

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 30**
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 May 15, 2024, 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 April 11, 2024 Candidate Background Investigation Summary ("Background Investigation Report") in which Department cited conduct it alleged formed the bases of Disqualification(s) under its Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer (“Standards”) Based on Criminal Conduct, specifically the sections on Felonies and Conduct Involving Drugs, and on Indebtedness, (Collectively, "Notice").

In a letter dated May 20, 2024, Applicant sought to appeal the disqualification decision to the Police Board ("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 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 June 26, 2024. No Reply

was filed.

Police Board Appeals Officer Laura Parry reviewed the Notice, Appeal, and Response and any documentary evidence submitted with each.

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-B. Disqualification Based on Criminal Conduct, as cited by Department:

[6]1. Felonies

"An applicant who has engaged in any conduct which would constitute a felony is not eligible for employment."

...

7. a. Conduct Involving Drugs

1. "An applicant who has sold, distributed or manufactured any illegal drug at any time will be found unsuitable for employment."²

(Background Investigation Report, p. 1-2.)

Department cited the alleged following conduct, in summary:

Applicant was reported to have admitted to the polygraph examiner that he sold marijuana in school in Florida from the sixth through the 10th grades and started to sell crack cocaine in ninth grade an unknown number of times between 2008-2010; that his father and uncles "had been involved in drugs" and that a girl in school provided his drug connection. Applicant was reported to have stated that when he became friends with his now brother-in-law in 10th grade, Applicant

1 Scrivener’s error, cited as IV.B."1." in the Background Investigation Report

2 This language does not appear in the Standards effective July 26, 2021. This language is found in a previous version of the Standards effective July 31, 2018 at IV.B.7.a.3.

stopped selling and started attending church. Department cited Florida's criminal statutes making it a felony to sell or distribute controlled substances under Florida Statutes sections 893.13(1)(a)(1) for cocaine and (2) for cannabis, referencing cocaine as a Schedule II controlled substance under FLA STAT §893.03(2)(a)(4) and cannabis (marijuana) as a Schedule I controlled substance under FLA STAT §893.03(1)(c).

(Background Investigation Report, p. 1-2)

Basis #2

IV-G. Disqualification Based on Indebtedness

“Any applicant who owes a debt to the City of Chicago at any time during processing will be given a reasonable amount of time to clear those debts. Any applicant who owes a debt to the City of Chicago at the time of hire will be found unsuitable for employment.”

(Background Investigation Report, p. 2)

Department cited the following conduct, in summary:

As of April 11, 2024, Applicant was reported to owe the City of Chicago \$2,353 in unpaid parking tickets and had told the Background Investigator that he had arranged a payment plan.

(Background Investigation Report, p. 2)

Applicant was born in July 1993. The Personal History Questionnaire (“PHQ”) was submitted August 2, 2023. (Background Investigation Report, p. 1)

Appeal and Response

The following is a summary.

Appeal. Applicant opened with well wishes for the Board and the assertion that statements made during the polygraph exam interview were taken out of context and/or needed clarification.

Sale of marijuana. Applicant stated that it occurred a handful of times between sixth (6th) and ninth (9th) grades, and that he did not conduct the sales, but that he was peer-pressured into holding the marijuana for others and giving it to the recipients and that he never exchanged money.

Sale of cocaine/crack. Applicant explained he was peer-pressured into delivering crack cocaine to an individual, but there was no exchange of money.

Family members involved in drugs. Applicant clarified that his father and uncle were once involved in drugs, but that they were both reformed -- his father specifically "turned his life around" before the birth of Applicant in 1993 and has been a religious pastor for over 20 years.

Debt due to City in unpaid parking tickets. Applicant explained he is actively paying his debt under a payment plan which he described as "self-initiated."

Applicant acknowledged his past actions but also insisted he has lived a life within the law since 10th grade. He has never been arrested, handcuffed or questioned. He has not since engaged in any misconduct involving drugs or had negative interactions with law enforcement. Applicant stated he has made an honest living, and at one point was employed for five years at a "prominent" local church assembly where he also is a musician and choir member. He was also simultaneously employed at Boys & Girls Club, a large beverage manufacturer and a large package delivery service. He added that in 2017 he started mentoring young people and serves as an athletic liaison for an organization that has expanded from three teams to 15 in six different sports and leads field trips to a university to show youth the opportunities sports can open. He stated that does this while also coaching high school football and traveling to preach in religious communities, following in his father pastor's footsteps.

(Appeal)

Response. In summary, Department through its Human Resources Division Director iterated it stands on the reasons and bases set forth in the disqualification letter, and cited caselaw supporting its rights to exercise its discretion to disqualify.

Department also noted that Applicant admitted to both the Background Investigator and

the polygraph examiner to selling marijuana and cocaine.

Department emphasized that an applicant may be disqualified if there is evidence of criminal conduct, even if there was never a conviction, citing the Standards under Section IV.B.1. and that if the conduct had occurred had he been in the employ of Department he would have been in violation of multiple rules of conduct.

Department concluded, "The applicant's history is extremely troubling [and] serves as ground for disqualification."

(Response)

FINDINGS OF FACT

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.

Department's assertion in the Response that had the conduct occurred while Applicant was a Department employee it would have been in violation of rules of conduct is irrelevant because it was not alleged the conduct occurred in the course of prior employment.

Applicant delivered marijuana and cocaine while he was in high school. Both were illegal drugs at the time. He may not have collected the money, but he did deliver it to the intended recipients. This conduct is distribution of illegal drugs. This occurred in Florida. Under Florida law, the distribution of cocaine is a felony in the second degree and distribution of cannabis (marijuana) is a felony in the third degree.

The hiring Standards specifically state an applicant who has engaged in felony conduct is not eligible for employment. It is a mandatory disqualification, not a discretionary one.

Department did not correctly cite to or include the correct language for disqualification based on Conduct Involving Drugs under the effective hiring Standards.

Applicant offered no explanation of why he allowed parking tickets to accumulated to over \$2,300 or why it took until after his application to the Department to begin to honor those debts. There is no mention as to what was still owed as of the date of the Appeal. It appears he was given a reasonable amount of time to clear the debt owed, and any such debt still owed at the time of hire makes an applicant unsuitable for employment under the hiring Standards. It is a mandatory disqualification, not a discretionary one.

That Applicant has no other unlawful conduct reported, and that he may otherwise have demonstrated responsibility, productivity and care for others does not negate the conduct described in the Bases presented. When it comes to the conduct of distribution of illegal drugs and felonies, under the specific hiring Standards cited and unlike illegal drug usage, there is no such consideration given to factors such as the time since such conduct occurred, age of conduct or the number of times it happened. It is a mandatory disqualification.

By a preponderance of the evidence, **Applicant DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why the Department erred in its factual determinations for Disqualifications Based on Criminal Conduct - Felonies or Indebtedness. Each individual basis may be grounds for disqualification.

CONCLUSIONS OF LAW

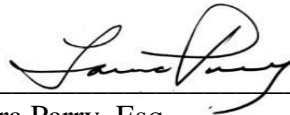
Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility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



Laura Parry, Esq.
Appeals Officer

Date: September 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 9 in favor (Kyle Cooper, Paula Wolff, Claudia Badillo, 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 **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, Nanette Doorley, Kathryn Liss, Andreas Safakas, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF SEPTEMBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director