

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 46**
APPLICANT FOR THE POSITION OF)
POLICE OFFICER,) **(Candidate No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a police officer position with the City of Chicago. In a letter dated October 13, 2022, the Office of Public Safety Administration (“OPSA”) 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 for the disqualification decision (“Notice”).

On November 18, 2022, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why OPSA 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 14, 2024, 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, which she received on April 4, 2024.

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. Due to the Chicago Police Board’s Administrative error, Applicant’s Appeal was not forwarded to OPSA until January 4, 2024. OPSA’s Response was timely filed on February 14, 2024, within 45 days of receipt of the Appeal. Applicant did not file a Reply.

According to the Notice, Applicant was removed from the Eligibility List for the following reason:

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

B. Disqualification Based on Criminal Conduct

7. Other Criminal Conduct

a. Conduct Involving Drugs

- 4. An applicant, who knowingly and illegally sold, distributed, manufactured or delivered with intent to deliver marijuana/cannabis will be found unsuitable.

Applicant was disqualified by OPSA based on his admission that in 1998, he sold ten bags of marijuana at \$10 per bag after his friend stole an ounce of marijuana from his older brother.

Appeal and Response

Applicant appeals the decision, stating that he was forced into “getting rid” of the marijuana due to peer pressure. He states that he regrets this mistake to this day, and should

not be punished for something that took place so long ago. Applicant stresses that he told the truth in his polygraph, and now makes his decisions with integrity and honesty to the best of his ability. Applicant shares that he wants to be a police officer so that he can try to lead Chicago's youth away from the poor decisions that he made as a juvenile.

OPSA's Response states that the appeal was reviewed, and OPSA relies upon the facts and evidence relating to the disqualification contained in Applicant's file. OPSA maintains that the pre-employment disqualification standard under which Applicant's disqualification decision was based upon is clear (namely, Disqualification based on Other Criminal Conduct Involving Drugs). OPSA states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and OPSA 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.

OPSA also notes that Applicant has surpassed the age of 40, and pursuant to section 2-152-410 of the Municipal Code of Chicago, the City appoints no person after the person's 40th birthday to a probationary Police Officer position.

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. OPSA determined that Applicant's criminal conduct involving drugs was grounds for disqualification.

OPSA articulated the Standard by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Applicant disclosed in his Personal History Questionnaire (“PHQ”) and polygraph examination (“PE”) that in 1998, his friend Julius stole an ounce of marijuana from his older brother, and asked Applicant to help him sell it. Julius and Applicant split the marijuana, and Applicant sold approximately ten bags of marijuana at \$10 per bag. Julius’ brother found out and demanded the proceeds, and Applicant gave him \$50.

Conclusions of Law

Section IV. of OPSA Special Order 21-01 contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal.

Section B(7)(a)(4) states: “An applicant, who knowingly and illegally sold, distributed, manufactured or delivered with intent to deliver marijuana/cannabis **will be found unsuitable**” (emphasis added). Applicant admitted to selling ten bags of marijuana, in violation of state and federal statutes. As a result, Applicant’s conduct could be considered grounds for disqualification based on section B(7)(a)(4) of OPSA’s Standards. Applicant knowingly and illegally sold marijuana, and section B(7)(a)(4) specifically states that Applicants **will** be found unsuitable.

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support his contention that OPSA erred in disqualifying Applicant based on his criminal conduct involving drugs.

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: May 6, 2024

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendation.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 5 in favor (Kyle Cooper, Paula Wolff, Steven Block, Mareilé Cusack, and Nanette Doorley) 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, Mareilé Cusack, and Nanette Doorley.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16th DAY OF MAY 2024.

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director