

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

**IN THE MATTER OF THE APPEAL BY** )  
**[NAME REDACTED],** ) **No. 24 AA 18**  
**APPLICANT FOR THE POSITION OF** )  
**PROBATIONARY POLICE OFFICER,** ) **(Applicant No. [redacted])**  
**CITY OF CHICAGO.** )

**FINDINGS AND DECISION**

[Name redacted] (hereinafter “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated December 27, 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 dated December 13, 2023 (“Background Investigation Report”) in which Department alleged conduct that formed the bases of Disqualification(s) Based on Membership or Association with Criminal Organizations and Other Conduct (Collectively, “Notice”).

In a letter dated February 23, 2024, sent with attachments, Applicant, through his attorney, 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 31, 2024. Reply was filed May 2, 2024.

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

## **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-F. Disqualification Based on Membership or Association with Criminal Organizations, as cited by Department:

1. Police Officers are charged with upholding the law and defending the public from criminal activity. An Applicant who is a member or affiliate of any criminal organization, including but not limited to a street gang, will therefore be found unsuitable for employment.
2. Prior membership or affiliation in a criminal organization may be grounds for disqualification. An applicant who is a former member or affiliate of a criminal organization, will be required to produce acceptable evidence to show that the membership in or affiliation with the criminal organization ceased for a period of five (5) years ([from] the date of the PHQ submission) or more prior to the date of application, and that the applicant has no current membership or affiliation with any criminal organization at the time of processing or hiring.

Department cited the following conduct, in summary:

That while Applicant denied any current affiliation (as of December 2023), Investigator reported Applicant was friends in high school with some people who are/were and some who wanted to be Latin Kings street gang members, but his association ended when Applicant moved with his family from that area during his junior year of high school.

Applicant was suspended in high school after being caught writing that street gang’s insignia on the bathroom wall.

It was reported Applicant admitted that the tattoo on his left arm – a crown of thorns and the words “Respect, Honesty, Unity, Knowledge, Love” – was placed there when he was 16 years old and that it was a gang-related tattoo that he got because he felt some peer pressure from friends

and a “distant relative,” now deceased, also influenced him to do so. It was reported Applicant said he regretted the tattoo and would like to remove it, that he is not now and never was in a street gang and has no further affiliation with those in or associated with street gangs since shortly after getting the tattoo.

(Background Investigation Report, p. 1-3)

**Basis #2**

**IV-H. Disqualification Based on Other Conduct**

1. “Police officers are required to show respect for authority, uphold the law, and defend the dignity and rights of the public. Therefore, any applicant who has engaged in conduct that exhibits a pattern of repeated abuse of authority; lack of respect for authority or law; lack of respect for the dignity and rights of others; or a combination of traits disclosed during the pre-employment investigation that would not by themselves lead to a finding that an applicant is unsuitable for employment, but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, will be found unsuitable for employment.”

Department cited the following conduct and/or alleged conduct, which it alleges is also a violation of the Rules and Regulations of the Chicago Police Department under section V. Rule 2: “Any action or conduct which impedes the Department’s efforts to achieve its policy goals or brings discredit upon the Department,” in summary:

The conduct is described in Basis #1 above.

(Background Investigation Report, p. 3-5).

Applicant was born in September 1997. The PHQ was submitted September 24, 2023, and updated November 2, 2023. (Background Investigation Report, p. 1)

**Appeal, Response and Reply**

The following is a summary.

**Appeal.** Applicant, through counsel, represented he has never been convicted of a crime and is not and never has been affiliated with any gang, arguing that he and his classmates were engaging in bravado and Applicant was trying to impress his friends and family (Appeal, p. 1-2). Applicant

cited findings from Review of the Chicago Police Department’s “Gang Database”, City of Chi. Office of Inspector General (April 2019) in which Office of Inspector General (“OIG”) noted that OIG concluded the database did not have sufficient controls, lacked accuracy and included misidentification of individuals as gang members. Applicant pointed to language in the review that attributed an example in which an officer told a juvenile that “because you’re around gang members, you will be considered one as well.” (Appeal, p. 2). Applicant argued that he was “misattributed” as being a gang member – he maintains that he is not now nor ever was in a gang. Applicant argued that if the Department seeks to “achieve its stated goals of building community trust by pulling in law enforcement candidates ‘that reflect the diverse communities that they will serve,’ they must reckon with the inevitability that people from certain neighborhoods will grow up with imperfect friends and family members, and that they may have unfairly painted with a brush” in this case. (Appeal, p. 2)

