

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER CLAUZELL GAUSE,) **No. 20 PB 2972**
STAR No. 14001, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
)
) **(CR No. 1069633)**
RESPONDENT.)

FINDINGS AND DECISION

On May 22, 2020, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Clauzell Gause, Star No. 14001 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department for violating several Rules of Conduct.

A hearing on these charges against Respondent took place before Hearing Officer Allison Wood on February 18 and 19, 2021, via Zoom video conferencing. Following this evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings, including the Hearing Officer’s Report (neither party filed a response to this report), and viewed the video recording of the entire evidentiary hearing. Hearing Officer Wood made an oral report to and conferred with the Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

As a result of its hearing on the charges, the Police Board finds and determines that:

1. Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.
2. A copy of the charges filed, and a notice stating the date, place, and time the initial

status hearing would be held, were personally served upon Respondent not fewer than five (5) days before the date of the initial status hearing for this case.

3. Throughout the hearing on the charges Respondent appeared and was represented by legal counsel.

Introduction

4. Respondent has been a Chicago police officer since 2004. In 2014, he was assigned to a unit that transports distressed individuals to hospitals. It is undisputed that on June 3, 2014, Respondent and his partner, Police Officer LeShawn Hawkins (“Officer Hawkins”), were assigned to transport a patient named Rayshon Gartley (“Gartley”) from Roseland Hospital to Jackson Park Hospital for treatment. Gartley, who was experiencing a mental health crisis, was taken to the triage area where his vitals were to be taken. Respondent, Officer Hawkins, and several other officers were also present in the triage area. Agitated because a nurse was having trouble finding his vein to give him a shot to calm him, Gartley punched Respondent (who was looking the other way) on the left side of the jaw. Respondent was stunned and staggered from the punch. In response, Officer Hawkins and two other officers took Gartley to the floor and placed him in handcuffs. Gartley apologized to Respondent. Several minutes later, Respondent and Officer Hawkins escorted Gartley (who was still handcuffed) from the triage area to an observation room at the end of the hallway.

The charges against Respondent arise out of what happened in the observation room. The charges included three specifications: (1) on June 3, 2014, Respondent shoved Gartley into a wall and/or punched and/or struck him about the face and/or body while his hands were handcuffed behind his back; (2) between June 3 and 4, 2014, Respondent provided a misleading account of the physical interaction between himself and Gartley in Chicago Police Department

reports and/or in a verbal report to Respondent's supervisor; and (3) on July 6, 2018, Respondent made a false statement during an interview with the Civilian Office of Police Accountability ("COPA").

Respondent filed a Motion to Dismiss all charges. In an order entered on October 23, 2020, the Police Board dismissed the charges in Specification Nos. 1 and 2 because the charges were time-barred by the statute of limitations in the Illinois Municipal Code.¹ *See* 65 ILCS 5/10-1-18.1 ("If the charge is based upon an allegation of the use of unreasonable force by a police officer, the charge must be brought within 5 years after the commission of the act upon which the charge is based."). The Board did not dismiss the charges in Specification No. 3 and ordered that an evidentiary hearing be held on only these remaining charges.

The Board concludes that the evidence presented in this case did not establish that Respondent made a false statement during an interview with COPA on July 6, 2018. His statement that he swung at Gartley's head, Gartley ducked, and Respondent missed, was consistent with what was shown in the video of those events. Accordingly, the Board finds Respondent not guilty of violating Rules 2 and 14.

Remaining Charges Against the Respondent

5. Police Officer Clauzell Gause, Star No. 14001, is **not guilty** of violating Rules 2 and 14 in that the Superintendent did not prove by a preponderance of the evidence the following charges:

¹ The Board is deeply troubled by the more than five years it took to complete the investigation that led to the charges in this case. The Board recognizes that the Civilian Office of Police Accountability is working to clear a backlog of open investigations and that the agency may not have adequate resources to do so in an expeditious manner; however, the Board urges COPA to make every effort to bring to conclusion all investigations of alleged misconduct that are part of that backlog and that COPA's work be adequately funded to do so.

