

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 23 AA 14
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 January 23, 2023¹, 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 with said report dated January 9, 2023, along with the reason(s) for the disqualification decision (“Notice”), the conduct alleged. Department cited multiple instances of conduct under two bases.

In an undated, unsigned 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 May 23, 2023. An unsigned, undated Reply was filed.

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

¹ The Appeals Officer assumes the year of 2022 that appears on the letter was a typo based upon the January 9, 2023, date of the Candidate Background Investigation Summary (“Investigation Report”) and timing of subsequent filings. The Appeals Officer reads the date of the letter as January 23, 2023.

and Reply.

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 PARTIES

The Appeal, Response and Reply were timely filed and as permitted by Section 2-84-035(b) of the Municipal Code of Chicago.

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

Basis #1

IV-B. Disqualification Based on 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." (Background Investigation Report, p. 1-2)

Department cited the following instants of conduct for which he was arrested and charged, in summary:

In May 2019, Applicant was arrested on charges of Domestic Battery/Bodily Harm (M) in that the alleged victim, then girlfriend reported Applicant grabbed her around the neck causing pain, and punched her on the left side of her face with a closed fist. Arresting officers signed the complaint because, according to the report, the girlfriend refused out of fear. Background

Investigator reported that in June 2022 Applicant said the girlfriend was upset that he applied to be a state trooper and that he told her if she didn't like it they'd go their separate ways, and that he woke up to flashlights in his face and an arrest. Applicant denied touching the girlfriend, reported that he'd not seen her since that time and added that she did not appear in court and the case was dismissed.

In April 2018, Applicant was arrested and charged with Criminal Trespass to Land – Airport (M). It was alleged that the complainant/Supervisor of American Airlines complained Applicant arrived at 0518 for an 0530 flight and was informed he was too late to board. Applicant was said to have become loud and belligerent to airline staff while same staff tried to book him on another flight. Because of continued conduct and Applicant's intoxication, Supervisor revoked flying privileges and Applicant was told he would receive a refund. Applicant refused to leave after being asked by responding officers, so he was taken into custody and charged. Background Investigator reported that in June 2022 Applicant denied being intoxicated and that he had not had alcohol in 12 years². Background Investigator wrote Applicant said he wanted to speak to a manager because they wanted to check his carryon bag without giving him a reason but denies that he told them they were doing it because he is black.

In August 2016, Applicant was arrested and brought up on seven (7) charges for the alleged conduct of refusing to provide identification as the operator of a vehicle that officers alleged was parked by a stop sign and illegally blocking the flow of traffic. In addition, it is reported he refused to exit the vehicle after telling the officers he didn't have to give them anything, and that after using minimal force to remove him from the vehicle the officers observed bloodshot eyes and an odor of alcohol on the Applicant. Applicant was reported to

² The Background Investigation Report reads: "... candidate states that he has had any alcohol..." but in context and as considered by the Appeals Officer, it appears it should have read "... has [not] had any alcohol...".

have refused a breathalyzer and was taken into custody. The charges were (1) DUI (M) (subsequently amended to Negligent Driving (M)) for which he successfully served one-year supervision; (2) Obstructing Identification (M) which was not prosecuted; (3) Resisting/Obstruct/PC Off/Corr Emp/FRFTR (M) which was also not prosecuted; (4-7) traffic violations which were not prosecuted. Background Investigator reported that in June 2022 Applicant explained that while he was waiting to pick a friend who had been drinking³ the officers approached and that he still had his seatbelt on when they tried to pull him out.

Background Investigator also reported Applicant was the named suspect in two reports by the Canton, Mississippi Police Department.

The first was an arrest for Simple Assault with Weapon May 25, 2006. Per the police report Applicant was one of four people arrested after a complainant reported he was held down and hit with a handgun in his head, kicked, hit with a bat and had a firearm pointed at him in a dispute over complainant and his baby's mother. The second was related to the above incident and allegedly occurred on May 30, 2006. The same complainant reported that the same group of offenders exited their vehicle, handguns were pointed at him and one screamed, "I'll kill you if you don't drop the charges against me." The complainant said the offenders left when complainant's friends arrived. Background Investigator reported that when asked about these incidents, Applicant said that he showed a judge in Chicago his plane ticket and the case against him was dismissed and that he believed he was "lumped" in with the offenders because they had all been on the high school football team.

