

Can't Sue and Stay on Board *Appeals Court Rules Against Kennedy*

By JOE HART

SEA ISLE CITY — Police Chief William Kennedy lost an appeal of his removal from the district school board in 2005.

He was removed after filing a lawsuit against the district over its special education services for his autistic son, referred to in the lawsuit as M.K.

The appellate court's ruling, released May 15, concluded Kennedy was rightly removed from his post due to a conflict of interest.

Kennedy began serving on the school board in 2001, but resigned in 2003 when he filed an initial complaint, regarding his son's education, against the board.

That suit was settled on April 27, 2004, and he subsequently won another seat on the board and began that term the next day.

The following March, however, Kennedy filed another action with the state Department of Education alleging his son was being abused due to a lack of support from district personnel and behavioral consultants.

On June 30, 2005, the state Board of Education Commissioner directed that Kennedy be removed from his board seat, and directed the county Superintendent to fill his vacancy in the April 2006 election.

"Having elected to pursue two legal claims against the district alleging

violation of the educational rights of his child, there can be no question that he has an interest of the most direct and personal nature in a claim against the board," the commissioner said in his decision.

The appeals court agreed, and cited a school board rule: "No member of any board of education shall be interested directly or indirectly in any contract with or claim against the board."

Kennedy's attorney Robert Merenich cited another rule that reads, "Nothing shall prohibit any school official, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own inter-

ests."

Merenich claimed the rule he cited created an exception to the conflict-of-interest rule, which the commissioner relied on to remove Kennedy.

The appeals court found no exception there, and upheld the commissioner and affirmed his decision.

Kennedy ran again for a seat on the board in 2006, but lost.

After that he filed an additional complaint in the U.S. District Court seeking compensatory damages and reimbursement of expenses against the board. According to the appellate decision that case is still pending.

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