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On or about July 6, 2018, at approximately 8:35 a.m., at 1615 West Chicago Avenue in Chicago, at the offices of the Civilian Office of Police Accountability (“COPA”), Police Officer Clauzell Gause, during an audio-recorded interview, provided false information to COPA, in that he stated he did not make contact with Rayshon Gartley’s face or head when he performed a closed-hand strike, or words to that effect. Officer Gause thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department; and
- b. Rule 14, which prohibits making a false report, written or oral.

The Superintendent has the burden to prove by a preponderance of the evidence that it is more likely than not that Respondent falsely stated during his interview with COPA that he did not strike Gartley around his face or head. *See generally Clark v. Bd. of Fire & Police Comm’rs of the Vill. of Bradley*, 613 N.E.2d 826 (Ill. App. Ct. 1993); *People v. Houar*, 850 N.E.2d 327 (Ill. App. Ct. 2006) (proof by a preponderance of the evidence means that the fact in issue is rendered more likely than not).

Respondent was interviewed by COPA on July 6, 2018, and the transcript was admitted into evidence. During the interview, Respondent was asked the following question, and he gave the following answer:

Q. Okay. And what happened after you pushed him over to the wall?

A. At that time I tried to administer a stunning blow, but he ducked to the -- he flopped to the bed. So, I never made contact with him when I tried to give him a stunning blow in order for us to be able to remove a handcuff without us getting -- without, I believe me getting -- without us getting attacked again.

See Superintendent’s Ex. 4 at 26–27.

Later in the interview, Respondent was asked the following question, and he gave the following answer:

Q. You said that you did not apply the stunning move.

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A. No, he -- he ducked to the bed. So --

Q. Okay.

A. -- I missed.

See id. at 29.

Respondent's testimony at the hearing in this case was consistent with the statements he made to COPA—that he swung at the area around Gartley's head and face, but that he missed and Gartley fell on the bed. While Gartley testified that Respondent struck him around his head and face, and he pointed out some redness and/or swollenness on the side of his face in pictures that were admitted into evidence, there is a question as to whether those markings were made at some point before Respondent brought Gartley to the observation room. Specifically, the markings could have been made before Gartley was picked up for transport by Respondent, or when multiple police officers took him down to the ground after he punched Respondent. The Board is without sufficient information to find that markings were the result of a blow delivered by Respondent, as opposed to one of the alternative possibilities. In addition, the testimony offered during the hearing of eyewitnesses did not establish that Respondent made contact with Gartley. Respondent's partner, Officer Hawkins, credibly testified that he saw Respondent swing at Gartley's head in the observation room, but that he did not see or hear any contact between Respondent's fist and Gartley's body. The supervising nurse who testified in this case was standing outside of the observation room and did not see Respondent strike Gartley. Finally, the video evidence does not establish that contact was made. There were two videos that depicted the scene in the observation room from two different angles. In both videos, Respondent can be seen pushing Gartley to the wall and then raising his arm to punch Gartley around the face and the head. In both videos, however, Gartley can be seen turning his head away from Respondent and

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avoiding the punch.

While the Board does find that Respondent attempted to hit Gartley, the charge before the Board is a specific one – did Respondent lie when he stated that he had not made contact with Gartley when he swung at him? Because neither the bruising, the testimony, nor the video evidence establishes that contact was made, the Superintendent has not met his burden to prove by a preponderance of the evidence that Respondent made a false statement to COPA.

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POLICE BOARD DECISION

The members of the Police Board of the City of Chicago hereby certify that they have read and reviewed the record of the proceedings, viewed the video-recording of the entire evidentiary hearing, received the oral report of the Hearing Officer, and conferred with the Hearing Officer on the credibility of the witnesses and the evidence. The Police Board hereby adopts the findings set forth herein by the following votes.

