

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
DETECTIVE JAMIE E. DUIGNAN,) **No. 15 PB 2894**
STAR No. 21417, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1068638)**
RESPONDENT.)

FINDINGS AND DECISION

On September 14, 2015, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Detective Jamie E. Duignan, Star No. 21417 (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.
- Rule 6: Disobedience of an order or directive, whether written or oral.

The Police Board caused a hearing on these charges against the Respondent to be had before Hearing Officer Jacqueline A. Walker on June 29, 2016.

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 Walker 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 detective by the Department of Police of the City of Chicago.
2. The written charges in this case (“Charges”), and a Notice stating when and where a hearing on the Charges was to be held, were personally 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 Motion to Strike and Dismiss (“Motion”) requesting that the Charges filed against her be stricken and the case dismissed. In her Motion, Respondent argued that the Superintendent’s Charges in the present case were barred by the principle of *res judicata*, because the Charges should have been brought in a previous case (Police Board Case No. 14 PB 2872). Respondent’s Motion also argued that the Charges in the present case were barred by the principle of collateral estoppel, because the issue of whether Detective Duignan knowingly and voluntarily engaged in the misconduct charged was fully litigated in the previous case.

The charges in the previous case against Detective Duignan, Case No. 14 PB 2872, involved two incidents. The first occurred on March 17, 2013, in which Detective Duignan was alleged to have disobeyed a direct order and to have sworn at her supervisor. The second occurred on May 30, 2013, in which Detective Duignan is alleged to have disobeyed a written order to report to the Bureau of Internal Affairs. In its Findings and Decision disposing of the previous charges, the Police Board found that, based on the un rebutted testimony of Dr. Robert Shulman, a qualified expert in psychiatry, Detective Duignan was not guilty of the charges because she was unable to understand the orders given to her due to her mental condition. In the previous case, Dr.

Shulman testified that Detective Duignan was suffering from her mental condition from March of 2013 through approximately early June of 2014, which covered the dates of the incidents giving rise to the charges in that case. However, Dr. Shulman also testified, based on an examination of Detective Duignan in September 2014, that Detective Duignan had been in remission from her mental condition since at least early June of 2014.

The Charges in the present case also involved two incidents. The first occurred on April 16, 2014, in which Detective Duignan is alleged to have concealed and removed her children from her husband. The second occurred on September 19, 2014, in which Detective Duignan is alleged to have failed to comply with a written order to report to the Bureau of Internal Affairs. The hearing on the present Charges took place on June 29, 2016. No expert medical testimony was proffered at the June 29, 2016 hearing. Instead, at the June 29, 2016 hearing in the present case, the parties stipulated to the admissibility of the testimony Dr. Shulman gave in the previous case.

In her Motion, Respondent seeks the dismissal of the Charges in the present case on grounds of *res judicata*. A case will be dismissed under the principle of *res judicata* where: (1) there was a final judgment on the merits in a previous case rendered by a court of competent jurisdiction, (2) the causes of action (or charges) in the previous and present cases are identical; and (3) the parties in the previous and present cases are identical. *River Park, Inc. v. City of Highland Park*, 184 Ill.2d 290, 302 (1998). Illinois applies the “transactional” test to determine whether the causes of action in the previous and present cases are identical. *River Park, Inc.*, 184 Ill.2d at 302. Under the transactional test, “separate claims will be considered the same cause of action for purposes of *res judicata* if they arise from a single group of operative facts, regardless of whether they assert different theories of relief.” *Id.* at 310-11.

The Board denies Respondent’s Motion on *res judicata* grounds, because the Charges in

the present case and the charges in the previous case, Police Board Case No. 14 PB 2872, are not identical and do not arise from the same core of operative facts. The charges in the previous case alleged that (1) on March 17, 2013, Detective Duignan failed to obey an order and engaged in profane and belligerent conduct, and (2) on May 30, 2013, she failed to report to the Bureau of Internal Affairs as ordered. The Charges in the present case alleged that (1) on April 16, 2014, Detective Duignan concealed and removed her children from her husband, and (2) on September 19, 2014, Detective Duignan failed to report to the Bureau of Internal Affairs as required by written order. The incidents that led to the First and Second Cases are entirely separate and distinct. The written order that she was alleged to have disobeyed in the present case was not the same order at issue in the previous case, and the alleged misconduct in the present case occurred more than a year after the misconduct at issue in the previous case. Furthermore, the previous case did not involve the alleged concealment and removal of her children. As a result, the Charges in the present case and the charges in the previous case are not identical and they do not arise from a single group of operative facts. For these reasons, Respondent's Motion based on *res judicata* is denied.

