

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

**IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) No. 23 AA 03
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) (Candidate 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 this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and 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”).

On February 27, 2023, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). On or about February 28, 2023, Applicant filed a reply to the Response (“Reply”). Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, Response, and Reply.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, 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 timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago (based on the dates of the Response and Reply, the Appeal was filed within 60 days). The Response and Reply were filed within the time period allowed by the Police Board Rules of Procedure.

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

IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

D. Disqualification Based on Prior Employment History

1. "...A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis."

C. Disqualification Based on Driving History

1. "Police officers are regularly required to operate motor vehicles in dangerous situations. They are thus required, to the extent reasonable, to operate vehicles in a careful manner protective of the public.

H. Disqualification Based on Other Conduct

1. "...a combination of traits disclosed during the pre-employment investigation that would not by themselves lead to a finding that an applicant is unsuitable for employment, but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, will be found unsuitable for employment.

I. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process.

1. "...applicants are required to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer could be disqualified.

Applicant was disqualified by Department based on his prior employment history and driving record, which included failing to hold steady employment and failure to own an automobile or maintain auto insurance. He was also disqualified for Failure to Cooperate in the Application Process and Other Conduct, which included failing to respond to phone calls and dressing inappropriately for an interview.

Appeal, Response and Reply

In an undated letter with the heading "The police board," Applicant appeals the decision, stating that he disagrees with the allegations mentioned in his "sentence." Applicant claims that he was unfairly labeled by the investigator based on a single encounter. He provides information regarding his work history, driving record, and failure to cooperate, stating that he has been gainfully employed by the Army National Guard Reserves ("National Guard") since 2012, has a valid driver's license, and was respectful and cooperative during the application process.

Applicant believes that the application process "was not a fair fight from the beginning," as the investigator did not like him. He states that he was advised by a police recruiter that they would "love" to have him, and he is "good enough" to serve as a Chicago Police Officer.

Department's Response states that the appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant's file. Department maintains that the pre-employment disqualification standards under which Applicant's disqualification decision was based upon are clear (namely, Disqualification Based on Employment History, Disqualification Based on Driving Record, Disqualification Based on Other Conduct, and Disqualification Based on False Statement or Omissions and/or Failure to

Cooperate in the Application Process). Department states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and the Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

Department also notes that Applicant's limited employment history and driving record, along with his refusal to answer certain questions leaves too many questions regarding his ability to make critical evaluations "in any situation, much less ...stressful or complex situations." As a result, they serve as grounds for disqualification.

In his Reply, Applicant states that he read the Response, and nothing on his record should "hold [him] back" from being a Chicago Police Officer. He states that during his eleven years in the military, he was "vetted," and obtained security clearance. He argues that Department's Response violates the Police Board Rules and Procedures by changing the "terminology" regarding Applicant's disqualification. He states that the Notice claims that Applicant has "no employment history and driving record," while the Response states that he has a "limited employment history and driving record."

Applicant reiterates that he works in the military, and also began working at Target because the Investigator wanted him to. He believes that Department's assertion that he cannot work in stressful situations is "very disrespectful," as his military duties contained "nothing but stressful situations."

Applicant states that he has been driving since he was eighteen and has a clean driving record. He states that his interview with the Investigator did not go well, and as a result, she labeled him a "bad guy." He states that he is a "good guy" who has been "wrongfully disqualified by a bad investigator."

Findings of Fact

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. Department determined that that Applicant's employment history, driving record, failure to cooperate in the employment process and other conduct were grounds for disqualification. Department articulated the standards by which the conduct was assessed by section and paragraph, and articulation of the standard gives reasonable notice as to the basis for disqualification.

Prior Employment History

Department asserts that Applicant has a limited employment history. For the past eleven years, Applicant has been in the National Guard, where he works one weekend per month, and two weeks per year. Other than a one-year deployment in Texas in 2020, Applicant did not have any other recent work history prior to filing his application. When asked what he has been doing for the past ten years, Applicant "was silent."

In his Kentech interview, Applicant states "No Current or Previous Employers" under his employment history, and his Personal History Questionnaire ("PHQ") states that Applicant was unemployed from Jul 2013 - Jan 2022 because he was a student.

During the application process, Applicant reached out to the Investigator to inquire whether if he "got a job a Target for three months," would that satisfy the employment requirement.

In summary, Applicant asserts that his position in the National Guard for the last eleven years is employment, particularly while he was deployed in 2020. He states that he also began working at Target in an attempt to meet the Investigator's requirements, even though CPD recruitment advertisements specifically state that no work history is required. Applicant asserts that he meets the employment requirements of Department, and has had extensive training and

experience dealing with stressful situations. As a result, he believes that he was erroneously disqualified based on his employment history.

Driving History

Department asserts that Applicant stated that he has never owned a vehicle, does not have auto insurance, and only obtained his driver's license three years ago in October, 2019.

Applicant states that the information provided by the Investigator stating that he got his license three years ago "is a lie." He states that he received his license at eighteen years old and has never had an accident or been ticketed. Applicant states that he also has a military driver's license, and drove military vehicles every day for the year that he was deployed at the Border.

Applicant admits that he doesn't own a car, but states that he has "never had a use for one," since he is a Veteran who has a free CTA bus/train pass. Applicant states that he has access to multiple cars through his family, and lives "ten minutes" from the academy. He states that disqualifying him for not owning a car is "kind of silly to think about."

