

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 23 AA 34
APPLICANT FOR THE POSITION OF)	
PROBATIONARY POLICE OFFICER,)	(Candidate No. [redacted])
CITY OF CHICAGO.)	

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated July 16, 2023, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision (“Notice”).

In an undated letter submitted within sixty days, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and bringing to the Board’s attention additional facts directly related to the reason(s) for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”).

On October 31, 2023, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). Applicant did not file a Reply. Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER'S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

Filings by the Parties

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago, and the Response was filed within the time period allowed by the Police Board Rules of Procedure.

According to the Notice, Applicant was removed from the Eligibility List for the following reasons:

- IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

B. Disqualification Based on Criminal Conduct

7. Other Criminal Conduct

c) Conduct Indicating Violent Tendencies

Police officers are required to act reasonably and professionally at all times and to maintain control over their emotions in the exercise of their duty. These qualities are vital to a police officer's ability to protect the public and its trust in the police. Applicants who have demonstrated a propensity for violence do not meet those requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery; domestic violence; disorderly conduct; and mob action. As noted above, an applicant who has engaged in any act falling within the scope of this section that constitutes a felony will be found unsuitable for employment.

An applicant who has engaged in any act falling within the scope of this section that constitutes a misdemeanor within the last three (3) years

(from the date of PHQ submission), or more than one (1) time in his or her life, will be found unsuitable for employment.

D. Disqualification Based on Prior Employment History

2. A poor employment history will result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations will be found unsuitable for employment.
3. Further, an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment.

E. Disqualification Based on Military History

Police officers are required to follow workplace rules and obey orders in a high-pressure and often dangerous environment. An applicant who has received a Dishonorable Discharge or Bad Conduct Discharge from the United States Armed Forces or the National Guard or State Militia has demonstrated his or her inability to work in such a setting and therefore will be found unsuitable for employment. An applicant who has received a discharge with other characterizations may be found unsuitable for employment based on the nature of the underlying offense.

Department disqualified Applicant based on conduct described during his polygraph examination that indicates violent tendencies. Applicant admitted to the polygraph examiner (“PE”) that as a security officer, he has been in at least forty fights, and has “knocked a couple people out.” He also stated that he was in at least twenty fights when he was younger, and wanted to “drop” his sister’s boyfriend, who is a Latin King.

Applicant was also disqualified based on his prior employment and military history. Applicant went AWOL while serving in the United States Marine Corps (“Marines”) and was discharged “Under Other Than Honorable Conditions.”

Appeal and Response

Applicant appeals the decision, stating that some of his statements to the PE were taken out of context. He states that he was trying to build a rapport with the PE, and jokingly mentioned knocking people out. Applicant states that as a child, he had to fight to avoid gang recruitment, and that his current work as a security officer sometimes requires altercations.

Applicant shares that while serving in the Marines, his mother was diagnosed with breast cancer, and he left his base to go home to his family. He states that he was located and taken back to the base, where he was later discharged Under Other Than Honorable Conditions. Applicant states that since returning home, he has been a law-abiding citizen, and has worked as an armed security guard since 2010. Applicant declares that becoming a Chicago Police Officer is his lifelong dream, and provides letters of recommendation from his current employer.

Department’s Response states that the appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. Department maintains that the pre-employment disqualification standards under which Applicant’s disqualification decision was based upon are clear (namely, Disqualification Based on Criminal Conduct, Conduct Indicating Violent Tendencies, Disqualification Based on Prior Employment History, and Disqualification Based on Military History). Department states that the evidence in Applicant’s file supports its decision to disqualify Applicant from hiring, and Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and

Johnson v. O'Connor, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

Department also notes that Applicant's past actions revealed that had he been in their employ, Applicant would have been in violation of at least five rule violations, "each of which would serve by themselves as grounds for disqualification." Department states that Applicant's history is extremely troubling and has demonstrated that he would not be able to fulfill the Chicago Police Department's mission to "strive to attain the highest degree of ethical behavior and professional conduct at all times."

Findings of Fact

Filings are deemed timely.

Department provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. Department determined that Applicant's criminal conduct indicating violent tendencies, prior employment history and military history were grounds for disqualification.

Department articulated the Standards by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Criminal Conduct Indicating Violent Tendencies

Applicant advised the PE that he has been in at least forty fights as a security officer, and has put his hands on people more times than he can count. He states that he has "knocked a couple people out," and would drop people "like a sack of potatoes" as needed.

Applicant also stated that he almost got into a fight with his sister's boyfriend, who is a Latin King. Applicant states that although he never got into a fight with him, he wanted to

“drop him.” In addition, Applicant had at least twenty fights with neighborhood children while growing up. He stated that he would fight the gang members when they would try to steal his bike.

