

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER ANGEL NUNEZ,) **No. 20 PB 2976**
STAR No. 16191, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
RESPONDENT.) **(CR No. 1091802)**

FINDINGS AND DECISION

On July 15, 2020, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Angel Nunez, Star No. 16191 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“CPD”) for violating CPD’s Rules of Conduct. On January 13, 2021, the Superintendent filed amended charges against Respondent.

A hearing on the charges against Respondent took place before Hearing Officer Allison Wood on August 30–31 and December 16–17, 2021, and January 27–28, 2022. 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 and Chicago Police Officer [B.M.] began a romantic relationship in the summer of 2015 and “officially started dating” in December 2015. They moved into an apartment together in September 2017. At the time, Respondent was in the process of applying to become a Chicago police officer. Respondent ultimately entered the Academy on January 17, 2017, beginning his eighteen-month period as a probationary officer. Respondent completed his probationary period in July 2018.

Respondent and Officer [M.] agree that, in the period between January 17, 2017 (when Respondent entered the Academy) and November 23, 2018 (two days after the end of their relationship) they engaged in numerous heated arguments. Officer [M.] claims that she was also physically and verbally abused by Respondent during that twenty-two-month period; allegations Respondent denies. Officer [M.] claims that Respondent subjected her to regular and various acts of domestic violence, including: being pushed and shoved by Respondent, causing her to fall to the ground (Specification No. 1 of the charges brought against Respondent) and, on one occasion, causing her shoulder to be injured and/or dislocated (Specification No. 2); being punched about the face with a closed fist while on a trip to Las Vegas in August 2018 (Specification No. 3); and being the victim of threats of retaliation should Officer [M.] file a complaint against Respondent (Specification No. 4).

Respondent's Motions

5. On January 25, 2022, Respondent filed two motions: (a) Motion for a Directed Finding at the Close of the Superintendent's Case-in-Chief ("Motion for a Directed Finding"), and (b) Motion to Strike Improperly Undisclosed Alleged Other Bad Acts of Respondent Introduced by the Superintendent ("Motion to Strike"). The Superintendent filed a Response to these motions on March 8, 2022.

Motion for a Directed Finding

Respondent's Motion for a Directed Finding requests that the Board make a directed finding of not guilty at the close of the Superintendent's case because the Superintendent failed to put forth sufficient evidence to prove the charges as a matter of law.

Respondent's Motion for a Directed Finding shall be denied. As an initial matter, the law and rules of procedure that govern Police Board hearings do not provide for motions for a directed finding. The Board's Rules of Procedure state that "all evidence and arguments shall be presented prior to the case being taken under advisement by the Board, which shall then read and review the complete record of proceedings and view the video recording of the entire evidentiary hearing without limitation[.]" Rules of Procedure, Section III.C. There is no suggestion in the Board's Rules of Procedure that the Hearing Officer has the power to issue a directed finding at the close of the Superintendent's case.

Over the course of a six-day hearing, Respondent presented witnesses and evidence on his own behalf, both in defense of the charges and in mitigation. The Board will not deviate from its established procedure of considering witnesses and evidence presented by *both* the Respondent and the Superintendent before issuing its findings and decision.

Motion to Strike

Respondent's Motion to Strike requests that the Board strike from the record various pieces of testimony elicited by the Superintendent. Respondent argues that the fifteen pieces of evidence highlighted in the Motion to Strike, which were presented by Officers [B.M.] and Cindy Ramos, were either improperly admitted prior bad acts or improperly admitted hearsay statements.

