

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 24 AA 64**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter “Applicant”), a former police officer for the City of Chicago, applied for rehire to the position. In a letter dated August 8, 2024, and sent to Applicant via email on that date, the Office of Public Safety Administration (“OPSA”) gave Applicant written notice of the decision to disqualify Applicant from reappointment due to the results of a Rehire Candidate Background Investigation, along with the reason(s) for the disqualification decision and notice of the right to appeal (“Disqualification Decision”).

On October 7, 2024, Applicant filed with the Police Board an Appeal of the Disqualification Decision pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”). OPSA did not file a response to the Appeal.

Police Board Appeals Officer Lauren A. Freeman reviewed the Disqualification Decision and the Appeal.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Freeman, 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.

Disqualification Decision

According to the Disqualification Decision, Applicant was disqualified for reappointment to CPD for the following reasons:

Basis #1

Disqualification Based on Prior Employment History¹

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 ["CPD"], which in turn is vital to CPD'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 her or his work to acceptable standards; and come to work on time and on a regular basis.
2. A poor employment history may 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, excessive absenteeism or tardiness, or failure to follow regulations may be found unsuitable for employment.
3. Further, an applicant who, during previous employment, has engaged in any conduct that would have violated the CPD's Rules and Regulations had the applicant been a CPD employee, may be found unsuitable for employment. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment.

CPD's Rule Violations:

Rule 24: Failure to follow medical roll procedures

Rule 28: Being absent from duty without proper authorization

Rule 29: Failure to be prompt for duty assignment, including roll call and court appearance

OPSA cites the following conduct, in summary:

Applicant's disciplinary records with both CPD and the Northbrook Police Department

¹ Section IV.D. of OPSA Special Order 21-01—Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer.

(“NPD”) “indicate a history of absenteeism, tardiness, an incident of being absent without authorization, two ‘Sustained’ COPA charges, under confidential investigation and is on-notice from his current agency that ‘any future disciplinary issues could result in [his] dismissal from the Department.’” [sic] OPSA additionally alleges that Applicant’s disciplinary history with the NPD would have violated CPD Rules 24, 28 and 29, had he been a CPD employee at that time.

Basis #2

Disqualification Based on Other Conduct²

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,³ will be found unsuitable for employment.

...

4. Any applicant who has engaged in conduct affecting public health, safety and decency, including but not limited to disorderly conduct, illegal gambling, child endangerment or other offenses may be found unsuitable for employment.

OPSA cites the same conduct as cited for Basis #1, but adds, “A combination of the candidate’s disciplinary and investigative history indicate that he is not suited for re-employment as a Chicago Police Officer.”

Appeal Summary

Applicant states his disqualification was erroneous and supports his position as follows, in summary:

Applicant is a 31 years-old Hispanic man with one child and has served the public since

²Section IV.H. of OPSA Special Order 21-01.

³The OPSA Background Investigation Summary omitted from its listing of the disqualification standard the phrase, “but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer”.

he was 24 years-old. He characterizes his rehire disqualification as “arbitrary” and “biased” and asks the Police Board to send a message to CPD that “it needs to view candidates as a whole and not based upon unsupported and unverified allegations from decades past.” He includes glowing recommendations from five current and retired members of both Departments that highlight his capabilities, integrity, and reliability, as well as a neighbor and another individual who collectively describe him as an outstanding, responsible, hard-working, ethical and honest. All recommend him for rehire.

He disqualification based on abuse of sick leave with the NPD on April 12, 2023, June 26, 2023, September 6, 2023, and November 4, 2023, was erroneous because his reasons for taking them were valid (as explained in his Appeal Exhibits B⁴ and C⁵) and he informed his immediate supervisors as to the reasons for taking each of those sick days.

In OPISA’s May 17, 2024 interview with NPD Deputy [Name redacted]. [Name redacted] indicated that Applicant’s “only NPD disciplinary history was for September 12, 2023, and November 17, 2023. Nonetheless, CPD considered the above four sick days which did not appear on Applicant’s disciplinary history -- Therefore, “it must be assumed that the allegations were without merit, yet the Department still relied on the meritless allegations in disqualifying [him].”