In his Appeal, Applicant states that his comments “may have been over exaggerated or wrongly stated.” He says that he was joking with the PE, and she even gave him a friendly laugh. Applicant states that his work as a security officer requires him to break up fights and prevent attacks on himself and his co-workers. As a result, he has had several altercations with disorderly individuals, and knocked a few people out.

Applicant explains that as a child, he was subject to gang recruitment, which lead to many “push and shove events.” He states that his mother wanted him to defend himself, so she signed him up for boxing classes. Applicant stresses that he had to defend himself because he was unwilling to join the gangs or become a product of his surroundings.

Prior Employment History and Military History

While in the Marines, Applicant left his base at Camp Pendleton without permission or authorization and was AWOL for twenty-six days. Applicant was located by the U.S. Marshalls and the Chicago Police Department and arrested for Desertion. He was then transported back to his base.

When he returned to Camp Pendleton, Applicant was given a “60 or 90-day” confinement, during which time he again left the base on numerous occasions to wire money, eat dinner, and go to the movies. Applicant was caught leaving the base and was disciplined a second time, resulting in his discharge from the Marines Under Other Than Honorable Conditions. His separation was listed as “Pattern of Misconduct.”

Applicant states that as the “son/father figure” of the family, he needed to go home when his mother was diagnosed with cancer. He states that he was transferred back to Camp Pendleton “without incident,” and was given confinement and forced to pay court fees. Applicant admits that even after returning to the base, he continued to leave without permission, and was ultimately discharged.

Applicant’s Appeal includes an Order from the Clerk of the Circuit Court expunging the warrant issued for his arrest while AWOL. Applicant also provides letters of recommendation from two of his co-workers at Rush University Medical Center, where he currently works as a security officer. They describe Applicant as patient, knowledgeable, and calm, and state that he de-escalates volatile situations and creates a positive work environment. Both believe that Applicant would be an asset to the Chicago Police Department.

Conclusions of Law

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal. Applicant was disqualified by Department based on his criminal conduct indicating violent tendencies, prior employment history and military history.

Conduct Indicating Violent Tendencies

Section B (7)(c) of the Standards states: “Police officers are required to act reasonably and professionally at all times and to maintain control over their emotions in the exercise of their duty.... therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification.”

Applicant admits that he has had at least forty fights while employed as a security officer and stated that he has “knocked out” a few people, dropping them like “a sack of potatoes.” In addition, he states that he has had to put his “hands on people” more times than he can remember. Applicant also describes having “at least twenty” fights as a child and has stated that he wanted to “drop” his sister’s boyfriend.

Section B (7)(c) further states: “an applicant who has engaged in any act falling within the scope of this section which constitutes a misdemeanor within the last three (3) years (from the date of the PHQ submission), or more than one (1) time in his or her life, will be found unsuitable for employment.”

Although Applicant states that he was joking with the PE about “knocking people out,” Applicant’s own description of his actions throughout the years describe conduct that could demonstrate a propensity for violence (including, but not limited to assault and battery) on more than one occasion.

Prior Employment History

Section D (2) of the Standards states: “A poor employment history will result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, ... absenteeism, tardiness, or failure to follow regulations will be found unsuitable for employment.”

Applicant admits that he was AWOL from the Marines for twenty-six days and was arrested and brought back to the base. In addition, after returning to the base, Applicant left confinement without permission or authorization, and was ultimately discharged from the Marines. As a result, Applicant’s conduct could be found to violate Section D(2) of the

Standards.

Department alleges that Applicant also violated Section D(3) of the Standards, as he would have violated FIVE of Departments Rules and Regulations, including Failure to Perform Any Duty, Disobedience, Failure to Report Absence, Being Absent Without Authorization, and Leaving Duty Assignment.

Although Applicant states that he left the base to be with his mother, he failed to request permission or even advise his superiors that he was leaving. In addition, Applicant left the base during his confinement to “eat,” “wire money,” and “go to the movies,” all of which could be considered violations of Section D.

Military History

Section E of the Standards states: “...An applicant who has received a discharge with other characterizations may be found unsuitable for employment based on the nature of the underlying offense.”

Applicant admitted to going AWOL and disobeying orders while in the Marines, which resulted in an arrest and discharge “Under Other Than Honorable Conditions.” In addition, Applicant’s military records note that Applicant exhibited a “Pattern of Misconduct.” Applicant’s multiple and continuous violations of the military’s rules could be found to violate Section E of the Standards.

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support his contention that Department erred in disqualifying Applicant based upon his conduct indicating violent tendencies, prior employment history, and military history.

In considering and weighing the numerous grounds for disqualification that were

presented, Applicant has failed to show, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **affirmed**.

Respectfully submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: January 12, 2024

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 9 in favor (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [**Name redacted**] from the list of eligible applicants for the position of probationary police officer is **affirmed**.

This decision and order are entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF JANUARY, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director