

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 48**
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 June 4, 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 Completed Background Investigation (“Background Investigation Report”) in which Department cited conduct it alleged formed the bases of Disqualifications Based on Prior Employment and Other Conduct under its Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer (“Disqualification Standards”) (Collectively, “Notice”).

In an email dated July 31, 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 Human Resources 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 August 29, 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 a 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.”

...

“V. [Department] RULES OF CONDUCT

Rule 5: Failure to perform any duty

Rule 10: Inattentive to duty.

Rule 27: Failure to report promptly any anticipated absence from duty.”

(Background Investigation Report, p. 1-6)

Department cited the following conduct, in summary:

Terminated as Driver for a Medical Transport Service – January, 2023-December 2023.

Investigator reported interviewing a manager from the company who verified employment and

that a company policy violation and vehicle collision prompted Applicant's termination, that Applicant's attendance had been good and that he'd gotten along very well with others and had no weaknesses. Applicant was reported to have said that his vehicle was struck in the passenger side by another; the police were contacted, a report was written; Applicant was placed on two-weeks leave pending an investigation, which resulted in the determination by the company that Applicant was at fault; and Applicant was terminated. (Background Investigation Report, p. 2).

Terminated as Customer Advocate/Market Operations for a Car Dealer – August 2021-October 2022. Applicant's Personal History Questionnaire ("PHQ") at Q#17, 19 and 21 indicated he was terminated for distracted driving and in his interview said he had received two written reprimands prior to termination for policy violations related to distracted driving, which included what he described as his conduct in changing a radio station while driving (as seen on dashboard video camera). Investigator reported the company uses a third party to verify employment, and no supervisor was available for interview. (Background Investigation Report, p. 2-3).

Terminated from Global Retail and Fulfillment Company Distribution Center – February 2020-January 2021. Applicant reported tardy on five (5) occasions within a one (1)-year period. Investigator reported Applicant stated the tardies were due to transportation or personal issues; were never more than 15 minutes; and that the last time he was tardy he was informed he was being terminated for excessive tardiness. Investigator reported the company uses a third party to verify employment, and no supervisor was available for interview. (Background Investigation Report, p. 3).

Basis #2

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

...

"3. Any applicant who has engaged in conduct indicating discrimination or bias based on race, color, sexual orientation, gender identification, age, religion, national origin, ancestry, marital status, disability or any other protected class will

be unsuitable for employment.”

(Background Investigation Report, p. ##)

Department cited the following conduct, in summary:

Applicant authored a social media post on August 26, 2020: “You spelled, ‘white terrorist who planned on joining the KKK’ wrong.” Department alleged this was a derogatory post under the filter of “Intolerance, Violence and Crime” and that the copy of the post was in the file. It was not included in the materials filed by Department.

(Background Investigation Report, p. 8)

PHQ was submitted December 2023. Applicant was born April 1998. (Background Investigation Report, p. 1)

Appeal and Response

The following is a summary.

Appeal. Applicant opened by stating the vehicle collision that led to his termination at the medical transport company was not his fault; the police told him it was not his fault; the vehicle that hit the one he was driving illegally used the bike lane to cut Applicant off; that he properly reported the collision; and that he cannot control the actions of other drivers. He cited his former supervisor’s report that he had been a good employee with no weaknesses who got along with coworkers very well. Applicant acknowledged he had attendance issues at the distribution center where he worked, but not since that time in January 2021 with his subsequent three employers (including his current one). Applicant addressed the distracted driving reprimands and termination by explaining the tablets that were in the vehicles used for navigation had poor connectivity; that the roads and expressways he used to travel had heavy traffic that did not allow him to pull over to fix the problems, so he would reach for his phone to type in the address of where he needed to drive for

the next appointment to get directions; and that he would never do that again. Finally, Applicant addressed an “old” social media post that he said Department considered racist. He apologized for any offense caused by the post and has since educated himself on “issues of racial sensitivity and have taken steps to promote inclusivity and understanding,” noting he is “deeply committed to serving and protecting the community, and [he] believe[s] that [his] experiences have helped [him] grow and develop into a more responsible and conscientious individual.” Applicant closed with gratitude for the Board’s 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.

(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; HOWEVER, he did provide additional facts regarding the circumstances of his employment terminations.

Applicant was terminated from three places of employment within approximately three (3) years. One termination was for tardiness in violation of company policy; one was for distracted driving in violation of company policy; and one was for being in a vehicle collision which the

company determined was Applicant's fault and in violation of company policy. Applicant denied the collision was his fault, but it was the company's determination that it was after its own investigation. According to the Disqualification Standards, an applicant who has been discharged or disciplined for offenses including incompetence, absenteeism, tardiness or failure to follow regulations **will be found unsuitable** for employment. While Applicant **DID** provide sufficient additional facts directly related to and/or did adequately specify why the Department erred in its factual determinations that he did not notify his employers of his absences (Rule 27 – regarding failure to promptly report anticipated absences), he **DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why the Department erred in its factual determinations as to Rules 5 and 10 for failure to perform and inattentiveness to duties. 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 a Chicago Police Department employee, **may be found unsuitable** for employment.

Applicant apologized for the social media post which referenced white racists and KKK (initials associated with a widely recognized white supremacist/racist organization) and has indicated that he has taken steps to educate himself more fully on racism. The full post was not provided. Applicant **DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why the Department erred in its factual determinations that he engaged in conduct indicating bias based on race and/or ancestry. Under the Disqualification Standards an applicant engaging in such conduct **will be found unsuitable** for employment.

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)).

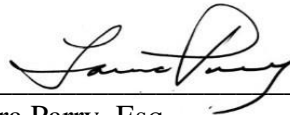
It is within the Department's discretion to remove applicants from the eligibility list where applicants' conduct is in violation of the hiring standards where the standards indicate the Department "may" disqualify, and it is a mandatory disqualification where the standards indicate applicant "will be found unsuitable for employment."

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: November 14, 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 7 in favor (Kyle Cooper, Paula Wolff, Claudia Badillo, Steven Block, Mareilé Cusack, Kathryn Liss, 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, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF NOVEMBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director