

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER GEORGE PORTER,) **No. 13 PB 2839**
STAR No. 18680, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1026926)**
RESPONDENT.)

FINDINGS AND DECISION

On August 23, 2013, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer George Porter, Star No. 18680 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 1: Violation of any law or ordinance.
- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

The Police Board caused a hearing on these charges against the Respondent to be had before Thomas E. Johnson, Hearing Officer of the Police Board, on July 22, 2014.

Following the hearing, the members of the Police Board read and reviewed the record of the proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Johnson made an oral report to and conferred with the Police Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the

Department of Police of the City of Chicago.

2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.

4. The Respondent filed a “Laches Motion to Bar Charges for Disparate Treatment” requesting that the charges filed against him be dismissed. The Respondent’s motion is **denied** for the reasons set forth below.

The Respondent’s motion is styled as a “laches motion,” but laches requires the Respondent to demonstrate that a delay between the dates of the alleged offenses and the Police Board’s hearing has caused him prejudice, in terms of his ability to present his defense to the charges served upon him. So, for example, the Respondent must show that delay caused the loss of witnesses or other critical evidence. *Nature Conservancy v Wilder*, 656 F3d 646 (7th Cir. 2011). Private parties and public agencies are not on an equal footing when it comes to the application of the laches doctrine. Many cases, including *Van Milligan v Board of Fire and Police Commissioners of the Village of Glenview*, 158 Ill.2d 85 (1994), hold that laches can only be invoked against a municipality under “compelling” or “extraordinary” circumstances. The party invoking the doctrine of laches has the burden of pleading and proving the delay and the prejudice. *Hannigan v Hoffmeister*, 240 Ill.App.3d 1065, 1074 (1st Dist., 1992).

Here, the Respondent does not assert either delay or any prejudice in maintaining his defense. Rather, his motion claims that the Police Department, its Internal Affairs Division, and the Circuit Court treated him in an unwarranted, overly harsh and retaliatory manner, allegedly

because complaining witness Officer Linda Nunez had relationships with persons in authority at the Department. The Respondent, however, does not allege that the Police Board is biased against him or is part of this campaign of revenge. In fact, the Police Board sits to hear evidence *de novo*, whether in the form of testimony or documents. If the Internal Affairs Division of the Police Department or other agencies of government treated the Respondent unfairly, in terms of wrongly charging him with a crime, setting an unreasonable bail, or pursuing him on charges that should not have been filed, it will have no effect on the Police Board proceedings, and thus does not warrant dismissal of the charges against the Respondent. If the Superintendent cannot prove, by reliable evidence, the charges against the Respondent, then the Respondent must be acquitted. His guilt or innocence here is determined only by the evidence presented. As such, the Respondent's motion to dismiss is hereby denied.

5. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about May 23, 2009, at or about 18:47 hours, at an Automated Teller Machine ("ATM") at or near a CVS Pharmacy near 2475 South Western Avenue, in Chicago, you knowingly obtained or exerted unauthorized control over property of another, and/or obtained by deception control over property of another, in that you withdrew about \$203.00 (including service fees) from Police Officer Linda Nunez's Founders Bank account, including by promising and/or representing that you would use said funds to purchase groceries for her and return the rest, when you did not do so. You did so intending to permanently deprive Officer Nunez of the use or benefit of said funds, and/or you knowingly used some or all of said funds in such a manner as to permanently deprive Officer Nunez of their use or benefit, and/or knowing that such use would probably permanently deprive her of their use and benefit, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009, in violation of 720 ILCS 5/16-1(a).

There is no dispute in this case that the Respondent used Officer Nunez's ATM card on May 23, 2009, and May 25, 2009, to obtain cash in the amount of \$800.00 (plus \$12.00 in service fees), which he did not repay. There is also no dispute that the Respondent gambled away a significant part of this cash at the Blue Chip Casino. The Respondent contends that Officer Nunez gave him her ATM card and PIN in April of 2009, with an open-ended invitation to use the card as he wished, as long as he paid her back. He claims that he did not pay her the money back in this instance because of a "no contact" order imposed upon him by his superiors (Lieutenant Robert Weiskopf and Sergeant Mary Conley).

The Board does not credit the Respondent's testimony, and finds his testimony not believable. Rather, the Board credits the testimony of Officer Linda Nunez, who says that she gave her ATM card and PIN to the Respondent on May 23, 2009, so that he could buy groceries, as she was feeling quite ill. Indeed, she was hospitalized early the next morning and remained in the hospital until May 26, 2009. Officer Nunez testified convincingly that she did not know the Respondent had used her ATM card on May 25, 2009, until she went to pay her mortgage and found that virtually her entire bank account had been spent. She demanded repayment, and the Respondent did not repay her with his next paycheck or at any time, up until the present time.

