

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER SHAWN BRYANT,) **No. 23 PB 3019**
STAR No. 4142, DEPARTMENT OF POLICE,)
CITY OF CHICAGO)
RESPONDENT.) **(CR No. 1088719)**

FINDINGS AND DECISION

On March 3, 2023, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Shawn Bryant, Star No. 4142 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“Department” or “CPD”) for violating CPD’s Rules of Conduct.

On August 11, 2023, the Fraternal Order of Police Lodge 7 filed with the Police Board a Motion to Transfer Pending Cases to the Arbitration Call or in the Alternative to Stay All Police Board Cases (“FOP Motion”). This case against Respondent is one of the 22 cases listed on the FOP Motion. On September 26, 2023, the Police Board entered an Order denying the FOP Motion in its entirety.

A hearing on the charges against Respondent took place before Hearing Officer Lauren Freeman on January 8 – 11, 2024. Following this evidentiary hearing, the members of the Police Board who participated in deciding this case read and reviewed the record of the proceedings, including the Hearing Officer’s Report, and viewed the video recording of the entire evidentiary hearing. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings and decision.

During the proceedings of this case, from the filing of charges through the evidentiary hearing, the Hearing Officer made rulings and entered orders. None of the Hearing Officer’s

rulings and orders is overruled or reversed.

On April 4, 2024, Respondent filed a Motion in Response to the Memorandum Opinion and Order Entered in *Chicago John Dineen Lodge #7 v. City of Chicago Department of Police, et al.*, Case No. 2024 CH 00093 (“Respondent’s Motion”) requesting that the Police Board reconsider its decision denying the FOP motion, grant the motion to stay, vacate the evidentiary hearing and transfer this matter to the arbitration grievance process instanter, or, alternatively, stay issuing a decision in this matter. On July 18, 2024, the Police Board entered an Order denying Respondent’s Motion in its entirety.

POLICE BOARD FINDINGS

As a result of its review of the record of proceedings, the Police Board finds and determines that:

1. Respondent was at all times mentioned herein a police officer of the CPD in the classified civil service of the City of Chicago.
2. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon Respondent not fewer than five (5) days before the date of the initial status hearing for this case.
3. Throughout the hearing on the charges Respondent appeared and was represented by legal counsel.

Introduction

4. At the time of the hearing, Respondent was 43 years old. He has served as a Chicago police officer since 2013. On March 9, 2018, Respondent and his partner, Officer Shalaine Enahora, were in plain clothes, working the Robbery/Burglary team in the 003rd District in an

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unmarked gray Crown Victoria. At approximately 1:30 p.m., Officers Victor Ramirez and Jose Hernandez requested that Respondent and Officer Enahora assist them in the residential area of 72nd Street and South Merrill Avenue because they believed a robbery might take place.

Once on scene, Respondent and his partner observed a black Lexus, which was the vehicle being observed by Ramirez and Hernandez, drive past them. Eventually, the Lexus looped around a few blocks and parked in the same location in which Ramirez and Hernandez were originally surveilling it.

Six days prior, on March 3, 2018, Respondent had been at the same location, responding to a mid-day robbery and shooting involving two victims, Cristian and Fransisco Cardoso. The Cardosos had arranged, via a marketplace application used on smartphones (“app”), to purchase an iPhone from an individual (now known to be Anthony Brown) at that location, and when they arrived, two offenders (now known to be Brown and his co-offender) robbed and shot them.

On March 9, the officers believed that the individual(s) in the Lexus were planning to purchase an iPhone from the same offenders that shot the Cardosos. Officer Enahora and Respondent heard Officers Hernandez and Ramirez notify them, via cell phone, that two suspects had emerged from an alley and were walking toward Merrill from 72nd Street. Respondent and Officer Enahora then turned and travelled northbound on Merrill where they saw the suspects. At some point, Brown and his co-offender began to run and his co-offender, the shorter of the two, ran through a yard. Brown ran southbound toward Respondent on the east sidewalk of Merrill as Respondent exited the front passenger side of his car.