Northfield’s policy about calling in sick days before a personal day “seems arbitrary at

⁴ Appeal Exhibit B is an NPD Interdepartmental Memorandum from Applicant dated June 4, 2024, in which Applicant, “in hopes of appealing/expunging the sick time abuse oral and written reprimand” explains that he used those sick days to take his daughter and her grandmother to the doctor, for going to Urgent Care for his own sore throat, and on two occasions because his daughter was sick.

⁵ Appeal Exhibit C is an email dated June 4, 2024, to NPD personnel entitled “Sick Time Abuse Pattern” in which Applicant again asks to appeal, or have expunged, his reprimand. In the email, he states that he was never asked to provide proof pertaining to sick time and now “has proof of 2 days in Gen. Order as a pattern for sick time abuse.” [sic]. Attached to the email are screen shots reflecting that his daughter received medical attention on April 12, 2023, and September 6, 2023.

best,” and CPD does not have the same policy. Therefore, violating the NPD policy would not have violated CPD Rules 24, 28, and 29. Since there is no evidence to suggest that Applicant was not honestly sick on those occasions, his actions would have been in compliance with CPD policies.

He was “never found to have excessive absences or tardiness” [sic] during his prior CPD employment and thus did not violate the CPD Standard. In fact, while employed with CPD, former supervisors noted in their evaluations that he ‘adhered to work schedules,’ was ‘dependable,’ and ‘always arrives early and is the last to leave.’ A former NPD supervisor related that Applicant was ‘willing to work holidays and weekends to allow others to take time off,’ and that he was ‘punctual and prepared to begin duty, every day.’

OPSA likewise improperly considered the tardiness and attendance citations he received from CPD in 2022. He received only counseling for the January 26, 2022 incident, and the General Orders provide that counseling is not considered a form of discipline. He received a SPAR [Summary Punishment Action Report] for the May 14, 2022 incident. These incidents were “utterly meaningless and fall far short from establishing a poor work history, especially in light of overwhelming evidence of exemplary performance.”

OPSA also erroneously considered his disciplinary history pertaining to Applicant’s four CPD BIA (Bureau of Internal Affairs) cases. In the two cases “sustained” against him, he was unable to challenge the discipline because he left CPD to work in Northfield. In one of those two cases, the Civilian Office of Police Accountability (COPA) recommended the lowest form of discipline: a reprimand. The other two of four cases cited in OPSA’s Candidate Background Investigation Summary were found ‘not sustained.’ OPSA improperly relied on those false allegations to disqualify him.

Applicant concludes his Appeal by alleging that his disqualification violates the Human Rights Act because it constitutes racial bias. He argues that “the fact that [he] is a minority is relevant,” and, public policy requires the Board to reverse the disqualification. He reiterates that his disqualification is arbitrary and biased, as well as contrary to findings in the Consent Decree and the City of Chicago Office of Inspector General’s evaluation of the hiring process, which concluded that minority applicants are disproportionately disqualified due to “systemic flaws.” As an Hispanic, his inclusion in the Department would contribute to a diverse workforce, improving policing in Chicago’s communities in many ways.

Findings of Fact

The Appeal was timely filed within 60 calendar days from the date on the notice, as required by Section 2-84-035(b) of the Municipal Code of Chicago.

OPSA did not submit a response, and therefore, the Department is “deemed to stand on the bases for disqualification and evidence in support thereof already in the record.” (Police Board Rule of Procedure VII-E.) OPSA’s Candidate Background Investigation Summary provides the following information:

Applicant was employed as a police officer for the CPD from July 17, 2017 through his resignation date, October 23, 2022, and has worked as a police officer for NPD Department (“NPD”) since October 24, 2022.

Applicant’s NPD Employment History

NPD Deputy Chief [Name redacted] was asked by OPSA investigators on a written form whether he “would re-employ Applicant.” [Name redacted] replied that he would not.

[Name redacted] marked Applicant's dependability as "poor," and Applicant's work performance, personal relationships and personal integrity, as "fair."