Respondent's Motion also seeks dismissal of the Charges in the present case based on the principle of collateral estoppel. Collateral estoppel will apply to bar the re-litigation of an issue that has been resolved in a previous case, so long as (1) the issue decided in the previous case was identical to an issue in the present case; (2) there was a final judgment on the merits in the previous case; and (3) the party against whom the doctrine is asserted was a party to the previous case. *State Building Venture v. O'Donnell*, 239 Ill. 2d 151, 158 (2010).

Detective Duignan argues in her Motion that the principle of collateral estoppel applies to bar re-litigation of the issue of her mental capacity because that issue was resolved in the previous

case. However, the issue of Detective Duignan's mental condition in the previous case is not identical to the present case. The issue in the previous case was whether Detective Duignan suffered from her mental condition on the dates of the alleged incidents, which were March 17, 2013, and May 30, 2013. The issue in the present case was whether Detective Duignan suffered from her mental condition on April 16, 2014 and September 19, 2014. While Dr. Shulman testified in the previous case that Detective Duignan suffered from her mental condition between March 2013 and early June 2014, he also testified that she had been in remission since early June 2014. Thus, according to Dr. Shulman's testimony, Detective Duignan was not suffering from her mental condition on September 19, 2014, the date of the second incident giving rise to the Charges in the present case. Since Detective Duignan's Motion sought the dismissal of all Charges in the present case, including those relating to the incident on September 19, 2014, the Motion is denied, because the issue of Detective Duignan's mental condition on September 19, 2014 was not litigated in the previous case. Nevertheless, as set forth below in relation to the Board's findings of guilt and innocence, the Board concludes that Dr. Shulman's testimony regarding Detective Duignan's mental condition does apply to the first of the two incidents involved in the present Charges, which occurred on April 16, 2014.

5. The Respondent, Detective Jamie E. Duignan, Star No. 21417, charged herein, is **not guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

On or about April 16, 2014, Detective Jamie E. Duignan intentionally concealed or removed one or more of her children from her husband, Sergeant Mark Duignan, after she filed a petition in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody, in violation of Chapter 720 of the Illinois Compiled Statutes,

Section 5/10-5(b)(4), thus violating any law or ordinance.

The parties filed a Stipulation in this matter, wherein the testimony of Dr. Robert Shulman in the prior case against Detective Duignan, Police Board Case No. 14 PB 2872, would be admitted in this proceeding. Dr. Shulman, Director of Clinical Services of the Department of Psychiatry at Rush University Medical Center, testified as a qualified expert in psychiatry, and as Detective Duignan's treating psychiatrist following her involuntary commitment in April 2014 to Rush University Medical Center pursuant to a court ordered writ of detention. Dr. Shulman testified that Detective Duignan suffered from Acute Psychosis Delusional Disorder secondary to a general medical condition, Huntington's Disease, an organic condition, which rendered her delusional in March 2013 through early June 2014. That period of time included April 16, 2014, which was the date on which she allegedly engaged in the conduct giving rise to this Count. Dr. Shulman's testimony was credible, and unrebutted. Based on the psychiatric evidence in the form of the unrebutted expert testimony of Dr. Shulman, the Board finds that, due to her delusional state, Detective Duignan lacked the mental capacity to violate Chapter 720 of the Illinois Compiled Statutes, Section 5/10-5(b)(4). Therefore, she is found not guilty of the Charges in this Count.

6. The Respondent, Detective Jamie E. Duignan, Star No. 21417, charged herein, is **not 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 did not prove by a preponderance of the evidence the following charge:

Count I: On or about April 16, 2014, Detective Jamie E. Duignan removed or concealed or attempted to conceal the whereabouts of her two minor children from her husband, and/or left home with her two minor children and told her husband words to the effect that he would not

see his children again and/or she was leaving with the children and/or she was leaving the state with the children, thus impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the Department.

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

7. The Respondent, Detective Jamie E. Duignan, Star No. 21417, 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 September 19, 2014, Detective Jamie E. Duignan failed to comply with a written direct order by Sergeant Dwayne Johnson to report to the Bureau of Internal Affairs for a statement regarding Complaint Register number 1068638, thus impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the Department.

Dr. Shulman testified in the stipulated testimony that, on September 29, 2014, when he last examined her, Detective Duignan's symptoms of psychosis had totally disappeared since early June 2014, and her condition was in remission, with no evidence of illness.