Other Conduct

Department cites the following conduct to show traits that Applicant is unsuitable for employment:

- Applicant arrived for his interview in unprofessional attire, and was also unprofessional on the phone, telling the investigator "We are on our way" when he was in route.
- Applicant sent emails to the Investigator inquiring "if [he] got a job at Target for three months, would that satisfy the employment requirement?"
- Applicant stated that from 2014-2022 he was not working because he was in school, but completed only 27 hours in eight years (an average of one class per year).
- After initially being silent on the issue, when asked what he does all day, Applicant stated that he takes care of his infant daughter, who has medical issues. When asked how he would be able to work for the Chicago Police Department, Applicant stated that his girlfriend can care for the child, but he just "like[s] to

help.”

- Applicant emailed the Investigator asking if he obtained 60 credit hours, would he “then be able to attend the academy?”

Applicant asserts that his entire disqualification is based on one bad interview. He states that the Investigator failed to tell him that he was coming in for an interview, so he believed that he was coming in for a “quick chat.” Applicant claims that he dressed casually because he was going to take his daughter to the doctor that day. He says that although he was dressed normally, when the Interviewer saw him, she yelled at him because of his outfit. He states that he offered to go home and change, but she “declined it.” Applicant maintains that he was not disrespectful to the Interviewer in any way, as he knows his place.

Failure to Cooperate in the Application Process

Department also disqualified Applicant for Failing to Cooperate in the Application Process, as he failed to return several of the Investigator’s phone calls on multiple occasions. The Investigator attempted to contact Applicant after receiving his email inquiries regarding Target employment and obtaining additional credit hours. However, Applicant never returned her phone calls, and failed to respond to her emails asking Applicant for a return call.

Applicant states that he was trying everything to “make her happy” so that he could “move on to the Academy.” He admits that there were times when he missed the Investigator’s calls, but states that he emailed her “ceaselessly to get things in writing, because the things that she said were mean, disrespectful, and belittling.” He also states that the Investigator tried to get him to sign withdrawal papers, but he refused. As a result, he tried to get things done without dealing with her, and spoke with her supervisors and other recruiters instead.

Conclusions of Law

Disqualification Based on Prior Employment History

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal.

Section D (1) states: “...A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis.”

Applicant states that he has been employed with the National Guard for the last eleven years, and also recently began working at Target to bolster his employment experience. As such, he has the requisite work experience to become a Chicago Police Officer.

However, under “Employment History” in his Kentech interview, Applicant stated that he had "No Current or Previous Employers," and in his PHQ Applicant stated that he was unemployed from July, 2013 – January, 2022 because he was “a student.” Although he attended Harold Washington College, Applicant only completed 27 hours in an eight-year period. Furthermore, when asked by the Investigator about his lack of work history, Applicant was initially silent.

Although Applicant worked for the National Guard, working one weekend a month does not necessarily constitute *steady* employment, as it is difficult to assess whether Applicant has the ability to “work well with others; follow workplace rules; perform his or her work to acceptable standards; or come to work on a regular basis.”

Applicant’s work with the National Guard is admirable, but outside of his one-year deployment, Applicant has not consistently experienced working with others, reporting to work on time, or following workplace rules on a daily basis. Although he recently obtained a job with Target, this does not meet the requirement of a “**prior**” employment history that would prepare him for the position of Chicago Police Officer.

Disqualification Based on Driving History

Section C (1) states: "Police officers are regularly required to operate motor vehicles in dangerous situations. They are thus required, to the extent reasonable, to operate vehicles in a careful manner protective of the public."

Although Applicant states that he has had a valid driver's license since the age of eighteen, he admits that he has never owned a car because he "never had use for one." Applicant states that he has access to vehicles from family members, but also states that he rides public transportation because he gets a free pass for being a veteran. As such, it is unclear how much time Applicant spends driving, and whether he would have the ability to operate a squad car in a dangerous situation.

Disqualification Based on Other Conduct

Section H (1) states that any applicant who has engaged in conduct that exhibits: "...a combination of traits disclosed during the pre-employment investigation that would not by themselves lead to a finding that an applicant is unsuitable for employment, but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, will be found unsuitable for employment."

Department asserts that after telling the Investigator that "*we* are on our way," Applicant presented to an Interview wearing cargo shorts, a t-shirt, gym shoes, and a baseball cap. He also gave conflicting and misleading statements about his employment history, and emailed the Investigator inquiring about ways to fulfill the employment and educational requirements.

Department determined, based on Applicant's overall conduct, that he exhibited a combination of traits that make him unsuitable for employment.

Disqualification Based on Failure to Cooperate in the Application Process

Section I (1) states: "...applicants are required to cooperate with the City of Chicago and

the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer could be disqualified.”

After emailing inquiries to the Investigator, Applicant failed to return her phone calls on several occasions. Applicant admits to missing the Investigator’s calls, but states that he emailed her so that he could get everything in writing. Applicant’s failure to return the Investigator’s calls could also be grounds for disqualification based on Section I (1).

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support his contention that Department erred in disqualifying Applicant based on his Employment History, Driving History, Other Conduct, and Failure to Cooperate in the Application Process.

In considering and weighing the numerous grounds for disqualification that were presented, Applicant has failed to show, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous.

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,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: June 9, 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, Mareilé Cusack, Nanette Doorley, Jorge Montes, and Andreas Safakas) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove **E** [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:

Police Board Case No. 23 AA 03
Findings and Decision

Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé 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