

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

DEPARTMENT OF EDUCATION :
vs. :
CYNTHIA T. CRUSER :

DECISION

December 4, 1991

Held:

For good cause shown a
teaching certificate may
be suspended.

In this case we are dealing with a situation where the holder of a Rhode Island teaching certificate filed a plea of nolo contendere to a charge of simple possession of marijuana. The teacher in this case was not employed by any public school in Rhode Island but rather was employed by Ocean Tides School, a private treatment and educational facility which receives for care students who are referred by the Department for Children, Youth and Families (DCYF). As a result of the charges made against her the respondent has been dismissed from her employment at Ocean Tides. This matter is now before us solely on the question of what action should be taken with regard to her teaching certificate.

While no students were in any way involved in the offense charged we think it appropriate to discuss our position on this question.

We should point out that providing drugs to students obviously merits permanent revocation of a teaching certificate; we are also confident that the sale of drugs to anyone, or the manufacture of drugs, warrants the permanent revocation of a teaching certificate even if students are not involved in any way. We are hard put to imagine any extenuating conditions which might justify a lesser penalty than permanent revocation of a teaching certificate under such circumstances.

This case, however, required us to determine what penalty should be imposed against a teacher who has plead nolo to one count of marijuana possession. We are, of course, tempted to take a categorical position and rule that any drug offense, even a single misdemeanor offense for simple possession, warrants permanent revocation of a Rhode Island teaching certificate. We are aware, of course, that such a severe penalty would not be imposed against one holding (e.g.) a medical license or a law license.

For example, in one recent case, the Rhode Island Supreme Court imposed nothing more than a 90-day suspension for attempting to purchase cocaine. Carter v. Cole, 577 A.2d 669 (R.I. 1990). Still teachers have a unique responsibility

to personally instruct the young and provide them with a good example. We think that when the General Laws state at G.L.16-12-3 that:

Every teacher shall aim to implant and cultivate in the minds of all children committed to his care the principles of morality and virtue.

the statute is not enunciating a quaint anachronism but rather a binding precept of school law. On balance, however, we feel that, in justice, a single conviction for simple possession of marijuana should not necessarily carry with it the sanction of permanent revocation of a teaching certificate. We should make it clear that we are n o t saying that a school district could not consider a conviction for simple possession of marijuana as constituting good and just cause for the dismissal of a teacher. In this case, however, we are not dealing with mere dismissal from employment but rather with the far more serious decision of whether a person should be permanently barred in this state from practicing the profession for which they have been educated.

In considering this case we are aware of the fact that the Department of Education attempted to show, on the record, that the respondent was in fact guilty of manufacturing a controlled substance (i.e. marijuana) even though she had only plead nolo contendere to simple possession. This was an entirely proper thing for the Department to do. For that matter even if the respondent had been acquitted of any criminal offense it would be proper for the Department to prove the wrongful conduct at issue in a certificate revocation hearing. A civil certificate revocation hearing is not governed by the rules of criminal procedure and it operates with a standard of proof based upon a preponderance of the evidence rather than upon proof beyond a reasonable doubt. The problem in this case, however, is that the Department was only able to show that marijuana plants were being grown in a lot near the home in which the respondent was living with her boyfriend --

from whom she is now estranged. The Department, despite valiant efforts, was not able to link these particular plants to the respondent and to the offense to which she plead nolo contendere.

Neither the suggestion of the respondent's legal counsel that in fact the respondent's boyfriend was the one growing the marijuana nor the Department's suggestion that the respondent was involved with her boyfriend in growing the marijuana finds support in the record. We are, of course, confined to the record and the only proof against the respondent is, in our view, her conviction for simple possession of marijuana. We should also point out that at the criminal hearing on this matter respondent was not required to state on the record the basis of the offense to which she was pleading nolo contendere.

We now reach the point at which we must determine what penalty the respondent is to receive. She presented a number of character witnesses who testified in her favor. These included a former chaplain at the University of Rhode Island who has been the respondent's minister. She also presented testimony from an experienced Rhode Island school administrator. The record shows that respondent has stabilized her life and that she has received treatment for alcohol dependency.

We conclude that an appropriate penalty in this case would be to suspend the respondent's teaching certificate for two (2) years. At the end of the suspension she will be required to inform any Rhode Island school district considering employing her of her conviction. If respondent ultimately qualifies to have her conviction expunged in accordance with Rhode Island law we will reconsider the requirement to report in accordance with that law.

Conclusion

The respondent's teaching certificate is hereby suspended for two (2) years from the date of this decision. She, after the completion of this suspension,

will be required to inform any prospective school employer of her conviction so that they may evaluate it in making an employment decision.

Forrest L. Avila

Forrest L. Avila, Esq
Hearing Officer

Approved:

December 4, 1991

Janice M. Baker

Janice M. Baker
Interim Commissioner