Furthermore, the Department presented competent testimony from Sergeant Dwayne Johnson that he properly sent the written order to appear at the Bureau of Internal Affairs to Detective Duignan at the address at which she was then residing. Additionally, Sergeant Johnson testified that Detective Duignan subsequently called him by telephone, identified herself, acknowledged receiving the notice, but failed to appear at the Bureau of Internal Affairs as ordered.

Based on the psychiatric evidence in the form of the un rebutted expert testimony of Dr. Shulman and on the credible testimony of Sergeant Johnson, the Board finds that Detective

Duignan possessed the mental capacity to understand a written order to appear at the Bureau of Internal Affairs, that she received Sergeant Johnson's direct order, and that she willfully disobeyed his direct order. Therefore, she is found guilty of the Charges in this Count.

8. The Respondent, Detective Jamie E. Duignan, Star No. 21417, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,
in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about September 19, 2014, Detective Jamie E. Duignan failed to comply with a written direct order by Sergeant Dwayne Johnson to report to the Bureau of Internal Affairs for a statement regarding Complaint Register number 1068638, thus disobeying an order or directive, whether written or oral.

See the findings set forth in paragraph no. 7 above, which are incorporated here by reference.

9. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation.

The testimony of several mitigation witnesses was made part of the record in this case. A sergeant who supervised Detective Duignan testified that she was smart and dedicated, and was an "ideal detective" and "a superstar." One fellow detective who worked with Detective Duignan testified that she was dedicated and well-liked, and another fellow detective testified that she performed excellent work and was of outstanding character. All three witnesses stated that they had no reservations about working with Detective Duignan in the future. In addition, Detective Duignan has received a total of 13 Department awards (including 3 commendations and 3 honorable mentions) and she has no sustained complaints on her disciplinary history.

However, Detective Duignan's accomplishments as a police officer and these positive evaluations of her do not mitigate the seriousness of her misconduct. The Board finds that the Respondent's disobedience of a direct order warrants her discharge from the Chicago Police Department. A police officer's single violation of a rule of conduct has long been held to be a sufficient basis for termination. *Siwek v. Police Board of the City of Chicago*, 872 N.E.2d 87 (2007), citing *Kinter v. Board of Police and Fire Commissioners*, 194 Ill. App. 3d 126 (1990), *King v. City of Chicago*, 60 Ill. App. 3d 504 (1978), and *Moriarty v. Police Board of the City of Chicago*, 7 Ill. App. 3d 978 (1972). A police department, as a paramilitary organization, can function effectively only if its officers obey orders. Willfully disobeying a direct order, as the Respondent has done in this case, impairs the effective operation of the Department and undermines its ability to investigate allegations of misconduct and hold officers accountable for violating the Department's Rules of Conduct. All police officers have a duty to obey all lawful orders, and the Respondent's intentional disobedience in this case is incompatible with continued service as a police officer, and renders her unfit to hold that office.

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

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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 (Lori E. Lightfoot, Ghian Foreman, Eva-Dina Delgado, Michael Eaddy, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney) to 0 opposed, the Board denies the Respondent's Motion to Strike and Dismiss;

By votes of 7 in favor (Lightfoot, Foreman, Delgado, Eaddy, Fry, Simpson, and Sweeney) to 0 opposed, the Board finds the Respondent **not guilty** of violating Rule 1 and Rule 2 (Count I); and

By votes of 7 in favor (Lightfoot, Foreman, Delgado, Eaddy, Fry, Simpson, and Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 2 (Count II) and Rule 6.

As a result of the foregoing, the Board, by a vote of 7 in favor (Lightfoot, Foreman, Delgado, Eaddy, Fry, Simpson, and Sweeney) to 0 opposed, hereby determines that cause exists for discharging the Respondent from her position as a detective with the Department of Police, and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Detective Jamie E. Duignan, Star No. 21417, as a result of having been found **guilty** of Charges in Police Board Case No. 15 PB 2894, be and hereby is **discharged** from her position as a detective 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: Lori E. Lightfoot, Ghian Foreman, Eva-Dina Delgado, Michael Eaddy, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney.

Police Board Case No. 15 PB 2894
Detective Jamie E. Duignan

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 8th DAY
OF DECEMBER, 2016.

Attested by:

/s/ GHIAN FOREMAN
Vice President

/s/ MAX A. CAPRONI
Executive Director

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 _____, 2016.

EDDIE T. JOHNSON
Superintendent of Police