

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 02**
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 December 27, 2023, 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(s) for the disqualification decision (“Notice”).

On January 3, 2024, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the 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”). No Response was filed by OPSA.

Police Board Appeals Officer Mamie Alexander has reviewed the Notice and Appeal.

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. No Response was filed within the time period allowed by the Police Board Rules of Procedure.

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

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.
5. Any applicant who was found in possession of more than 30-100 grams of marijuana may be found unsuitable. Any applicant who was found in possession of 100-500 grams or 200-2000 grams, or 2000-5000 grams will be found unsuitable for employment.
6. An applicant who has used any illegal drug other than Marijuana, within the last (5) years (from the date of the PHQ submission) or has engaged in more than minimal experimentation at any point in his or her life may be found unsuitable for employment.

C. Conduct Indicating Violent Tendencies

Police officers are required to act reasonably and professionally at all times and to maintain control over their emotions in the exercise of their duty. These qualities are vital to a police officer's ability to protect the public and its trust in the police. Applicants who have demonstrated a propensity for violence do not meet those requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery; domestic violence; stalking; disorderly conduct; and mob action. 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 was previously certified as a law enforcement officer and committed a de-certifiable offense that resulted in the officer's certificate being revoked, will be found unsuitable for employment. Under Section 6.1 of the Illinois Police Training Act, an officers Certificate is automatically revoked upon the conviction, or plea of guilt, of a felony or the following misdemeanors: criminal sexual abuse, indecent solicitation of a child, sexual exploitation of a child, prostitution, keeping a place of prostitution , pimping, aggravated assault, keeping a gambling place, offering a bribe, resisting or obstructing a peace officer, escape , aiding escape, harassment of jurors or witnesses, simulating legal process, advances prostitution, profits from prostitution , manufacture or delivery of cannabis, delivery of cannabis on school grounds.

An applicant who has engaged in any act falling within the scope of this section that constitutes a misdemeanor within the last (3) years (from the date of the PHQ submission), or more than (1) year in his or her life, will be found unsuitable for employment.

D. Conduct Involving the Unlawful Use of Weapons

Police officers are generally required to possess and occasionally use weapons in the exercise of their duties. An applicant's prior unlawful use of a weapon demonstrates his or her inability to handle weapons judiciously, a vital requirement necessary to protect the public and its trust in the police. Therefore, any conduct involving the unlawful use of weapons will be grounds for disqualification. Conduct involving the unlawful use of weapons includes but is not limited to, conduct which would constitute the knowing sale, manufacture, purchase possession, carrying or use of a prohibited weapon, ammunition, enhancements, or projectiles; the discharge of any weapon in a prohibited manner; or gunrunning. 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 this section that constitutes a misdemeanor within the last 3 years (from the date of PHQ Submission), or more than (1) time in his or her life, will be found unsuitable for employment.

Applicant was disqualified by OPSA based on his admission that he purchased marijuana about fifty times, and once purchased a ½ pound (226.8 grams) of marijuana at one time. Applicant also admitted to buying marijuana from friends and street dealers and selling marijuana about twenty times to friends. In addition to purchasing and selling marijuana,

Applicant admitted to smoking marijuana and taking muscle relaxers, mushrooms, LSD, hash, and Xanax.

Applicant was also disqualified based on domestic incidents with his child's mother in 2019 and 2022, and his arrest in 2019 for UUW.

Appeal

Applicant appeals the decision, stating that although he experimented with drugs as a teen, he realized that drugs were not good for him, and his system "continues to be free from any substance." Applicant claims that he is not a drug dealer, and despite his history, he has never been convicted of a drug crime. Applicant states that he learned from his experiences and takes full responsibility for his past actions. Applicant says that instead of continuing on a path that would put his family in danger, he has chosen to take a "more promising, positive route." He asserts that he is an active father in his son's life and has two parents who are good role models.

Applicant shares that he has been in a relationship with his child's mother since the age of nineteen, and she has a history of making false accusations against him. He also states that his arrest in 2019 for UUW was the result of racial profiling, as he was headed to the gun range and had a valid FOID card.

Applicant states that he has been working as an armed security guard for over four years, and currently has valid FOID and PERC cards, Basic and Semi-Automatic Certifications, and a CCL certificate. He states that being a police officer has always been his dream job, and that he will always carry himself with "strong integrity" to make his community safer and assist those in need.

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 conduct involving drugs, conduct indicating violent tendencies, and conduct involving the unlawful use of weapons were grounds for disqualification.

OPSA 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 disclosed that he has purchased marijuana approximately fifty times amounting to roughly \$5,000.00. At least once, he purchased ½ a pound for \$1250.00. Applicant stated that he bought marijuana from friends and street dealers. In addition, Applicant disclosed that he has sold Marijuana approximately twenty times to friends, making roughly \$500.00.

Applicant disclosed that in addition to marijuana, he has taken muscle relaxers, mushrooms, LSD, Hash, and Xanax, and also drank "lean" (a concoction of cough syrup and alcohol). Applicant stated that the last time that he smoked Marijuana was in December, 2022.