Respondent's Motion to Strike shall be denied. As an initial matter, per the Board's Rules of Procedure, it is "within the discretion of the Hearing Officer to rule on the relevance and extent of any evidence offered[.]" Rules of Procedure, Section III.C. The Hearing Officer has significant discretion when it comes to the admission of evidence at a Police Board hearing; both state law and the Municipal Code of Chicago provide that the Board "is not bound by formal or technical rules of evidence, but hearsay evidence is inadmissible." 65 ILCS 5/10-1-18.1; MCC 2-84-030. In addition, the Police Board's own Rules of Procedure caution against granting a motion to strike based on purported evidentiary issues: "[t]he Hearing Officer shall not be bound by the formal or technical rules of evidence; however, hearsay evidence shall not be admissible during the hearing, unless an Illinois statute or rule of evidence provides otherwise." Rules of Procedure, Section III.D.

Hearing Officer Wood made sound, informed decisions each time Respondent's counsel objected to the admission of particular testimony at the hearing.¹ The Board carefully reviewed

¹ Hearing Officer Wood did not have the opportunity to rule on the relevance and extent of some of the evidence at issue in Respondent's Motion to Strike because Respondent's counsel failed to object to the admission of that evidence at the hearing on the charges. Specifically, Respondent's counsel did not object to (1) testimony regarding statements Respondent made to Officer [M.] during the course of arguments (the fifth and eight pieces of testimony at issue in Respondent's Motion to Strike); (2) testimony regarding Respondent's choking Officer [M.] (the sixth piece of testimony at issue in Respondent's Motion to Strike); (3) testimony regarding bruising to Officer [M.]'s chest (the seventh piece of testimony at issue in Respondent's Motion to Strike); or (4) Officer Ramos's testimony

each of the alleged hearsay statements highlighted in Respondent’s Motion to Strike (the tenth, eleventh, and fourteenth pieces of testimony at issue in Respondent’s Motion to Strike), and determined that each either was not hearsay or fell within an exception laid out in “an Illinois statute or rule of evidence.” *Id.* In the event there was not a clear hearsay exception, the Board, as set forth below, did not assign the statement any weight.

The Board reiterates that it will not make a habit of questioning or overturning a Hearing Officer’s evidentiary rulings at a hearing—particularly given the inapplicability of formal rules of evidence to Police Board hearings. However, the Police Board exercises its discretion in deliberations in determining the weight to assign evidence and testimony. In this case, the Board determined that some of the evidence at issue in Respondent’s Motion to Strike—and evidence beyond that highlighted by Respondent’s Motion—had minimal relevance to the charges before the Board and, for that reason, assigned it no weight in reaching its decision.²

Charges Against the Respondent

6. Police Officer Angel Nunez, Star No. 16191, is **guilty** of violating Rules 1, 2, 3, 8, and 9 in that the Superintendent proved by a preponderance of the evidence the following charges set

regarding the preparation of a “go-bag” (the fifteenth piece of testimony at issue in Respondent’s Motion to Strike).

² Specifically, the Board did not consider and assigned no weight to the following evidence at issue in Respondent’s Motion to Strike because this evidence had minimal relevance to the charges: (1) testimony regarding the receipt of a Snapchat from Respondent on Veteran’s Day (the first piece of testimony at issue in Respondent’s Motion to Strike); (2) testimony regarding an instance in which Respondent allegedly threw a black ceramic bowl (the third piece of testimony at issue in Respondent’s Motion to Strike); (3) testimony regarding drunk driving, including an incident where Respondent allegedly blew his tire while driving under the influence of alcohol (the fourth piece of testimony at issue in Respondent’s Motion to Strike); (4) testimony regarding property damage, including damage to various doors and a mirror (the ninth and thirteenth pieces of testimony at issue in Respondent’s Motion to Strike); (5) testimony regarding text messages Respondent allegedly sent in June 2017 (the eleventh piece of testimony at issue in Respondent’s Motion to Strike); (6) Officer Ramos’s testimony when she was asked whether Officer [M.] had ever expressed concern that Respondent “was getting physical with her”; and (7) Officer Ramos’s testimony regarding the receipt of photos of Officer [M.] with bruises while she was in Las Vegas.

