

**BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO**

<b>IN THE MATTER OF THE APPEAL BY</b>	)	
<b>[NAME REDACTED],</b>	)	<b>No. 24 AA 12</b>
<b>APPLICANT FOR THE POSITION OF</b>	)	
<b>PROBATIONARY POLICE OFFICER,</b>	)	<b>(Applicant No. [redacted])</b>
<b>CITY OF CHICAGO.</b>	)	

**FINDINGS AND DECISION**

[Name redacted] (hereinafter “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated December 13, 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, along with the reason(s) for the disqualification decision and the process for appeal. In support of its decision, Department attached the Completed Background Investigation Update to Kentech Report ("Background Investigation Report") in which Department cited conduct it alleged formed the bases of Disqualification(s) Based on Prior Employment; Military History; and Other Conduct (Collectively, "Notice").

In an email dated February 8, 2024, Applicant appealed the disqualification decision to the Police Board by filing a written request seeking to 1) specify why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) bring to the Police Board’s (“Board”) 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”). Department filed a Response March 21, 2024.

Police Board Appeals Officer Laura Parry reviewed the Notice, Appeal and Response.

## **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 PARTIES**

According to the Notice, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason(s):

#### **Basis #1**

IV-D. Disqualification Based on Prior Employment History, as cited by Department:

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 will 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 Chicago Police Department employee, may be found unsuitable for employment. In addition, an applicant with a history or sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment.

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#### **V. [Department] RULES OF CONDUCT**

Rule 5. Failure to perform any duty.

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

Rule 7. Insubordination or disrespect toward a supervisory member on or off duty.

Rule 11. Incompetency or inefficiency in the performance of duty.

Department cited the following conduct, in summary:

Applicant had five Developmental Counseling documented incidents while in the military.

October 24, 2011 - Blatant Disrespect Towards a Senior Non Commissioned Officer ("NCO"). Applicant was transferred from another unit and "started showing signs of disrespect"

by refusing commands and rolling his eyes at commands given on October 21, 2011. It was alleged Applicant rolled his eyes and "copped an attitude" when the NCO tried to talk to him after Applicant ran into the NCO. When addressed by his superior NCO about the incident, Applicant walked away and did not stop when ordered to stand until the superior grabbed Applicant from behind. After the stop, Applicant refused again to stand as ordered, cocked his head and rolled his eyes. His superior referred to Applicant as a "dirtbag" with "no potential" in the military branch. His superior noted that he had never been disrespected to the extent Applicant had shown disrespect in the six years the superior had been a NCO and two years he had been a drill sergeant. It was recommended Applicant be removed from service for patterns of misconduct.

October 26, 2011 - Blatant Disrespect Towards a Senior Non Commissioned Officer ("NCO"). Applicant refused to stand as ordered. He instead sat smiling, shaking his head back and forth and side to side, and twice answered, "What?" when called for twice by the NCO, and further not properly addressing the superior NCO as Drill Sergeant. His conduct was described as "disrespectful" and "smart-ass." A discharge from the military was recommended.

October 27, 2011 - Blatant Disrespect Towards a Senior Non Commissioned Officer ("NCO"). Applicant was reported as responding, "Why don't you leave my fucking parents out of this?" when the drill sergeant wondered whether Applicant thought Applicant's parents would be proud of the way Applicant acted. When ordered to address the NCO as "Drill Sergeant," Applicant refused to do so. A discharge from the military was recommended.

November 2, 2011 - Refusal to Train. Applicant told his superior officer twice, "No, I quit," when ordered to get information for physical training. When asked by his superior if he refused training, Applicant said words to the effect that he did not want to be there. The Captain then asked Applicant if he refused training, to which Applicant replied in the affirmative. The Captain

ordered Applicant to train and Applicant refused to go. It was recommended Applicant continue to train.

November 2, 2011 - Failure to Follow Orders/Instructions - Integrity Violation (contraband inside wall locker). Part of a Meal Ready to Eat (MRE) was found in Applicant's locker during a health and wellness check. Applicant had been previously counseled on the "Do's and Don'ts." His removal from military service was recommended.

(Background Investigation Report, p. 2-5, Response)

**Basis #2**

IV-E. Disqualification Based on Military History, as cited by Department:

Police officers are required to follow workplace rules and obey orders in a high-pressure and often dangerous environment. An applicant who has received a Dishonorable Discharge or Bad Conduct Discharge from the United States Armed Forces or the National Guard or State Militia has demonstrated his or her inability to work in such a setting and therefore will be found unsuitable for employment. An applicant who has received a discharge with other characterizations may be found unsuitable for employment based on the nature of the underlying offenses.

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Rule 5. Failure to perform any duty.

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

Rule 7. Insubordination or disrespect toward a supervisory member on or off duty.

Rule 11. Incompetency or inefficiency in the performance of duty.

Department cited the following conduct, in summary:

The conducted cited in Basis #1 above.

