

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 23**
APPLICANT FOR THE POSITION OF)
POLICE OFFICER,) **(Taleo No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a police officer position with the City of Chicago. In a letter dated March 18, 2024, the Office of Public Safety Administration (“OPSA”) 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 (“Notice”).

On March 23, 2024, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why OPSA erred in the factual determinations underlying the disqualification decision and bringing to the Board’s 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”).

On May 6, 2024, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, 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 the Parties

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago, and the Response was filed within the time period allowed by the Police Board Rules of Procedure.

According to the Notice, Applicant was removed from the Eligibility List for the following reasons:

- IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

B. Disqualification Based on Criminal Conduct

7. Other Criminal Conduct

a) Conduct Involving Drugs

- 2. An applicant who misrepresents his or her history of drug use during any stage of the employment process may be found unsuitable for employment.

c) Conduct Indicating Violent Tendencies

Police officers are required to act reasonably and professionally at all times and to maintain control over their emotions in the exercise of their duty. These qualities are vital to a police officer's ability to protect the public and its trust in the police. Applicants who have demonstrated a propensity for violence do not meet those requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery; domestic violence; stalking; disorderly conduct; and mob action. As noted above, an applicant who has engaged in any act falling within the scope of this section that constitutes a felony will be found unsuitable for employment.

An applicant who has engaged in any act falling within the scope of this section that constitutes a misdemeanor within the last (3) years (from the date of the PHQ submission), or more than (1) time in his or her life, will be found unsuitable for employment.

H. Disqualification Based on Other Conduct

1. Police officers are required to show respect for authority, uphold the law, and defend the dignity and the 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 not suited for employment as a police officer, will be found unsuitable for employment.

Applicant was disqualified by OPSA for his criminal conduct involving drugs, conduct indicating violent tendencies, and other conduct. OPSA alleges that Applicant denied using illegal drugs to the Kentech investigator and on his Personal History Questionnaire (“PHQ”), but admitted to using multiple illegal drugs during his polygraph. In addition, Applicant has been arrested four times, had an emergency order of protection entered against him, is a named suspect in an investigative alert for burglary, and was accused of threatening his ex-boyfriend and stealing his wallet. He also had several domestic incidents with his child’s mother and plead guilty to domestic battery in 2016 after striking her in the face.

Appeal and Response

Applicant appeals the decision, stating that he had every intention of answering the drug portion of the PHQ honestly, but wanted to wait until the polygraph so that he could explain the dates and details “regarding each specific use.” He states that the report leading to the investigative alert was taken completely out of context, as he and the victim are “best of friends.” Applicant claims that the information given to officers about the burglary was exaggerated, and that he has never physically assaulted anyone. Applicant declares that he has grown to love the city of Chicago, and applied with the CPD so that he could protect the people that he now calls family.

OPSA’s Response states that the appeal was reviewed, and OPSA relies upon the facts

and evidence relating to the disqualification contained in Applicant's file. OPSA maintains that the pre-employment disqualification standards under which Applicant's disqualification decision were based upon are clear (namely, Disqualification based on Criminal Conduct Involving Drugs, Conduct Indicating Violent Tendencies, and Other Conduct). OPSA states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and OPSA is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20. OPSA adds that Applicant's history is extremely troubling, and had he been in their employ, he would have been in violation of multiple Rule violations, "each of which would serve by themselves as grounds for disqualification."

Findings of Fact

Filings were timely.

OPSA provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. It determined that Applicant's criminal conduct involving drugs, conduct indicating violent tendencies, and other conduct were grounds for disqualification. OPSA articulated the Standards by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Conduct Involving Drugs

Applicant denied using illegal drugs to the Kentech investigator and on his PHQ, but admitted to using cocaine, HGH/growth hormone, mushrooms, marijuana, and valium that was not prescribed to him during his polygraph. When the R/I confronted Applicant about the omission, he stated that he wasn't asked for details, and is a different person now. Applicant also

claimed that he knew that he would fully disclose the details during his polygraph.

Conduct Indicating Violent Tendencies

According to the police reports, on November 5, 2015, Applicant and his child's mother ("[Name redacted]") were involved in a verbal altercation over text messages. Applicant became hostile and proceeded to drag [Name redacted] out of bed by her legs, causing her back to hit the floor. [Name redacted] called the police, but Applicant fled the scene before they arrived.

On July 7, 2016 during an argument over their infant daughter, Applicant struck [Name redacted] on the right side of her face, causing redness and swelling to her face and neck area, along with numerous abrasions. He also attempted to take her phone away while she was on a call, and [Name redacted] reported to the officers that Applicant physically abused her on two prior occasions. As a result, Applicant was arrested, and an Emergency Order of Protection was issued against him the same day. Applicant pled guilty to domestic battery and received supervision.