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forth in Specification No. 1:

On or about January 17, 2017, through on or about November 23, 2018, or at some period of time therein, in the vicinity of [xxxx] South Newland Avenue, Chicago, Officer Nunez on one or more occasions, while off duty, knowingly and without legal justification, caused bodily harm to Officer [B.M.], a household member, and/or made physical contact of an insulting or provoking nature with Officer [B.M.], a household member, to wit: pushed and/or shoved Officer [B.M.] and/or caused [B.M.] to fall. Officer Nunez thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by violating section 12-3.2(a) of the Illinois Criminal Code, 720 ILCS 5/12-3.2(a) (West 2012), which prohibits domestic battery;
- b. 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;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals;
- d. Rule 8, which prohibits disrespect to or maltreatment of any person while on or off duty; and
- e. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

During the hearing, Officer [B.M.] testified that Respondent pushed and/or shoved her, causing her to fall, on two specific occasions. First, she described a physical altercation that occurred on February 4, 2017, when she returned home from work. Officer [M.] stated that Respondent threw her to the floor of their bedroom in the course of this argument. The Board found Officer [M.]'s testimony to be credible, particularly given the documented bruising to her chest and left arm and the laceration to her neck, all of which were documented in photos she took the morning after the incident (Superintendent's Exhibit 1). Officer [M.] also described an argument with Respondent in the spring of 2018 during which Respondent pushed her. The Superintendent presented photos of the injuries Officer [M.] suffered during the course of this argument (Superintendent's Exhibit 5). The Board found Officer [M.]'s testimony regarding the cause of those injuries to be credible.

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Respondent's actions during both the argument on February 4, 2017, and the argument in the spring of 2017 fall squarely within Specification 1. Officer [M.] credibly described each of these incidents, and the injuries she suffered were clearly depicted in the photos presented to the Police Board. Therefore, the Board finds Respondent guilty of the charges in this Specification.

7. Police Officer Angel Nunez, Star No. 16191, is **guilty** of violating Rules 1, 2, 3, 8, and 9 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 2:

On or about January 17, 2017, through on or about November 23, 2018, or at some period of time therein, in the vicinity of [xxxx] South Newland Avenue, Chicago, Officer Nunez, while off duty, knowingly and without legal justification, caused bodily harm to Officer [B.M.], a household member, and/or made physical contact of an insulting or provoking nature with Officer [B.M.], a household member, to wit: pushed and/or shoved Officer [B.M.], causing her shoulder to be injured and/or dislocated. Officer Nunez thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by violating section 12-3.2(a) of the Illinois Criminal Code, 720 ILCS 5/12-3.2(a) (West 2012), which prohibits domestic battery;
- b. 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;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals;
- d. Rule 8, which prohibits disrespect to or maltreatment of any person while on or off duty; and
- e. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Officer [M.] testified that, following an argument in June 2017, her relationship with Respondent became healthier for a period of time. She testified that, over the course of several months, the relationship became contentious again—first with verbal abuse and ultimately escalating to physical abuse. Specifically, Officer [M.] testified that, in late 2017, Respondent

injured her shoulder. Officer [M.] said she remembered this particular incident because her mother massaged her shoulder to assist with her healing. Officer [M.] further testified that, at the time, she lied to her mother about the cause of her shoulder injury; rather than saying that Respondent was responsible, Officer [M.] told her mother that she had injured her shoulder either at work or while working out.

Officer [M.] credibly testified that her shoulder injury resulted from physical contact with Respondent. Consequently, the Board finds Respondent guilty of the charges in this Specification.

