

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
DETECTIVE JAMIE E. DUIGNAN,) **No. 14 PB 2872**
STAR No. 21471, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR Nos. 1060774**
RESPONDENT.) **and 1061494)**

FINDINGS AND DECISION

On August 26, 2014, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Detective Jamie E. Duignan, Star No. 21471 (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 6: Disobedience of an order or directive, whether written or oral.
- Rule 7: Insubordination or disrespect toward a supervisory member on or off duty.
- Rule 37: Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

The Police Board caused a hearing on these charges against the Respondent to be had before Fredrick H. Bates, Hearing Officer of the Police Board, on November 21 and November 24, 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 Bates 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 detective 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 personally 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 was represented by legal counsel.
4. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not 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 did not prove by a preponderance of the evidence the following charge:

Count I: On or about March 17, 2013, at approximately 0330 hours, at 7808 South Halsted Street (006th District Station), Detective Jamie E. Duignan refused to obey Lieutenant Ronald Fogue's verbal directives and/or orders to identify herself while in front of members of the public and/or other Department members, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

In this case it is undisputed that Detective Duignan engaged in the conduct specified in the charges. Detective Duignan did not deny what the Superintendent claims took place in the 6th District on March 17, 2013, and the charges were supported by the testimony of Lieutenant Ronald Fogue and Police Officer Cynthia Terrell, both of whom confirmed that Detective

Duignan refused to obey a direct order to identify herself to Lieutenant Forgue, and instead engaged in a belligerent profane tirade in the presence of civilians.

However, Dr. Robert Shulman, Director of Clinical Services, Department of Psychiatry, Rush University Medical Center, testified as a qualified expert in psychiatry, and as Detective Duignan's treating psychiatrist following her involuntary commitment in April 2014 to Rush University Medical Center pursuant to a court ordered writ of detention. Dr. Shulman testified that Detective Duignan suffered from Acute Psychosis Delusional Disorder secondary to a general medical condition, Huntington's Disease, an organic condition, which rendered her delusional in March through May of 2013. His testimony was credible, and unrebutted; his conclusion that the Respondent suffers from Huntington's Disease is also corroborated by other unrebutted testimony relating to behavior by the Respondent associated with the disease. Based upon the psychiatric evidence in the form of the unrebutted expert testimony by Dr. Shulman in this case, the Board finds that due to her paranoid delusional state, Detective Duignan did not understand the order to identify herself. Accordingly, the Board does not believe that she was responsible for her conduct, and therefore finds that she is not guilty of any of the rule violations charged in this case, including the Rule 2 charges.

5. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not 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 did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 30, 2013, Detective Jamie E. Duignan failed to comply with a written order issued by Sergeant Mark Higgs to report to the Bureau of Internal Affairs on May 30, 2013, to give an official statement regarding Complaint Register No. 1060774, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference. Detective Duignan stipulated to the facts underlying the claims that she failed to comply with an order from Sergeant Mark Higgs to report to the Bureau of Internal Affairs ("BIA") to provide an official statement regarding Complaint Register No. 1060774. Dr. Shulman testified that Detective Duignan's medical/psychiatric condition rendered her delusional and incapable of understanding the orders issued to her in March through May of 2013. Dr. Shulman's testimony was credible, and unrebutted.

In administrative cases where psychiatric evidence has been offered, courts examine whether the misconduct charged bears any relationship to the psychiatric problems. See *Walsh v. Board of Fire and Police Commissioners of the Village of Orland Park*, 96 Ill.2d 101, 449 N.E.2d 115 (1983) ("If the board finds that the misconduct was substantially related to those problems, the proper sanction would be other than discharge for 'cause.'"). This is not a case in which a Chicago police officer knowingly and voluntarily engaged in conduct that made her unable to comprehend direct orders. Rather, the Board finds that, based upon the psychiatric evidence in the form of the unrebutted expert testimony by Dr. Shulman in this case, Detective Duignan suffered from Acute Psychosis Delusional Disorder secondary to a general medical condition, Huntington's Disease, an organic condition, which rendered her incapable of understanding the orders issued to her. Compare *Mitchum v. Tennessee Valley Authority*, 756 F.2d 82 (Fed. Cir. 1985) (Failure to give substantial weight to evidence of illness was an abuse of discretion by Board.). Given the unique facts in this case, the Board finds that Detective Duignan

is not guilty of the rule violations charged in this case.¹

6. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not 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 did not prove by a preponderance of the evidence the following charge:

