

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER ARMANDO UGARTE,) **No. 22 PB 3009-1**
STAR No. 15050, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1081079)**
RESPONDENT.)

MEMORANDUM AND ORDER

On October 28, 2022, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Armando Ugarte, Star No. 15050 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“CPD”) for violating CPD’s Rules of Conduct. On October 19, 2023, the Board found Respondent not guilty of all charges and ordered that he be restored to his position as a police officer and to the services of the City of Chicago, with all rights and benefits, effective November 23, 2022 (the date he was suspended upon the filing of charges).

On June 21, 2024, Respondent filed with the Board a Motion to Correct the October 19, 2023 Findings and Decision of the Chicago Police Board (“Motion”). The Superintendent filed a response in opposition to the Motion. Respondent did not file a reply. For the reasons set forth below, Respondent’s Motion shall be denied.

RESPONDENT’S MOTION

In his Motion, Respondent requests that the effective date of his restoration to his position as a police officer be changed to October 5, 2021, the date he was stripped of his police powers and placed in a non-policing function with CPD. Respondent argues that: (1) the negative employment action against him took place when he was stripped of his police powers on October

5, 2021; (2) based on the Board's decision, the charges brought by COPA were frivolous or, at least, ill conceived; and (3) if the charges had never been brought, Respondent would have been promoted to detective.

ANALYSIS

The Police Board considered the charges brought against Respondent pursuant to the relevant provisions of the Municipal Code of Chicago and the Board's Rules of Procedure. On November 23, 2022, Respondent was served with the charges and suspended without pay pending disposition of the charges. Because the charges sought Respondent's discharge from CPD, pursuant to the Board's express authority under the Section 2-84-030 of the Municipal Code, a hearing before the Police Board occurred in July and August 2023 and the Board issued its findings and decision in October 2023. The Board reviewed the suspension of Respondent in connection with the hearing (per Section IV.D. of the Board's Rules of Procedure) and, upon finding Respondent not guilty of all charges, the Board restored him to his position as a police officer effective November 23, 2022—the date Respondent was suspended upon the filing of charges seeking his discharge.

The Superintendent's stripping Respondent of his police powers on October 5, 2021, at COPA's request, however, occurred more than a year before the filing of charges and suspension which the Board has authority to review under the Municipal Code and the Board's Rules of Procedure. *See* Section 2-84-030 of the Municipal Code. Because nothing in the Municipal Code or the Board's Rules of Procedure give the Board the authority to review the stripping of an officer's police powers, the Board finds that it is not the appropriate body to consider Respondent's request that the effective date of his restoration to his position as a police officer be changed to October 5, 2021.

The Superintendent noted in his response that Respondent's union, the Fraternal Order of Police, has filed three grievances relating to Respondent's reinstatement, which have been consolidated and scheduled for arbitration. A "grievance" is defined in the collective bargaining agreement between the union and the City of Chicago ("CBA") as "a dispute or difference between the parties to this Agreement concerning interpretation and/or application of this Agreement or its provisions." CBA Section 9.1. The CBA further provides that "[i]t is the intent of the parties to this Agreement that the procedures set forth in this Article [Grievance Procedure] shall be mandatory as to any grievance unless expressly and specifically excluded by the terms of this Agreement." *Id.* Section 9.11. Nothing in the CBA expressly and specifically excludes employment actions, such as stripping an officer's police powers, from the grievance procedures. Therefore, arbitration appears to be the correct forum in which to resolve the dispute relating to Respondent's reinstatement to his position with the CPD.

POLICE BOARD ORDER

IT IS HEREBY ORDERED that, for the reasons set forth above, Respondent's Motion to Correct the October 19, 2023 Findings and Decision of the Chicago Police Board is **denied**.

This Memorandum and Order is adopted and entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Claudia Badillo, Steven Block, Mareilé Cusack, Kathryn Liss, Andreas Safakas, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15th DAY OF AUGUST 2024.

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Memorandum and Order

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director