

BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Mattkia Montgomery
130 Maple Street
Wayne, NE 68787,

Petitioner,

v.

Roger D. Breed, Ed.D.
Commissioner of Education
P.O. Box 94933
Lincoln, NE 68509,

Respondent.

Case No. 13-09

ANSWER

COMES NOW the Respondent, Roger D. Breed, and for his answer to the Petition of the
Petitioner, admits, denies, and alleges as follows:

1. Admits paragraphs 1, 2, 3, 4, and 6 of the Petition.
2. Denies paragraph 5 of the Petition.

WHEREFORE, the Respondent requests that the State Board of Education appoint a hearing
officer to hold a hearing on this matter, make a recommendation to the Board, and the Board take such
action as may be warranted by the evidence at such hearing.



Roger D. Breed, Ed.D.
Commissioner of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Answer was mailed to the following person, through
regular United States mail, postage prepaid, this 3rd day of May 2013:

Mattkia Montgomery
130 Maple Street
Wayne, NE 68787



Brian L. Halstead, #18077
Attorney for Respondent

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MAY 3 2013
NEBRASKA DEPARTMENT OF EDUCATION

BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Matthia Montgomery
(Name)
130 Maple Street
(Address)
Wayne, NE, 68787
(City, State, and Zip Code)

Case No. 13-09
(Leave Blank)

Petitioner,

vs.

Roger D. Breed, Ed.D.
Commissioner of Education
P.O. Box 94933
Lincoln, NE 68509,

Respondent.

PETITION FOR APPROVAL TO
PARTICIPATE IN PRE-STUDENT
TEACHING FIELD, LABORATORY,
AND CLASSROOM EXPERIENCES
OR STUDENT TEACH

The Petitioner, in accordance with Title 92, Chapter 61, of the *Nebraska Administrative Code*, states and alleges as follows:

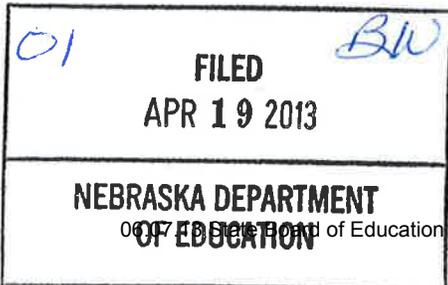
1. The Petitioner is Matthia Montgomery 130 Maple Street
(Name) (Address)
Wayne, NE 68787 402 06/06/90
(City, State, Zip Code) (Telephone Number) (Date of Birth) (Social Security Number)

2. The Petitioner is currently enrolled at Wayne State College
(Name & Address of University or College)
Senior / Fall 2013
(Current status and anticipated date of participation in pre-student teaching activities)

3. The following is a list of all convictions:

a. Criminal Charge: Assault and Battery
Disposition: 9 months probation
Date: September 21, 2011

Name and address of court: Douglas County District Court
1701 Farnam Street
Omaha, NE 68183



b. Criminal charge: _____
Disposition: _____
Date: _____
Name and address of court: _____

4. The Petitioner's request for approval to participate in pre-student teaching field, laboratory, and classroom experiences, or student teach was denied by the Respondent on

04-02-13
(Date on letter from Commissioner).

5. Other relevant data: #1 letter from Commissioner #2
Personal Statement

6. Title 92, *Nebraska Administrative Code*, Chapter 20, Section 005.07B states: "A person with a conviction as defined in Section 005.07A shall not be allowed to participate in pre-student teaching field, laboratory, and classroom experiences or student teach, without approval by the Commissioner or the Board. A person with a conviction as defined in Section 005.07A may request approval by the Commissioner or the Board by using the procedures set forth in 92 NAC 21 Sections 009.02 through 009.04."

WHEREFORE, Petitioner requests that the State Board of Education approve that the Petitioner be allowed to participate as provided under Title 92, Chapter 20, of the *Nebraska Administrative Code*. Petitioner grants permission for the Nebraska Department of Education to obtain and review all criminal records maintained by any law enforcement agency regarding the Petitioner.

Dated this 04 day of 18, 2013.


