



BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS FILED
STATE OF GEORGIA OSAH

NOV 17 2014

KATHERN LAURA GREEN,
Educator/Petitioner,

v.

PROFESSIONAL STANDARDS
COMMISSION,
Respondent.

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Docket No.:
OSAH-PSC-SAN-1509619-107-Baxter

Kevin Westray
Kevin Westray, Legal Assistant

INITIAL DECISION

The Professional Standards Commission (“Respondent” or “Commission”) found probable cause to revoke the Petitioner’s educator certificate. Petitioner appeals Respondent’s determination. An administrative hearing was held on October 14, 2014. After consideration of the evidence and the arguments of the parties, and for the reasons stated below, the Commission’s decision to sanction the Petitioner’s Georgia teaching certificate is **AFFIRMED**. Her certificate, however, shall be suspended for a term of three years, rather than revoked as proposed by the Commission.

I. Findings of Fact

1.

Kathern L. Green holds an educator’s teaching certificate in the State of Georgia. (Statement of Matters Asserted ¶ 1; Answer ¶ 1.)

2.

Petitioner was employed as a language arts teacher at Newton High School in the Newton County School System (“School System”). (Statement of Matters Asserted ¶ 2; Answer ¶ 2.)

3.

On April 21, 2012, Petitioner was arrested for DUI, failure to maintain lane, open container, and possession of cocaine. (Statement of Matters Asserted ¶ 3; Answer ¶ 3.)

4.

On June 12, 2013, Petitioner entered a guilty plea to possession of cocaine, a felony, and was sentenced under the conditional discharge statute, O.C.G.A § 16-13-2, to three years of probation, a \$1,000 fine, and substance abuse evaluation. (Statement of Matters Asserted ¶ 4; Answer ¶ 4.)

5.

On June 12, 2013, Petitioner also entered guilty pleas to three misdemeanors: driving under the influence of alcohol (DUI), failure to maintain lane, and an open container violation. Petitioner was sentenced to twelve months of probation for the DUI charge and twelve months of probation on the failure to maintain lane charge, to run concurrent. Petitioner received a fine of \$25.00 for the open container violation. (Statement of Matters Asserted ¶ 5; Answer ¶ 5; Ex. PSC-A.)

6.

Petitioner has not taught school since April 2012 and resigned from her position in October 2012. (Testimony of Petitioner; Ex. P-10.)

7.

The Commission recommended a revocation of Petitioner's certificate. In the past, the Commission almost always seeks a revocation when an educator has a felony cocaine conviction. In addition, the Commission has always sought revocation when an educator is currently on probation for such a conviction. (Testimony of Jackson.)

8.

Petitioner had several credible witnesses testify on her behalf. George Miles, a teacher with almost thirty years of experience, testified to working with Petitioner in the Newton County gifted program. He feels he knows Petitioner extremely well and believes she is a role model for students. While he is aware of her conviction, he does not believe it impairs her ability to teach and would allow her to teach his children. (Testimony of Miles.)

9.

Lauren Blanks worked with Petitioner for six years. Blanks repeatedly described Petitioner as a "fantastic teacher" with a "high level of student engagement." Again, Blanks is fully aware of Petitioner's conviction, but had "no concerns" with Petitioner returning to the classroom. In fact, Blanks finds Petitioner's story inspirational because she has turned a bad situation into a positive outcome. While Blanks would have no problem with Petitioner teaching, she is aware that parents

may not accept a teacher that was on felony probation. (Testimony of Blanks.)

10.

Finally, Pamela Greer testified on behalf of Petitioner. As the chair of the English Department, Greer had a roll in hiring Petitioner. She described Petitioner as having “excellent classroom management” and testified that Petitioner had the highest test scores of any teacher in the English Department. Greer firmly believes that Petitioner should be returned to the classroom. Further, Greer believes that Petitioner’s conviction and probation neither impair her ability to teach or hurt students. (Testimony of Greer.)

11.

Each of Petitioner’s witnesses has extensive experience teaching and was very familiar with Petitioner as a teacher. They all also were fully aware of Petitioner’s conviction and current probation. Given their experience and knowledge of Petitioner, these witnesses’ testimony is given significant weight. (Testimony of Miles, Blanks, Greer.)

12.

Petitioner testified that she does not use cocaine. Beginning in May 2012 through 2013, Petitioner submitted to almost weekly drug test which all came back negative. She has completed all the requirements of her probation and expects that her probation will be terminated a year early in June 2015. While she does not currently have any employment opportunities in the teaching field, she eagerly wants to return to teaching. (Testimony of Petitioner; Exs. P-2 to P-6.)

II. Conclusions of Law

1.

The Commission bears the burden of proof in this matter. Ga. Comp. R. & Regs. r. 616-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. r. 616-1-2-.21(4).

2.

The Commission has adopted a Code of Ethics for Educators that defines acceptable professional behavior of Georgia educators and serves as a guide to ethical conduct. Respondent charges that Petitioner violated Professional Standards Commission Rule 505-6-.01(3)(a). Standard 1, Legal Compliance, requires educators to comply with the law. Further, Standard 1 defines unethical conduct as including a felony conviction, even under the conditional discharge statute. As such, this

Court finds that Petitioner's felony conviction constitutes a violation of Standard 1.

3.

Respondent also charges that Petitioner violated Professional Standards Commission Rule 505-6-.01(3)(j). Standard 10, Professional Conduct, requires educators to "demonstrate conduct that follows generally recognized professional standards and preserves the dignity and integrity of the teaching profession." The Court holds that Petitioner's felony conviction and misdemeanor DUI conviction do not "preserve the dignity and integrity of the teaching profession." Accordingly, such conduct constitutes unprofessional conduct in violation of Standard 10.

4.

If an educator violates the Code of Ethics, disciplinary sanctions may include revocation of an educator's certificate, suspension of a certificate for a period of time, reprimand, warning or monitoring. Ga. Comp. R. & Regs. r. 505-6-.01(5)(a)(2); O.C.G.A § 20-2-984.5(c).

5.

The Commission proposes to revoke the Petitioner's teaching certificate. Revocation, however, is not warranted under the particular facts and circumstances of this case for several reasons. First, revocation of the Petitioner's teaching certificate is not mandatory under O.C.G.A. § 16-13-111. Second, Georgia law considers revocation "permanent" with limited exceptions. Ga. Comp. R. & Regs. r. 505-6-.02(3). If Petitioner's certificate is revoked, November 2017 would be Petitioner's first opportunity to attempt to obtain her certificate, a full two years after her probation will have been completed. This delay is unnecessary and harsh. Finally, the Court is persuaded, based on the testimony of the Petitioner and the credible witnesses who appeared on her behalf, that the Petitioner's criminal conduct was out of character and will not occur again. While the Court recognizes that Petitioner may have a difficult time finding employment as an educator with her criminal background, a temporary suspension of her teaching certificate is a more appropriate sanction for her conduct. Petitioner is a gifted, well-liked educator that deserves an opportunity to return to teaching without the difficulty and uncertainty of reapplying for her certificate after a revocation.

III. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Commission's

decision to sanction the Petitioner's Georgia teaching certificate is hereby **AFFIRMED**. The proposed sanction, however, is **MODIFIED**, and the Petitioner's certificate shall be suspended for a period of three years. Further, the Petitioner shall be given retroactive credit back to May 2012 which covers the time that she has been out of work as an educator.

SO ORDERED, this 17th day of November, 2014.



AMANDA C. BAXTER
Administrative Law Judge