Abuse of Sick Leave

According to [Name redacted], while employed with NPD, Applicant was cited for Abuse of Sick Leave on two occasions. Under NPD policy, it is considered "abuse of sick leave" if an officer calls in sick before/after scheduled days off three or more times in a 12-month period. Applicant did this four times between April and November 2023 – on April 12, 2023, June 26, 2023, September 6, 2023, and November 4, 2023. According to [Name redacted], Applicant's September 6, 2023 sick day constituted the third time in a 12-month period in which he called in sick before/after scheduled days off, and on September 12, 2022, NPD issued their finding that Applicant had thus committed his first policy violation. No disciplinary action was taken --Instead, he was required to attend a formal counseling session. At that time, [Name redacted] advised Applicant that any future violations of the policy would result in disciplinary action. Consequently, when Applicant then took his November 4, 2023 sick day before his scheduled day off, [Name redacted] issued Applicant an oral reprimand for abuse of sick leave. The reprimand was issued on November 17, 2023, and at that time, [Name redacted] warned Applicant that as a probationary officer, any future disciplinary issues could result in his dismissal from NPD.

Applicant's argument that since Applicant's NPD disciplinary history only lists the disciplinary dates of September 12, 2023, and November 17, 2023, and not the dates he took the four sick days, is a nonstarter. It is clear from OPSA's Candidate Background Summary that September 12, 2023 was the date NPD prescribed a counseling session for his September 6, 2023 absence and that November 17, 2023 is the date NPD issued the discipline for misuse of his

November 4, 2023 sick day.

When interviewed by OPSA investigators on May 18, 2024 pertaining to the four sick days discussed above, Applicant admitted that he called in sick on those days to take care of his daughter. Although Applicant argues that used his sick days validly, he does not refute that he took each of those sick day before or after scheduled time off.

Tardiness

In addition, Applicant was cited by NPD for being late for work on three occasions: On June 28, 2023, he was given a Warning with no disciplinary punishment; On June 30, 2023, he was issued an Oral Reprimand, and on July 13, 2023, he was issued a Written Reprimand.

Applicant's CPD Employment History

Tardiness

Applicant received counseling for failing to properly return to duty after an approved furlough in January 2022. During counseling, a sergeant explained the importance of returning to duty when authorized, and reviewed CPD Rule 28 with Applicant (Being absent from duty without proper authorization).

On May 14, 2022, while detailed to the Police Academy, Applicant was not present for roll call at 1700 hours. He arrived, ready for deployment, at 1815 hours. Applicant received a SPAR (Summary Punishment Action Report) for tardiness. According to Applicant, a SPAR is an "alternative disciplinary procedure." Applicant does not indicate in his Appeal that he challenged the SPAR.

OPSA investigators interviewed CPD Sergeant Spisak pertaining to Applicant's promptness while working at the Academy. Spisak related that Applicant had "tardiness issues."

Applicant's "Sustained" Misconduct Finding

The Civilian Office of Police Accountability ("COPA") "sustained" two charges against Applicant. COPA found that during a violent arrest on April 26, 2021, Applicant committed Operation/Personnel Violations Neglect of Duty for failing to timely activate his body worn camera, and also failed to wear the required surgical mask or face covering. These two "sustained" charges were found to have violated CPD Rule 5 (Failure to Perform any Duty), Rule 10 (Inattention to Duty), and Rule 12 (Failure to Wear the Uniform as Prescribed).

Cases Cited by OPSA Where Allegations Against Applicant were "Not Sustained"

In April, 2021, Applicant was accused by his former girlfriend of failing to disclose he had Herpes and transmitting the disease to her, which is not a violation of CPD Rules and Regulations. In August, 2021, Applicant was accused of threatening to arrest a complainant for not complying with Applicant's request to direct the complainant's employees to stop looking at women who were walking past the complainant's restaurant.

Both the April, 2021 and August 2021 complaints were "not sustained."

Conclusions of Law

Pursuant to the Municipal Code of Chicago ("MCC") 2-84-035(c), the standard of review for appeals of disqualification and removal of an applicant's name from the Eligibility List is that the Applicant shall have the burden of showing, by a preponderance of the evidence, that the Department's decision to remove the Applicant from the Eligibility List was erroneous. Pursuant to Police Board Rule of Procedure VII.B, any facts, evidence, or arguments omitted from Applicant's Appeal are deemed waived.

