

**BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO**

<b>IN THE MATTER OF CHARGES FILED AGAINST</b>	)	
<b>POLICE OFFICER DANTE WALKER,</b>	)	<b>No. 14 PB 2857</b>
<b>STAR No. 18396, DEPARTMENT OF POLICE,</b>	)	
<b>CITY OF CHICAGO,</b>	)	
	)	<b>(CR No. 1023260)</b>
<b>RESPONDENT.</b>	)	

**FINDINGS AND DECISION**

On April 29, 2014, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Dante Walker, Star No. 18396 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 47: Associating or fraternizing with any person known to have been convicted of any felony or misdemeanor, either State or Federal, excluding traffic and municipal ordinance violations.

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 August 25, 2014.

Following the hearing, the members of the Police Board read and reviewed the record of the 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.

**POLICE BOARD FINDINGS**

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.
2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were served upon the Respondent more than five (5) days prior to the hearing on the charges.
3. Throughout the hearing on the charges the Respondent appeared in person and chose to represent himself.
4. The Respondent filed a Motion to Strike and Dismiss requesting that the charges filed against him be stricken and the case dismissed for the following reasons: (a) the current charges are the same charges, with dates within the same time frame, as the charges that were filed against the Respondent in Police Board Case No. 09 PB 2710; (b) the failure to bring timely charges violates the due process rights of the Respondent; and (c) the charges should be barred by laches. The Respondent's Motion to Strike and Dismiss is **denied** for the reasons set forth below.

The original investigation into Officer Walker's relationship with Nadia Smith began on July 3, 2006. It was undertaken by the Police Department's Office of Professional Standards because the investigation originally included allegations of domestic abuse. This investigation led to the Superintendent filing charges against Officer Walker on March 6, 2009. The matter was heard by the Police Board beginning on August 13, 2009, and ending on October 21, 2009. The Board found Officer Walker guilty of associating with Nadia Smith between November of 2004 and May of 2007, lying about this relationship, as well as guilty of using his position to access Chicago police computer records on Ms. Smith, and lying about his use of the computers. The Board ordered Officer Walker discharged from the Chicago Police Department. The Circuit

Court later overturned the Board's guilty findings for associating with Ms. Smith and lying about it, on grounds there was inadequate proof that Officer Walker knew, at the time, that Ms. Smith was a felon. After remand, the Police Board imposed a four-year suspension on Officer Walker in order to comply with the Court's Order to impose a penalty less than discharge.

On January 21, 2009, the Police Department's Internal Affairs Division opened a new investigation of Officer Walker, based on information supplied by the Decatur Correctional Institution to the Department. This investigation involved Officer Walker's association with Ms. Smith while she was in prison at Decatur during the period of late 2008 to March of 2009. Based on this investigation, the Superintendent approved a discharge recommendation on September 16, 2009, while Officer Walker's first case was being heard. This second case was held in abeyance until Officer Walker returned from his four-year suspension and then was served upon him.

Officer Walker contends that the present charges should be dismissed in that he faces double jeopardy, as he has already been punished for his association with Nadia Smith. Illinois law prohibits police departments from imposing a second punishment for the same conduct. *Burton v Civil Service Commission, et al*, 76 Ill.2d 522 (1979). The present case against Officer Walker, however, does not involve a second and separate punishment for the same conduct. His association with Ms. Smith in the first case involved a different time period and involved different circumstances, in that Officer Walker was then contesting whether he knew Ms. Smith was a felon, which he now concedes. The second case therefore does not grow out of the same set of operative facts. Put another way, we do not have a situation, as in *Burton* and cases like *Rochon v Rodriguez*, 293 Ill.App.3d 952 (1<sup>st</sup> Dist. 1986), where government officials first imposed a suspension for particular conduct, and later, without any further misconduct by the

employee, discharged the employee.

Officer Walker's claims that the Department's delay in bringing the second case violated his due process rights and constituted laches are also without merit. The protections of procedural due process are triggered once an officer or other governmental employee is deprived of his job. *Morgan v Department of Financial and Professional Regulation*, 374 Ill.App.3d 275 (1<sup>st</sup> Dist. 2007). Delays in an agency's investigation, prior to suspension, do not trigger due process protections. Here, the delay in the initiation of the second case against Officer Walker was due solely to his discharge and then suspension as a result of the first case. This was explained by Sergeant Joseph Skala at the hearing. Once Officer Walker returned to duty, he was served with the charges and his hearing at the Police Board was promptly scheduled and conducted. Indeed, Officer Walker makes no claim of delay in connection with the Police Board's adjudication of his case.

