

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 28**
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 August 2, 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”).

On August 15, 2023, 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 September 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”). Applicant did not file a Reply. Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

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, and the Response was 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:

B. Disqualification Based on Criminal Conduct

7. Other Criminal Conduct

(a) Conduct Involving Drugs

- (2) An applicant who misrepresents his or her history of drug use during any stage of the employment process may be found unsuitable for employment.

(b) Conduct Indicating Dishonesty

- (1) Credibility, honesty and veracity are extremely important characteristics for a police officer to possess on and off duty. Honesty is required to ensure the integrity of police operations and investigations and to protect the public and maintain its trust in the police. The pre-employment investigation therefore looks for information that shows that the applicant has a reputation or propensity for truthfulness, is believable and has a personal history free from deceit or fraud.
- (2) 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. An applicant who has engaged in any act falling within the scope of the section that constitutes a misdemeanor within the last three (3) years (from the date of the PHQ submission), or more than one (1) time in his or her life, may be found unsuitable for employment.

D. Disqualification Based on Prior Employment History

1. Police Officers are required to work well with others, public officials, and members of the public, as well as maintained a professional work ethic. Further, a police officer's ability and willingness to obey orders and critical to the proper

functioning and administration of the Chicago Police Department, which in turn is vital to the Chicago police Department's ability to protect the public. 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.

2. A poor employment history will 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.
3. Further, an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may 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 shall be disqualified. Prohibited conduct within this category includes, but is not limited to: failure to provide any required information; failure to respond to requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed.

V. Polygraph Examination

Honesty and credibility are vital characteristics for a police officer to possess in order to ensure the integrity of police operations and investigations and to protect the public and maintain its trust in the police. Honest and complete answers to background questions asked of applicants during the application process, as well as full cooperation with the application process, are thus extremely important to the maintenance of the

Chicago Police Department's force and integrity of its hiring process. Applicants may therefore be given a polygraph examination. The polygraph examination is used as a tool to elicit information collected during the pre-employment investigation. Admissions made during the polygraph examination or an indication of deception, related to the department's employment standards along with other factors, may be used as a basis for disqualification.

Applicant was disqualified by Department based on conduct involving drugs, conduct indicating dishonesty, prior employment history, making false statements or omissions, and polygraph examination results. Department alleges that Applicant misrepresented her marijuana use, made multiple false statements in her Personal History Questionnaire ("PHQ"), was the Respondent in an order of protection case, and failed to disclose her relationship with a convicted felon. Applicant was also disqualified for being discharged by one employer for absenteeism, and for leaving another without proper notice.

Appeal and Response

Applicant appeals the decision, stating that the conduct described was exhibited by her "younger" self, and that she is more mature now. She states that she was not trying to be dishonest in the CPD application process but was "more so trying to seem perfect." Applicant states that all of the "findings" between herself and her ex-boyfriend [Name redacted] ("[Name redacted]") were "all out of love," and that she is no longer dating her most recent boyfriend, [Name redacted] ("[Name redacted]") because she realized that he was no good for her.

Applicant also explains that she left her employment at Kensington Place Nursing and Rehabilitation Center ("Kensington") due to pregnancy, and Community Care due to COVID. She states that everyone has a past, and that her application should be reconsidered because her past is "truly behind" her.

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 Other Criminal Conduct, Conduct Involving Drugs, Conduct Indicating Dishonesty, Prior Employment History, False Statements or Omissions/Failure to Cooperate in the Application Process, and Polygraph Examination). Department states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and 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 history is extremely troubling, and had she been in their employ, Applicant would have been in violation of multiple rule violations, "each of which would serve by themselves as grounds for disqualification."

Findings of Fact

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove her name from the Eligibility List. It determined that Applicant's Conduct Involving Drugs, Conduct Indicating Dishonesty, Prior Employment History, False Statements or Omissions/Failure to Cooperate in the Application Process, and Polygraph Results were all 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.

Conduct Involving Drugs

Although Applicant denied using marijuana in her PHQ and Kentech report, during her polygraph examination, Applicant admitted to using marijuana two times when she was sixteen years old.

