

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSEPH DESHAN : ORDER OF REVOCATION
_____ : DOCKET NO: 1819-223

On or about December 20, 2018, the State Board of Examiners (Board) received notice that the Cinnaminson Board of Education (Cinnaminson) certified tenure charges against Joseph DeShan (DeShan) for unbecoming conduct and other just cause for allegedly having a sexual relationship with a 15-year-old female in the mid-1990's in Connecticut and more recently in New Jersey making a young female student uncomfortable with a comment regarding her eyes. Deshan is the holder of a Teacher of Elementary School Grades K-8 Certificate of Eligibility with Advanced Standing and a standard Teacher of Elementary School Grades K-8 certificate.

Based on the conduct alleged in the tenure charges, on August 1, 2019, the Board issued an Order to Show Cause to DeShan as to why his certificates should not be revoked. On or about August 30, 2019, DeShan filed an answer. Thereafter, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Administrative Law Judge Dean J. Buono (ALJ) was assigned to the matter.

On February 4, 2021, DeShan filed a motion to dismiss and the Board filed a cross motion for summary decision on April 14, 2021. DeShan filed an opposition to the Board's cross motion and the Board filed a reply. On September 3, 2021, the ALJ denied DeShan's motion to dismiss and granted the Board's motion for summary decision. *In the Matter of the Certificates(s) of Joseph DeShan*, OAL DKT. NO. EDE 13601-19, Order (Sept. 3, 2021). The ALJ determined that, although the tenure charges were dismissed, collateral estoppel did not apply because the Board was not part of the tenure proceeding. *Id.* at 5. The ALJ found that there was no genuine issue of

material fact as to whether respondent engaged in the conduct as alleged and thus the matter was ripe for summary decision. *Id.* at 10. Further, the ALJ found that the conduct as alleged was conduct unbecoming that violated the high moral standard expected of an educator. *Id.* at 9. The ALJ ordered that a *Fox*¹ hearing be scheduled to allow DeShan to present evidence in mitigation of the penalty. *Ibid.*

On September 13, 2021, DeShan filed a motion for interlocutory review before the Board regarding the ALJ's order denying DeShan's motion to dismiss. DeShan argued that the ALJ erred by finding that the arbitrator's ruling in the district's tenure matter did not preclude the Board from taking action on his certificates, improperly relied on purported contested facts, and improperly shifted the burden of proof. *See Motion for Interlocutory Review* at 1-2. On September 17, 2021, the Board voted not to review the ALJ's order.

A hearing was held before the ALJ on February 6, 2023, and after receipt of closing summations, the record closed on August 23, 2023. The ALJ issued an Initial Decision on October 10, 2023. *In the Matter of the Certificates(s) of Joseph DeShan*, OAL DKT. NO. EDE 13601-19, Initial Decision (Oct. 10, 2023).

It is undisputed that, beginning in 1988 in Connecticut, DeShan engaged in a sexual relationship with a fourteen-year-old female, A.J., who worked at the church rectory while DeShan was studying to become a priest. *Id.* at 3, 8. Further, it is undisputed that DeShan fathered a child with A.J. in 1990, just days after she turned sixteen. *Ibid.* It is also undisputed that, in 2015, DeShan made a comment to a female student about her "pretty green eyes" which made the student feel uncomfortable. *Id.* at 4, 8.

¹ *In re Fox*, 2007 N.J. Super. Unpub. LEXIS 2174 (August 29, 2007).

After reviewing the record and the testimony provided at the *Fox* hearing, the ALJ found that the testimonies of DeShan's witnesses were neither credible nor persuasive, stating that "all of them had mistaken or unknown facts about the incidents." *Id.* at 10. The ALJ also found that none of the witnesses were concerned about the well-being of children in the school district and had questionable interpretations of DeShan's sexual relationship with a minor. *Ibid.* The ALJ found that the testimony from Deshan's witnesses "in no way mitigated his responsibility." *Ibid.* As for DeShan's testimony, the ALJ determined that it "assisted the [Board] in proving the facts of the case by a preponderance of the evidence and in no way mitigated any responsibility." *Id.* at 11.