8. Police Officer Angel Nunez, Star No. 16191, is **guilty** of violating Rules 1, 2, 3, 8, and 9 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 3:

On or about August 23, 2018, through on or about August 26, 2018, or at some period of time therein, in the vicinity of 3801 South Las Vegas Boulevard, Las Vegas, Nevada, Officer Nunez, while off duty, willfully and unlawfully used force or violence on Officer [B.M.], a person with whom he had a dating relationship, and/or made physical contact of an insulting or provoking nature with Officer [B.M.], a person with whom he had a dating relationship, to wit: struck Officer [B.M.] about the face with a closed fist. Officer Nunez thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by violating Title 3, Chapter 33, "Injunctions; Protection Orders," section 18 of the Nevada Revised Statutes, Nev. Rev. Stat. Section 33.018 (West 2018), which prohibits acts which constitute domestic violence in conjunction with Title 15, Chapter 200, "Crimes Against the Person," Nev. Rev. Stat. Section 200.481 (West 2018);
- b. 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;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals;
- d. Rule 8, which prohibits disrespect to or maltreatment of any person while on or off duty; and

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- e. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Both Respondent and Officer [M.] testified that, early on the morning of August 26, 2018, Officer [M.] sustained an injury during the course of an argument. They also agreed that the relevant events occurred in a hotel room they were sharing in Las Vegas, Nevada, following a night of drinking. The majority of the Police Board finds Officer [M.]’s version of the events that precipitated this injury to be more believable than Respondent’s, and therefore finds Respondent guilty of the charges in Specification No. 3.

Officer [M.] testified that, on the night she was injured, she became angry because of an interaction she observed between Respondent and another woman at a bar. She stated that, upon returning to the hotel, she repeatedly nudged Respondent to wake him up as she asked him about the interaction. Officer [M.] testified that Respondent got up and “push punched [her] to the floor” with a “closed fist.” She further testified that, as a result of Respondent’s actions, her eye, mouth, and cheek bone on the left side of her face were badly swollen and bruised, as depicted in the photos presented to the Board as Superintendent’s Exhibit 7. Officer [M.] explained that she took four of these photos from her hotel room on the date of the incident and took the remaining two photos on August 29, 2018 (after returning to Chicago).

The Board believes that the photos included in Superintendent’s Exhibit 7 are consistent with Officer [M.]’s version of events. The Board does not believe that the extensive swelling and bruising depicted in those photos could have resulted from an accidental elbow to the face, as Respondent claims.

9. Police Officer Angel Nunez, Star No. 16191, is **not guilty** of violating Rules 2 and 4

in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 4:

On or about February 1, 2017, through on or about November 23, 2018, or at some period of time therein, in the vicinity of [xxxx] South Newland Avenue, Chicago, Officer Nunez, while off duty, threatened to make false allegations against Officer [B.M.] and/or threatened to retaliate against Officer [B.M.] if she filed a complaint against him. Officer Nunez 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 4, which prohibits any conduct or action taken to use the official position for personal gain or influence.

Officer [M.] testified that, following the unexpected death of her grandfather in February 2017, she sought assistance from a private therapist. She was prescribed medication for both depression and anxiety. Officer [M.] described Respondent as "initially" supportive of her decision to attend therapy sessions; Respondent testified that he was the one who initially suggested that Officer [M.] seek therapeutic help to process her grief.

Officer [M.] claimed that, during arguments, Respondent would make statements along the lines of, "What would [CPD] say if they found out you were . . . crazy?" Officer [M.] also claimed that Respondent made statements along the lines of, "What would happen if [CPD] found out[?]" Officer [M.] testified that these statements made her feel "scared" because, at the time, she worried that taking prescribed medications for one's mental health could be cause for discharge from CPD. From Officer [M.]'s perspective, Respondent's alleged comments were threats because he was essentially "telling [her] . . . , I can use this against you if things were to happen."

During the hearing, Officer [M.] did not testify that Respondent tied these alleged

statements to the potential lodging of a complaint against him. At no point did Officer [M.] testify that Respondent made a statement along the lines of, “If you file a complaint against me, I will tell CPD that you take prescribed medication for your mental health.” Consequently, the Superintendent has failed to prove the charges in Specification No. 4 by a preponderance of the evidence. The Board finds it particularly unlikely that the Respondent did—or would have—made such a threat because, during the course of his relationship with Officer [M.], he sought treatment and was prescribed medication by the same mental health professional as Officer [M.] for his own anxiety.