Lastly, Background Investigator reported Applicant was named as a suspect, though not arrested, on May 23, 2018, for allegedly striking his sister in the face with a pillow during an

³ Presumably alcohol

altercation and when she fell onto the couch Applicant choked her with two hands and then fled the scene. There is no mention of additional follow-up with the sister. There was no indication of a response to this incident by Applicant.

(Background Investigation Report, p. 1-4)

Basis #2

IV-H. Disqualification Based on Other Conduct

1. "Police officers are required to show respect for authority, uphold the law, and defend the dignity and rights of the public. Therefore, any applicant who has engaged in conduct that exhibits a pattern of repeated abuse of authority; lack of respect for authority or law; lack of respect for the dignity and rights of others; or 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.
2. Any applicant who has engaged in conduct including but not limited to solicitation, conspiracy or attempt could be held to the same standard with respect to any criminal offense, which if committed, would result in disqualification.
3. Any applicant who has engaged in conduct indicating discrimination or bias based on race, color, sexual orientation, gender identification, age, religion, national origin, ancestry, marital status, parental status, disability or any other protected class will be found unsuitable for employment.
4. Any applicant who has engaged in conduct affecting public health, safety and decency, including but not limited to disorderly conduct, illegal gambling, child endangerment or other offenses may be found unsuitable for employment.
5. Any applicant who engages in conduct which could constitute an aggravated offense, including but not limited to, deception involving certification of disadvantaged business enterprises; contributing to the delinquency of a minor; conduct involving public contracts or other conduct will be found unsuitable for employment."

(Background Investigation Report, p. 4-5)

Department cited the following, in summary:

Applicant was arrested 10 times in his life, though never convicted – first as a juvenile in 1994 and last in 2019 – and was named as a suspect in domestic battery against his sister and an assault in 2006. Additionally, Background Investigator reported the police seized Applicant's firearm in 2020 subject to a search warrant for Applicant's mother's home where he was temporarily residing. Investigator noted Applicant's cousin, a Registered Firearm Offender and convicted felon was found guilty of Felon Possessed/Use Firearm Prior and Manufacturing/Delivery 15<100 grams Caca/Analog and PCS. Applicant's arrests, which includes the conduct listed in Basis #1 above are as follows:

- Domestic Battery – 2019
- Criminal Trespass to Land – 2018
- DUI/reduced to Negligent Driving – 2016
- Grand Larceny – 2011
- Traffic Offense – 2008
- Simple Assault with a Weapon – 2006
- Ordinance Violation – 2006
- Shoplifting – 2006
- Juvenile Arrest (charge not disclosed – record purged) – 1998
- Juvenile Arrest for Shoplifting – 1994

Appeal, Response and Reply

APPEAL

In summary, Applicant explained the last arrest happened May 10, 2019, and his Personal History Questionnaire (“PHQ”) was submitted October 18, 2022 – three years and five months after the last incident arrest. Applicant explained that the first arrest occurred when he was six or seven years old and “the remaining incidents are either misunderstandings, exaggerations, or simply did not happen. Every one of these incidents was resolved and dismissed, with most having the arrest record expunged (as is state in the report that was attached to my letter with no convictions). Mere allegations of wrongdoing should not forever bar someone from serving in the Chicago Police Department.”

Applicant provided expungement records for what appear to be several arrests in an expungement order of December 2020; three arrests in a March 2023 order; and the two Canton arrests in June 2021 and April 2023 orders.

(Appeal letter and Expungement Records)

RESPONSE

Department filed its Response on May 23, 2023, in summary, iterated the conduct and bases set forth in its disqualification letter, further adding that the Grand Larceny arrest occurred

over a rent dispute after having taken his college roommate's television, Blue Ray Player, PlayStation3 and a gaming system library of 56 video games. Department also noted that Applicant was "evasive" as to why Applicant's cousin, a convicted felon, was in possession of Applicant's legally purchased firearm: "Stating he attempted to pick it up but was denied for some (unknown) reason and just purchased a new firearm."

(Response)

REPLY

Applicant clarified that he was not arrested twice for domestic battery, it was once. He explained as to the firearm and his cousin, that it was a misunderstanding: his cousin was also living with him in the same home with their mothers and that when asked by officers if there was a firearm in the house, Applicant retrieved it and gave it to the officers. Applicant iterated the Canton incidents took place when he was out of town and that all incidents were resolved and dismissed with most arrest records expunged.

