

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: DANIEL LAMAR BOLT,) REPORT OF SPECIAL MASTER
Respondent.) CASE NO. 1986—56

ORDER

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Special Master, a copy of which is attached hereto, and after a vote In open meeting.

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Special Master are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are Incorporated herein, and

DETERMINES AND ORDERS, that the request of the Respondent be denied.

This 12th day of February. 1987.

Larry A. Foster, Sr.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

HOWARD B. STROUD, as	:	
Chairman of the Professional	:	
Practices Commission,	:	
Petitioner,	:	CASE NO. 1986-56
	:	
V.	:	
DANIEL LAMAR BOLT,	:	REPORT OF
	:	SPECIAL MASTER
Respondent.	:	

PART I

SUMMARY

This is a report on the exceptions filed by Daniel Lamar Bolt (hereinafter "Respondent") from a report and recommendation by a tribunal of the Professional Practices Commission (hereinafter "Tribunal") to the State Board of Education. The Tribunal recommended that Respondent's application for reinstatement of his teaching certificate be denied because evidence existed justifying the denial, and because the evidence presented by Respondent is not sufficient to warrant the Tribunal's recommendation that a teaching certificate be granted. Respondent contends the Hearing Officer below committed procedural errors, the Tribunal's report was based upon a mistake of law, and the evidence presented requires a finding in favor of Respondent. This Report expresses the Special Master's opinion on the legal validity of Respondent's exceptions to the report of the Professional Practices Commission.

PART II

FACTUAL BACKGROUND

In 1972, Respondent engaged in sexual foreplay with two minor female children in Bibb County, Georgia. At that time, Respondent was principal of the elementary school where the two children were students. In 1974, Respondent pleaded guilty to two counts of

contributing to the delinquency of a minor. The State Department of Education subsequently revoked Respondent's teaching certificate.

In 1981, Respondent applied for reinstatement of his teaching certificate. That application was rejected by the Department of Education.

In 1986, Respondent again applied for reinstatement of his teaching certificate and was notified by the Executive Director of the Professional Practices Commission that the Professional Practices Commission intended to recommend Respondent's request for a certificate be denied, and that Respondent was entitled to a hearing to contest the matter.

Respondent requested a hearing, and the hearing was held on September 11, 1986. Respondent stipulated that he had been convicted in 1974 of the offense of contributing to the delinquency of a minor based on his actions with two female students in 1972. Additionally, he testified on cross-examination that the nature of the offenses was that Respondent placed his hands and mouth on the bodies of the students. Respondent's attorney objected to questioning concerning the nature of the offenses based upon his argument that, once the conviction was stipulated into evidence, the questioning regarding the nature of the offenses was prejudicial. The Hearing Officer overruled the objection, and allowed testimony showing the nature of the offenses which resulted in the convictions.

Respondent then presented numerous witnesses who testified concerning Respondent's good character. A State Senator testified that he had known Respondent since 1977 and, because of the Senator's observations of Respondent in the community, he felt that Respondent's conduct and moral character were above reproach. The Associate Superintendent of Schools in the county where Respondent lives testified that he had known Respondent intermittently for twenty-nine years, that he considers Respondent to be a

Christian, that Respondent is a different than from when he knew Respondent before the conviction, and that he would recommend Respondent be hired to teach in his school system. Respondent's pastor testified that, based upon his many observations of Respondent, he felt Respondent had rehabilitated himself. An individual who worked with Respondent in the Division of Vocational Rehabilitation testified that Respondent was a man of fine character, and he believed Respondent had rehabilitated himself.

Respondent testified and described his life after his conviction. After his conviction, he worked in a halfway house for three months as a part of his sentence. He testified that, after the conviction, he was converted to Christianity. He then became employed as a Vocational Rehabilitation Counselor. While he was a Vocational Rehabilitation Counselor, he worked in the schools in Cartersville, Rome, and Floyd County for three years. He subsequently obtained a real estate license and worked in real estate for a while. In 1981, he reapplied for his teaching license, but it was turned down by the State Department of Education. He then served on a special project as a case manager for a psychiatric team at Northwest Georgia Regional Hospital. When the project for which he worked as a case manager ceased, around January or February of 1983, he began substitute teaching in the local school system. He has taught an average of four days a week as a substitute teacher since 1983. The principal, assistant principal and several teachers at the school where Respondent has been substituting, all testified on Respondent's behalf, each having only the most positive remarks about their knowledge of Respondent. Additionally, a psychologist testified that he had examined Respondent and he found no evidence of psychopathology, and that Respondent would probably be less likely than most teachers to engage in the behavior which resulted in his conviction.

The Tribunal issued a report finding that cause existed to deny Respondent's application for a certificate and, in view of the serious nature of the admitted misconduct, it

could not conclude that the character and other evidence presented was sufficient to warrant a recommendation that a teaching certificate be granted. Respondent filed exceptions to the report bringing this matter to the State Board of Education for a decision.

PART III

DISCUSSION

This case comes before the State Board of Education as a case of original jurisdiction based upon the State Board of Education's authority to provide by regulation for denying certificates for good cause after an investigation is held and notice and a hearing are provided. O.C.G.A. §20—2-200.

The State Board of Education has exercised that authority by promulgating State Board Policy GBBC. State Board Policy GBBC provides that a certificate may be denied for any of the grounds for which a certificate may be revoked, and that a certificate may be revoked for commission of an act constituting moral turpitude, conviction of an offense punishable as a felony or misdemeanor, other than a minor traffic violation, or personal conduct which seriously reduces the certificate holder's effectiveness in his or her employment position or which is detrimental to the health, welfare, discipline or morals of pupils. GBBC further provides that:

Any person whose certificate has been revoked may petition for the right to apply for a new certificate by submitting competent evidence to the State of Georgia Professional Practices Commission that the reason or reasons for the revocation have ceased to be a factor in the performance or conduct of the educator seeking a new certificate. The Professional Practices Commission shall make a recommendation regarding such application to the Georgia Board of Education.