Ultimately, Respondent fired two shots at Brown, striking him once on the outer side of the left buttock. Brown stumbled and fell in the street.

At the hearing, Respondent admitted that before the shooting, he forgot to top off his weapon with two rounds of ammunition. He also admitted that he did not turn on his body-worn camera (BWC) until after he shot Brown.

Charges Against Respondent

5. Police Officer Shawn Bryant, Star No. 4142, is **not guilty** of violating Rules 2, 3, 6, 9, and 38 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about March 9, 2018, at or near 7221 South Merrill Avenue in Chicago, Police Officer Shawn Bryant discharged his firearm at or in the direction of Anthony Brown. Officer Bryant's use of force was not necessary to prevent death or great bodily harm from an imminent threat posed to him or another person. Nor was the use of deadly force necessary to prevent an arrest from being defeated because Brown did not pose an imminent threat of death or great bodily harm to Officer Bryant or anyone else unless he was arrested without delay. Officer Bryant thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 3, which prohibits failure to promote the Department's efforts to implement its policy or accomplish its goals;
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying CPD General Order 03-02 – Use of Force, CPD General Order 03-02-01 – Force Options, and/or CPD General Order 03-02-03 – Firearms Discharge Incidents Involving Sworn Members;
- d. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty; and
- e. Rule 38, which prohibits unlawful or unnecessary use or display a weapon.

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

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General Orders G03-02, G03-02-01, and 03-02-03 guide the Board's analysis. The Orders state, in part, that Department members may use deadly force as a last resort when deadly force is objectively reasonable and necessary under the circumstances. The question when evaluating every use of force is "whether the amount of force used by the officer was objectively reasonable in light of the totality of the circumstances faced by the officer on the scene." The threat of deadly force must be imminent, and force used proportional to the threat, actions, and level of resistance offered by a subject. Finally, the Orders prescribe that, "members will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of circumstances." The Board finds the Superintendent's evidence insufficient to prove Respondent violated any of these General Orders or the Department's Rules of Conduct.

The Superintendent's case against Respondent essentially relied on two assertions: First, that Respondent embellished the totality of circumstances he faced when he shot Brown; and second, that shooting Brown was not necessary because Brown did not pose an imminent threat to anyone and Respondent could have employed de-escalation techniques rather than use deadly force. The Superintendent did not provide sufficient evidence to support either of those assertions.

Despite several, non-pivotal inconsistencies, Respondent provided clear, credible hearing testimony concerning the central issue in this case—the totality of circumstances surrounding the shooting. Moreover, his account was corroborated by Officer Enahora's testimony, as well as by evidence presented by the Superintendent.

Respondent testified in summary, as follows: When he responded to the Cardoso shooting scene on March 3, 2018, he learned about the app iPhone scam and that the Cardosos

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were shot by the taller of the two offenders. While still on scene, Respondent created a dummy profile on the app, made plans with Brown (aka “Thomas Smith, Jr.”) via the app to purchase an iPhone, and viewed Brown’s profile picture. When Respondent brought this information to his superiors, they told him they could not go forward with a sting that day due to manpower issues and to tell Brown that Respondent had been in a car accident or had car trouble.

