

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 36**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Taleo 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 31, 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 submitted within sixty days, 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 November 1, 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 filed an undated 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. 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:

B. Disqualification Based on Criminal Conduct

7. Other Criminal Conduct

(a) Conduct Involving Drugs

(6) An applicant who has used any illegal drug, other than marijuana, within the last five (5) years (from the date of PHQ submission), or has engaged in more than minimal experimentation at any point in his or her life may be found unsuitable for employment.

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.
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 may 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. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment or short duration, may be found unsuitable for employment.

Applicant was disqualified by Department based on conduct involving drugs and prior employment history. Department alleges that Applicant used cocaine on at least one occasion in 2020 and has a prior employment history that includes discharges for no call/no show and safety violations.

Appeal, Response and Reply

Applicant appeals the decision, stating that he was open and honest during the application process, and believes that the best police candidates are “home grown officers” that have had to face the challenges of growing up in the inner city.

Applicant states that he tried cocaine one time in 2020 due to a momentary lapse in judgment, and deeply regrets it. He says that he stopped associating with the person who bought the cocaine, and his use of cocaine was strictly experimental.

Applicant denies having a poor work history and alleges that the reasons given in the Notice for his departure are inaccurate. Applicant states that he has only been terminated by one employer, and that was due to the actions of a co-worker. He maintains that he left the other positions due to the work environment or to pursue other opportunities. Applicant provides letters of recommendation from his former and current employers, as well 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 Other Criminal Conduct-Conduct Involving Drugs, and Prior Employment History). 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.

In his Reply, Applicant states that he has proven that the "claims on [his] work history" were erroneous. Applicant argues that if he was going to be disqualified for his cocaine use, he should not have been allowed to continue through the CPD application process. He vents that while he doesn't want to be "emotional," he spent a lot of time and energy into making the academy, and believes that the process should have been over in May if his cocaine use was an "automatic disqualifier."

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. It determined that Applicant's Conduct Involving Drugs and Prior Employment History 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.

Conduct Involving Drugs

Applicant admitted to using cocaine with a friend at least one time in 2020. Applicant was also told by that friend that Applicant used cocaine a second time, but he does not remember that occasion. Applicant states that he was merely experimenting, and "stopped using cocaine" because he didn't want to get hooked.

Prior Employment History

Factory Motor Parts

Department alleges that Applicant worked at Factory Motor Parts from March-May 2023, and was terminated due to no call/no show. Applicant states that he voluntarily resigned from the position after a few months because it was not a good fit for him, and he was not being properly trained. Applicant asserts that he verbally gave notice to his supervisors on May 15th that May 18th would be his last day. Applicant provides an email containing an exit interview questionnaire, which he argues is proof that he provided notice and left voluntarily.

DSI

Applicant worked for DSI from October, 2019-May, 2020 as a warehouse maintenance worker. Department states that although it was unable to secure an interview with the supervisor due to company policy, Applicant stated that he resigned in lieu of termination for a safety violation. Applicant states that his co-worker jumped on a pallet jack that he was driving.

In his Appeal, Applicant admits that he was terminated from DSI, and claims that he must have stated that he “resigned in lieu of termination” by mistake. Applicant explains that he was talking to his co-workers while driving in the warehouse and was unaware that one of them jumped on the back of his pallet jack while it was in motion. Applicant states that this was observed by one of the managers, and he was terminated.

Applicant provides a letter from his former supervisor at DSI, who confirmed that Applicant was terminated due to the actions of another worker. She states that Applicant was an exceptional employee and a hard worker.

Delta Logistics

Applicant was employed by Delta Logistics (“Delta”) as a dock worker from May, 2020-October, 2020, and his duties included helping around the warehouse and moving plywood. Department alleges that [Name redacted] HR Assistant Manager, related that she didn’t know much about Applicant, but for the three months that he worked there, Applicant was a good worker, and had no complaints from his supervisor. She stated that Applicant “just did not come back to work.”

Applicant states that he resigned from his job at Delta to pursue educational opportunities and gave proper notice to his superiors. He says that he was a good worker and is eligible for rehire. Applicant provides emails from [Name redacted] clarifying that he voluntarily resigned to pursue other opportunities and gave proper notice to his supervisor.

Applicant’s Appeal also contains letters of recommendation from his former supervisors at DHL, his current employer (Veterans Logistics), and a Chicago Police Officer. Applicant is described as a team player who is hardworking, reliable and honest. They believe that Applicant would make a great addition to the Chicago Police Department.

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. Applicant was disqualified by Department based on his criminal conduct involving drugs and prior employment history.

Conduct Involving Drugs

Section B(7)(a)(6) states: “An applicant who has used any illegal drug, other than marijuana, within the last five (5) years (from the date of PHQ submission), or has engaged

in more than minimal experimentation at any point in his or her life may be found unsuitable for employment.”

Applicant admits to using cocaine at least once in 2020, and states that his friend advised him that Applicant used cocaine a second time, but he does not remember. Applicant states that his cocaine use was a “momentary lapse in judgment.” However, it is disturbing that this lapse in judgment occurred just three years ago. While Applicant states that his cocaine use was strictly experimental, it could serve as grounds for disqualification based on Section B(7)(a) of the Standards.

Prior Employment History

Section D (2) of the Standards states: “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, ... absenteeism, tardiness, or **failure to follow regulations** will be found unsuitable for employment.” (emphasis added).

Applicant admits that he was discharged from DSI after a co-worker jumped onto his pallet jack while Applicant was driving. Although Applicant states that he was terminated due to the actions of others, he admits that he did not see his co-worker, and should have been more aware of his surroundings. Applicant violated DSI’s safety rules, and was terminated as a result.

Section D(3) of the Standards states: “...In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment or short duration, may be found unsuitable for employment.”

While Applicant has submitted documentation confirming that he was not terminated from Factory Motor Parts or Delta, his employment history shows frequent changes in employment and short duration. Applicant worked at Factory Motor Parts for two months,

(March, 2023-May, 2023), Delta for five months (May, 2020-October, 2020), and DSI for seven months (October, 2019-May, 2020). As a result, Applicant's employment history could be found to violate Section D(3) of the Standards.

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 Conduct Involving Drugs and Prior Employment History.

Even if what Applicant presented in his Appeal could be construed as a denial, in considering and weighing the 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: January 12, 2024

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 18th DAY OF JANUARY, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director