

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER RICHARD RIZZO,) **No. 14 PB 2875**
STAR No. 17012, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1058767)**
RESPONDENT.)

FINDINGS AND DECISION

On October 7, 2014, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Richard Rizzo, Star No. 17012 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 10: Inattention to duty.

The Police Board caused a hearing on these charges against the Respondent to be had before Police Board Hearing Officer Fredrick H. Bates on May 29 and June 12, 2015.

Following the hearing, the members of the Police Board read and reviewed the record of the proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Bates made an oral report to, and conferred with, the Police Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds

and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. The written charges, and a notice stating when and where a hearing on the charges was to be held, were personally served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. The Respondent was properly notified of the hearing by first-class and certified U.S. mail to the address listed on the notice of charges. The Respondent did not appear at the hearing on either date, and the last of his prior counsel having previously withdrawn on March 20, 2015, before the initial hearing date, the Respondent was not represented by counsel. The hearing officer proceeded with the hearing in the Respondent's absence in accordance with the Police Board *Rules of Procedure*, Section III-G.¹ Accordingly, the evidence proffered by the Superintendent was unrebutted in this case.

4. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about December 2, 2012, Police Officer Richard Rizzo failed to secure his firearm, in that he kept it in an unlocked compartment in his motorcycle, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

¹ Officer Rizzo failed to appear on either day of his evidentiary hearing, and never contacted the office of the Police Board to request a continuance. The Board's *Rules of Procedure* clearly state that if the respondent does not appear or absents her/himself from any proceeding conducted by the Police Board, "the hearing may proceed ... in the absence of the respondent." (See below at pages 8-10.)

The salient, undisputed facts in this case are as follows. On or about December 2, 2012, Police Officer Richard Rizzo was driving a motorcycle, and Michelle Szczech was his passenger. They became involved in a physical altercation and pulled into a gas station located at approximately 7900 South Cicero Avenue in Burbank, Illinois, where the altercation continued. At the time of this altercation, Officer Rizzo had his prescribed duty weapon stored in an unlocked compartment of his motorcycle, without a locking device on the weapon. During the altercation, Ms. Szczech opened the compartment of Officer Rizzo's motorcycle, retrieved Officer Rizzo's prescribed duty weapon, and ultimately threw it on the ground. During the altercation, Ms. Szczech attempted to retrieve Officer Rizzo's firearm from the ground. She was able to place her foot on Officer Rizzo's firearm while it was on the ground. While Officer Rizzo and Ms. Szczech continued to tussle, his prescribed duty weapon was completely unsecured. Meanwhile, Amy Vuckovich, a civilian bystander who witnessed the altercation, retrieved Officer Rizzo's weapon by picking it up from the ground while Officer Rizzo and Ms. Szczech continued to fight. A call was made to 911, and the Chicago Police Department responded to this altercation.

In sum, because of Officer Rizzo's failure to properly secure his prescribed duty weapon, Szczech and Vuckovich were both able to gain access to this unsecured weapon. Officer Rizzo's conduct disregarded the public's safety.

Chicago Police Department General Order U04-02 entitled "Department Approved Weapons and Ammunition" (Supt. Ex. No. 4) states in pertinent part as follows:

Section X. PRESCRIBED DUTY WEAPON LOCKING DEVICE

A. The Department:

1. requires sworn Department members to secure their **prescribed duty weapon** when the prescribed duty weapon is not on their person. [emphasis in the original]...

C. Sworn Department members not carrying their prescribed duty weapon on their person and not having an alternate means to secure the prescribed duty weapon will place a locking device on their prescribed duty weapon.

Accordingly, the unrebutted evidence of record in this case establishes by a preponderance of the evidence that Officer Rizzo left his prescribed duty weapon unsecured, and without a locking device on it, in violation of Chicago Police Department General Order U04-02, thereby impeding the Department's efforts to achieve its policy and goals as alleged. Moreover, in as much as civilians were able to handle Officer Rizzo's unsecured prescribed duty weapon while he engaged in a violent physical altercation with Ms. Szczech, he engaged in conduct that brought discredit upon the Department.

5. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about December 2, 2012, at approximately 1931 hours in the vicinity of 7900 South Cicero Avenue, Burbank, Illinois, Police Officer Richard Rizzo failed to secure his firearm, in that Michelle Szczech retrieved his firearm from the unlocked compartment of his motorcycle and threw it on the ground and/or retrieved his firearm from the ground and/or placed her foot on his firearm, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

6. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about December 2, 2012, at approximately 1931 hours in the vicinity of 7900 South Cicero Avenue, Burbank, Illinois, Police Officer Richard Rizzo failed to secure his firearm, in that a civilian witness, Amy Vuckovich, retrieved his firearm while he, Police Officer Richard Rizzo, was involved in a physical altercation with Michelle Szczech, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

7. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about December 2, 2012, Police Officer Richard Rizzo failed to secure his firearm, in that he kept it in an unlocked compartment in his motorcycle, in violation of Chicago Police Department General Order U04-02-X ("Department Approved Weapons and Ammunition"), thereby disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

8. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about December 2, 2012, at approximately 1931 hours in the vicinity of 7900 South Cicero Avenue, Burbank, Illinois, Police Officer Richard Rizzo failed to secure his firearm, in that Michelle Szczech retrieved his firearm from the unlocked compartment of his motorcycle and threw it on the ground and/or retrieved his firearm from the ground and/or placed her foot on his firearm, in violation of Chicago Police Department General Order U04-02-X (“Department Approved Weapons and Ammunition”), thereby disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

9. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about December 2, 2012, at approximately 1931 hours in the vicinity of 7900 South Cicero Avenue, Burbank, Illinois, Police Officer Richard Rizzo failed to secure his firearm, in that a civilian witness, Amy Vuckovich, retrieved his firearm while he, Police Officer Richard Rizzo, was involved in a physical altercation with Michelle Szczech, in violation of Chicago Police Department General Order U04-02-X (“Department Approved Weapons and Ammunition”), thereby disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

10. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 10: Inattention to duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about December 2, 2012, Police Officer Richard Rizzo failed to secure his firearm, in that he kept it in an unlocked compartment in his motorcycle, thereby being inattentive to duty.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

11. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 10: Inattention to duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about December 2, 2012, at approximately 1931 hours in the vicinity of 7900 South Cicero Avenue, Burbank, Illinois, Police Officer Richard Rizzo failed to secure his firearm, in that Michelle Szczech retrieved his firearm from the unlocked compartment of his motorcycle and threw it on the ground and/or retrieved his firearm from the ground and/or placed her foot on his firearm, thereby being inattentive to duty.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

12. The Respondent, Police Officer Richard Rizzo, Star No. 17012, charged herein, is **guilty** of violating, to wit:

Rule 10: Inattention to duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about December 2, 2012, at approximately 1931 hours in the vicinity of 7900 South Cicero Avenue, Burbank, Illinois, Police Officer Richard Rizzo failed to secure his firearm, in that a civilian witness, Amy Vuckovich, retrieved his firearm while he, Police Officer Richard Rizzo, was involved in a physical altercation with Michelle Szczech, thereby

being inattentive to duty.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

13. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the Respondent's complimentary and disciplinary histories.² The Board determines that the Respondent must be discharged from his position due to the serious nature of the conduct of which it has found him guilty, and his prior disciplinary history.

The Respondent put the public at risk by failing to secure his firearm, which ended up being thrown on the ground and stepped on by one civilian, and picked up by another civilian. The Respondent's disregard for public safety, taken together with his four previous disciplinary suspensions (one-day, ten-day, and thirty-day suspensions for off-duty domestic altercations, and a fifteen-day suspension for insubordination), are sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something that the law recognizes as good cause for him to no longer occupy his office.