Officer Nunez's testimony is corroborated by the check she gave the Respondent, in the amount of \$200, on May 18, 2009. If, as Respondent contends, he had Officer Nunez' ATM card beginning in April, with carte blanche authority to use it, there would be no need for Officer Nunez to issue him a personal check on May 18, 2009. Her testimony is also corroborated by the fact that the Respondent took \$200 on May 23, 2009, to buy Diet Coke and Slim Fast (and an inexpensive meal for himself), according to his own testimony. These purchases were not close

to \$200 in value, so it is clear that the money was taken for other purposes. The Board credits Officer Nunez's testimony that the Respondent never returned any portion of the \$200 obtained on May 23, 2009.

Nor does the Board believe that the "no contact" order issued by the Department on June 3, 2009, prevented repayment of the monies the Respondent stole. The Board credits the unimpeached testimony of Sergeant Conley, who issued the order, in which she said that she told the Respondent he could pay the money back through the Lieutenant or the Sergeant at the Department, without having contact with Officer Nunez and therefore without violating the "no contact" order. The Board further credits Sergeant Conley's testimony that the Respondent told her on June 3, 2009, that he had gambled away his June 1, 2009, paycheck and thus had no money to repay Officer Nunez.

The Board recognizes that the Circuit Court directed a finding against the State on those criminal charges leveled against the Respondent for his theft, but the decision of the Circuit Court does not bind the Police Board, as different rules apply there and different parties are involved. By a preponderance of the evidence, the Superintendent has demonstrated that the Respondent stole a fellow officer's money, while she was sick and in the hospital, failed to inform her of what he did, and failed to repay her.

6. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about May 25, 2009, at our about 15:42 hours, at an ATM at or near a

Walgreen's Pharmacy near 2345 West 103rd Street, in Chicago, you knowingly obtained or exerted unauthorized control over property of another, and/or obtained by deception control over property of another, in that you withdrew about \$203.00 (including service fees) from Police Officer Linda Nunez's Founders Bank account, while she was hospitalized at Metro South Hospital and unaware of your actions at the time. You did so intending to permanently deprive Officer Nunez of the use or benefit of said funds, and/or you knowingly used some or all of said funds in such a manner as to permanently deprive Officer Nunez of their use or benefit, and/or knowing that such use would probably permanently deprive her of their use and benefit, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009, in violation of 720 ILCS 5/16-1(a).

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

7. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about May 25, 2009, at our about 18:54 hours, at an ATM at or near Blue Chip Casino near 2 Easy Street, in Michigan City, Indiana, you knowingly or intentionally exerted unauthorized control over property of another, in that you withdrew about \$203.00 (including service fees) from Police Officer Linda Nunez's Founders Bank account, while she was hospitalized at Metro South Hospital and unaware of your actions at the time. You did so intending to deprive Officer Nunez of all or part of the value or use of said funds, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009, in violation of Indiana Code ("IC") 35-43-4-2(a).

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

8. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about May 25, 2009, at our about 21:15 hours, at an ATM at or near Blue Chip Casino near 2 Easy Street, in Michigan City, Indiana, you knowingly or intentionally exerted unauthorized control over property of another, in that you withdrew about \$203.00 (including service fees) from Police Officer Linda Nunez's Founders Bank account, while she was hospitalized at Metro South Hospital and unaware of your actions at the time. You did so intending to deprive Officer Nunez of all or part of the value or use of said funds, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009, in violation of Indiana Code ("IC") 35-43-4-2(a).

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

9. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count V: Between May 23, 2009, and May 26, 2009, for some or all of that time period, you possessed another person's check guaranty, key, or identification card for cash dispensing machines without the authority of the account holder or financial institution and with intent to defraud, in that you possessed Officer Nunez's Founders Bank account card and/or Personal Identification Number ("PIN") thereto, without her or Founders Bank's authority and with intent to defraud, in violation of then-existing 720 ILCS 5/17-1(C)(4).

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

10. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count VI: Between May 23, 2009, and May 26, 2009, for some or all of that time period, you knowingly or intentionally possessed and/or used Officer Nunez's identifying information, including her Founders Bank account card and/or PIN thereto, without her consent and with intent to harm or defraud her, in violation of IC 35-43-5-3.5.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

11. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about May 23, 2009, at our about 18:47 hours, at an Automated Teller Machine ("ATM") at or near a CVS Pharmacy near 2475 South Western Avenue, in Chicago, you withdrew about \$203.00 (including service fees) from Officer Nunez's Founders Bank account using deception, including by promising and/or representing that you would use said funds to purchase groceries for her and return the rest, when you did not do so. Instead, you kept and/or used said funds for your own purposes, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

12. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about May 25, 2009, at our about 15:42 hours, at an ATM at or near a Walgreen's Pharmacy near 2345 West 103rd Street, in Chicago, you withdrew about \$203.00 (including service fees) from Officer Nunez's Founders Bank account without her authorization, including because she was hospitalized at Metro South Hospital and unaware of your actions at the time. You kept and/or used said funds for your own purposes, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

13. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about May 25, 2009, at our about 18:54 hours, at an ATM at or near Blue Chip Casino near 2 Easy Street, in Michigan City, Indiana, you withdrew about \$203.00 (including service fees) from Officer Nunez's Founders Bank account without her authorization, including because she was hospitalized at Metro South Hospital and unaware of your actions at the time. You kept and/or used said funds for your own purposes, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

14. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about May 25, 2009, at our about 21:15 hours, at an ATM at or near Blue Chip Casino near 2 Easy Street, in Michigan City, Indiana, you withdrew about \$203.00 (including service fees) from Officer Nunez's Founders Bank account without her authorization, including because she was hospitalized at Metro South Hospital and unaware of your actions at the time. You kept and/or used said funds for your own purposes, including but not limited to by losing some or all of said funds gambling at the Blue Chip Casino on or about May 25, 2009.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

15. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count V: Between May 23, 2009, and May 26, 2009, for some or all of that time period, you possessed Officer Nunez's Founders Bank account card and/or PIN without her authority.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

16. The Respondent, Police Officer George Porter, Star No. 18680, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count VI: On or about May 25, 2009, you withdrew \$609.00 (including service fees) from Officer Nunez's Founders Bank account without her knowledge and/or authorization, while knowing that she was hospitalized at Metro South Hospital.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

17. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and the Respondent's complimentary and disciplinary histories (attached hereto as Exhibit A). The Board determines that the Respondent must be discharged from his position due to the serious nature of the conduct of which it has found him guilty.

The Respondent knowingly committed several acts of theft of funds and then lost the money gambling. He exhibited a significant lack of integrity, honesty, and trustworthiness, and his conduct is incompatible with continued service as a police officer. Permitting the Respondent to remain on the job would tend to undermine public confidence in the honesty and integrity of the police force.

The Respondent offered the following evidence in mitigation, which the Board has considered: his complimentary history, as well as testimony that he cared for Officer Nunez and called 911 on the morning of May 24, 2009, when she was hospitalized. However, the Respondent's accomplishments as a police officer and his complimentary history do not mitigate the seriousness of his misconduct, which is compounded by his prior disciplinary history (a thirty-day suspension—see Respondent's Ex. No. 2).

The Board finds that the Respondent's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something which the law recognizes as good cause for him to no longer occupy his office.

POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By a vote of 7 in favor (Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney) to 0 opposed, the Board **denies** the Respondent's motion to dismiss the charges; and

By votes of 7 in favor (Carney, Foreman, Conlon, Eaddy, Fry, Rodriguez, and Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 1 and Rule 2.

As a result of the foregoing, the Board, by a vote of 7 in favor (Carney, Foreman, Conlon, Eaddy, Fry, Rodriguez, and Sweeney) to 0 opposed, hereby determines that cause exists for discharging the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer George Porter, Star No. 18680, as a result of having been found **guilty** of the charges in Police Board Case No. 13 PB 2839, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF SEPTEMBER, 2014.

Police Board Case No. 13 PB 2839
Police Officer George Porter

Attested by:

/s/ DEMETRIUS E. CARNEY
President
Police Board

/s/ MAX A. CAPRONI
Executive Director
Police Board

DISSENT

The following members of the Police Board hereby dissent from the Findings and Decision of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2014.

GARRY F. McCARTHY
Superintendent of Police

Report Date: 22 Aug 2013
 Report Time: 1228 Hrs

Chicago Police Department Personnel Division



Information Services Division
 Data Warehouse
 Produced by: PC0U989

Complimentary History

Name	Title	Star	Unit	Detail Unit	Emp Number
PORTER, GEORGE J	9161	18680	018	166	[REDACTED]

Achievements

2004 CRIME REDUCTION RIBBON
DEMOCRATIC NATIONAL CONVENTION AWARD
NATO SUMMIT SERVICE AWARD
LIFE SAVING AWARD
HONORABLE MENTION
2009 CRIME REDUCTION AWARD
TOTAL AWARDS

Total No.

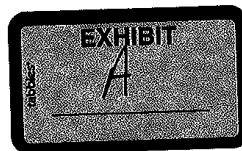
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13-2839

FOR USE WITH POLICE BOARD

CR# 1026926.



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22-AUG-2013 12:35:46 PM

CHICAGO POLICE DEPARTMENT
Sustained Complaints History Report

IADRL18

<u>Social Sec. #</u>	<u>Name</u>	<u>Star #</u>	<u>Emp. #</u>	<u>Rank</u>	<u>Description</u>	<u>Unit</u>
[REDACTED]	PORTER GEORGE J.	18680	[REDACTED]	9161	POLICE OFFICER	166
<u>Sex</u>	<u>Race</u>	<u>Birth Date</u>	<u>Appointed Date</u>	<u>No. Of CR's</u>	<u>No. Of SPAR's</u>	
M	BLACK	[REDACTED]	05-DEC-1994	0	0	

[Thirty-day suspension. Police Board Case No. 06 SR 2150, CR No. 288643]

FOR USE WITH POLICE BOARD #13-2839