(Background Investigation Report, p. 5-8, Response)

**Basis #3**

IV-H. Disqualification Based on Other Conduce, as cited by Department:

Police officers are required to follow workplace rules and obey orders in a high-pressure and often dangerous environment. An applicant who has received a Dishonorable Discharge or Bad Conduct Discharge from the United States Armed Forces or the National Guard or State Militia has demonstrated his or her inability to work in such a setting and therefore will be found unsuitable for employment. An applicant who has received a discharge with other characterizations may be found unsuitable for employment based on the nature of the underlying offenses.

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V. [Department] RULES OF CONDUCT

Rule 5. Failure to perform any duty.

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

Rule 7. Insubordination or disrespect toward a supervisory member on or off duty.

Rule 11. Incompetency or inefficiency in the performance of duty.

Department cited the following conduct, in summary:

The conducted cited in Basis #1 above.

(Background Investigation Report, p. 8-11, Response)

Department noted Applicant's dates of military service was October 11-November 17, 2011.

The type of discharge was listed as "Uncharacterized." (Background Investigation Report, p. 5)

Investigator included the following text received from Applicant regarding Applicant's military record:

"I have received my military records and have attached the counseling papers to this email. Firstly, let me state I know there are some things in the counseling paperwork section that my actions were rude and uncalled for and downright disrespectful. I would like to explain that is not the person I am anymore. I was only 20 years old when I enlisted and only enlisted for less than 2 months and realize I made some poor decisions and choice of words to use toward my NCOs. I have grown and matured since then. By getting married and starting a family I have learned different responsibilities and roles in my life. My current life and responsibilities are one of many reasons I want to join CPD. In closing I hope my past will not disqualify myself from moving forward in the hiring process and achieving my goal and dream of becoming a Chicago Police Officer." (Background Investigation Report, p. 11).

**Appeal and Response**

The following is a summary.

**Appeal.** Applicant opened by apologizing for his actions that led to his discharge from the military 12 years ago (2011), and that while he understands the reasons for disqualification, he has worked on himself since that time and asserted that he is fully capable of obeying orders and respecting commanding officers and peers. He stated that he married a woman who helped him change and wants to be a role model for his children. He stated that he thinks his current security position at

Chicago Public Schools has made him believe he would be a great police officer and that his superior is willing to write a character witness statement on Applicant's behalf. He stated he has learned professionalism, making students feel safe and communication with faculty, parents and students. He also volunteers with Department baseball and community organizations and that being a Chicago police officer is his dream to serve and protect in the city that he stated, "was there for me in my roughest times." He closed with thanks for the Board's time and consideration.

(Appeal)

**Response.** In summary, Department iterated it stands on the reasons and bases set forth in the disqualification letter, and cited caselaw supporting its rights to disqualify. It emphasized that Applicant was counseled multiple times and was involuntarily separated from military service without an Honorable Discharge and that his conduct would have violated the Department Rules of Conduct cited in the bases for disqualifications if he had been a Department employee.

(Response)

### **FINDINGS OF FACT**

All filings were timely.

Department provided its factual basis for the decision to disqualify Applicant and remove Applicant's name from the eligibility list for which Applicant was given the opportunity to file a written appeal specifying why the Department erred in the factual determinations underlying the Department's decision *and/or* provide additional facts directly related to the bases for disqualification.

Applicant did not deny the conduct described by Department.

While Applicant may have grown, matured and changed his conduct since marrying and starting a family, it does not erase the conduct exhibited in the short time he was in the military.

Service in the military is considered employment.

It is more likely than not Applicant engaged in the conduct as described by Department in the Bases for Disqualification. This conduct would be considered violations of Department Rules of Conduct. Applicant was discharged with something other than an Honorable Discharge after only 37 days of service and five documented incidents.

By a preponderance of the evidence, **Applicant DID NOT** provide sufficient additional facts directly related to and/or did adequately specify why the Department erred in its factual determinations as to the bases presented.

### **CONCLUSIONS OF LAW**

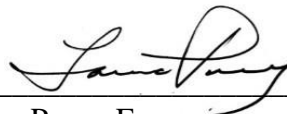
Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)).

Applicant **DID NOT** show by a preponderance of the evidence that Department **erred** in its decision to the remove Applicant's name from the Eligibility List for the reasons stated herein.

### **RECOMMENDATION**

Based on the findings and conclusions set forth above, it is recommended that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **AFFIRMED**.

Respectfully submitted,



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Laura Parry, Esq.  
Appeals Officer

Date: June 11th, 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 6 in favor (Paula Wolff, Steven Block, Mareilé Cusack, Nanette Doorley, Kathryn Liss, and Justin Terry) to 2 opposed (Kyle Cooper and Andreas Safakas).

**NOW THEREFORE, IT IS HEREBY ORDERED** that the decision to [**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, Mareilé Cusack, Nanette Doorley, Kathryn Liss, Andreas Safakas, and Justin Terry.

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

Attested by:

/s/ KYLE COOPER  
President

/s/ MAX A. CAPRONI  
Executive Director