Officer Rizzo's failure to participate in his own hearing in this matter, fully aware that he was facing the potential of being discharged, makes the procedural history of this case highly relevant. It should be noted that the Superintendent filed with the Police Board charges against Officer Rizzo on October 7, 2014. A notice stating the date, time, and place of the initial status hearing on the charges, together with a copy of the charges, was personally served upon Officer Rizzo on October 14, 2014. Attorney Daniel Herbert filed his appearance on behalf of Officer

² The Respondent did not appear at the hearing to offer any evidence in defense and mitigation in this case.

Rizzo with the Police Board on or about October 20, 2014. Attorney William Fahy filed a motion for substitution of attorneys with the Police Board on October 24, 2015, and that motion was granted at the initial status hearing of this case, which was held on October 27, 2014. Mr. Fahy appeared at the October 27, 2014, status hearing on behalf of Officer Rizzo. Mr. Fahy also appeared on behalf of Officer Rizzo at status hearings held on November 21, 2014, December 8, 2014, and February 13, 2015.

Mr. Fahy subsequently filed a motion for leave to withdraw his appearance as attorney for the Respondent. He attested to having served a copy of said motion upon Officer Rizzo via U.S. mail. Mr. Fahy appeared at a status hearing held on March 20, 2015, and his motion to withdraw was granted. The case was continued to April 20, 2015.

The Police Board sent Officer Rizzo notice of the next status hearing that was scheduled for April 20, 2015, via both first class and Certified U.S. Mail. The letter was dated March 20, 2015. The certified letter return card indicates that an individual signed for the certified letter. However, the certified letter was returned to the office of the Police Board, marked "return to sender, unclaimed, unable to forward." Significantly, the letter sent via first class mail was not returned to the office of the Police Board. Neither Officer Rizzo, nor counsel on his behalf, appeared at the status hearing that was held on April 20, 2015. The case was continued to May 22, 2015, for a pre-hearing conference, and the evidentiary hearing was scheduled for May 29, 2015. On April 20, 2015, the Police Board sent Officer Rizzo notice of the pre-hearing conference scheduled for May 22, 2015, and of the evidentiary hearing scheduled for May 29, 2015, via both first class and U.S. Certified Mail. The Police Board did not receive a certified letter return card for this letter, but the letter sent via first class mail was not returned to the office of the Police Board. Neither Officer Rizzo, nor counsel on his behalf, appeared at the pre-

hearing conference held on May 22, 2015.

At the pre-hearing conference a second day of the evidentiary hearing was scheduled for June 12, 2015. Accordingly, on May 26, 2015, the Police Board sent Officer Rizzo notice via both first class and U.S. Certified Mail, that a second day of evidentiary hearing was scheduled for June 12, 2015. Neither Officer Rizzo, nor counsel on his behalf, appeared on either of the hearing dates. (See Hearing Officer's Exhibit No. 1.)

Officer Rizzo's failure to avail himself of the Police Board's hearing process, despite the significant efforts made by the Board to secure his participation, is noted by this Board and strongly suggests that Officer Rizzo concedes and admits to the conduct alleged in the charges and proven during the evidentiary hearing. Based on the un rebutted evidence in this case (because Officer Rizzo failed to appear), Officer Rizzo's failure to secure his weapon during the altercation violated Rules 2, 6 and 10 of the Rules of Conduct of the Chicago Police Department for the reasons set forth in paragraph no. 4 above.

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POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By votes of 8 in favor (Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 2, Rule 6, and Rule 10.

As a result of the foregoing, the Board, by a vote of 8 in favor (Lightfoot, Foreman, Ballate, Conlon, Eaddy, Fry, Rodriguez, and Sweeney) to 0 opposed, hereby determines that cause exists for discharging the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Richard Rizzo, Star No. 17012, as a result of having been found **guilty** of all charges in Police Board Case No. 14 PB 2875, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 17th DAY OF SEPTEMBER, 2015.

Police Board Case No. 14 PB 2875
Police Officer Richard Rizzo

Attested by:

/s/ LORI E. LIGHTFOOT
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

The following members of the Police Board hereby dissent from the Findings and Decision of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2015.

GARRY F. McCARTHY
Superintendent of Police