Respondent further testified that on March 6, 2018, three days after the Cardoso shooting, he was part of a task force that attempted to set up an iPhone purchase with Brown on the app at the same location as the Cardoso shooting. The sting failed to materialize and Respondent learned that a different victim of the iPhone scam had been robbed and shot nearby, presumably by the same offenders. Respondent testified that both shooting/robberies were front-of-mind when he exited his vehicle on March 9. His mindset was that the circumstances essentially all lined up, and that the officers might encounter an offender who is willing to shoot. As Brown ran towards him on the east sidewalk of Merrill, Respondent told Brown to “get the fuck on the ground” but Brown failed to comply and continued to close the distance between them. When Brown got to within 7-10 feet of him, Respondent saw that he was attempting to remove an object from his vest pocket, which, because of Respondent’s knowledge of the prior incident and his recognizing Brown from the scam in the app, Respondent had a high degree of certainty was a gun. Respondent felt that if Brown was able to get the gun out of his pocket, Brown would shoot at him or his partner. When Brown got to within two to four feet away, Respondent fired at him twice. Brown had been running towards him while trying to take a firearm out of his pocket and had refused Respondent’s command to stop. As Respondent fired, Brown was facing him and made an

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evasive football move, quickly turning his body's direction to the right toward the street.

Brown continued to run a short distance into the street, leaked blood onto his clothing, and fell to the ground where the blood appears in the scene photos. While Respondent and Officer Enahora were handcuffing him, he told Respondent that he had a gun in his pocket. Respondent replied, "I know," and Officer Enahora then removed a gun from Brown's vest pocket.

In suggesting that Respondent embellished the circumstances he faced when he shot Brown, the Superintendent alleged that Respondent lied about his involvement in the Cardoso investigation and lied when he claimed he recognized Brown from Brown's photo before shooting him. To support his position, the Superintendent introduced evidence showing that Respondent did not share Brown's profile picture with his team or with investigators after the shooting. Indeed, Respondent acknowledged during his adverse testimony that he never showed his partner or team Brown's profile picture as they formulated their plans and while he told detectives after the shooting that Brown was the guy from the app robberies, he did not tell them about his prior online conversation with Brown or show them Brown's photo either. Finally, Respondent acknowledged that during his approximately two-hour-long interview with the Civilian Office of Police Accountability (COPA) a month after the shooting, even when asked if he had prior contact with Brown, he did not tell COPA investigators about his prior online interactions with Brown nor did he tell them he drew his gun because he recognized Brown as the person who shot the Cardosos. Respondent explained that he did not provide that information to COPA because he was only asked about the actual shooting, not what led up to it, and that when the investigators asked whether he had prior "contact" with Brown, he believed that they were only asking about in-

person contact and prior street stops.

While true that Respondent was less than forthcoming about his prior online contact with Brown, the Superintendent can't argue away uncontested evidence that prior to March 9, Respondent did, in fact, converse with Brown on the app about the iPhone purchase, and Respondent did, in fact, access Brown's profile picture. The Superintendent's own exhibits prove both. In his case-in-chief, the Superintendent introduced screenshots of the conversation on the app and Brown's profile picture, both captured from Respondent's cell phone. Thus, the Superintendent's contention that Respondent did not consider his prior contacts with Brown, nor recognize Brown from Brown's profile picture before shooting him, is pure conjecture without any supporting evidence.

The Superintendent additionally failed to show that shooting Brown was not necessary at the time Respondent fired—that the threat Brown posed was not imminent and Respondent could have instead used de-escalation techniques like time, distance, and cover.

To prove that the shooting Brown was not necessary, the Superintendent relied heavily on the testimony of USPS postal carrier Ahmad Anderson. While the Board finds Anderson to be an honest, independent witness who admirably served our country in the armed forces, his testimony was replete with inconsistencies, possibly caused by the nearly five years it took to bring these charges. Anderson testified, in summary, as follows: He was positioned on the steps at 7225 South Merrill when the shooting unfolded. When Respondent exited his car, Brown ran away from Respondent, not toward him, while clutching the waistband of his pants to keep them from falling down. Respondent then came up from behind Brown and fired at Brown three times, from a distance of about 15 feet away. Brown then immediately fell to the street near the curb.

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Anderson's key assertions unraveled during cross-examination. He admitted that soon after the shooting, he reported very different facts to State's Attorney's Office personnel—that Brown initially ran *at* (not *away from*) Respondent, that Brown took a few steps after he was shot, and that as Brown ran, he appeared to be clutching an unknown object on the right side of his body (not his pants). Finally, during cross-examination, Anderson admitted that he estimated the distance of 15 feet based on sound, and admitted that the distance between Respondent and Brown when Respondent fired could have been closer.