(Reply)

FINDINGS OF FACT

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove Applicant's name from the eligibility list for which Applicant was given the opportunity to file a written appeal specifying why the Department erred in the factual determinations underlying the Department's decision *and/or* provide additional facts directly related to the bases for disqualification.

Basis #1 IV-B. Disqualification Based on Criminal Conduct - 7.c. Conduct Indicating Violent Tendencies.

Basis #1 Findings Summary: By a preponderance of evidence, **Applicant DID NOT** provide

additional facts sufficient for all conduct cited directly related to and/or specify why the Department erred in the factual determinations underlying the disqualification decision as to

Basis #1 IV.B. Disqualification Based on Criminal Conduct – 7.c. Conduct Indicating Violent Tendencies.

Department does not dispute the expungements as presented by Applicant, though Applicant did not clearly draw the nexus between all expungements and corresponding arrests. Applicant gave a blanket statement that anything that wasn't expunged either didn't happen, was a misunderstanding or an exaggeration. Applicant did not deny the conduct underlying the arrest for DUI which resulted in a guilty finding on a reduced charge of Negligent Driving for which he successfully completed one year of supervision for the misdemeanor. He credibly explained that his seatbelt was still on as it relates to the resisting arrest charge, but otherwise did not deny he told the officers he didn't have to give them anything or that he refused to get out of the vehicle. He did not further explain or deny that he failed to produce identification or that he engaged in the conduct the traffic violations alleged. Applicant did not specifically explain and/or deny the conduct of pushing his sister down and trying to choke her. Applicant did not specifically explain and/or deny the conduct with the airline employees that lasted long enough for responding officers to arrive, requesting he leave and the officers having to physical take him into custody to remove him. Applicant's conduct in the above incidents ranged from 2016 to 2018. Even when a prosecutor decides to reduce a charge or not prosecute a charge or records are expunged, it is the underlying conduct that is of concern. Even though the conduct was more than three years from the date of the submission of PHQ, under IV-B.7.c. **“any conduct demonstrating a propensity for violence will be grounds for disqualification... 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” (emphasis added). Given the totality of the circumstances, Department has shown that the conduct above fits within that description. By a preponderance of evidence, Applicant did not provide sufficient additional facts directly related to and/or adequately specify why Department erred in the factual determination as to the above incidents, except as to the mitigating factor of still having his seatbelt on which complicated his removal from the vehicle in the DUI/Negligent Driving incident.

Applicant showed a judge a plane ticket proving that he was not in town for the 2006 Canton incidents. Applicant specifically denied touching the alleged victim in the 2019 incident and gave further explanation regarding the verbal altercation and subsequent absence of prosecution and cooperation of the alleged victim-witness. Background Investigator did not indicate the alleged victim was contacted during the background investigation. There does not appear to be any other witnesses or observations about the witness or circumstances by the arresting officers in the incident. By a preponderance of evidence Applicant provided sufficient additional facts directly related to and/or adequately specified why the Department erred in the factual determinations as to the 2006 Canton and 2019 Domestic Battery incidents.

Basis #2 Findings Summary: By a preponderance of evidence, **Applicant DID NOT** provide additional facts for all conduct cited directly related to and/or specify why the Department erred in the factual determinations underlying the disqualification decision as to

Basis #1 IV.H. Disqualification Based on Other Conduct.

The Findings in Basis #1 are hereby incorporated. Applicant has had many of the 10 arrests expunged. The mere fact there are 10 arrests is not, in and of itself, dispositive of conduct. However, given the Findings in Basis #1 above, it was shown that in at least those three incidents

– the incident at the airport, the negligent driving incident and the conduct as to his sister – there was at the very least a lack of respect for authority or law and dignity and rights of others.

Additionally, Applicant took his roommate’s television, game consoles and video games without his roommate’s permission during a rent dispute; and facilitated a convicted felon’s access to Applicant’s firearm. Under IV-H.1. “... any applicant who has engaged in conduct that exhibits a pattern of repeated abuse of authority; lack of respect for authority or law; lack of respect for the dignity and rights of others; or 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.” Given the totality of the circumstances, Department has shown that the conduct above fits within that definition.

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 for all the bases presented that Department erred in the exercise of its decision to remove Applicant’s name from the

Eligibility List for the reasons stated herein.

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/ Laura Parry, Esq.
Appeals Officer

Date: July 11, 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 9 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, 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, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF JULY, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director