

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 24 AA 43
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 February 6, 2024, and resent on May 16, 2024 to an updated contact address for Applicant, 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 September 25, 2023 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 Driving Record, Other Conduct, and False Statements or Omissions and/or Failure to Cooperate in the Application Process. (Collectively, “Notice”)

In an email dated July 12, 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 August 15, 2024.

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 Driving Record

1. "Police officers are regularly required to operate motor vehicles in dangerous situations. They are thus required, to the extent reasonable, to operate vehicles in a careful manner protective of the public. Applicants with a poor driving history are deemed unable to meet this requirement. Further applicants with more than one DUI or reckless driving incident, regardless of the date of the incident, or any driving-related incidents which resulted in the suspension or revocation of a driver’s license, may be found unsuitable for employment." (Background Investigation Report, p. 1)

Department cited the following conduct, in summary:

September 16, 2014 – Arrest for DUI (“Driving Under Influence”) Any Amount of Drug and Traffic Violations. The arrest report summarized by Background Investigator indicated the responding officers (“R/Os”) observed Applicant to have bloodshot and glassy eyes and “mumbled” speech, and that when asked Applicant admitted to smoking cannabis earlier, smoking “a whole blunt.” Background Investigator reported speaking with the arresting officer who remembered the arrest and refusal to blood draw and indicated that he stood by his report. It was reported that Applicant disclosed to the Kentech (“background interviewer”) that Applicant was at a bar on that Friday night and gave his cousin permission to smoke “pot” in Applicant’s vehicle.

On his way home, Applicant stated that he was stopped by police who put him in the back of the squad car and told him he was charged with DUI, presumably for the smell of cannabis in his vehicle. Applicant further disclosed he was frustrated and argued with the officer because he was getting charged with driving under the influence but did not have any drugs. At first Applicant agreed to a blood draw and then said he changed his mind. Applicant stated he needed his driver's license for work and decided to take his chances in court where the charge was reduced to Negligent Driving, he was ordered to complete 80 hours of community service, attend a victim panel and submit to six random drug tests. During a follow up interview with Applicant, Applicant stated that he never admitted to smoking marijuana when he was arrested and did not know why the officer reported that he had done so. The case disposition indicated a finding of guilty to a reduced charge of Negligent Driving and a sentence of 1-year supervision. Applicant's driver's license was suspended, and suspension was rescinded October 27, 2014.

May 2, 2015 – Arrest for Driving Under Influence of Alcohol, Blood Alcohol Content (“BAC”) 0.08 and Traffic Violations. Background Investigator noted that per the arrest report, Applicant was involved in a two-vehicle collision and the Illinois State Police Trooper observed Applicant to have bloodshot and glassy eyes, a strong odor of alcohol coming from his breath, and his speech was thick-tongued and slurred. Trooper reported Applicant disclosed he had drunk some shots of whiskey. During the background interview for this application, it was reported Applicant disclosed he was at a friend's 21st birthday, the bar closed at 3:30am, he gave his friend a ride home in the suburbs and on the way back fell asleep and crashed into another vehicle. Investigator reported that Applicant's driver's license was suspended a second time, the suspension rescinded on June 26, 2015, and Applicant was subsequently found guilty of DUI, receiving 12 months' supervision.

February 12, 2022 – Arrest for Driving Under Influence of Alcohol, Blood Alcohol Content 0.08 and Traffic Violations. Background Investigator reported Applicant stated he was arrested after leaving work as a night club security guard and after also earlier working at another job. He explained he was sleepy after working two jobs that day and was still getting used to working the late hours at the night club where he had recently started. Applicant explained to Investigator that he fell asleep at a stop light and woke up to an officer knocking on his vehicle door and told the officer that he was on his way home from work. Applicant reported that in the club he was around people who would spill things and that is why he smelled like alcohol. Investigator reported that the arrest report noted that when responding officers arrived that night, Fire Department personnel were on scene speaking to Applicant who was in the middle of a traffic lane. R/Os reported they were told the Applicant was found asleep behind the wheel and probably drunk. R/Os reported observing Applicant with glassy and watery eyes, slurred, thick-tongued speech and a strong odor of an alcoholic beverage coming from candidate's breath. R/Os reported that when asked how much he had to drink, Applicant said five beers, but that they had difficulty communicating with Applicant because he was speaking incoherently. The field sobriety test was administered and there were "numerous" indications of consumption and impairment. After the arrest Applicant registered a BAC of 0.08. Background Investigator listed the disposition of the case as "ongoing" as of the date of the Background Investigation Report (September 25, 2023).

