

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 EDC 10448**

Glennette McRae,
Petitioner,

v.

North Carolina State Board of Education,
Respondent.

FINAL DECISION

This matter came on to be heard before Administrative Law Judge Selina M. Brooks on September 23, 2013 in Charlotte, North Carolina.

APPEARANCES

For the Petitioner:

Glennette McRae, *Pro se*
1605 Jeffrey Bryan Dr.
Charlotte, NC 28213

For the Respondent:

Tiffany Y. Lucas
Assistant Attorney General
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001

ISSUE

Whether Petitioner's North Carolina teaching license should have been renewed.

APPLICABLE STATUTES AND RULES

N.C. Gen. Stat. § 115C-296
16 NCAC 6C .0312

WITNESSES

For Petitioner: Glennette McRae

For Respondent: Katie Cornetto
 Barbara A.B. Leonard
 Christopher S. Boe
 Teresa G. Cockerham
 Glennette McRae

EXHIBITS ADMITTED INTO EVIDENCE

For Petitioner: Exhibit 1

For Respondent: Exhibits 1 – 9

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, the Undersigned makes the following findings of fact. In making the findings of fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including but not limited to the demeanor of the witness, any interest, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. Wherefore, the undersigned makes the following Findings of Fact, Conclusions of Law and Decision, which is tendered to the North Carolina Department of Health and Human Services for a final decision.

FINDINGS OF FACT

1. Petitioner applied for a renewal of her license to teach in North Carolina on or about June 21, 2012. On her license application, Petitioner indicated that she had been convicted of a crime other than a minor traffic violation. R. Ex. 3, R. Ex. 4 p. 6.

2. Upon request from the Department of Public Instruction (DPI) for a written explanation of the incidents resulting in the criminal conviction, Petitioner submitted a statement to DPI confirming that she had a criminal conviction on her record. R. Ex. 6 p. 61-62.

3. Records from the Myrtle Beach Police Department (South Carolina) indicate that on or about May 26, 1991, Petitioner was convicted for criminal domestic abuse. R. Ex. 4 p. 7.

4. Records from the Mecklenburg County Superior Court (North Carolina) indicate that Petitioner was arrested on multiple charges of employment security fraud in or around 1997 and arrested on a single charge of simple assault on or about September 12, 2011. R. Ex. 4 p. 2-3.

5. Petitioner was called in to be interviewed by the Superintendent's Ethics committee on or about August 24, 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 had a license revoked or suspended. T. p. 9-10. Petitioner was interviewed by members of the Committee regarding the circumstances surrounding her arrests and criminal conviction. T. p. 11-12 Petitioner admitted that she had been convicted of domestic abuse; that she had plead guilty or "no contest" to a charge of misrepresentation to obtain unemployment compensation benefits; and that she been arrested on a subsequent charge of simple assault. Petitioner explained to the Committee that with respect to the simple assault charge, she and her husband had been arguing and that she nipped him with a fingernail file and then dared him to call the police which he did. T. p. 13-15. Petitioner also admitted that she failed to disclose the 2011 arrest for simple assault to her then employer, Charlotte-Mecklenburg Schools (CMS), as required by the policies of CMS. R. Ex. 4 p. 2-7 & R. Ex. 5; T. p. 15-17.

6. Following Petitioner's August 24, 2012 interview, the Ethics Committee requested that CMS provide additional information from Petitioner's personnel file in order to get a more complete picture of Petitioner's employment history and performance as a teacher. T. p. 18-19. Petitioner's personnel file indicated that she failed to report to work on key testing days and failed to supervise her students, allowing one student to access pornographic material in the classroom. R. Ex. 4 p. 8. Petitioner's personnel file also indicated that she repeatedly failed to complete action plans required by CMS to improve her classroom performance. R. Ex. P. 14 & 17; R. Ex. 6.

7. Petitioner appeared before the Superintendent's Ethics Committee on or about September 24, 2012. During the interview, Petitioner admitted to the professional performance issues raised in her personnel file. R. Ex. 7.

8. The Ethics Committee unanimously recommended to Superintendent Atkinson that Petitioner's application for renewal of her teaching license be denied due to her criminal conviction, pattern of arrests, failure to comply with CMS policies, failure to supervise her students, and the effect such conduct had upon Petitioner's ability to effectively perform her professional functions, including being a role model for students. Petitioner appealed this decision to the Office of Administrative Hearings. R. Ex. 8; T. p. 20-21.

9. The Superintendent's Ethics Committee decided to give Petitioner a second opportunity with a new panel of members and she was interviewed on June 14, 2013. T. p. 22-24 & 36-39. This panel's decision was the same as the first. T. p. 39 & 42.

CONCLUSIONS OF LAW

1. 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)

2. Teachers are required in this State, by both 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 Bd. of Educ., 311 N.C. 42, 59, 316 S.E.2d 281, 291 (1984)

3. 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)

4. 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 renewal of her teaching license. Peace v. Employment Sec. Comm'n, 349 N.C. 315, 507 S.E.2d 272 (1988)

5. Petitioner's conduct bears a "reasonable and adverse relationship" to the Petitioner's ability to perform her professional duties 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. Bd. of Educ., 311 N.C. 42, 316 S.E.2d 281 (1984).

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

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

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

BASED UPON THE FOREGOING, the Undersigned makes the following:

DECISION

The Petitioner has not met her burden of proof by the preponderance of the evidence and therefore the Petition for Contested Case hereby is **DENIED**.

NOTICE

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 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 2nd day of December, 2013.

Selina M. Brooks
Administrative Law Judge