On February 13, 2017, Applicant threatened his ex-boyfriend ("[Name redacted]") stating, "I'll split your head in two the next time I see you!" [Name redacted] had his phone on speakerphone, and Applicant's threat was overheard by a witness in the car. [Name redacted] advised the police that he wanted to make a report "in case something happened" to him in the future, as Applicant might be jealous and upset that [Name redacted] had a new roommate.

On March 20, 2017, [Name redacted] reported to the Blue Island Police that after returning home from the hospital, he noticed that his wallet (containing 6-7 credit cards, two debit cards, \$300 cash and his DL) was missing. [Name redacted] stated that he believed that Applicant removed the items from the apartment while he was hospitalized, as Applicant had

been over several times and knew how to enter the residence without keys.

On October 1, 2017, Applicant was listed as a named suspect in a CPD Investigative Alert for Burglary-Forcible Entry. Per the report, Applicant was identified from property he pawned at a pawn shop that was stolen during a burglary. Applicant's vehicle was captured on surveillance video at the burglary location.

Applicant states that the Investigative Alert report is "completely out of context," and that he and the victim are now best of friends. He states that at the time the report was made, the information given to the officers was exaggerated and falsified due to the victim's "strong emotional ties" to Applicant.

Applicant also says that he never physically assaulted [Name redacted], and that her broken English was "misleading and misunderstood," leading to his arrest. He claims that body camera footage will confirm this assertion.

Other Conduct

Applicant has been arrested four times-3 times for cannabis possession, and once for domestic battery. In addition, Applicant had an Emergency Order of Protection entered against him, which led to the revocation of his FOID card. He is also a named suspect in an active CPD Investigative Alert for Burglary.

Applicant states that although he is from Florida, he loves the city of Chicago, and calls it home. He states that he has been a resident since 2010 and has a strong desire to protect the Chicago community that he calls "neighbors and family." Applicant believes that he should not be disqualified based on "vague explanations of childhood character and challenges."

Conclusions of Law

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal. Applicant was disqualified by OPSA based on his conduct involving drugs, conduct indicating violent tendencies, and other conduct. Based on the details provided in the Notice and Response, Applicant’s past conduct contains numerous grounds for disqualification based on OPSA’s Standards.

Conduct Involving Drugs

Section B(7)(a)(2) states: “An applicant who misrepresents his or her history of drug use during any stage of the employment process may be found unsuitable for employment.” Applicant denied using illegal drugs to the Kentech investigator and on his PHQ but admitted to using multiple illegal narcotics during the polygraph interview, including cocaine, HGH/growth hormone, mushrooms, marijuana, and valium that was not prescribed to him. As a result, Applicant’s conduct involving drugs could be grounds for disqualification based on Section B(7)(a)(2) of the Standards.

Conduct Indicating Violent Tendencies

Section B(7)(c) states: “...any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute...assault; battery; aggravated battery; offenses against property...domestic violence.”

Applicant was involved in at least two domestic disputes with [Name redacted], one of which led to an arrest and charge of domestic battery. An Emergency Order of Protection was entered, and Applicant’s FOID card was revoked. Applicant pled **guilty** to domestic battery and

received 12 months supervision.

Section B(7)(c) further states: “An applicant who has engaged in any act falling within the scope of this section that constitutes a misdemeanor within the last (3) years (from the date of the PHQ submission), or more than (1) time in his or her life, **will** be found unsuitable for employment.” (Emphasis added.)

In addition to his multiple domestic incidents with [Name redacted], Applicant assaulted [Name redacted], stole his wallet, and is a named suspect in an Investigative Alert for Burglary. As a result, Applicant could be disqualified based on Section B(7)(c) of the Standards.

Other Conduct

Section H(1) states: ...”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 not suited for employment as a police officer, will be found unsuitable for employment.” Applicant was arrested three times for cannabis possession and plead guilty to domestic battery. In addition, he had an emergency order of protection entered against him, and his FOID card was revoked. He is also a named suspect in an active CPD Investigative Alert for a 2017 burglary. As a result, Applicant’s conduct could be found to show a lack of respect for authority or law and a lack of respect for the dignity and rights of others, in violation of Section H(1) of the Standards.

In considering and weighing the numerous grounds for disqualification that were presented, Applicant has failed to show, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of police officer be **affirmed.**

Respectfully Submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: August 9, 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, Claudia Badillo, Steven Block, Mareilé Cusack, 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 **affirmed**.

This decision and order are 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.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director