By a vote of 5 in favor (Matthew C. Crawl, Steve Flores, Jorge Montes, Rhoda D. Sweeney, and Andrea L. Zopp) to 3 opposed (Ghian Foreman, Paula Wolff, and Michael Eaddy), the Board finds Respondent **not guilty** of the charges remaining in this case, as set forth in Section No. 5 above.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Clauzell Gause, Star No. 14001, as a result of having been found **not guilty** of the remaining charges in Police Board Case No. 20 PB 2972, be and hereby is restored to his position as a police officer and to the services of the City of Chicago, with all rights and benefits, effective June 17, 2020.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Matthew C. Crawl, Steve Flores, Jorge Montes, Rhoda D. Sweeney, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF MAY, 2021.

Attested by:

/s/ MATTHEW C. CROWL
Board Member

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/s/ STEVE FLORES
Board Member

/s/ MAX A. CAPRONI
Executive Director

DISSENT

We dissent from the findings and decision of the majority of the Board. We believe that the Superintendent met his burden to show that Respondent struck Gartley and so when he denied having made contact with Gartley, Respondent made false statements to COPA. Specifically, we found Gartley's testimony to be credible. At the time of the incident, Gartley was having a mental health issue, he was not a suspect. He very credibly admitted during his testimony that he had punched Respondent (and he expressed his remorse). Given his candor, his testimony describing what happened next—that Respondent struck him in the head and face area—was also credible. And it was corroborated. Indeed, Gartley was shown pictures taken after he was restrained. He identified several marks and/or scars on his face and explained where they had come from. When asked about the redness and swollenness on the side of his face, he credibly testified that those marks were made when Respondent struck him. The majority, we believe, incorrectly discounted those pictures. There was no credible evidence presented to suggest the redness and swollenness on the side of Gartley's face came from some source other than when Respondent struck him; instead, the alternative theories were based on speculation.

In addition, Respondent admitted that he was not happy about Gartley punching him in the face. Respondent's decision to walk past vacant observation rooms and enter the last room at the end of the hallway without a nurse present (as policy requires) corroborates the argument that Respondent was determined to get back at Gartley for punching him. In addition, there were two videos that showed Respondent entering the observation room and pushing Gartley into the wall. At the time of the incident, Gartley was handcuffed and not resisting. As is evident from a review of the video, Respondent raised his arm in the air and swung at Gartley's head. While the videos show that Respondent did not make full contact with Gartley's face or head, Gartley

moved his head in response to Respondent's actions and fell forcibly on the bed,² indicating that Respondent's fist certainly at least grazed Gartley's face. Thus, collectively, the evidence shows that it is more likely than not that Respondent struck Gartley around the face or head area and that he later made false statements to COPA. Respondent's false statements to COPA should not be countenanced and Respondent should be discharged from the Police Department.

Separate from the dissent's conclusion that there was sufficient evidence to establish that the Respondent lied when he said he did not make contact with Gartley, the dissenters note another issue. This case vividly demonstrates an endemic problem, which the Board has seen in other cases: police officers are routinely asked to address problems caused by mental illness and crisis behavior, without being properly trained or equipped to handle these problems. Fortunately, CPD is working under the Consent Decree to improve training, and the City is also piloting a co-responder model, where mental health professionals accompany officers to instances like this one. Nevertheless, the lack of training is no excuse in this case, for this Respondent's behavior, where needless physical violence was used. Indeed, hundreds of officers have faced similar situations and have unfortunately been victims of physical abuse like the punch thrown by Mr. Gartley, without resorting to physical violence themselves, let alone engaging in retaliatory violence that is removed by both time and space from the original event. So, while the lack of training does not absolve the Respondent here, it does underscore the need for CPD to address the training and accountability processes that must be improved.

GHIAN FOREMAN
President

PAULA WOLFF
Vice President

²Superintendent's Exhibit 2b at 42 seconds.

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MICHAEL EADDY
Board Member

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2021.

DAVID O. BROWN
Superintendent of Police