

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER ERNESTO GUZMAN-SANCHEZ,) **No. 22 PB 3002**
STAR No. 13383, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1088074)**
RESPONDENT.)

MEMORANDUM AND ORDER

On March 18, 2022, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Ernesto Guzman-Sanchez, Star No. 13383 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“Department”) for violating the Department’s Rules of Conduct.

On March 3, 2023, after the evidentiary hearing on the charges began but before the hearing concluded, the Superintendent filed a Motion to Withdraw Charges (“Motion”) against Respondent, noting that the Superintendent and Respondent (the “Parties”) had reached an agreement to settle the matter. Several exhibits were filed with the Motion, including a settlement agreement signed by the Superintendent’s counsel and Respondent and his counsel. The Police Board has reviewed and considered the Motion and its accompanying exhibits.

I. CHARGES AGAINST RESPONDENT

The charges against Respondent include four specifications, which are summarized below (the charges are attached hereto as Exhibit A):

1. In or around September and October 2017, Respondent harassed G.N. (a former romantic partner of Respondent) via phone calls and text messages and/or repeatedly called her, thereby violating 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), Rule 8 (which prohibits disrespect to or maltreatment of any person,

while on or off duty) and Rule 9 (which prohibits engaging in any unjustified verbal or physical altercation with any person while on or off duty);

2. On one or more dates in February 2017, Respondent threatened to disseminate and/or share and/or publicly display a nude/partially nude photograph of G.N., thereby violating Rules 2, 8, and 9;
3. On September 30, 2017, Respondent intentionally sent a nude/partially nude photograph of G.N. via Facebook and/or Facebook messenger to one or more Facebook and/or Facebook messenger users, thereby violating Rule 1 (which prohibits violation of any law or ordinance), Rule 2, and Rule 8; and
4. On October 16, 2018, and on July 14, 2020, Respondent provided false or misleading information to the Civilian Office of Police Accountability (COPA) when he made various statements or denials regarding the allegations brought against him, thereby violating Rule 2 and Rule 14 (which prohibits making a false report, written or oral).

II. FACTUAL BACKGROUND

According to the factual background included in the Motion, this case primarily concerns the threat to disseminate, and the eventual dissemination of, a nude or partially nude photograph of G.N., the complaining witness and a former romantic partner of Respondent, via an alias Facebook account on or about September 30, 2017.

G.N. was involved in romantic and/or sexual relationships with both the Respondent and his brother starting in 2013 and 2015, respectively. Both relationships ended some time prior to September 30, 2017.

On multiple days between February 6 and February 18, 2017, Respondent sent text messages to G.N. that were threatening and/or threatened that he would send nude or partially nude photographs of G.N. to her family members if she did not stop contacting him.

On or about February 24, 2017, an alias Facebook profile was registered. This same account was used on or about September 30, 2017, to disseminate a nude or partially nude

photograph of G.N. to seven of her friends, a family member, and/or acquaintances via Facebook Messenger.

Subsequently, authorities attempted to identify the individual responsible for creating the alias Facebook profile during a criminal investigation; the results of that investigation were inconclusive. During the second day of the Police Board hearing on the charges against Respondent, Respondent's brother testified that he and Respondent shared a computer and that he—and not Respondent—was responsible for both registering the alias Facebook account and disseminating the photograph of G.N. on or about September 30, 2017.

III. PROPOSED SETTLEMENT

Following the second day of the hearing on the charges and before the hearing concluded, the Superintendent and Respondent proposed a settlement of this case. The terms of the proposed settlement include Respondent accepting and agreeing that he violated Rules 2, 8, and 9, as stated in Specification Nos. 1 and 2 of the charges, and the Superintendent and Respondent agreeing to a suspension without pay of Respondent for up to one (1) year. Respondent does not agree that he violated Rules 1, 2, 8, and 14, as stated in Specification Nos. 3 and 4 of the charges.

Pursuant to Section II.E of the Rules of Procedure for the Police Board, the Superintendent and Respondent may “enter into a Stipulation in which Respondent and the Superintendent agree to recommend a specific disciplinary action, including a specific term of suspension.” Before the Board accepts a Stipulation, the Board must determine that there is a

factual basis for the Stipulation. Additionally, the Parties must show that the COPA Chief Administrator does not object to the Stipulation.¹

The Superintendent provided the following documents as Exhibits to the Motion: a copy of the charges filed against Respondent (Ex. A), a copy of the Parties' Settlement Agreement and Release (Ex. B), transcripts of the first two days of the hearing on the charges (Ex. C and Ex. D), and a letter from the COPA Chief Administrator (Ex. E). The information in the Motion and its exhibits provide an adequate factual basis for the proposed settlement and document that the COPA Chief Administrator does not object to the proposed settlement.

And there is a compelling reason for the Board to accept the Parties' proposed settlement. At a hearing on the charges, the Superintendent must prove the charges against Respondent by a preponderance of the evidence. *See generally Clark v. Bd. of Fire & Police Comm'rs of the Vill. of Bradley*, 613 N.E.2d 826 (Ill. App. Ct. 1993). In his Motion, the Superintendent states that he will be challenged in carrying this burden.

