

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)	
POLICE OFFICER SALVADOR PRIETO,)	No. 12 PB 2805
STAR No. 14710, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
RESPONDENT)	(CR No. 1023617)

MEMORANDUM AND ORDER

On July 2, 2012, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Salvador Prieto, Star No. 14710 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating various Rules of Conduct.

The Police Board caused a hearing on these charges against the Respondent to be had before Thomas E. Johnson, Hearing Officer of the Police Board, on September 20, September 21, September 28, November 13, November 14, November 19, and November 29, 2012. Following the hearing, the members of the Police Board read and reviewed the record of proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Johnson made an oral report to and conferred with the Police Board before it rendered its findings and decision.

On February 21, 2013, the Police Board found the Respondent guilty of violating Rules 1, 2, 6, 8, 9, and 14, and ordered that the Respondent be discharged from his position as a police officer, and from the services of the City of Chicago.

The Respondent filed a petition for administrative review in the Circuit Court of Cook County, Chancery Division, seeking reversal of the Board’s Findings and Decision. On July 24,

2014, Judge Thomas R. Allen entered an Order affirming the Police Board's decisions denying the Respondent's motion to dismiss, and finding him guilty of violating Rules 1, 2, 6, 8, 9 and 14. The Court, however, remanded the case to the Board for it to impose a penalty less than discharge.

At the August 21, 2014, status hearing of this matter, counsel for the Superintendent and counsel for the Respondent reported to Hearing Officer Johnson that their clients would not contest the imposition of a two-year suspension of the Respondent and a waiver of any and all back pay for the period from the date of the end of the Respondent's suspension until the Respondent is reinstated to his position. In addition, counsel for the Superintendent reported that the Independent Police Review Authority accepts this agreement.

After reviewing and considering this matter, the Board, for the reasons set forth in its original Findings and Decision, remains convinced that a penalty of discharge in this case is warranted. However, solely in order to comply with the Court's Order to impose a penalty less than discharge, the Board will order the suspension of the Respondent for a period of two (2) years, from July 7, 2012, to and including July 6, 2014, and the Board will further order that the Respondent shall receive no back pay for the period from the date of the end of the Respondent's suspension until the Respondent is reinstated to his position. For the reasons set forth below, the Board finds and determines that a suspension of greater than one year (the length of the suspensions imposed on the other police officers in this matter) is justified on the facts of the case pertaining to Officer Prieto.

While the Court suggested that the Board "magically transform[ed Prieto] into [a supervisory officer] by anointing him the 'leader' of the operation" (at p. 21 of the Court's Order), the Board's findings make clear that Sgt. Terrazas was the supervisor of this tactical

team, with ultimate responsibility for the conduct of the unit. Indeed, that was the principal reason why the Board discharged Sgt. Terrazas. Nonetheless, the Board is convinced that the entire incident would not have happened without Officer Prieto instigating it and being the raid's "operative force." In particular:

1. It was Officer Prieto who claims to have obtained information from an anonymous citizen, indicating that drugs were being stored in the basement of 4740 South Prairie Avenue. We do not know the nature of this information, or its reliability, as Officer Prieto chose not to seek a search warrant from a judge after receiving this anonymous information. If he had followed the law, Officer Prieto would have had to personally swear to the information he had and describe it to a judge. The evidence fairly indicates it was Officer Prieto, and no one else, who decided not to describe the information he had to a judge. The Board is aware that anonymous information alone is generally not sufficient to support a search warrant. The information must be corroborated by police investigation. See, *Illinois v Gates*, 462 U.S. 213 (1983). Here, Officer Prieto testified he did not corroborate the information he received.
2. It was also Officer Prieto who radioed the team to meet him at the 4740 South Prairie Avenue address. Officers Dela Cruz and Gomez were present in the vicinity, in order to help with surveillance, but it was Prieto who got the entire team to the building so the raid could take place.
3. It was Officer Prieto who initially entered the 4740 South Prairie Avenue apartment without a warrant and without any lawful justification. He led the way. Brenda Hines is clear on this point. The Court suggests this was an unobtrusive entry by saying that Brenda Hines "simply stated" the following: "A man had entered the door by swinging—turning the door knob on the screen and just came in the house." (Page 21 of the Court's Order.) The Court, however, leaves out important parts of her testimony. Her very next words were: "...and had a gun." She went on (at pp. 44-45 of the transcript) to say: "I jumped up off the bed and I asked 'What the F is going on?' Officer still had his gun pointed. And I was like 'What the F is going on?' And at this here point my brother Gregory Butler was coming along the hallway, and the officer told him to get down." The officer then pointed his gun at the teen-aged Quintin Pointer, and had him get down as well, and handcuffed him. Only then did Officer Prieto call for the other officers to join him inside the apartment. While the Board found Prieto not guilty of unnecessarily displaying his weapon, his illegal entry was anything but unobtrusive and clearly upset the residents in their home. Prieto's leading the way during this illegal entry sets him apart from the other officers.
4. It was Officer Prieto who testified that he had a low-key and polite conversation with Brenda Hines that led to her signing the consent to search before they entered the apartment. The evidence shows this was a lie. While all but two of the other officers say they heard this conversation (and thus also lied), Officer Prieto was the architect

of the lie.