As to the tattoo, Applicant asserted that he is was scheduled to have the tattoo removed or altered so that it would no longer look like a gang symbol, and that the tattoo is not visible in a short sleeve shirt. In a subsequent letter sent May 2, 2024, Applicant asserted that the procedure had taken place and that the tattoo no longer looked like a gang symbol. (Letter dtd. May 2, 2024)

(Appeal and attachments)

**Response.** Response was dated March 31, 2024, 37 days. Department iterated a summation of the Bases of Disqualification and the facts presented. It further argued that it was within its right to disqualify Applicant based on *Apostolov v Johnson*, 2018 IL App (1<sup>st</sup>) 173084 and *Johnson v. O’Connor*, 2018 IL App (1<sup>st</sup>) 171830. (Response)

**Reply.** Reply was dated May 2, 2024. There were no other dates referenced. Date listed on the Response was March 31, 2024. Reply was filed 32 days thereafter. (Letter dtd. May 2, 2024).

### **FINDINGS OF FACT**

The Appeal and Response were timely filed. The Reply was NOT timely filed. The Reply should have been filed on or about April 30, 2024, but was not authored until May 2, 2024 – 32 days after the Response. However, the correspondence in which the Reply was sent referenced additional facts that were first brought up in the Appeal regarding the removal or alteration to the tattoo. The information about the status of the tattoo is a continuation of the information asserted in the Appeal regarding its alteration or removal and was considered by the Appeals Officer.

The tattoo has been altered in such a way as to not represent a street gang symbol. This occurred after the disqualification and sometime between February 2024 and May 2024. It was not explained why the tattoo was not removed prior to the Application.

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, born September 1997, is 27 years old. He received a tattoo with a gang symbol when he was 16 years old. He denied contact with gang members or those affiliated with gangs since shortly after receiving that tattoo, when his family moved from the area in his junior year of high school.

Applicant's assertion in the Appeal that he is not and never was a gang member does not address the allegation that Applicant was affiliated with members of a street gang. Applicant reported to the Background Investigator in that he was influenced to get the tattoo by a family member who was a member of a street gang. That family member is since deceased. It is unclear

when Applicant's last contact occurred or the nature, frequency and extent of any contact. It is unclear whether Applicant's high school friends were actually members of a street gang or that Applicant actually associated with any street gang members.

By a preponderance of the evidence, **Applicant DID** 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)).

Pursuant to Rule VII.F. of the Rules of Procedure Appeals by Applicants to the Chicago Police Department (herein "Applicant Appeals Rules"), established pursuant of MCC 2-84-035 (dtd. 18 February 2021), a Reply may be filed within 30 days from the date of receipt of the Response. As there is no date of receipt stamped referenced in the Reply, the only date by which to make the determination of whether it was timely filed was the date of the Reply letter itself compared to that of the date listed on the Response. This is why the Reply was untimely filed and not considered (except the information as to the completion of the alteration of the tattoo, which was considered).

Based upon the applicable MCC and Applicant Appeal Rules Applicant **DID** 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

Police Board Case No. 24 AA 18

remove Applicant from the list of eligible applicants for the position of probationary police officer  
be **REVERSED**, and the Applicant's name be returned to the eligibility list.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laura Parry", written in black ink.

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Laura Parry, Esq.  
Appeals Officer

Date: July 11<sup>th</sup>, 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, Mareilé Cusack, Nanette Doorley, Kathryn Liss, Andreas Safakas, and Justin Terry) 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 **reversed** and he is **reinstated to the eligibility list**.

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