

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JUSTIN BOZINTA : ORDER OF DISMISSAL
_____ : DOCKET NO: 0304-241

At its meeting of May 6, 2004, the State Board of Examiners voted to issue Justin Bozinta an Order to Show Cause. The Order was predicated on charges of unbecoming conduct. Bozinta currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in June 2000, a Teacher of Health and Physical Education certificate, issued in September 2001 and a Supervisor certificate, issued in January 2005.

This case originated when the Division of Youth and Family Services (DYFS) provided information to the Board of Examiners regarding Bozinta. DYFS had investigated allegations of physical abuse against Bozinta. Bozinta had allegedly grabbed a student by the shirt collar as he was jumping up to make a basket and slammed him to the ground. The student sustained with a broken wrist as a result of the incident. After conducting its investigation, DYFS substantiated the charges of physical abuse against Bozinta. Thereafter, on May 6, 2004, the Board of Examiners issued an Order to Show Cause to Bozinta based upon the substantiated allegations in the DYFS report.

The Board sent the Order to Show cause to Bozinta by regular and certified mail on July 1, 2004. The Order provided that Bozinta's Answer was due within 30 days. Bozinta filed his Answer on July 13, 2004. In that Answer, Bozinta denied that he had abused the student. (Answer, ¶ 3). He also stated that he had requested a hearing challenging the DYFS allegations. (Answer, ¶ 5).

The Board of Examiners transmitted the case to the Office of Administrative Law (OAL) where it was consolidated with the DYFS appeal. Administrative Law Judge (ALJ) Margaret Monaco heard testimony on May 16 and 23, 2005. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on October 14, 2005. *Department of Human Services/Institutional Abuse Investigation Unit v. J.B., and In the Matter of the Certificates of J.B.*, OAL Dkt. Nos. HSV 1005-05 and EDE 9002-04 (December 14, 2005) (Consolidated).

In that decision, after evaluating all of the testimony and the credibility of the witnesses, ALJ Monaco found that when Bozinta had finished teaching a physical education class, the students began to return their equipment. (Initial Decision, slip op. at 19). One student, D., refused Bozinta's repeated requests to return a basketball. (Initial Decision, slip op. at 19). Another female student threw the ball to Bozinta who placed it under his arm. (Initial Decision, slip op. at 19). D approached Bozinta from behind, hit the ball out from his arm and went to take a lay up. (Initial Decision, slip op. at 19). Bozinta put his hand up to block D's shot and when he stopped the ball, D fell to the ground. (Initial Decision, slip op. at 19). At no time did Bozinta make physical contact with D's body, either intentionally or accidentally. (Initial Decision, slip op. at 19).

The ALJ determined that DYFS failed to prove that Bozinta had abused or neglected D and concluded that the DYFS finding should be modified to "unfounded." (Initial Decision, slip op. at 20-25).¹ The ALJ further concluded that the Board of Examiners did not prove by a "preponderance of the credible, competent evidence" that Bozinta's actions amounted to conduct unbecoming a teacher. (Initial Decision, slip op.

¹ DYFS adopted the Initial Decision as to the findings of abuse and removed Bozinta's name from its Central Registry.

at 25-27). Thus, ALJ Monaco held that the Board of Examiners did not prove that just cause existed to revoke or suspend Bozinta's teaching certificates. Accordingly, the ALJ dismissed the Order to Show Cause. (Initial Decision, slip op. at 27).

In response to the Initial Decision, the Deputy Attorney General (DAG) representing the Board of Examiners filed exceptions challenging the ALJ's dismissal of the Order to Show Cause. The DAG argued that the ALJ erred in concluding that Bozinta's conduct did not warrant suspension or revocation of his teaching certificates. (Exceptions, p. 2). The DAG stated that D broke his wrist while under Bozinta's supervision. (Exceptions, p. 2). According to the DAG, Bozinta exercised poor judgment by attempting to block D's shot and injured him as a result. (Exceptions, p. 3). The DAG further argued that the standard for determining conduct unbecoming a teacher was different from that needed to substantiate physical abuse and therefore the findings as to the DYFS matter were irrelevant to this inquiry. (Exceptions, pp. 5-6). Thus, the DAG said that the ALJ's conclusion that no action was warranted against Bozinta's certificates was in error. (Exceptions, p. 6.)

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of March 30, 2006, the State Board of Examiners reviewed the Initial Decision and exceptions. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision. The Board agrees that the ALJ correctly reviewed the evidence and testimony before her.

Furthermore, 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. The ALJ found that the witnesses Bozinta presented gave testimony that was

“detailed, substantially consistent and credible.” (Initial Decision, slip op. at 17). Clearly, based on the testimony presented, Bozinta’s actions did not rise to the level of conduct unbecoming a teacher, pursuant to *N.J.A.C. 6A:9-17.5*. The Board of Examiners therefore agrees with the ALJ that Bozinta’s behavior does not warrant either the suspension or revocation of his certificates.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. In this case because there has been no finding that Bozinta has engaged in conduct unbecoming a teacher or the presentation of “other just cause,” the Board will take no action against his certificates.

Accordingly, pursuant to the Board of Examiners’ vote, it is therefore ORDERED that the Order to Show Cause issued to Justin Bozinta seeking to suspend or revoke his Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing and his Teacher of Health and Physical Education certificate be dismissed effective this 4th day of May 2006.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: MAY 10, 2006

Appeals may be made to the State Board of Education pursuant to the provisions of *N.J.S.A. 18A:6-28*.