

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 02**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted], (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated February 10, 2023, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision (“Notice”).

In an undated letter, Applicant appealed the disqualification decision to the Police Board by 1) filing a written request specifying why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) bringing to the Board’s attention additional facts directly related to the reason(s) for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”). Department filed a Response. There was no Reply filed.

Police Board Appeals Officer Laura Parry has reviewed the Notice, Appeal and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Laura Parry, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

Filings by the Parties

Applicant filed a written Appeal as permitted by Section 2-84-035(b) of the Municipal

Code of Chicago. The Appeal was not dated. Department filed its Response in a letter dated February 27, 2023.

According to the Notice, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason(s):

Basis #1

IV-D. Disqualification Based on Prior Employment History

2. "A poor employment history may result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations will be found unsuitable for employment."

Department cited the following conduct, in summary:

Applicant was terminated from two employers – one in 2020 and the other in 2022.

The Investigator reported Applicant stated Applicant was terminated in 2022 because of a violation of policy regarding apprehension of a shoplifter. He was reported to have said that he lost sight of a shoplifter he saw putting items in her bag when she then “dumped” some of the items. Applicant was also reported to have disclosed that he was also suspended from that same employer in 2020 because he lost sight of another shoplifter, adding that the policy was that shoplifters must be viewed continuously.

The 2020 termination was reported to have been a policy violation regarding misuse of store cameras, according to the Investigator’s summary of Applicant’s explanation. The Investigator reported that Applicant explained Applicant was dating a fellow employee against store policy and that he surveilled her because he was jealous of her interaction with another male employee. The Investigator reported to have spoken with the subject of Applicant’s surveillance over the phone. She was reported to have recounted that she and Applicant dated for about a year while they both worked at the same store, that Applicant “spied on” her with the store cameras, that she broke up with him and felt harassed by him subsequent to that until she

told him she would involve the police. It was reported that though she felt harassed by him she did not feel that she was “stalked.” Once she told him she would involve the police Applicant did not bother her again.

(Candidate Background Investigation Report, 02 February 2023).

Basis #2

IV-B. Disqualification Based on Criminal Conduct. Other Criminal Conduct
7.c. "Conduct Indicating Violent Tendencies. Police officers are required to act reasonably and professionally at all times and to maintain control over their emotions in the exercise of their duty. These qualities are vital to a police officer's ability to protect the public and its trust in the police. Applicants who have demonstrated a propensity for violence do not meet those requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery; domestic violence; stalking; disorderly conduct; and mob action. As noted above, an applicant who has engaged in any act falling within the scope of this section that constitutes a felony will be found unsuitable for employment."

Department cited the following conduct, in summary:

The conduct alleged in **Basis #1** above as it relates to the surveillance of and unwanted communication with another employee with whom Applicant once had a romantic relationship.

(Candidate Background Investigation Report, 02 February 2023).

Appeal, Response and Reply

In summary, Applicant appealed the disqualification in a letter that explained he was honest in admitting his past transgressions as outlined in the conduct that formed the bases of the disqualification, and that honesty is desirable in a police officer. He noted that he has learned from his mistakes; grown as a person; has been promoted to Captain of the Asset Protection team at his current employer; holds himself to the highest professional standards, follows all employer policies; stays away from conflicts of interest that could jeopardize his employment; and

separates his personal from his professional life. He further explained that his daily duties include detaining shoplifters. (Appeal Letter)

Department filed its Response on February 27, 2023, in summary, standing on the reasons and bases set forth in its disqualification letter, further noting that the conduct would also have violated a number of Department rules had Applicant been an employee. Department further asserted that Applicant's conduct was "problematic," and "applicant's history is troubling." Department iterated its right to disqualify the applicant under caselaw.

Findings of Fact

Filings were timely. Although the Appeal was not dated, it appears to have been received sometime between the February 10, 2023 disqualification letter and the Response filed by Department dated February 27, 2023.

Department provided the factual basis for its decision to disqualify Applicant and remove Applicant's name from the eligibility list. Applicant was terminated twice by two different employers – one in 2020 and the other in 2022. Additionally, Applicant was disciplined by way of suspension from one of those two employers. Both terminations and the suspension were for violations of company policies having to do with surveillance. Applicant failed to properly surveil two people he should have surveilled and improperly surveilled someone he should not have, and then continued to force unwanted attention on that co-worker.

Applicant did not deny the bases nor did he deny the conduct that formed the bases for the disqualification. Applicant provided no additional facts regarding the specific conduct alleged, or any facts to rebut those set forth by Department.

Conclusions of Law

Pursuant to the Municipal Code of Chicago ("MCC") 2-84-030 the standard of review for appeals of disqualification and removal of an applicant's name from the Eligibility List is that

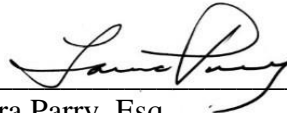
Applicant shall show by a preponderance of evidence that Department's decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)). Therefore, according to the law and procedures, findings and recommendations are based upon whether Applicant's Appeal shows by a preponderance of the evidence that Department erred in removing Applicant's name from the Eligibility List, based upon the employment standards established by the Department.

Applicant did not show by a preponderance of the evidence that Department erred in the exercise of its decision to remove Applicant's name from the Eligibility List.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **affirmed**.

Respectfully submitted,



Laura Parry, Esq.
Appeals Officer

Date: June 1, 2023

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 8 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareil  Cusack, Nanette Doorley, Jorge Montes, and Andreas Safakas) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [name redacted], from the list of eligible applicants for the position of probationary police officer is **affirmed**.

This decision and order are entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareil  Cusack, Nanette Doorley, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15th DAY OF JUNE, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director