Anderson's testimony was additionally refuted by Officer Enahora's unimpeached and credible hearing testimony, which closely corroborated Respondent's account of the shooting. Though the Board does not consider Officer Enahora an independent witness, the Superintendent offered no reason for the Board to discredit her testimony. Officer Enahora testified that when Respondent shot Brown, she was positioned behind Respondent as Brown ran towards them with his hands in his pockets. When Brown was within arm's length of Respondent, Respondent fired.

In addition, the physical evidence favors Respondent's and Officer Enahora's version of the shooting over Anderson's version. During Respondent's testimony, he marked an "X" on a scene photo (Superintendent's Exhibit No. 4a) to show where he was located when he fired the shots. The location is the same location Respondent shows responding police personnel immediately after the shooting, as seen on Respondent's BWC video footage. When viewing Respondent's firing location in conjunction with the blood spot on the street indicating where Brown landed after stumbling, it is unlikely that Respondent fired at Brown from behind at a distance of 15 feet away.

The location of Brown's gunshot wound also supports Respondent's account.

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Respondent did not shoot Brown “in the back” as the Superintendent argued in closing arguments. Brown sustained his gunshot wound to the outer side of the left buttock, as seen while Brown is lying on the ground at the beginning of the BWC video footage. There is no blood on Brown’s backside and blood is pooling under his wound. This corroborates Respondent’s contention that Brown was turning right, toward the street, when Respondent shot him, and that Brown was not running directly away from him and Respondent did not shoot him from behind.

The Board also disagrees with the Superintendent’s expert’s opinion that Respondent should have de-escalated the situation by taking cover behind the SUV or a tree, or that he should have called for additional backup. Respondent’s giving Brown verbal commands (Respondent directed Brown to, “Get the fuck on the ground”) was the safest and most feasible de-escalation technique as events rapidly unfolded. As directed by the General Orders, the Board declines to use 20/20 hindsight when analyzing Respondent’s actions. The Board finds that there were no reasonable options that could have reduced the need to use deadly force. Respondent believed Brown was running towards him and attempting to pull a gun from his vest pocket.

After evaluating the totality of circumstances Respondent faced at the time he fired, the Board finds that the Superintendent did not meet his burden of proving that Respondent’s use of deadly force against Brown was not objectively reasonable and necessary to prevent death or great bodily harm from an imminent threat. The Respondent is therefore not guilty of the charges set forth in Specification No. 1.

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6. Police Officer Shawn Bryant, Star No. 4142, is **guilty** of violating Rules 2, 3, and 6 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 2:

On or about March 9, 2018, at or near 7221 South Merrill Avenue in Chicago, Police Officer Shawn Bryant failed to fully load his firearm, which is required. Officer Bryant thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 3, which prohibits failure to promote the Department's efforts to implement its policy or accomplish its goals; and
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying CPD Uniform and Property Directive U04-02 – Department Approved Weapons and Ammunition.

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

Respondent testified that the morning of the shooting, he went to the shooting range in order to qualify with his rifle, a process which required him to transition back and forth between his rifle and his service weapon. As part of that process, Respondent took two bullets out of his handgun and replaced them with two range rounds. After the exercise, Respondent cleaned his rifle but forgot to top off his handgun with the two rounds he previously removed, thereby violating CPD Uniform and Property Directive U04-02.

The Department enacts such policies for the officer's own safety as well as to protect the public. Should an officer become involved in a confrontation requiring him to fire numerous rounds, it is imperative that the officer's weapon be fully loaded. By failing to fully load his weapon, Respondent is guilty of violating Rules 2, 3, and 6 as set forth in Specification No. 2.