Conduct Indicating Violent Tendencies

On January 14, 2019, Applicant was involved in a domestic incident involving the mother of his children ("[Name redacted]"). [Name redacted] alleges that during a verbal altercation with Applicant, he struck her lip with a closed fist. She also alleges that Applicant grabbed her and pushed her out of his residence.

On January 23, 2019, [Name redacted] filed an emergency order of protection against

Applicant, which was granted. On February 13, 2019, the case was dismissed when [Name redacted] failed to appear in court. A copy of the dismissal order was included in Applicant's Appeal.

[Name redacted] also reported to the police that on November 28, 2022, she was involved in a verbal argument with Applicant that escalated into a physical altercation. She alleges that Applicant choked her and put a gun to her head in front of their two children, threatening to kill her. Applicant also took her cell phone to prevent her from calling for help. [Name redacted] alleges that following the incident, both Applicant and another woman that he was romantically involved with began stalking [Name redacted] and her mother, threatening to have people shoot at their house.

Conduct Involving the Unlawful Use of Weapons

On November 9, 2019, Applicant was arrested for UUW following a traffic stop. According to the police report, arresting officers asked Applicant whether he had a valid FOID or CCL, and Applicant stated that he had a FOID card. However, when arresting officers asked Applicant whether he had any weapons on his person, he stated that he did not. After the occupants were asked to exit the vehicle, officers conducted a pat down of Applicant's clothing and felt a handgun. As a result, Applicant was placed under arrest.

Applicant alleges that he and his friends were racially profiled because they were Black men riding in a vehicle with tinted windows. He states that the arresting officers did not ask for his FOID card, did not advise him of his rights, and failed to record the incident. He stated that he failed to inform them of the firearm in his pocket due to fear, and that he and his friends were headed to the gun range at the time of the traffic stop. Applicant asserts that he had a valid FOID card, and after he agreed to surrender his firearm, the case was dismissed.

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.

Conduct Involving Drugs

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.” Applicant disclosed that he has sold Marijuana approximately twenty times to friends, making roughly \$500.00.

Section B(7)(a)(5) states: “Any applicant who was found in possession of 100-500 grams or 200-2000 grams, or 2000-5000 grams will be found unsuitable for employment.” Applicant admits that at least once, he purchased ½ a pound of marijuana at one time, which weighs 226.8 grams.

Furthermore, 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 admitted to smoking marijuana as recently as December, 2022, and also admitted that he has taken muscle relaxers, mushrooms, LSD, hash, and Xanax, and has also consumed lean.

As a result, Applicant’s conduct involving drugs could be considered grounds for disqualification based on section B(7)(a) of OPSA’s Standards. Furthermore, Applicant’s

conduct violated sections B(7)(a)(4) and (5), which specifically state that applicants **will** be found unsuitable for employment.

Conduct Indicating Violent Tendencies

Section B(7)(c) of the Standards states: “any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute... assault; battery; aggravated battery; offenses against property; robbery; domestic violence; disorderly conduct; and mob action.”

Section B(7)(c) further states: “An applicant who has engaged in any act falling within the scope of this section that constitutes a misdemeanor within the last three (3) years (from the date of PHQ submission), or more than one (1) time in his or her life, will be found unsuitable for employment.”

Applicant was accused of domestic violence in two separate incidents with [Name redacted]. In 2019, he was accused of striking her with a closed fist, and in 2022, he was accused of choking her and putting a gun to her head. Although Applicant denies both incidents, police reports were filed in both cases, and a judge granted [Name redacted] an emergency order of protection after hearing her testimony regarding the January, 2019 incident.

Applicant states that [Name redacted] made up the 2022 allegations because he no longer wanted to make love to her. He also states that [Name redacted] and her mother entered his home unlawfully, and he filed an Order of protection to retrieve items taken from his home. He includes a copy of the order **denying** his request for an emergency order of protection, and there was no order presented showing that a plenary order of protection was entered against [Name redacted].

In his Appeal, Applicant includes text messages between himself and [Name redacted] in which they discuss their child, their relationship, and allegations of cheating on both sides. However, nothing in the messages rises to the level of proving or disproving any of the allegations of domestic violence. Furthermore, in his Polygraph pre-examination questionnaire, Applicant answered “yes” to having the police called to his residence in reference to domestic violence disturbances, being involved in physical altercations with someone he was in a relationship with, having an order of protection placed against him, and placing an order of protection against someone else.

As a result, Applicant’s conduct could be considered grounds for disqualification based on section C of OPSA’s Standards.

Conduct Involving the Unlawful Use of Weapons

Section D of the Standards states: “...An applicant's prior unlawful use of a weapon demonstrates his or her inability to handle weapons judiciously, a vital requirement necessary to protect the public and its trust in the police. Therefore, any conduct involving the unlawful use of weapons will be grounds for disqualification.” Applicant was arrested and charged with U UW in 2019 after carrying a firearm on his person without a valid CCL. As a result, Applicant’s conduct could be considered grounds for disqualification based on Section D of OPSA’s Standards.

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 conduct involving drugs, conduct indicating violent tendencies, and conduct involving the unlawful use of weapons.

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 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: March 18, 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, 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, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF MARCH, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director