

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED]) **No. 24 AA 01**
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 December 27, 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 found in the Completed Background Investigation Update (“Background Investigation Report”), along with the reason(s) for the disqualification (collectively, “Notice”).

On January 3, 2024 an email was received from Applicant seeking to appeal the disqualification decision to the Police Board by 1) filing a written request specifying why the Department of Police 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”).

On February 14, 2024, the Office of Public Safety Administration filed with the Police Board a Response to Applicant’s Appeal (“Response”), and on that same day an email was received as Applicant's Reply. Police Board Appeals Officer Laura Parry has reviewed the Notice, Appeal, Response 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 the Parties

All filings were timely filed as provided by Section 2-84-035(b) of the Municipal Code of Chicago ("MCC") and the Police Board City of Chicago Rules of Procedure ("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.

Basis #1

IV-D. Disqualification Based on Prior Employment History

1. "Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is 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 may 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. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment." (Background Investigation Report, p. 1-2)

Department cited the following conduct and/or alleged conduct, in summary:

While he was an off-duty Probationary Sheriff Correctional Officer in Will County, Applicant was arrested and charged with Driving Under the Influence in that county on April 12, 2017, and recorded under Lombard Police Department Case No. [redacted]. Subsequently,

Applicant resigned in lieu of termination from that employment. Applicant's Personal History Questionnaire ("PHQ") was submitted March 12, 2023.

Department Investigator concluded that the conduct would have violated Rules and Regulations of the Chicago Police Department:

"Article V, Rules of Conduct, Prohibit[ed] Acts, Rule 1 which states, 'Violation of any law or ordinance.'

Article V, Rules of Conduct, Prohibit[ed] Acts, Rule 15 which states, 'Intoxication on or off duty.'

(Background Investigation Report, p. 2-3).

Appeal and Response

Appeal, in summary

Applicant acknowledged the DUI conduct was wrong, and that he has since been employed as a federal law enforcement officer within the Department of Justice-Federal Bureau of Prisons (since 2019). He explained that he learned from his mistakes, asserting people are not perfect. He explained his desire to return home to Chicago and his heartfelt plea for the opportunity to serve in the Department as has his ancestors. He believes the entire point of law enforcement is rehabilitation, and that what he did was wrong and had consequences, but that he has paid his dues. (Appeal).

Response, in summary

Department iterated the conduct alleged and its decision to disqualify. Department asserted that the evidence supports its decision to disqualify Applicant and that it was within its rights to do so, citing Illinois Appellate cases *Apostolov v. Johnson*, 2017 IL App (1st) 173408, ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20. (Response)

Reply, in summary

Applicant distinguished the facts of conduct in his case from the facts of conduct presented in City's caselaw, arguing that the conduct described in those cases, a burglary felony and history of domestic violence prohibited those applicants from firearm ownership and being able to use a

firearm is directly related to the ability to perform future duties. (Reply)

Findings of Fact

All filings were timely filed as provided by Section 2-84-035(b) of the Municipal Code of Chicago ("MCC") and the Police Board City of Chicago Rules of Procedure ("Police Board Rules of Procedure").

Applicant did not dispute he engaged in Driving Under the Influence ("DUI") or that he resigned in lieu of termination from his position as a probationary corrections officer.

A violation of a law or ordinance and/or intoxication off duty MAY be the basis for disqualification under the Rules and Regulations for the Chicago Police Department.

Driving Under the Influence provides for levels of alcohol that if exceeded, makes driving a motor vehicle a violation of law. However, while Applicant exceeded that particular limit, it is unknown whether he was "intoxicated" for other purposes.

While it is positive for Applicant that he has worked as a federal corrections officer since 2019, it does not negate the conduct the Department found disqualifying under its hiring Standards.

Applicant DID NOT provide sufficient additional facts directly related to or adequately specify why the Department erred in the factual determinations underlying the decision to disqualify related to the DUI and resigning in lieu of termination because DUI is a violation of state law and that is a violation of CPD Rules, however the same cannot be said for the Rule against off duty intoxication.

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.

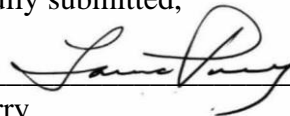
Applicant's argument regarding the caselaw presented by Department was not persuasive. Safely operating a vehicle is part of the duties of a police officer and it is reasonable that Department may disqualify an applicant who engaged in driving under the influence. Additionally, the sections of the case opinions cited by Department stand for the propositions that the authority to define the disqualification standards lies solely with the CPD and not the Board, and that there is broad discretion afforded the Department in disqualifying applicants.

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 and any one basis will suffice to uphold a decision to disqualify.

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,



Laura Parry
Appeals Officer

Date: April 15, 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 8 in favor (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, 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, Ghian Foreman, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF APRIL, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director