Basis #2

IV-H. Disqualification Based on Other Conduct

"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." (Background Investigation

Report, p. 4)

Department cited the conduct described in Basis #1, above.

Basis #3

IV-I. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process

[1.] “Applicants are required to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer... failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed.

[2.] Once employed, any employee who is found to have engaged in any conduct prohibited in the paragraph above will be subject to discipline, up to and including discharge.” (Background Investigation Report, p. 7)

Department cited the following conduct, in summary:

Applicant’s FOID card is expired. That was the only conduct listed and with no other explanation.

Applicant was born in September 1992. The Personal History Questionnaire (“PHQ”) was submitted May 8, 2023. (Background Investigation Report, p. 1)

Appeal and Response

The following is a summary.

Appeal. Applicant addressed the three bases of disqualification. He thanked the Board for its time and allowing him to appeal the disqualification.

Driving Record. Applicant wrote that there has been a disposition in the 2022 DUI arrest case. He wrote that he was found not guilty and acquitted on all charges. He added that he still has his CDL (“Commercial Driver’s License”) and he is a union driver. He is in process of hiring a lawyer to have the arrest record expunged. Applicant did not address the other two arrests, findings of guilt and license suspensions. He did not address whether he has a current valid non-

commercial driver's license.

Other Conduct. Applicant wrote that those arrests do not reflect who he is today and that they happened when he was 21-22 years old and did not fully understand the consequences of his actions – that he is now 32 with a four-year-old child and fiancé and has matured over the last 10 years, becoming a better human being. He wrote that he accepts responsibility for his mistakes, apologized for previous actions and wrote that he knows it won't happen again.

False Statements/Omissions/Failure to Cooperate in the Process. Applicant wrote that his FOID card expired in 2024, but that he is in process of getting it renewed.

(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 noted multiple suspensions of Applicant's driver's license, multiple DUI incidents and multiple convictions. The Department noted that even without a decision in the 2022 case, the other DUI incidents indicate "a disturbing pattern of unsafe and illegal behavior." It also cited caselaw supporting its position that it was within its rights to disqualify Applicant.

(Response)

FINDINGS OF FACT

Filings were timely based upon the date the disqualification letter was resent to Applicant with his updated contact information. Department acknowledged and conceded the new dates.

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.

In his Appeal, Applicant did not deny the conduct in any of the incidents that led to suspensions of his driver's license. He reported that the 2022 case resulted in findings of not guilty and dismissal of all charges, but he did not deny the conduct. He also did not present any court documentation to support his contended disposition of that the 2022 case.

Applicant's driver's license was suspended three times, at least two of which were associated with his conduct, arrest and conviction for driving under the influence or negligent driving. Even if the 2022 suspension is not considered, he still has two suspensions. The Standards provide that those applicants with **more than one** DUI or reckless driving incident, regardless of the date of the incident, **or** any driving-related incidents which resulted in the suspension or revocation of a driver's license, may be found unsuitable for employment. Applicant also did not present evidence that he has a valid non-commercial driver's license.

In addition to the conduct that led to the suspensions, Applicant argued with police officers during the 2022 arrest. These incidents of conduct demonstrate lack of respect for authority or law; lack of respect for the dignity and rights of others; or a combination of traits when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, and per hiring Standards, Applicant will be found unsuitable for employment.

Applicant did not deny that his FOID card is expired. He wrote that he is process of renewal. He also wrote that the FOID card expired in 2024, however the Background Investigator noted that the FOID was expired when the Background Investigation Report was authored in September 2023. This appears to be a misrepresentation by Applicant as it relates to having a valid FOID card during the application process.

By a preponderance of the evidence and based upon the totality of circumstances, **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 disqualification.

CONCLUSIONS OF LAW

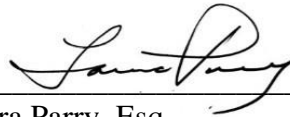
Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility 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: October 10, 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 17th DAY OF OCTOBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director