

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **NO. 23 AA 19**
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 March 7, 2023, the Office of Public Safety Administration (the “Office”) gave Applicant written notice of its decision to remove him from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reasons for the disqualification decision (“Notice”).

On May 5, 2023, Applicant appealed this decision to the Police Board by filing a written request specifying why the Chicago Police Department (the “Department”) erred in the factual determinations underlying the disqualification decision and bringing to the Police Board’s attention additional facts directly related to the reasons for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (the “Appeal”).

On June 1, 2023, the Department filed a response to Applicant’s Appeal.

Appeals Officer Cooper has reviewed the Notice and Appeal.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Cooper, 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 timely appealed his removal from the Eligibility List, as authorized by Section 2-84-035(b) of the Municipal Code of Chicago.

The Notice indicates that Applicant was removed from the Eligibility List by the Department because he has been suspected of, charged with or arrested for domestic related incidents at least six times since 2008. The Notice further indicates that Applicant failed to disclose some of these incidents on his personal history questionnaire (“PHQ”).

While Applicant, in his Appeal, does not specifically deny that any of these incidents occurred, he claims, without elaborating, that the “descriptions of the incidents are flat wrong.” (Appeal at p. 1.) He also claims, without any support, that his ex-girlfriend, who was involved in all of the incidents, has a “consistent habit of improperly using law enforcement as a club to retaliate against [him] for incidents that have either been completely made up or that have been wildly exaggerated.” (*Id.*)

In its Response, the Department refers the Police Board to the Notice, and it stands on the reasons contained therein in support of its position that the decision to remove Applicant from the Eligibility List should be affirmed. (Response.)

Findings of Relevant Facts

Biographical Information

Applicant is a 37-year-old male who lives in South Holland, Illinois. (Notice, p. 2.)

History of Domestic Violence

The record reveals six troubling incidents of domestic violence involving Applicant.

Incident #1

On April 1, 2008, Applicant was listed as a suspect in a simple battery case involving his ex-girlfriend, where he allegedly used his hands to push her. (Notice, pp. 2-3.) Applicant failed to disclose this incident in his PHQ or to the Kentech background investigator. (*Id.*, p. 3.) During a background interview on January 4, 2023, Applicant denied the incident's occurrence. (*Id.*) In his Appeal, however, Applicant does not deny that the incident occurred. Instead, as noted above, Applicant simply states that his ex-girlfriend has a “consistent habit of improperly using law enforcement as a club to retaliate against [him] for incidents that have either been completely made up or that have been wildly exaggerated.” (Appeal.)

Incident #2

On July 19, 2008, Applicant was suspected of stealing property valued at \$150 and \$100 in cash from his ex-girlfriend. (*Id.* at p. 3.) Once again, Applicant did not mention this incident in his PHQ or to the background investigator during the January 4, 2023 interview. (*Id.*) During a January 4, 2023 interview, Applicant denied that this incident took place. (*Id.*) However, there is nothing in Applicant’s Appeal, other than his words, to support this denial. (Appeal.)

Incident #3

According to his PHQ, on July 13, 2009, Applicant, after getting into a verbal argument with his ex-girlfriend, restrained her as she was trying to leave a park they were visiting. (*Id.*, p. 3.) While Applicant admitted to a background investigator that he was charged with domestic battery as a result of this incident, he told the investigator that this charge was later dismissed because Applicant’s girlfriend failed to appear in court. (*Id.*)

Incident #4

On March 13, 2010, the Chicago Police Department's Original Case Incident Report states

that Applicant became enraged at his ex-girlfriend, slapped her on the face, and choked her. (*Id.*, p. 3.) Though the responding officers did not observe any visible injuries on his ex-girlfriend, Applicant apparently left the scene before their arrival. (*Id.*) Despite the existence of the Chicago Police Department report memorializing this incident, on January 4, 2023, Applicant, in a background interview, denied that this incident took place. (*Id.*) In his Appeal, however, Applicant does not specifically deny that the incident occurred. (Appeal.)

Incident #5

On November 6, 2016, Applicant engaged in another altercation with his ex-girlfriend, throwing a basketball at her body and face multiple times. (*Id.* at pp. 3-4.) He claimed in the January 4, 2023 interview that he only bounced the ball off her buttocks and denied hitting her in the face with it, despite the police report stating otherwise. (*Id.*)

Incident #6

On February 3, 2018, Applicant allegedly threw his ex-girlfriend to the ground when she tried to intervene in a situation involving their daughter. (*Id.* at p. 4.) As a result, Applicant's ex-girlfriend obtained an order of protection against him. (*Id.*) However, he told the background investigator that the order was dropped when he provided the family court with a police report showing that he did not flee the scene before the responding officers arrived. (*Id.*)

Conclusions of Law

Standard of Review

Pursuant to Section 2-84-035(c) of the Municipal Code of Chicago, an applicant challenging the decision to remove him or her from the Eligibility List has the burden of showing, by a preponderance of the evidence, that the decision was erroneous.

Disqualification Based on Criminal Conduct

The Department's decision to remove Applicant from the Eligibility List was properly based on evidence of criminal conduct, as outlined in the relevant "Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer" (the "Special Order").

According to Section IV(B)(1) of the Special Order, the Chicago Police Department has the authority to disqualify an applicant from consideration if there is evidence of criminal conduct, even if the applicant was never convicted of any criminal offense. Section IV(B)(2) further clarifies that various types of proof, such as a record of conviction or an admission indicating engagement in criminal activities, can be considered.

Here, the Department's decision to remove Applicant from the Eligibility List was influenced by six domestic-related incidents that occurred between 2008 and 2018. Five of these incidents involved Applicant engaging in physical altercations with the mother of his child. While Applicant was never convicted for any of these incidents, the record is clear that Applicant faced criminal charges in connection with all of them, namely battery charges. Notably, Applicant admitted to at least one of these incidents - the July 13, 2009 altercation where he was charged with domestic battery for restraining his ex-girlfriend.

Moreover, despite Applicant's denials regarding the April 2008, July 2008 and March 2010 incidents, these denials were stated in a conclusory manner. Applicant has also failed to explain why he did not disclose these incidents during the background investigation.

Thus, while Applicant's domestic-related incidents admittedly occurred years ago, their violent nature remains troubling and raises serious concerns. Accordingly, the Department's decision to disqualify the Applicant based on his prior criminal conduct was justified and not in error.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to

remove Applicant from the Eligibility List be **affirmed**.

Respectfully submitted,

/s/ Kyle A. Cooper

Appeals Officer

Date: July 31, 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-

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Findings and Decision

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 17th DAY OF AUGUST, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director