Signature of Petitioner

VERIFICATION

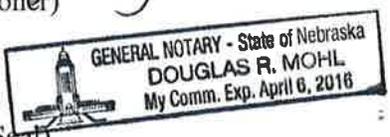
STATE OF NEBRASKA)
) SS
COUNTY OF Wayne)

I, Matthia D Montgomery, being first duly sworn under oath, state that I have read the contents of the petition and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said petition.

Matthia Montgomery
Signature of Petitioner

Subscribed and sworn before me this 18 day of APRIL, 2003, by

Matthia Montgomery
(Petitioner)

(Seal) 

Douglas R Mohl
Notary Public



Roger D. Breed, Ed.D., Commissioner
Scott Swisher, Ed.D., Deputy Commissioner

301 Centennial Mall South Tel: (402) 471-2295
PO Box 94987 Fax: (402) 471-0117
Lincoln, NE 68509-4987 Web: www.education.ne.gov

CERTIFIED MAIL

April 2, 2013

Ms. Mattkia Montgomery
130 Maple Street
Wayne, NE 68787

Re: Request for Approval to Participate

Dear Ms. Montgomery:

I have received your Request for Approval to Participate in Pre-Student Teaching Field, Laboratory, and Classroom Experiences or Student Teach.

In reviewing the information, I have decided to deny your request based on the following determinations: 1) On December 1, 2011, you were found guilty by the Douglas County Court of two misdemeanor counts of Assault and Battery, and sentenced to nine months of probation; 2) Your conviction resulted from a physical altercation with two other people in front of your young son while you were picking him up from his father's residence; and 3) It has been approximately one year since your conviction.

You may appeal my decision within twenty (20) days after receipt of this letter by filing a petition with the State Board of Education using the procedures set forth in 92 Nebraska Administrative Code, Chapter 21, Section 009.03, and Title 92, *Nebraska Administrative Code*, Chapter 61. Copies of these rules are enclosed.

If you have any questions, please feel free to contact Brian Halstead, General Counsel, at 402-471-0732.

Sincerely,


Roger D. Breed, Ed.D.
Commissioner of Education

Enclosures

xc: Wayne State College

Matkia Montgomery
130 Maple Street
Wayne, NE 68787
April 18, 2013

Nebraska State Board of Education
P.O. Box 94933
Lincoln, NE 68509-4933

Dear Nebraska State Board of Education:

I wish I could be in person to formally discuss this matter but given the circumstances I felt it is appropriate that I share my side of the events that lead up to this point. I hope that you take this into consideration when deliberating on my request for approval.

I am a senior majoring in Early Childhood Unified Education at Wayne State and the first in my family to attend college. One of my biggest accomplishments besides making the Dean's List the past two semesters was being awarded a full-ride scholarship from Wayne State. I am and have been tremendously involved on my campus and community in both Wayne and Omaha. I have outstanding relationships with my peers and faculty on my campus. I am the past vice-president of the student organization Minorities in Accordance Coming Together. I helped chartered the first African American student organization on campus which I had the privilege of becoming the first and current president of. I am also the new Tau Alpha chapter president of Zeta Phi Beta Sorority Incorporated. I have been involved in committees, college fairs, workshops, and conferences that promote higher education and leadership skills, diversity, and scholarship. My passion for education is a great deal to me and I aspire to be an educator because of the rewards it brings. I am currently in my clinical experience and partaking in three service learning projects and it is amazing. I find it fulfilling that teachers build character and provide students with skills and knowledge that will have a huge impact on their lives.

On June 27, 2011, I left Skate City in Bellevue, NE and proceeded to pick up my son. He was with his dad at his girlfriend's house and needed me to get him then so he would not be late for work the next day. This was an issue being that my son was not to go over her house because two days prior, my son told me he saw his dad engaging in sexual activities with her. Instead of keeping my son from him all together, we agreed that he would not have our child over there anymore. Once he brought my son to my car, I saw my child had on no shirt, shoes, socks, and he had a terrible cough. It had been raining that weekend and it was chilly outside. I took my son from him and asked why he was improperly dressed and sick. He immediately got defensive telling me to shut up and continued explaining with excuses. I was upset and I explained how lazy and