Applicant states that her marijuana use was over eighteen years ago and is not a reflection of who she is now. She states that it did not “stick with” her, and that she does not “ever smoke anything,” including cigarettes.

Conduct Indicating Dishonesty

In addition to her denial of marijuana use, Department alleges that Applicant made numerous false statements and omissions and exhibited conduct indicating dishonesty multiple times during her application process. They include, but were not limited to the following:

- Answered “No” in her PHQ when asked whether she had ever been discharged from employment based on insubordination, absenteeism or tardiness when her background investigation revealed that she was discharged from Kensington for absenteeism.
- Failed to disclose her relationship with [Name redacted], a convicted felon with numerous arrests. Reports show that the police were called to Applicant’s residence on numerous occasions regarding [Name redacted], including a Person with a Gun call on December 30, 2021 that resulted in the recovery of a stolen gun. Applicant admitted in her Polygraph that she was aware of [Name redacted] criminal history and arrest.
- Answered “No” in her PHQ when asked whether she had ever had to appear in court for any reason, while admitting in her Polygraph that she attended court June 2019 for an order of protection (“OP”) filed against her, and again for a child support case.

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- Answered “No” in her PHQ when specifically asked whether she was ever the subject of an OP.
- Answered “No” in her PHQ when asked whether she had ever been the victim of a crime, when, during the course of the R/I’s investigation, there were at least **seven** police reports listing Applicant as the victim/complaining witness.
- Failed to disclose that her ex-boyfriend [Name redacted] filed an OP against Applicant on two occasions for harassment by phone/electronic means, while admitting on her Polygraph to harassing [Name redacted] by putting derogatory signs on his vehicle.
- Signed an affidavit swearing and affirming, under oath, that she has not engaged in any criminal conduct.

Applicant states that she did not disclose everything because she was trying to appear perfect, and the conduct described happened when she was younger. She states that she did not consider [Name redacted] her boyfriend, and she is no longer dating [Name redacted] because she realized that he was no good for her.

Prior Employment History

Applicant was discharged from Kensington in 2018 for absenteeism. In addition, another former employer, Community Care, revealed that Applicant left the company without proper notice and left a negative recommendation.

Applicant asserts that she worked at Kensington for over four years and left ten days before she gave birth to her daughter. She states that Kensington was fully aware that she was “nine months pregnant.”

Applicant states that she worked at Community Care for almost a year and left without notice for “personal reasons due to COVID.” She states that she did not want to risk bringing the

virus to her young child.

False Statements or Omissions and/or Failure to Cooperate in the Application Process

Applicant failed to disclose her relationship with [Name redacted] and the numerous service calls to her home in her PHQ and Kentech interview. She also failed to disclose the orders of protection taken out against her by [Name redacted], being listed as a victim in seven different police reports, and her pending child support case.

Polygraph Examination

In addition to the admissions noted above, Applicant admitted in her polygraph that an order of protection was placed against her for harassment after she put derogatory signs on [Name redacted] vehicle.

She also indicated that in retaliation for [Name redacted] not spending enough time with their daughter, she had him arrested for domestic battery.

Conclusions of Law

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.

Department alleges that Applicant misrepresented her prior drug use, made numerous false statements and omissions during her application process, was discharged by a former employer for absenteeism, harassed her ex-boyfriend through electric communications, was the named offender in an order of protection, filed a retaliatory domestic battery claim, and was in a relationship with a convicted felon, in violation of Sections B(7), D, I, and V of the Standards. A violation of any one of these sections could be grounds for disqualification.

Applicant did not directly deny Department’s allegations. Instead, she explains that she did

not mean to be dishonest in her application, but “tried to seem perfect.” She claims that most of her conduct occurred when she was young, in love, and in bad relationships.

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support her contention that Department erred in disqualifying Applicant based on her Conduct Involving Drugs, Conduct Indicating Dishonesty, Prior Employment History, False Statements or Omissions/Failure to Cooperate in the Application Process, and Polygraph Results.

Even if what Applicant presented in her Appeal could be construed as a denial, 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 her 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: December 14, 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 (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, 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: Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF DECEMBER, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director