Count III: On or about March 17, 2013, at approximately 0330 hours, at 788 South Halsted Street (006th District Station), Detective Jamie E. Duignan directed abusive and/or profane language at Lieutenant Ronald Forgue after she was asked to identify herself, including one or more of the following statements: "What the fuck do you need to know?"; "I'm off duty and don't have to give you my name."; "Why don't you go fuck yourself?"; "Is this helping your ego?"; "Why don't you get up from behind the desk and do some real police work?"; and/or "Why don't you go arrest someone instead of fucking with me?"; or words to that effect. Thus, Detective Duignan impeded the Department's efforts to achieve its policy and goals and/or brought discredit upon the Department.

See the findings set forth in paragraph nos. 4 and 5 above, which are incorporated here by reference.

7. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not 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,

¹The Respondent concedes that she cannot be reinstated to duty because she does not currently possess a valid Illinois Firearm Owner's Identification Card, nor did she ever complete the requisite Mandatory Psychological Fitness for Duty Evaluation at the Center for Applied Psychology and Forensic Studies, both of which would necessarily be prerequisites to her return to active duty as a Chicago police officer. Detective Duignan's counsel argued that she should be allowed to avail herself of the Professional Counseling Service/Employee Assistance Program services provided to distressed officers by the Police Department. We concur with the view that services be made available to Detective Duignan that are designed to assist officers like her who are experiencing these types of health issues.

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count IV: On or about April 15, 2013, at 205 West Randolph Street, Detective Jamie E. Duignan failed to comply with the Mandatory Psychological Fitness for Duty Evaluation ordered by Sergeant Andres Zayas Jr. on April 11, 2013, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the findings set forth in paragraph nos. 4 and 5 above, which are incorporated here by reference. Detective Duignan stipulated to the facts underlying the claims that she failed to comply with the order from Sergeant Andres Zayas Jr. that she undergo a Mandatory Psychological Fitness for Duty Evaluation. LeVonne Jackson corroborated the fact that Detective Duignan refused to complete a Mandatory Psychological Fitness for Duty Evaluation at the Center for Applied Psychology and Forensic Studies. The Respondent's position is that she was unable to comprehend the orders that were given to her due to a mental health issue that was present in March through May of 2013, and therefore she did not intentionally violate said orders. For the reasons set forth above, the Board finds her not guilty of the charges in this matter.

8. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not 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 did not prove by a preponderance of the evidence the following charge:

Count V: On or about May 30, 2013, Detective Jamie E. Duignan failed to comply with a verbal and/or written order issued by Sergeant Janine Hermann on or about May 17 and/or May 20, 2013, to report to the Bureau of Internal Affairs on May 30, 2013, to give an official

statement regarding Complaint Register No. 1061494, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the findings set forth in paragraph nos. 4, 5, and 7 above, which are incorporated here by reference. Detective Duignan stipulated to the facts underlying the claims that she failed to comply with the order from Sergeant Janine Hermann to report to the Bureau of Internal Affairs ("BIA") to provide an official statement regarding Complaint Register No. 1061494. The Respondent's position is that she was unable to comprehend the orders that were given to her due to a mental health issue that was present in March through May of 2013, and therefore she did not intentionally violate said orders. For the reasons set forth above, the Board finds her not guilty of the charges in this matter.

9. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,
in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about March 17, 2013, at approximately 0330 hours, at 7808 South Halsted Street (006th District Station), Detective Jamie E. Duignan refused to obey Lieutenant Ronald Forgue's verbal directives and/or orders to identify herself, thereby disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

10. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,
in that the Superintendent did not prove by a preponderance of the evidence the following
charge:

Count II: On or about May 30, 2013, Detective Jamie E. Duignan failed to comply with a written order issued by Sergeant Mark Higgs to report to the Bureau of Internal Affairs on May 30, 2013, to give an official statement regarding Complaint Register No. 1060774, thereby disobeying an order or directive, whether written or oral.

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

11. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,
in that the Superintendent did not prove by a preponderance of the evidence the following
charge:

Count III: On or about April 15, 2013, at 205 West Randolph Street, Detective Jamie E. Duignan failed to comply with the Mandatory Psychological Fitness for Duty Evaluation ordered by Sergeant Andres Zayas Jr. on April 11, 2013, thereby disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 7 above, which are incorporated here by reference.

12. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,
in that the Superintendent did not prove by a preponderance of the evidence the following

charge:

Count IV: On or about May 30, 2013, Detective Jamie E. Duignan failed to comply with a verbal and/or written order issued by Sergeant Janine Hermann on or about May 17 and/or May 20, 2013, to report to the Bureau of Internal Affairs on May 30, 2013, to give an official statement regarding Complaint Register No. 1061494, thereby disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 8 above, which are incorporated here by reference.

13. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 7: Insubordination or disrespect toward a supervisory member on or off duty, in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about March 17, 2013, at approximately 0330 hours, at 7808 South Halsted Street (006th District Station), Detective Jamie E. Duignan refused to obey Lieutenant Ronald Forgue's verbal directives and/or orders to identify herself, thereby displaying insubordination or disrespect toward a supervisory member on or off duty.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

14. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 7: Insubordination or disrespect toward a supervisory member on or off duty, in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about March 17, 2013, at approximately 0330 hours, at 788 South Halsted Street (006th District Station), Detective Jamie E. Duignan directed abusive and/or profane language at Lieutenant Ronald Forgue after she was asked to identify herself, including one or more of the following statements: “What the fuck do you need to know?”; “I’m off duty and don’t have to give you my name.”; “Why don’t you go fuck yourself?”; “Is this helping your ego?”; “Why don’t you get up from behind the desk and do some real police work?”; and/or “Why don’t you go arrest someone instead of fucking with me?”; or words to that effect. Thus, Detective Duignan displayed insubordination or disrespect toward a supervisory member on or off duty.

See the findings set forth in paragraph nos. 4 and 5 above, which are incorporated here by reference.

15. The Respondent, Detective Jamie E. Duignan, Star No. 21471, charged herein, is **not guilty** of violating, to wit:

Rule 37: Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

On or about March 17, 2013, at approximately 0330 hours, at 7808 South Halsted Street (006th District Station), Detective Jamie E. Duignan refused to obey Lieutenant Ronald Forgue’s verbal directives and/or orders to identify herself, thereby failing to correctly identify herself when so requested by a member of the Chicago Police Department.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

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 votes of 5 in favor (Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, and Elisa Rodriguez) to 3 opposed (Demetrius E. Carney, Melissa M. Ballate, and Rhoda D. Sweeney), the Board finds the Respondent **not guilty** of violating Rule 2, Rule 6, Rule 7, and Rule 37.

As evident from the discussion and findings herein, a majority of the Board believes that this is a medical rather than disciplinary matter and should be handled by the Department as such. Notwithstanding the findings that the Respondent is not guilty of all charges, the Board determines that cause does not exist for restoring the Respondent to her position as a detective with the Department of Police, and to the services of the City of Chicago. According to evidence in the record in this case, the Respondent does not possess a valid Firearm Owner's Identification Card and has not been found fit for duty, both of which are requirements to serve as a sworn member of the Chicago Police Department.²

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, and Elisa Rodriguez.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF FEBRUARY, 2015.

² See note 1 above, at page 5.

Police Board Case No. 14 PB 2872
Detective Jamie E. Duignan

Attested by:

/s/ GHIAN FOREMAN
Vice President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

We hereby dissent from the Findings and Decision of the majority of the Board. Detective Duignan was given a direct order to identify herself to Lieutenant Ronald Forgue, and she disobeyed that order. Detective Duignan not only refused to obey a direct order to identify herself to Lieutenant Forgue, but she instead engaged in a belligerent profane tirade in the presence of civilians. She was given multiple orders by two different BIA supervisors to appear at the BIA to provide official statements, and she disobeyed those orders. Finally, she was given a direct order to go to the Center for Applied Psychology and Forensic Studies and undergo a Mandatory Psychological Fitness for Duty Evaluation, and she disobeyed that order. While we agree that the penalty of discharge sought by the Superintendent is inappropriate in this case, and we concur that she should be allowed to avail herself of Department services designed to assist officers experiencing mental-health issues, we believe she is guilty of each of the Rule violations as charged by the Superintendent. Accordingly, we dissent from the finding of the majority of the Board that Detective Duignan is not guilty in this case.

/s/ DEMETRIUS E. CARNEY
President

/s/ MELISSA M. BALLATE

/s/ RHODA D. SWEENEY

RECEIVED A COPY OF
THESE FINDINGS AND DECISION
THIS ____ DAY OF _____, 2015.

GARRY F. McCARTHY
Superintendent of Police