application, Petitioner indicated that she had been convicted of a crime other than a minor traffic violation.

2. Upon request from the Department of Public Instruction for a written explanation of the incidents resulting in a criminal conviction, Petitioner submitted a statement to DPI

confirming that she had previously pled guilty to a charge of "accepting a bribe." Petitioner further stated that "there was no excuse for [her] lapse in judgment."

3. In connection with her application for a teaching license, Petitioner was called in to be interviewed by the Superintendent's Ethics Committee in June 2012. 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 he or she has a prior conviction and/or has previously had a license revoked or suspended. Petitioner was interviewed by members of the Committee regarding her criminal background and the events and circumstances resulting in her guilty plea.

4. After hearing from the Petitioner, reviewing the relevant documents and discussing the matter, the Ethics Committee recommended to Superintendent Atkinson that Petitioner's application for a teaching license be denied.

5. Petitioner admitted both to the Ethics Committee and at the hearing in this matter that she pled guilty to the crime in question — Conspiracy to Defraud the United States (Bank Fraud). Petitioner also admitted that she did not report her actions to her employer or turn herself into law enforcement following commission of the crime at issue (i.e., issuing false letters of credit for "customers" who demanded them from her in her capacity as a bank employee in exchange for money), but only accepted responsibility for her misconduct once she was criminally charged.

6. Court documents from the United States District Court for the Western District of North Carolina indicate that Petitioner pled guilty to one count of Conspiracy to Defraud the United States (Bank Bribery), an offense she committed while working as an employee for a

bank. On or about June 10, 2011, United States District Judge Max O. Cogburn Jr. sentenced the Petitioner to a three-year probation term.

7. Petitioner was approximately 40 years old at the time of the commission of this criminal offense.

8. The State Board of Education may revoke or deny a teaching license for conviction of a crime, including a plea of guilty to a crime, if there is a reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner. 16 N.C.A.C. 6C.0312(a)(3) The State Board of Education may also 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)

9. There is no dispute here that Petitioner was charged with and pled guilty to a charge of Conspiracy to Defraud the United States (Bank Bribery). Likewise, there is no dispute that the Petitioner is currently serving a three-year federal probation term which began on or about June 10, 2011. The only issue is whether the conviction and related conduct bear an adverse relationship to the continuing ability of Petitioner to be an effective teacher.

10. 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)

11. 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)

12. In this case, Petitioner has applied to be a teacher and has admitted her guilty plea to a charge of criminal activity involving dishonesty and conspiring to commit fraud on her former employer. Petitioner has also admitted that she is currently serving a three-year federal probation term as a consequence of her guilty plea to the criminal charge against her.

13. Teachers in this State are expected to be role models for their students. Moreover, teachers are expected to be honest and to safeguard not only students and student information, but students' and parents' money as well. 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. Persons convicted of serious crimes involving dishonesty and fraud simply do not meet the threshold requirement demanded by communities and parents for the school teachers we expect to be examples for our children.

14. The conduct with which Petitioner in this case was charged with and to which she pled guilty, the conduct surrounding her commission of the offense, and the fact that Petitioner is currently serving a federal probation term for her criminal offense, is conduct which fails to adhere to the high standards demanded of teachers in this State.

CONCLUSIONS OF LAW

I The burden is on Petitioner to demonstrate, by a preponderance of the evidence, that the State Board of Education erred in denying her request for a teaching license. Peace v. Employment Sec. Comm'n, 349 N.C.315, 507 S.E. 2d 272 (1988)

2. Petitioner's conduct bears a "reasonable and adverse relationship" to the Petitioner's ability to perform her professional functions in an effective manner, including serving as a positive role model for students.

3. 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).

4. Respondent did not act arbitrarily or capriciously in denying Petitioner a license to teach in North Carolina.

5. Respondent did not and has not unlawfully deprived Petitioner of any property to which she is entitled.

6. Respondent has not prejudiced the rights of Petitioner nor acted arbitrarily or capriciously.

Based on the foregoing, the undersigned makes the following:

DECISION

The undersigned finds and holds that there are sufficient undisputed facts, findings, and evidence in the record to support the Conclusions of Law stated above that the Petition for Contested Case should be denied. The preponderance of the evidence supports the decision by the Respondent and Petitioner has failed to meet its burden to show otherwise.

ACCORDINGLY, based upon the foregoing, it hereby is ORDERED, ADJUDGED, AND DECREED as follows:

1 The relief requested by the Petition for Contested Case hereby is DENIED.

This is a final decision under the authority of N.C.G.S. § 150B-34.

NOTICE

Under N.C.G.S. 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge may commence such appeal by filing a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of Mecklenburg County. The party seeking review must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Decision and Order. Under N.C.G.S. 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

IT IS SO ORDERED.

This the 14th day of June, 2013.

Eugene J. Cella
Administrative Law Judge