5. It was Officer Prieto who testified he found Willie Hines in the living room, and says Willie Hines told him there were drugs in the battery compartment of a toy truck. It was Officer Prieto who claims he then recovered 99 bags of heroin from the battery compartment of the toy truck. It was Officer Prieto's job, as the recovering officer, to seize the truck where the drugs were found or at least photograph it. Officer Prieto is not charged with planting drugs on Willie Hines, but his story of the recovery of these drugs seems incredible. The Board has pictures of the drugs seized, and Brenda Hines's credible testimony that the battery compartment of the truck held only four AA batteries. While the Court faults the Board for speculating that the drugs could not have been in such a small space, and using this to question Officer Prieto's credibility, the Board finds that the evidence before it, considered in light of its members' everyday experiences, casts considerable doubt on the truthfulness of Officer Prieto's testimony.
6. It was Officer Prieto who lied about the entry time of 12:53 pm on the consent to search form. He was the one who put this time down, as the time the consent was executed. This entry, even in the Court's mind, was damning because it put the consent to search at the end of the raid, when combined with the GPS data. Because of this problem, Officer Prieto lied and said he used 12:53 pm as the time because that is when Sgt. Terrazas called on the radio for an event number for the search. Officer Prieto obviously made this up, as he was then impeached by his own prior IPRA statement, made much closer in time to the event in question.
7. As the officer who supposedly obtained the consent to search, it was Officer Prieto, and not the other five police officers, who had a responsibility for making sure the consent form was in compliance with Department procedures. This form was woeful. Not only did Officer Prieto falsify the entry time on the form, but the form did not specifically indicate the scope of the search (that the officers were seeking Willie Hines or heroin, etc.), and he failed to ensure that all witness information related to the search was included in the case report. The failure to follow these important Department procedures can be laid at Officer Prieto's feet, and not the five other police officers on the scene.
8. While the Court notes that, according to Brenda Hines, it was Officer Moore who approached her with the consent to search form after it was all over, and cajoled her into signing it by lying to her about what it said, Officer Prieto played a more aggressive role. According to the credible testimony of Brenda Hines, Officer Prieto called her "ignorant" and "naïve", which she said "just really rattled me," and he told her he was going to take them all down to the station (p. 60 of the transcript). Officer Prieto certainly played a major role in getting her to sign the consent form, by duress. It is true that Officer Moore was found guilty of having "pressured and/or coaxed and/or coerced and/or assisted in coercing Brenda Hines into signing the Consent to Search" (paragraph no. 98 of the Board's Findings), and of having "threatened and/or assisted in the threatening of Brenda Hines, without basis, that if she did not sign the

Consent to Search form one or more people in the apartment would be arrested” (paragraph no. 101). Officer Moore’s role, however, was different from Officer Prieto’s. Officer Moore lied to Brenda Hines (i.e. saying by signing the form, her son would be released); Officer Prieto, by his demeaning comments and implicit threat to take everyone down to the station, played a more aggressive role in getting Hines to sign the form after she repeatedly refused to do so.

9. Finally, while the Court questioned whether the prior federal civil judgment against Officer Prieto could be used to undermine his credibility, there is no issue that it can be used as aggravation in determining the penalty. This judgment found Prieto liable for an illegal search and wrongful arrest. It is true that Officer Gomez was a co-defendant and also found liable for a wrongful arrest, but Prieto is the only officer on this tactical team with a clear prior instance of illegally searching civilians.

POLICE BOARD ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Salvador Prieto, Star No. 14710, as a result of having been found **guilty** of charges in Police Board Case No. 12 PB 2805, be and hereby is **suspended** from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period of two (2) years, from July 7, 2012, to and including July 6, 2014.

IT IS FURTHER ORDERED that the Respondent shall receive no back pay for the period from the date of the end of the Respondent’s suspension until the Respondent is reinstated to his position.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Demetrius E. Carney, Ghian Foreman, Melissa M. Ballate, Susan L. McKeever, and Elisa Rodriguez.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF SEPTEMBER, 2014.

Police Board Case No. 12 PB 2805
Police Officer Salvador Prieto

Attested by:

/s/ DEMETRIUS E. CARNEY
President
Police Board

/s/ MAX A. CAPRONI
Executive Director
Police Board

DISSENT

The following members of the Police Board hereby dissent from the Order of the majority of the Board.

We remain convinced that a penalty of discharge in this case is warranted, and vote to impose a suspension of greater than two years in response to the Court's Order.

/s/ WILLIAM F. CONLON

/s/ RITA A. FRY

RECEIVED A COPY OF
THIS MEMORANDUM OPINION AND ORDER
THIS ____ DAY OF _____, 2014.

GARRY F. McCARTHY
Superintendent of Police