Disciplinary Action

10. The Board has considered the facts and circumstances of the conduct of which it has found Respondent guilty and the evidence presented in mitigation, including Respondent’s complimentary and disciplinary histories (hereby made part of the record as Hearing Officer Exhibit No. 1).

The Board has considered thoroughly the evidence the Respondent offered in mitigation, which includes his testimony about the honors and awards he received for his service in the military and law enforcement, and the favorable testimony of his CPD supervisor, his CPD partner, and his sister. In addition, Respondent, who joined the CPD in 2017, has an extensive complimentary history of 100 total awards, including a Life Saving Award, three Department Commendations, a Police Officer of the Month Award, and 93 honorable mentions; he has no sustained complaints on his disciplinary history.

Nevertheless, Respondent’s accomplishments in the military and as a police officer, the mitigation witnesses’ positive evaluations of his work and character, and the lack of prior

disciplinary history do not mitigate the seriousness of his misconduct.

Respondent committed serious acts of domestic violence. The lack of self-control and the abusive behavior he exhibited pertain directly to his public duties as a police officer and render him unfit to hold that office. He responded to stressful situations by physically abusing Officer [M.]. As a Chicago police officer, Respondent has and would in the future doubtless encounter difficult and stressful situations in which he must act with little or no time for reflection. He has demonstrated, through his conduct on several occasions, that he does not possess the good judgment and self-control required of Chicago police officers to fairly and impartially deal with the many potentially explosive situations they encounter on a daily basis.

Moreover, Respondent's acts of domestic violence show a disregard for the safety of others and the law and have brought discredit upon the Chicago Police Department, thereby undermining public confidence in the judgment of its officers and the Department's mission. Effective law enforcement depends upon a high degree of cooperation between the police department and the public it serves. Conduct such as Respondent's erodes the public's trust of and confidence in police officers, thereby impeding the Department's efforts to achieve the important goals of preventing crime, preserving the public peace, identifying and arresting those who commit crimes, and promoting respect and cooperation of all Chicagoans for the law and those sworn to enforce it.

Respondent's violent conduct and the lack of control and judgment he demonstrated are incompatible with continued service as a police officer with the CPD. The Board finds that returning him to duty as a sworn officer, armed and authorized to use deadly force, would pose an unacceptable risk to the safety of the public.

The Board finds that Respondent's conduct is sufficiently serious to constitute a

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substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department and is something that the law recognizes as good cause for him to no longer occupy his office.

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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 7 in favor (Ghian Foreman, Paula Wolff, Mareilé B. Cusack, Michael Eaddy, Steve Flores, Jorge Montes, and Andrea L. Zopp) to 0 opposed, the Board determines that Respondent's Motion for a Directed Finding and Respondent's Motion to Strike shall be denied for the reasons set forth in Section No. 5 above.

By votes of 7 in favor (Foreman, Wolff, Cusack, Eaddy, Flores, Montes, and Zopp) to 0 opposed, the Board finds Respondent **guilty** of the charges in Specification Nos. 1 and 2, and **not guilty** of the charges in Specification No. 4, as set forth in Section Nos. 6, 7, and 9 above.

By a vote of 6 in favor (Foreman, Wolff, Cusack, Eaddy, Flores, and Zopp) to 1 opposed (Montes), the Board finds Respondent **guilty** of the charges in Specification No. 3, as set forth in Section No. 8 above.

As a result of the foregoing and for the reasons set forth in Section No. 10 above, the Board, by a vote of 7 in favor (Foreman, Wolff, Cusack, Eaddy, Flores, Montes, and Zopp) to 0 opposed, hereby determines that cause exists for discharging Respondent from his position as a police officer with the Department of Police and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that Respondent's Motion for a Directed Finding and Motion to Strike are **denied**, and that Police Officer Angel Nunez, Star No. 16191, as a result of having been found **guilty** of charges in Police Board Case No. 20 PB 2976,

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be and hereby is **discharged** from his position as a police officer with the Department of Police and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Mareilé B. Cusack, Michael Eaddy, Steve Flores, Jorge Montes, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 26th DAY OF MAY, 2022.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT REGARDING FINDINGS ON SPECIFICATION NO. 3

I hereby dissent from the findings of the majority of the Board with respect to Specification No. 3 of the charges. I find that the Superintendent did not prove by a preponderance of the evidence that Respondent struck Officer [B.M.] about the face with a closed fist during their trip to Las Vegas in the summer of 2018.