OPSA determined that Applicant's conduct constituted disqualification and articulated the Standards by which the conduct was assessed by section and paragraph.

Basis #1 (Standard IV.D. Disqualification Based on Prior Employment History)

Applicant's Appeal does not effectively allege that OPSA's finding as to Basis #1 was erroneous.

Standard IV.D states, in part, "a steady employment history is an indication that, among other things, an applicant has the ability to... follow workplace rules... and come to work on time and on a regular basis." Thus, an applicant who during previous employment has been disciplined for "excessive absenteeism or tardiness," failed to "follow regulations," "engaged in any conduct that would have violated the CPD Rules and Regulations had the applicant been a CPD employee," or had "a history of sporadic employment evidenced by frequent changes in employment of short duration," may be found unsuitable for employment. OPSA alleged facts supporting each of those allegations. Applicant's disqualification was not "arbitrary" as Applicant claims.

OPSA effectively cites the following conduct to support its conclusion that Applicant violated Standard IV.D:

Applicant's Past Discipline for "Excessive Absenteeism or Tardiness"

Both NPD and CPD disciplined Applicant for excessive absenteeism or tardiness.

While working for NPD, Applicant violated NPD policy when on the last two of four occasions in a 12-month period, he called in sick or took a personal day before or after a scheduled day off, or before or after scheduled overtime. After the third incident, Applicant was advised that any future violations would result in disciplinary action. After the fourth incident,

Applicant received an Oral Reprimand – a form of discipline. In addition, Applicant received a Written Reprimand, another form of discipline, for being late to work on July 13, 2023. Clearly, his NPD disciplinary history shows he was disciplined twice for “excessive absenteeism or tardiness,” and failed to “follow regulations,” in violation of the Standard.

Though CPD policy regarding taking sick/personal days off before/after scheduled days off may differ from NPD policy, his tardiness reprimand could certainly have amounted to violations of CPD Rule 29 (Failure to be prompt for duty assignment, including roll call and court appearance). While Applicant’s Appeal argues that Applicant took these personal or sick days for valid reasons, and that each day off was authorized by immediate supervisors, Applicant does not refute that these absences occurred before or after a scheduled day off or scheduled overtime, and that he was disciplined for them.

Likewise, Applicant’s CPD employment history shows he was disciplined for tardiness on May 14, 2022, after receiving counselling for a prior incident. For the May 14, 2022 incident, Applicant does not dispute that he received a SPAR, an alternative disciplinary procedure, that found him in violation of Rule 28 (Being Absent from duty without proper authorization). Furthermore, a CPD Sergeant confirmed to OPSA investigators that Applicant had tardiness issues while assigned to the Academy.

Applicant’s Further Failure to “Follow Regulations”

COPA “Sustained” findings pertaining to charges alleging Applicant’s failure to timely activate his body worn camera during a violent arrest, and his failure to wear the required surgical mask or face covering, in violation of CPD Rule 5 (Failure to Perform any Duty), Rule 10 (Inattention to Duty), and Rule 12 (Failure to Wear the Uniform as Prescribed). These findings show Applicant violated Standard IV.D. in that he failed to “follow regulations,” and

“engaged in conduct that “violated the CPD Rules and Regulation.” Applicant does not address these findings in his Appeal.

Applicant’s History of Sporadic Employment

OPSA was within its right to find that Applicant had “a history of sporadic employment evidenced by frequent changes in employment of short duration.” Applicant’s Candidate Background Investigation Summary shows that he was employed with CPD for a little over five years when he resigned and joined NPD in October, 2022. Three years later, he seeks to return to CPD.