Laches may be invoked "when a party's failure to timely assert a right has caused prejudice to the adverse party." *Van Milligan v Bd. of Fire and Police Com'rs of Village of Glenview*, 158 Ill.2d 89 (1994). It may be applied against a governmental body's actions "only under compelling circumstances." *Id.*, at 90. Mere delay is not sufficient to trigger the doctrine; the party claiming laches bears the burden of showing how the delay prejudiced him or her in presenting his or her case. *Hannigan v Hoffmeister*, 240 Ill.App.3d 1065, 1074 (1<sup>st</sup> Dist. 1992). Here, Officer Walker does not identify any specific prejudice he encountered by the delay in prosecuting this case. He does not identify witnesses or evidence that could have been obtained had the charges been filed earlier. Indeed, the facts in the case now before the Board are largely uncontested.

5. The Respondent, Police Officer Dante Walker, Star No. 18396, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

From in or around 2008 to in or around March 2009, or for some period of time therein, Police Officer Dante Walker associated with Nadia Smith, an individual he knew to be convicted of one or more felonies, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Officer Walker candidly conceded that he associated with Nadia Smith during this period when he wrote her letters in prison, sent her money in prison, and took her phone calls from prison. The letters he wrote are in evidence, and Sergeant Michael Barz confirmed that the phone calls had occurred. Officer Walker also conceded that he knew, in December of 2008 and through March of 2009, that Ms. Smith was a convicted felon.

6. The Respondent, Police Officer Dante Walker, Star No. 18396, charged herein, is **guilty** of violating, to wit:

Rule 47: Associating or fraternizing with any person known to have been convicted of any felony or misdemeanor, either State or Federal, excluding traffic and municipal ordinance violations,

in that the Superintendent proved by a preponderance of the evidence the following charge:

From in or around 2008 to in or around March 2009, or for some period of time therein, Police Officer Dante Walker associated with Nadia Smith, an individual he knew to be convicted of one or more felonies.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

7. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and the Respondent's complimentary and disciplinary histories.

The Board finds that Officer Walker's association with Ms. Smith occurred because he was in love with her, sought to marry her, and was assisting in the raising of her children while she was in prison. He did not facilitate or participate in any criminal activity. Moreover, Officer Walker has already served a lengthy suspension for conduct related to his relationship with Ms. Smith, and a further suspension would not serve any purpose, especially given the five years that have passed since the association at issue in this case took place.<sup>1</sup> For these reasons, a penalty of discharge or a further suspension would, in the Board's judgment, be unreasonable and draconian in nature.

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<sup>1</sup> As noted in paragraph no. 4 above, the first case against Officer Walker (Case No. 09 PB 2710) involved alleged misconduct during 2004 through mid-2007, and was filed with the Police Board in March 2009. The allegations that gave rise to the present case were known to the Department prior to the filing of the charges in the first case. If the original charges filed in 2009 included the charges now before the Board, or were amended to include these charges, the five-year delay would have been avoided.

### **POLICE BOARD DECISION**

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By a vote of 9 in favor (Demetrius E. Carney, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, Susan L. McKeever, Elisa Rodriguez, and Rhoda D. Sweeney) to 0 opposed, the Board **denies** the Respondent's motion to dismiss the charges;

By votes of 8 in favor (Carney, Foreman, Ballate, Eaddy, Fry, McKeever, Rodriguez, and Sweeney) to 1 opposed (Conlon), the Board finds the Respondent **guilty** of violating Rule 2 and Rule 47.

As a result of the foregoing, the Board, by a vote of 8 in favor (Carney, Foreman, Ballate, Eaddy, Fry, McKeever, Rodriguez, and Sweeney) to 1 opposed (Conlon), hereby determines that cause exists for reprimanding the Respondent for his conduct, and restoring the Respondent to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective May 13, 2014.

**NOW THEREFORE, IT IS HEREBY ORDERED** that the Respondent, Police Officer Dante Walker, Star No. 18396, as a result of having been found **guilty** of charges in Police Board Case No. 14 PB 2857, be and hereby is **reprimanded** for his conduct, and is restored to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective May 13, 2014.

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, Michael Eaddy, Rita A. Fry, Susan L. McKeever, Elisa Rodriguez, and Rhoda D. Sweeney.

Police Board Case No. 14 PB 2857  
Police Officer Dante Walker

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16<sup>th</sup> DAY  
OF OCTOBER, 2014.

Attested by:

/s/ DEMETRIUS E. CARNEY  
President of the Police Board

/s/ MAX A. CAPRONI  
Executive Director of the Police Board



**DISSENT**

I hereby dissent from the Findings and Decision of the majority of the Board. I find that the Respondent's conduct—writing letters and sending commissary money to and speaking on the phone with Nadia Smith, his girlfriend and the mother of the children he took care of, while she was incarcerated—does not constitute impermissible association or fraternization.

/s/ WILLIAM F. CONLON

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RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

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GARRY F. McCARTHY  
Superintendent of Police