Certificate actions, such as this, which arise under

O.C.G.A. §20—2-200 and State Board Policy GBBC, are not

subject to the any evidence rule as are decisions arising on appeal to the State Board of Education from local boards of education. In considering appeals from local boards of education, the State Board of Education is required to sustain the decision of the Local Board if there is any evidence to support the local board's decision. In this case, the State Board is authorized to review the evidence and make its own determination as to whether the evidence provides good cause to deny petitioner a teaching certificate. See Baker v. Stroud, Case No. 1985—48. Additionally, even if the State Board of Education finds that good cause exists to deny Respondent's request for a teaching certificate, the State Board of Education is authorized to find that Respondent has rehabilitated himself sufficiently to allow the State Board of Education to issue him a teaching certificate.

Respondent has, in his brief on appeal, argued:

1. That the Hearing Officer erred in allowing the attorney for the State to question the Respondent in regard to the details of the convictions which had already been stipulated into evidence;
2. The report of the Hearing Tribunal was based on a mistake of law, in that they stated that they "cannot and do not conclude that the character and other evidence presented by the Respondent as to his rehabilitation is sufficient to warrant a recommendation that a teaching certificate can be granted."
3. That as a matter of law there was insufficient evidence to conclude that the Respondent had not rehabilitated himself in that the Petitioner presented absolutely no evidence to the contrary.
4. That the decision was made in excess of the statutory authority of the agency in that the agency has made a determination that no rehabilitation is possible from this type of offense.

It is the Special Master's opinion that none of the arguments made in Respondent's enumerations of error create a legal requirement that the State Board of Education grant a certificate to Respondent.

First, it was not error to allow counsel to cross— examine Respondent about the details of the stipulated criminal convictions. Evidence clearly exists from which one could conclude that there is good cause to deny Respondent’s teaching certificate. Respondent is seeking reinstatement, attempting to show he has been rehabilitated. The State Board is authorized to consider the details and nature of the original offense. The case cited by Respondent to support his position, Belvin v. Houston Fertilizer and Grain Company, Inc., 169 Ga. App. 100 (1983), does not stand for the proposition that it is improper to delve into the facts surrounding a conviction when an individual is seeking to show rehabilitation. It stands for the proposition that it is improper to delve into the facts surrounding a conviction which is being introduced for impeachment purposes. That is an entirely different matter than when the conviction is being brought up based on the substance of the conviction, as it is in this case.

Second, Respondent’s argument that the Tribunal incorrectly concluded it could not recommend that a teaching certificate be granted is a misreading of the report of the Tribunal. The use of the word “cannot” by the Tribunal in its decision simply shows the Tribunal members did not feel they should recommend Respondent’s request be granted. It is obvious that they had the authority to recommend to the State Board of Education that the request be granted. Additionally, the State Board of Education is considering the matter on the record, and is quite aware that it has the authority to grant Respondent’s request.

Third, Respondent’s argument that there was insufficient evidence to conclude that Respondent had not rehabilitated himself places an improper burden of proof on the State Board of Education, Once it has been shown that Respondent has committed acts justifying denial of his certificate, it is Respondent’s burden to prove he has been

rehabilitated. The State Board of Education has no burden to prove that Respondent has not been rehabilitated.

Fourth, Respondent's argument that the decision of the Tribunal was made in excess of the statutory authority of the agency, "in that the agency has made a determination that no rehabilitation is possible from this type of offense," is, even if taken as factually correct, unsupported by relevant legal authority. Respondent has shown no legal requirement that an individual who has had a teaching certificate revoked is legally entitled to have it reinstated. The decision to reinstate a teaching certificate is discretionary with the State Board of Education and, as long as the decision of the State Board of Education is not arbitrary and capricious, the decision is within its authority.

The real issue for the State Board of Education is, thus, not whether it has the legal authority to deny Respondent's application, but whether the State Board of Education thinks the evidence of Respondent's rehabilitation presented is sufficient to warrant the State Board of Education granting Respondent's request, in spite of the serious nature of the offense committed by Respondent. The special Master is of the opinion that if a teacher can rehabilitate himself from an offense as serious as the one committed by Respondent, then Respondent has done so. The professional educators who sat on the Tribunal either do not believe that one who has committed such acts should be granted a teaching certificate, or the professional educators who sat on the tribunal do not believe that Respondent has shown he has been rehabilitated.

It is the opinion of the Special Master that no legal reasons exist which would prevent the State Board of Education from denying Respondent's request for a certifi-

cate. It also would be within the authority of the State Board of Education to grant Respondent's request.

PART IV
RECOMMENDATION

Based upon the foregoing, the record submitted, and the briefs and arguments of counsel, the Special Master is of the opinion the State Board of Education has the power and authority not to reinstate Respondent. Respondent's crime was of such an egregious nature that even the passage of time may be deemed insufficient to require the entrustment of students to Respondent's care, regardless of the rehabilitative efforts made by Respondent. Once an individual has demonstrated a propensity for conduct which so undermines the very core of the public educational process, the degree of rehabilitation remains open to question. In the instant case, Respondent has exhibited evidence of every attempt to be rehabilitated. The Special Master, however, recommends that a certificate not be issued.

L. O. BUCKLAND
Special Master