The Superintendent notes that the testimony of Respondent's brother changes the evidentiary landscape regarding Specification Nos. 3 and 4 of the charges. There is no evidence to conclusively prove that Respondent disseminated the photograph of G.N. and, when coupled with a confession by a third party, the Superintendent states that it is highly unlikely that the Superintendent can carry his burden to prove that Respondent is guilty of (1) disseminating the photo, and (2) making false statements to COPA when he denied doing so. The Superintendent also states that he is likely to be similarly unsuccessful in proving that Respondent lied to COPA

¹ The Board has previously cited to Rule II.E in considering similar motions to withdraw charges. *See, e.g.*, In the Matter of Charges Filed Against Detective Jason Villarreal, Case No. 20 PB 2980. Although the Board has authority to consider such motions, the Board notes that in future cases, the proper procedure is for the parties to "file with the Board a written Stipulation." Rule II.E.

when he denied having knowledge of either the existence or creation of the alias Facebook account and a phone number that was used to harass G.N. at the time her photograph was disseminated. There is no conclusive evidence linking Respondent to these actions, and Respondent's brother confessed to engaging in these behaviors.

The Board agrees. Based on the lack of conclusive evidence, taken together with the confession of Respondent's brother, it is doubtful that the Superintendent would carry his burden of proving the charges outlined in Specification Nos. 3 and 4.

Regarding Specification Nos. 1 and 2, Respondent has accepted responsibility for violating Rules 2, 8, and 9 by harassing G.N. and threatening to share a nude/partially nude photo of her. The Board agrees that a suspension without pay of up to one (1) year is appropriate discipline for this serious misconduct.

POLICE BOARD ORDER

IT IS HEREBY ORDERED that, for the reasons set forth above: (1) the Parties' proposed settlement is accepted; (2) Respondent be and hereby is **suspended without pay** 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 one (1) year, from April 5, 2022, (the date he was suspended upon the filing of charges) to and including April 4, 2023; and (3) the proceedings before the Police Board are terminated.

This Order is entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, and Jorge Montes.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16th DAY OF MARCH, 2023.

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Memorandum and Order

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

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DISSENT

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

[None]

RECEIVED A COPY OF

THIS MEMORANDUM AND ORDER

THIS ____ DAY OF _____, 2023.

ERIC CARTER
Interim Superintendent of Police

Exhibit A

Charges Filed with the Police Board

The following charges have been filed with the Police Board by the Superintendent of Police. The public is reminded that the filing of charges is not evidence of guilt. The accused officer is presumed innocent and is entitled to a fair hearing at which the Superintendent has the burden of proving guilt by a preponderance of the evidence.

CHARGES AGAINST POLICE OFFICER ERNESTO GUZMAN-SANCHEZ

Police Officer Ernesto Guzman-Sanchez, Star No. 13383, is charged with violating the following Rules contained in Article V of the Rules and Regulations of the Chicago Police Department, which were in full force and effect on the date of the alleged violations:

- Rule 1: Violation of any law or ordinance.
- 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 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 14: Making a false report, written or oral.

SPECIFICATIONS

1. In or around September and October 2017, Officer Ernesto Guzman-Sanchez harassed [REDACTED] via phone calls and text messages and/or repeatedly called [REDACTED], thereby:
 - a. Violating Rule 2, any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 - b. Violating Rule 8, disrespect to or maltreatment of any person, while on or off duty.
 - c. Violating Rule 9, engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
2. On one or more dates in February 2017, including, but not limited to, on or around February 6, 13, 16, and/or 18, 2017, Officer Ernesto Guzman-Sanchez threatened to disseminate and/or share and/or publicly display a nude/partially nude photograph of [REDACTED], or made statements to that effect, thereby:
 - a. Violating Rule 2, any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 - b. Violating Rule 8, disrespect to or maltreatment of any person, while on or off duty.
 - c. Violating Rule 9, engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

3. On or about September 30, 2017, Officer Ernesto Guzman-Sanchez intentionally sent or disseminated a nude/partially nude photograph of [REDACTED], who was at least 18 years of age and was identifiable from the nude/partially nude photograph, via Facebook and/or Facebook Messenger to one or more Facebook and/or Facebook Messenger users (including, but not limited to: [REDACTED], [REDACTED], and/or a user named [REDACTED]), without [REDACTED]'s consent, thereby:
 - a. Violating Rule 1, violation of any law or ordinance (to wit: 720 ILCS 5/11-23.5, "Non-Consensual Dissemination of Private Sexual Images").
 - b. Violating Rule 2, any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 - c. Violating Rule 8, disrespect to or maltreatment of any person, while on or off duty.

4. On or about October 16, 2018 and/or on or about July 14, 2020, at the offices of the Civilian Office of Police Accountability ("COPA"), located near 1615 W. Chicago Avenue in Chicago, Police Officer Ernesto Guzman-Sanchez provided false and/or misleading information to COPA, in that he denied: being familiar with the telephone number [REDACTED], and/or knowing the name [REDACTED], and/or ever creating a fake Facebook account, and/or sending [REDACTED] a nude photo of [REDACTED], and/or made statements or denials to that effect, thereby:
 - a. Violating Rule 2, any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 - b. Violating Rule 14, making a false report, written or oral.

[Remainder of page left intentionally blank]

Based on the foregoing charges and specifications, the Superintendent recommends that Police Officer Ernesto Guzman-Sanchez be discharged from the Chicago Police Department.



DAVID O. BROWN
Superintendent of Police

APPROVED AS TO FORM

/s/ Katherine Robillard
Assistant Corporation Counsel

FILED: March 18, 2022
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