

STATE BOARD OF EDUCATION
STATE OF GEORGIA

IN RE: CALEB ALLEN POWELL

CASE NO. 1985-29

O R D E R

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,

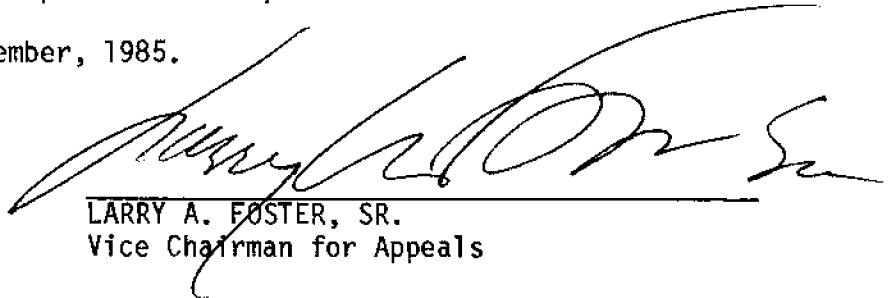
DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Special Master are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the recommendation of the Professional Practices Commission is hereby adopted, and

DETERMINES AND ORDERS, that Appellant's application for a certificate be denied.

Mrs. Jasper and Mr. Temples were not present.

This 12th day of December, 1985.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| IN RE: |) | |
| |) | |
| HOWARD B. STROUD, |) | CASE NO. 1985-29 |
| |) | |
| Petitioner |) | |
| |) | |
| v. |) | |
| |) | |
| CALEB ALLEN POWELL, |) | |
| |) | RECOMMENDATION OF |
| Respondent |) | SPECIAL MASTER |

PART I

SUMMARY OF APPEAL

This is a report on the exceptions filed by Caleb Allen Powell, Sr. (hereinafter "Appellant") from a report and recommendation by the Professional Practices Commission (hereinafter "PPC") to the State Board of Education which found that Appellant had attempted to obtain a teaching certificate by fraudulent means, had committed acts of moral turpitude which led to the termination of his contract and revocation of his teaching certificate in the State of Florida, and had engaged in personal conduct which has seriously reduced his effectiveness as a teacher and was detrimental to the health, welfare, discipline or morals of pupils. Based upon those findings, the PPC recommended Appellant's application for a teaching certificate in Georgia be denied. Appellant's exceptions to the report of the PPC are that he did not attempt to obtain a Georgia teaching

certificate by fraudulent means and there was no evidence to show that he did. Additionally, Appellant contends there was nothing in the record to show Appellant's present moral character was less than exemplary. The Special Master recommends the decision of the PPC be adopted in its entirety by the State Board of Education.

PART II

BACKGROUND

Appellant applied for a teaching certificate in the State of Georgia in December, 1984. On his application, he answered "yes" to the question "Have you ever had a teaching certificate denied, revoked or suspended in any state?" As an explanation to that answer, Appellant attached a statement that an individual had made a very serious charge against him that caused a temporary revocation and that, when there was no corroboration, the charges were dropped and his teaching certificate was reinstated. In fact, his certificate had been revoked by the State of Florida, the charges against him were not dropped with regard to the certificate revocation but were dropped in regard to a separate criminal proceeding, and he obtained a new certificate by reapplying without informing the State of Florida that his certificate had been revoked. Apparently, the State of Florida issued the new certificate without knowledge of the past revocation.

Upon receipt of Appellant's application, the State Department of Education requested the PPC to conduct an investigation regarding whether Appellant should be issued a certificate in

Georgia. The results of that investigation showed that Appellant had his certificate revoked in 1968 as a result of several homosexual activities with his students in Florida.

Based upon the investigation, the PPC notified Appellant that it intended to recommend that the State Board of Education deny his application for a teaching certificate. Appellant requested a hearing concerning the recommendation for denial and, under the policies of the State Board of Education and the PPC, a hearing was held. The hearing tribunal found that Appellant had made false statements on his application with the intention of deceiving the State Department of Education, and that Appellant had engaged in homosexual activity with students entrusted to his care while a teacher in the State of Florida. The hearing tribunal then concluded that Appellant, in violation of State Board Policy GBBC, had attempted to obtain a teaching certificate by fraudulent means, Appellant had committed acts of moral turpitude which led to the termination of contract and the revocation of his teaching certificate in the State of Florida and that Appellant had engaged in personal conduct which has seriously reduced his effectiveness as a teacher, and is detrimental to the health, welfare, discipline or morals of pupils. Based upon those findings and conclusions, the tribunal recommended the State Board of Education deny Appellant's application for a teaching certificate.

PART III

DISCUSSION

Appellant contends in his exceptions to the PPC report that Appellant did not intentionally falsify his application and that it is his present moral character that is at issue and the evidence did not show any flaws in his present moral character but only incidents which occurred seventeen years ago. The Special Master is of the opinion that the evidence presented does support the finding by the PPC that Appellant did intentionally falsify his application. Appellant attempted to persuade the PPC tribunal that the hurried circumstances of filling out his application and the remoteness in time of the offenses caused him to make the statements he made on the application. However, the matter for which his certificate was revoked in Florida was very serious and it is unlikely that Appellant's memory was blurred by time. Appellant went to the effort of explaining his response when he checked the application that he had his teaching credentials revoked and his explanation was calculated to avoid further investigation. Additionally, the Special Master is of the opinion that the evidence presented supports the finding of the PPC tribunal that Appellant's violation of State Board Policy GBBC with respect to the homosexual acts committed by Appellant were not too remote in time to be considered by the State Board of Education. The State Board of Education has the authority to deny Appellant's application even though the only evidence presented of violations of policy GBBC was evidence from seventeen

years ago. The State Board of Education can consider the type of conduct which occurred as being too serious to allow Appellant to ever teach minor students again.

PART IV
RECOMMENDATION

Based upon the record presented and the foregoing discussion, the Special Master is of the opinion the record clearly supports the findings and decision of the Professional Practices Commission. The Special Master, therefore, recommends that the State Board of Education should adopt the findings of fact, conclusions of law, and the recommendation of the Professional Practices Commission in its entirety and deny Appellant's application for a certificate.

L. O. Buckland

L. O. BUCKLAND
SPECIAL MASTER