Cases Cited by OPSA Where Allegations Against Applicant were “Not Sustained”

Applicant argues that OPSA improperly considered the two allegations detailed above that were found “Not Sustained,” and that consequently, “the disqualification must be reversed.” OPSA’s Standard IV.B(1) provides that for allegations involving criminal conduct, “it is the conduct itself, not the fact that the applicant was convicted, that makes the applicant unsuitable for employment,” and that, “an applicant may be disqualified from consideration for a police officer position if there is evidence that the applicant has engaged in criminal conduct, even if the applicant was never convicted of any criminal offense. Here, beyond the complainants’ initial complaints in both cases, OPSA does not set forth evidence that Applicant engaged in criminal conduct. Thus, the Police Board should not consider these cases when assessing Applicant’s disqualification. However, Applicant’s contention that consequently, “the disqualification must be reversed,” lacks merit -- There are numerous grounds for Applicant’s disqualification aside from the conduct alleged in these two cases and therefore,

Basis #2 (Standard IV.H.1 and 4 - Disqualification Based on Other Conduct)

Standard IV.H.1 states, in part, “an Applicant who has engaged in conduct that exhibits 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. Standard IV.H.4 states, “any applicant who has engaged in conduct affecting public health, safety and decency, including but not limited to disorderly conduct, illegal gambling, child endangerment or other offenses may be found unsuitable for employment.

Pertaining to Standard IV.H.4, OPSA fails to provide any supporting evidence or sustained findings that Applicant engaged in any of the above quoted prohibited conduct listed in the Standard. Police Board Rule of Procedure VII.E. provides that any facts, evidence, or arguments omitted from the Department’s Notice and Response are deemed waived.

However, OPSA was within its rights to disqualify Applicant pursuant to Standard IV.H.1. To support its disqualification pursuant to Standard IV.H.1, OPSA’s Disqualification Decision repeats the same disqualifying conduct alleged to have violated Standard IV D. As set forth above, OPSA successfully alleged that Applicant is unsuitable for employment based on Standard IV.D. Even if the traits detailed in Basis #1 was insufficient, by themselves, to lead to a finding that Applicant is unsuitable for employment, Applicant does not show that OPSA erroneously concluded that his combination of traits, taken as a whole, render him unsuitable for rehire as a Chicago police officer. Therefore, Applicant fails to show that the decision to remove him from the Eligibility List for rehire pursuant to Basis #2 was erroneous.

Conclusion

Applicant does not deny most of the supporting facts OPSA uses to justify its

Disqualification Decision. Although Applicant is correct that OPSA should not have considered the facts contained in the two CPD BIA cases that were “not sustained,” the remaining evidence cited in OPSA’s Disqualification Decision overwhelmingly supports its decision to disqualify Applicant from the Eligibility List for rehire.

Instead of successfully refuting the rest of OPSA’s factual basis, Applicant provides numerous recommendations from former CPD and NPD supervisors vouching for his excellence and reliability as a police officer. Additionally, he provides several policy arguments asserting that as an Hispanic, he has suffered from systemic bias, and rehiring him would be in the best interest of the Department and communities it serves. However, these recommendations and policy arguments fail to specify “why the Department erred in the factual determination underlying the decision,” or bring to the Board’s attention facts “directly related to the reason(s) for the disqualification decision.”⁶

Applicant characterizes his disqualification as “arbitrary,” and argues that the Department based its decision on “unsupported and unverified allegations from decades past.” His characterizations are without foundation. OPSA’s Disqualification Decision shows that its allegations, all stemming from incidents that occurred during the last five years, are supported by facts and verified by Department personnel.

Based upon the details provided in OPSA’s Disqualification Decision, Applicant’s prior employment history is grounds for disqualification based on Sections IV.D and IV.H of OPSA’s Standards. Applicant submitted no additional facts in his Appeal to support a contention that OPSA erred in disqualifying him. Applicant failed to meet his burden of showing, by a preponderance of the evidence, that the decision to remove him from the Eligibility List for

⁶ As required by Police Board of Chicago Rules of Procedure VII.B.

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rehire was erroneous.

Recommendation

Based on the findings and conclusions set forth above, I recommend that the decision to disqualify Applicant for rehire be **AFFIRMED**.

Respectfully submitted,

/s/LAUREN A. FREEMAN
Appeals Officer

Date: March 14, 2025

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, Claudia Badillo, Steven Block, Tyler Hall, Kathryn Liss, Arlette Porter, Andreas Safakas, and Cynthia Velazquez) 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, Claudia Badillo, Steven Block, Tyler Hall, Kathryn Liss, Arlette Porter, Andreas Safakas, and Cynthia Velazquez.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF MARCH 2025.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director