irresponsible he was with our son. It went downhill from there. We could not have a civilized conversation and I was repeatedly being called out my name so I decided to leave. He began making threats saying he would hit me if I said something else. I told him he was not going to do anything to me and that is when he punched me in my face three times. I was stunned. Not thinking, I chased after him and he hit me again and ran across the street into the apartment complex. As he was running, he told me to wait right there and that he had something for me. I hurried to my car to call the police. As I was parked in my car and on the phone with the operator, his girlfriend approached my vehicle. She wanted to argue asking why did I hit her boyfriend and why did I not want my son over her house. Apparently he had told her that I hit him and to go outside and fight me. She was also under the impression that I still wanted to be with him which was false as well. She ran up to me and hit me and that is where it became physical on my behalf. During the fight, my son's dad came back outside to grab my son from my car. I was pinned against my car by my hair by his girlfriend and I refused to move. I was then kicked out the way by my son's dad; he grabbed my child from my car, and ran back into the apartment. Shortly after, the police arrived and broke us up. We were split up for questioning. I told the officers that I was attacked by them and I wanted them both arrested. She told the officer that she came outside to protect her boyfriend and to ask why I did not want my son at her house. They looked at her and seen that she had scratches on her face and asked if I had any marks on me. They did not see any at the time being that it was dark outside. They told me to wait at my car while they walked her inside and to question my son's dad. When questioning my son's dad, he denied my allegations and said that I got upset with him and scratched him. They came back outside and arrested me for two counts of assault and battery.

The day after I was released from jail, I went to file police reports. They took pictures of all my bruises and the patches of my hair missing from my head. I filed restraining orders against them both. I even went to a women's advocacy center to see what I could do to protect myself and my son. I met with my public defender Leah Frazier and told her everything and showed her my evidence including text messages and call logs telling me to come get my child that night from her apartment. I was advised not to testify for a reason I cannot recall. I agreed trusting my attorney had everything she needed to represent me and because I was innocent. The day of my trial, I spoke with my attorney telling her I wanted to testify because I did not want the lies overshadowing the truth. I knew my good name was on the line and the judge and the arresting officers did not know me as a person nor did they see what took place that night. During trial, I did not get to speak at all. The two other people involved told completely different versions of what happened and I did not get to defend myself at all. I did have a witness, but that did not help in my behalf. After the trial, I hired a new attorney for my sentencing because I was devastated that my public defender did not let me testify or subpoena my evidence into court. I was sentenced to nine months

Matkia Montgomery
March 18, 2013
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probation. I did consider appealing this, but my new attorney told me the chances of winning were not good being that I had no evidence on my behalf in trial.

I do apologize for waiting until now to begin this process. I understand the significance of reporting criminal charges before continuing with undergraduate studies. I have been under a great deal of stress with being a single mother, finances, maintaining good grades, committing to my extracurricular activities, and trying to cope with and work through this situation. A couple weeks after being falsely convicted, I was back in court going through a child custody battle for my son. This was incredibly difficult because of the risk of losing my son, as he is my motivation for everything. This process is extremely challenging and I am still continuing to work through it. It has been almost two years since this has happened and I am still working on putting this experience behind me being that it is a very emotional part of my past. Especially when I took all the appropriate steps and told the truth which was never heard in court. I was protecting my child and myself that night and should have never been arrested. I was falsely prosecuted and condemned for a situation that I did not create.

I do take full responsibility for my actions that took place that night. I wish I would have driven away from the scene after contacting law enforcement and waited for them there. I also wish I could have afforded to hire an attorney that would have subpoenaed my evidence into court, gave me my right to testify, and showed that they had my best interest in mind. I am working on taking this issue to court and getting it set aside for the sake of my career. I want to move forward and not let the past get the best of me. This situation is an unfair snapshot of who I am and portrays me as an aggressive individual, but in reality I am the opposite. This does not in any way or form define who I am or what I am capable of achieving and trying to accomplish in life. I have a great passion for the career I have chosen to pursue and I am praying that I will be able to continue working toward it.

Sincerely,

Matkia Montgomery