Throughout the hearing, one fact was clearer to me than any other: the relationship between Respondent and Officer [M.] was an unhealthy one often characterized by mutual mistrust. Based upon my review of the record, I believe that the injuries Officer [M.] sustained early on the morning of August 26, 2018, were a culmination of nearly three years of toxic interactions between Respondent and Officer [M.]. Having reviewed both versions of the events, I believe that Respondent's more-detailed account is the more credible of the two.

Both Respondent and Officer [M.] testified that, throughout their relationship, Officer [M.] suspected and accused Respondent of cheating on her. Such accusations ultimately resulted in the termination of their relationship. The argument that prompted their breakup in November 2018 occurred when Respondent returned home late from a night out with fellow CPD officers; Officer [M.] accused Respondent of being out with another woman, an argument ensued, and he ultimately left the apartment they shared.

Respondent testified that, on the night Officer [M.] was injured, they went out to dinner to celebrate Respondent's birthday. Thereafter, the couple went to a bar for drinks. Respondent said that Officer [M.] was intoxicated by the time they left the bar—so much so that she was unable to walk back to their hotel. Respondent testified that he carried Officer [M.] back to their hotel; after putting her to bed, he decided he wanted to continue celebrating his birthday at the hotel's casino. Respondent said Officer [M.] became angry when he tried to leave the hotel

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room and accused him of trying to go downstairs to meet another woman. During the argument that ensued, Officer [M.] grabbed Respondent's cell phone and saw a conversation between Respondent and a female coworker; Respondent said that this further enraged Officer [M.]; she accused Respondent of having a sexual relationship with his coworker. At this point, Respondent said that he decided to remove himself from the hotel room in order to deescalate the situation. Respondent testified that Officer [M.] followed him to the door of the hotel room, grabbed his shirt, and clawed at him to prevent him from leaving. Respondent testified that, in order to free himself from Officer [M.]'s grasp, he swung his elbow and unintentionally made contact with Officer [M.]'s face. During the hearing, Respondent and his counsel demonstrated how his elbow made contact with the left side of Officer [M.]'s face.

Based on the totality of the evidence, it seems far more likely to me that Respondent unintentionally elbowed Officer [M.] while trying to exit the hotel room (as opposed to Officer [M.]'s claim that Respondent woke up as she argued with him and immediately punched her, causing her to fall to the floor). I was particularly swayed by Respondent's testimony because both Respondent and Officer [M.] testified that, during the course of other fights, Officer [M.] would regularly attempt to stop Respondent from leaving their apartment by blocking his access to the door. Respondent's acknowledgement of his responsibility for Officer [M.]'s injuries and his detailed description of the events that followed—particularly time spent in a lounge area near the hotel elevators (to provide both parties with an opportunity to calm down), his decision to get Officer [M.] ice to bring down the swelling (using the plastic bag from their hotel room's ice bucket), the apology he provided to Officer [M.] that evening, and their specific activities in Las Vegas the following day—further bolstered my confidence in Respondent's version of events.

Based on Respondent's testimony, I do not believe that the injuries Officer [M.] suffered

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in Las Vegas resulted from a closed fist or any otherwise malicious action on the part of Respondent. I respectfully dissent from the majority's finding on Specification 3; I do not believe the Superintendent proved that charge by a preponderance of the evidence. I concur with the majority on the other findings and in the decision to discharge Respondent from the Chicago Police Department.

JORGE MONTES

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2022.

DAVID O. BROWN
Superintendent of Police