The ALJ found that the record demonstrated that DeShan abused a position of authority when he engaged in an admitted sexual activity with a fourteen-year-old female rectory employee, which does not "comport with the high moral standard demanded of public educators by the (Board)" and "unquestionably impacts the public trust he is required to uphold as an influential public figure in the community." *Id.* at 14. Further, DeShan did not deny commenting on a female student's physical appearance, specifically on her "pretty green eyes[.]" making her feel uncomfortable. *Ibid.* Despite DeShan's attempts at justification, the ALJ found he exercised poor judgment in his interactions with several minor children, and that his "poor judgement and utter lack of understanding of the gravity of his conduct constitutes conduct unbecoming a teacher and in no way mitigates his actions." *Id.* at 11. In determining that the only appropriate penalty for DeShan's conduct is the revocation of his teaching certificates, the ALJ stated "[a] lesser penalty would diminish the seriousness of his actions against minor children and send a message that this type of conduct is acceptable." *Id.* at 16.

On October 23, 2023, DeShan submitted exceptions to the Initial Decision. DeShan argues that there was no competent or credible evidence that he engaged in conduct unbecoming a teacher. *See Exceptions* at 2. DeShan further argues that the ALJ erred in not dismissing the Order to Show Cause outright because the Order to Show Cause relied on tenure charges which were dismissed. *Id.* at 4. Finally, DeShan argues that the initial decision should be overturned because the ALJ was biased against DeShan, his character witnesses, and his counsel. *Id.* at 19.

The Deputy Attorney General (DAG) assigned to represent the Board in this matter submitted a reply to DeShan's exceptions on November 8, 2023. The DAG argued that the ALJ correctly decided DeShan's motion to dismiss because he failed to meet the requirements for collateral estoppel. *Reply to Exceptions* at 13. Further, the DAG argues that the undisputed facts established that DeShan engaged in conduct unbecoming a teacher and the ALJ correctly concluded that revocation was the proper penalty. *Id.* at 19, 23. Finally, the DAG argues that the ALJ conducted a fair and impartial hearing. *Id.* at 29.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of December 8, 2023, the Board reviewed the Initial Decision. After full and fair consideration of the Decision, the Board voted to adopt the Initial Decision.

The dismissal of the tenure matter commenced by DeShan's former employer has no bearing on the instant matter relating to the Board's action on DeShan's teaching credentials. The Board was not a party to the tenure matter and the issues in each matter are different, i.e. the tenure matter did not decide whether DeShan's educator certificates should be suspended or revoked by the Board as a result of unbecoming conduct. Thus, collateral estoppel is not applicable and does not preclude the Board's matter against DeShan's certificates. *See First Union Nat'l Bank v. Penn Salem Marina, Inc.*, 190 N.J. 342, 352 (2007); *In the Matter of the Certificates of Melvin*

Cummings, Maria Azzaro, and Priscilla Dawson (Consolidated), Dkt. Nos. EDE 6297-07, EDE 6464-07, and EDE 6463-07 (Initial Decision, September 12, 2019), *adopted* State Board of Examiners (February 28, 2020).

Importantly, DeShan's prior actions with the fourteen-year-old female rectory employee and his 2015 comment on a student's "pretty green eyes" were undisputed and admitted. Thus, there was no improper shifting of the burden of proof as to unbecoming conduct.

"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. There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings.

As noted above, after assessing the undisputed evidence and the credibility of the witnesses, the ALJ concluded that DeShan engaged in conduct unbecoming that warranted the revocation of his certificates. After reviewing the entire record, the Board agrees with the ALJ's assessment regarding DeShan's conduct and the appropriate resultant penalty. The Board is not persuaded by DeShan's exceptions regarding the need to overturn ALJ Buono's credibility findings due to bias, nor does it find that there was not any competent or credible evidence to support the factual findings regarding DeShan's conduct.

Accordingly, on December 8, 2023, the Board voted to adopt the Initial Decision and ordered the revocation of DeShan's teaching certificates. On this 19th day of January 2024, the Board formally adopted its written decision to adopt the Initial Decision in this matter and it is therefore ORDERED that any and all educator certificates and credentials held by Joseph DeShan as of the date of this decision are hereby revoked, effective immediately. It is further ordered that

DeShan return any paper certificates, or copies thereof, to the Secretary of the State Board of Examiners, Office of Certification, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Rani Singh, Secretary
State Board of Examiners

RS/LF

Date of Mailing:
via certified and regular mail

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