

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

R. I. DEPARTMENT OF EDUCATION

V.

PATRICK A. BERNARDO

DECISION

DATE: July 16, 1993

Respondent Patrick A. Bernardo holds a life teaching certificate in Secondary Social Studies. On March 23, 1983 he pled nolo contendere to charges of conducting an organized criminal gambling business, conspiracy, and bookmaking. (Ex. 8) He was placed on probation for two (2) years and ordered to pay a substantial fine. On August 22, 1989 he was given an 18 months suspended sentence and fined for being involved with an "organized criminal gambling business". (Ex.7) On the 23rd day of August, 1989 he was sentenced and fined on two (2) other bookmaking counts. (Ex. 6) Based upon these offenses the Department of Education is moving to revoke Mr. Bernardo's teaching certificate.

Mr. Bernardo, who formally taught in Warwick, has not taught for a number of years. The present case had to be continued several times to allow Mr. Bernardo to recuperate from the effects of a severe automobile accident.

At the hearing in this matter Lt. Mullen of the Rhode Island State Police testified that in 1989 he had occasion to investigate one Michael Marfeo in connection with a bookmaking investigation. The Superior Court authorized a wire tap of Mr. Marfeo's telephone. Lt. Mullen overheard Mr. Bernardo on this line ... "laying off gambling action to Michael, basketball, hockey - type bets, and he would lay off to Michael." Lt. Mullen concluded that Mr. Bernardo was not placing bets for himself but rather was "laying off" bets as part of a bookmaking operation. In any event judgments of conviction for bookmaking and for conducting an organized criminal gambling business were entered by the Superior Court against Mr. Bernardo.

Mr. Bernardo contends that the bets placed were for himself and that while

this may have been wrong he, himself, was not running a bookmaking operation. We however, reach a different conclusion. The testimony of Lt. Mullen, and the convictions entered against Mr. Bernardo by the Superior Court, persuade us that Mr. Bernardo acted as a bookmaker.

The Department of Education also alleges that Mr. Bernardo possessed cocaine and marijuana. Lt. Mullen testified that while searching Mr. Bernardo's house, pursuant to a search warrant, he found in the attic, a "tiny amount" of marijuana and also, in a straw, some cocaine residue. No charges seem to have resulted from this discovery and we tend to credit Mr. Bernardo's assertion that this material was left by college students who at one point had been renting the house. We therefore make no finding against Mr. Bernardo on this point.

In sum we find that Mr. Bernardo was involved in "organized criminal gambling business" and "bookmaking" and that he violated the criminal laws of the state of Rhode Island. (Ex. 6, 7 and 8) While Mr. Bernardo activities may not have been extensive as those before us in Department of Education vs. Wenz, Commissioner of Education, May 27, 1992, they still merit the imposition of sanctions.

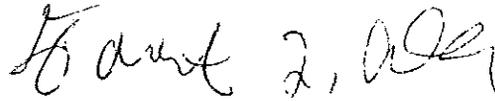
It is well established that a teaching certificate may be revoked or suspended for serious misconduct which is not related to classroom activities, Wenz supra. In any event a teacher is expected to act as an exemplar or "role model" and is expected to "... aim to implant and cultivate in the minds of all children committed to his care the principles of morality and virtue".
(G.L. 16-12-13)

It is not inappropriate however to note that in December 1990, subsequent to his convictions, Mr. Bernardo was in an automobile accident which left him a paraplegic. He has continued to make valiant efforts to cope with this disability. He has acted as a peer counselor to other patients including a former Rhode Island police officer. Mr. Bernardo's physicians feel that in the future teaching may fall within his physical abilities.

The facts of this case lead us to the conclusion that we should suspend rather than revoke Mr. Bernardo's teaching certificate. His wrongful acts were not quite as extensive as those found in Wenz, supra. Moreover the fortitude with which Mr. Bernardo has confronted his present disability, as well as the efforts he had made to help others with similar disabilities convince us that his role as an exemplar has not been completely compromised. We therefore suspend Mr. Bernardo's teaching certificate for a period of five (5) years from the date of this decision. Before Mr. Bernardo's certificate is reinstated we will require Mr. Bernard to submit appropriate character references. We will also take into account the comments of the State Police on the restoration of Mr. Bernardo's certificate.

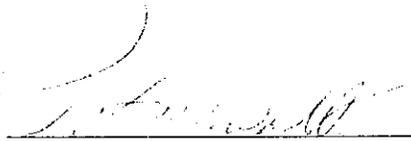
Conclusion

Mr. Bernardo certificate is hereby suspended for a minimum period of five (5) years.



Forrest L. Avila
Hearing Officer

Approved:



Peter McWalters, Commissioner

Date: July 16, 1993