

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

Allison Rascoe,  
Petitioner,

v.

North Carolina State Board of Education,  
Respondent.

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
NO. 15 EDC 00272**

**FINAL DECISION**

This matter came before the Office of Administrative Hearings after Petitioner filed a contested case petition appealing Respondent's denial of Petitioner's application for a North Carolina teaching license. On May 27, 2015, Administrative Law Judge Melissa Owens Lassiter conducted a contested case hearing on this matter in Raleigh, North Carolina.

On June 29, 2015, the undersigned issued an Order that based upon the preponderance of the evidence presented at the May 27, 2015 administrative hearing, the pleadings, and the entire record in this case, the undersigned determined Respondent had properly denied Petitioner's application for a teaching license, and ordered Respondent to file a proposed Final Decision. On July 20, 2015, Respondent's counsel filed a proposed Final Decision with the Office of Administrative Hearings.

**APPEARANCES**

For Petitioner: Allison Rascoe, *Pro se*, 505 N. Jefferson Ave., Apartment 206, Springfield, MO 65806

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

**ISSUE**

Whether Respondent acted properly in denying Petitioner's application for a North Carolina teaching license?

**EXHIBITS ADMITTED INTO EVIDENCE**

For Petitioner: 1

For Respondent: 1 – 5

## WITNESSES

For Petitioner: Allison Rascoe  
For Respondent: Katie Cornetto, C.J. Korenek

## FINDINGS OF FACT

1. On or about June 24, 2014, Petitioner applied for a teaching license in North Carolina by submitting a license application to Respondent. On her license application, Petitioner indicated that she had been convicted of a crime other than a minor traffic violation. (Resp. Ex. 2)
2. Upon Respondent's request 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 and explaining the circumstances of the criminal record. (Resp. Ex. 2)
3. Records from the Bulloch County Superior Court (Georgia) indicated that on or about February 19, 2002, Petitioner pled guilty to one felony count of financial transaction card theft. Petitioner was given First Offender Treatment – sentenced to two years of probation, ordered to pay fines, and ordered to perform community service. (Resp. Ex. 2)
4. Respondent's staff reviewed Petitioner's explanation regarding her criminal conviction, and sent Petitioner's application to Superintendent June Atkinson's Ethics Advisory Committee for review. The Superintendent's Ethics Advisory Committee consists of professional educators appointed by the Superintendent of Public Instruction, Dr. 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.
5. On December 12, 2014, the Ethics Advisory Committee read Petitioner's application and interviewed Petitioner. The Ethics Advisory Committee interviewed Petitioner regarding the circumstances surrounding her arrest and criminal conviction. Petitioner admitted during the interview that she plead guilty to felony financial transaction card theft. Petitioner denied having done anything wrong, and explained that her signed personal checks were stolen by a friend of her roommate, which were then used to pay off a credit card, which had been fraudulently opened in her roommate's name.
6. During the interview with the Ethics Advisory Committee, Petitioner further explained that the Court found that she violated the terms of her probation, because she failed to attend a meeting with her probation officer in August 2003. Petitioner explained that she did not attend the scheduled probation meeting, because she had fallen ill and was hospitalized. Notwithstanding that reason, the Court revoked her probation in December 2003 for having missed the August meeting. Consequently, the Court sentenced Petitioner to 120 days of jail in the probation detention center. (Resp. Exs 2 & 3)

7. Katie Cornetto is the in-house attorney for Respondent, and chair of the Ethics Advisory Committee. Ms. Cornetto participated in the Ethics Committee's December 12, 2014 interview of Petitioner, but is a nonvoting member of such committee. Ms. Cornetto thought Petitioner's explanation regarding her role in the credit card theft conviction wasn't believable. The fact that Petitioner did not call the police after she learned a third party supposedly stole items and checks from her apartment didn't make sense. Petitioner's roommate reported the incident to the police and had Petitioner come to the police station to discuss the theft of the roommate's credit card. Cornetto thought Petitioner did not take ownership of her role in the credit card theft.