7. Police Officer Shawn Bryant, Star No. 4142, is **guilty** of violating Rules 2, 3, and 6 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 3:

On or about March 9, 2018, at or near 7221 South Merrill Avenue in Chicago, Police Officer Shawn Bryant failed to activate his body-worn camera in a timely manner. Officer Bryant thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 3, which prohibits failure to promote the Department's efforts to implement its policy or accomplish its goals; and
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying CPD Special Order S03-14 – Body-Worn Cameras.

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

Respondent testified that he thought he turned on his BWC prior to the shooting but realized immediately after the shooting that he had not activated it properly, thereby violating Special Order S03-14. Audio and video recordings from BWCs improve the quality and reliability of investigations and increase transparency. By violating Special Order S03-14, Respondent impeded, and failed to promote, the Department's efforts to implement its policy or accomplish its goals. Respondent is guilty of violating Rules 2, 3, and 6 as set forth in Specification No. 3.

Disciplinary Action

8. Respondent called three witnesses in mitigation, including a retired and fellow Chicago police officer who testified positively about his character and work ethic. He also

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submitted two news articles and eight letters of support. Since joining CPD in 2013, Respondent has earned a total of 86 awards, nine Department Commendations, one Special Commendation, two Unit Meritorious Performance Awards, one Superintendent's Honorable Mention, and 61 Honorable Mentions. No prior discipline was made part of the record in this case.

The Board finds that Respondent's failure to fully load his weapon and activate his BWC were unintentional. Respondent testified credibly that he simply forgot to top off his weapon before leaving the shooting range and that he thought he turned on his BWC prior to the shooting. BWCs were not rolled out in Respondent's district until December 2017. Because Respondent had been on furlough for a 20-day period in February, he had a relatively short amount of time to become proficient in the use of the BWC prior to March 9, 2018. The Board believes Respondent's testimony that since then, BWCs have become a part of his everyday equipment and he is more proficient in its use.

The Board views its responsibility in imposing discipline to be—in part—to indicate to officers how to comply with CPD's directives and reinforce how to do so. The Board finds that, in this case, based on the above factors taken together with the amount of time it took to bring charges and decide this case, imposing discipline is not necessary to ensure that Respondent will comply with CPD's directives going forward. After thoroughly considering the facts and circumstances of the conduct of which it has found Respondent guilty and the evidence he presented in mitigation, the Board finds that the rule violations for failing to activate his BWC and fully load his firearm should be noted on Respondent's record and that no disciplinary action is warranted in this case.

POLICE BOARD DECISION

The members of the Police Board who participated in deciding this case hereby certify that they have read and reviewed the record of the proceedings, viewed the video recording of the entire evidentiary hearing, received the oral report of the Hearing Officer, and conferred with the Hearing Officer on the credibility of the witnesses and the evidence. The Police Board hereby adopts the findings set forth herein by the following votes.

The Board, by votes of 6 in favor (Kyle Cooper, Paula Wolff, Steven Block, Nanette Doorley, Andreas Safakas, and Justin Terry) to 0 opposed, finds Respondent **not guilty** of the charges in Specification No. 1 and **guilty** of the charges in Specification Nos. 2 and 3, as set forth above.

As a result of the foregoing and for the reasons set forth above, the Board, by a vote of 6 in favor (Cooper, Wolff, Block, Doorley, Safakas, and Terry) to 0 opposed, hereby determines that the rule violations of which Respondent is guilty shall be noted on his record and that no disciplinary action is warranted.

NOW THEREFORE, IT IS HEREBY ORDERED that the rule violations of which Respondent is guilty shall be noted on his record.

This decision is adopted and entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Steven Block, Nanette Doorley, Andreas Safakas, and Justin Terry. (Board Member Mareilé Cusack recused herself from this case pursuant to §2-78-130(a)(iii) of the Municipal Code of Chicago.)

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

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Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2024.

LARRY SNELLING
Superintendent of Police