8. After interviewing Petitioner, the Ethics Advisory Committee reviewed the relevant documents and information presented by Petitioner, focusing on Petitioner's felony conviction and her jail time. The Committee discussed how Petitioner failed to exhibit any learning, responsibility, and remorse about the credit card incident. North Carolina case law supports the principle that a teacher is a role model in showing kids how to conduct themselves. Based on Petitioner's information and interview, it was unclear that Petitioner could be a role model for children as a teacher or guidance counselor. (Cornetto's testimony)

9. The Ethics Advisory Committee voted unanimously to recommend to Dr. June Atkinson that Petitioner's application for a teaching license be denied. Superintendent Atkinson agreed with the Ethics Committee's recommendation, and denied Petitioner's application for a license. (Resp. Exs 3 & 4)

10. On January 14, 2015, Petitioner appealed Respondent's decision to deny her request for a teaching license by filing a contested case petition at the Office of Administrative Hearings.

11. C.J. Korenek is the Human Resources Director with Onslow County Public Schools, and a member of Superintendent Atkinson's Ethics Committee that interviewed Petitioner as an applicant for a North Carolina teacher's license. According to Ms. Korenek, the Ethics Advisory Committee's recommendation to Superintendent Atkinson to deny Petitioner's application for a teaching license was based on various factors, including: (1) Petitioner's criminal history, (2) the role of a public school student counselor, (3) the nature of the crime to which Petitioner pled guilty, (4) the credibility of Petitioner's explanation to the Ethics Committee of the circumstances resulting in the Petitioner's arrest and conviction, (5) the credibility of Petitioner's explanation to the Ethics Committee of the circumstances resulting in the revocation of Petitioner's probation, (6) the fact that Petitioner had served time in jail, and (7) the impact those factors have on Petitioner's ability to be a role model for students.

12. The Ethics Advisory Committee considered the biggest factors, in its denial of Petitioner's application, to be Petitioner's felony conviction, her incarceration, and the revocation of Petitioner's probation. Ms. Korenek explained at hearing that Petitioner didn't explain what she had learned from the credit card theft experience, and didn't show remorse for her actions in the theft of her roommate's credit card. Instead, Petitioner claimed innocence, and that she hadn't done anything wrong.

13. As an Ethics Advisory Committee member, Ms. Korenek didn't believe Petitioner's claim that she kept signed, completed checks in her apartment. Korenek was also surprised

Petitioner didn't report the theft of her checks to the police. Korenek thought Petitioner's stated reason for missing her probation appointment was not credible. As a result, Korenek thought Petitioner lacked credibility, honesty and integrity, which are integral parts of the interview process. Parents of school kids would not expect a teacher or counselor to be a convicted felon, and Petitioner didn't show she was an exception to that.

14. Teachers in this State are expected to be role models for their students. Petitioner's past behavior does not demonstrate the high standard of integrity, character and conduct expected of teachers in this State. Parents are entitled to have their children entrusted to individuals of the highest moral character, personal conduct, and professional ethics. Persons convicted of a felony, who violate probation, and serve time, simply do not meet the threshold requirement demanded by communities and parents for the school teachers we expect to be examples and role models for our children.

15. In this case, Petitioner applied for a teaching license to be a counselor, and admitted she had been convicted of a financial transaction card theft felony. Petitioner also admitted that she violated the terms of her probation, and consequently served time in a detention center. Further, Petitioner failed to comply with the terms of her probation, and consequently served time in a Georgia Department of Corrections detention center. The critical issue in dispute in this case is whether the Petitioner's conduct bears an adverse relationship to her ability to be an effective school counselor.

### **CONCLUSIONS OF LAW**

1. The Office of Administrative Hearings has personal and subject matter jurisdiction over this contested case, and the parties received a proper Notice of Hearing for this case. To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels.

2. 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)

3. The burden is on Petitioner to demonstrate, by a preponderance of the evidence that the Respondent 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)

4. 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). 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. In this case, Petitioner's conduct, which resulted in her being convicted of a felony, violating her probation, and serving time in jail, bears a "reasonable and adverse relationship" to 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. Petitioner has not met her burden of proof by the preponderance of the evidence that Respondent erred in denying her request for a teaching license.

8. Respondent did not act arbitrarily or capriciously, did not unlawfully deprive Petitioner of any property to which she is entitled, and did not prejudice Petitioner's rights in denying Petitioner's application for a North Carolina teaching license.

### **FINAL DECISION**

Based upon the Findings of Fact, and Conclusions of Law, the undersigned hereby **AFFIRMS** Respondent's decision to deny Petitioner's application for a North Carolina teaching license.

### **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.

This 28<sup>th</sup> day of August, 2015.

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Melissa Owens Lassiter  
Administrative Law Judge