

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER ANTHONY B. WILSON,) **No. 17 PB 2937**
STAR No. 5998, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1073548)**
RESPONDENT.)

FINDINGS AND DECISION

On September 19, 2017, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Anthony B. Wilson, Star No. 5998 (hereinafter sometimes referred to as “Respondent”), recommending that 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 25: Failure to actually reside within the corporate boundaries of the City of Chicago.
- Rule 26: Failure to provide the Department with a current address and telephone number.

A hearing on these charges against the Respondent took place before Hearing Officer Allison L. Wood on January 18, 19, and 30, 2018.

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 Wood 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. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon the Respondent not fewer than five (5) days before the date of the initial status hearing.

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

Introduction

4. Respondent has been with the Chicago Police Department since March 9, 2009. He works the midnight shift in the 8th District. Prior to joining the Chicago Police Department, he was living with his then girlfriend, Leah Wilson, at XXXX W. 105th Street, Oak Lawn, Illinois (hereinafter the “Oak Lawn address”). On February 10, 2009, Respondent signed an Employee Residency Affidavit where he listed his address as XXXX W. 107th Street, Chicago, Illinois (hereinafter the “Chicago address”). Respondent married Ms. Wilson in 2011.

In January 2015, the Chicago Police Department received an anonymous tip of a possible residency violation by Respondent. It was alleged that Respondent used the Chicago address as his residence, but that he was actually living at the Oak Lawn address.

The Bureau of Internal Affairs conducted a confidential investigation concerning the allegations raised in the anonymous tip about Respondent’s residency. This investigation consisted of a review of public records, property ownership records, driver’s license records,

utility bills, tax returns, and bank statements in relation to both the Chicago address and the Oak Lawn address. During the period from March 2015 through April 2016 surveillance of these two addresses was conducted (sometimes referred to as “the surveillance period”) and reports were made of activity observed. Respondent was interviewed and gave a statement to the Bureau of Internal Affairs on May 5, 2016, on June 15, 2016, and on July 15, 2016. Respondent denied living at the Oak Lawn address, but he admitted that he made frequent visits to the Oak Lawn address during the surveillance period to see his then-estranged wife, Ms. Wilson, who was living there, and to see his son from a previous marriage, Drew Wilson, who was also living at the Oak Lawn address.

The Board concludes that the evidence presented is insufficient to establish that Respondent actually resided at the Oak Lawn address between January 2015 and April 2016. The Board is not persuaded by the surveillance reports that Respondent was observed 27 times and his car was observed 55 times at the Oak Lawn address during the surveillance period. The Board is persuaded by the following facts as indicative of his lack of intent to be domiciled at the Oak Lawn address: that Respondent did not own the property; there was no evidence that he paid any bills or received any bank statements or other documents at this address; there were no photos or other evidence that he engaged in any activities to maintain the property; and he did not use the property address to file his taxes in 2015. Accordingly, the Board finds Respondent not guilty of violating the residency ordinance, and therefore not guilty of violating Rule 1. The Board also finds that because all of the remaining charges brought by the Superintendent are conditioned upon and linked to the charge that Respondent was residing at the Oak Lawn address, Respondent is also not guilty of violating Rule 2, Rule 25, and Rule 26, as charged.

Charges Against the Respondent

5. The Respondent, Police Officer Anthony B. Wilson, Star No. 5998, charged herein, is **not guilty** of violating Rule 1, Rule 2, Rule 25, and Rule 26 in that the Superintendent did not prove by a preponderance of the evidence the following charges:

From at least in or about January 2015 through at least in or about April 2016, or for any period of time therein, Police Officer Anthony B. Wilson resided at XXXX West 105th Street, Oak Lawn, Illinois thereby:

- a. Violating any law or ordinance, to wit, Title 2, Chapter 152, Section 050 of the Municipal Code of Chicago (“Residence restrictions”), in violation of Rule 1; and/or
- b. Engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department, in violation of Rule 2; and/or
- c. Failing to actually reside within the corporate boundaries of the City of Chicago, in violation of Rule 25; and/or
- d. Failing to provide the Department with a current address and telephone number, in violation of Rule 26.

See the findings set forth in paragraph no. 4 above, which are incorporated herein by reference.

The Superintendent has the burden to prove by a preponderance of the evidence that Respondent resided at the Oak Lawn address during the surveillance period. This means that the Superintendent must present evidence that renders it more likely than not that Respondent resided at the Oak Lawn address. *See generally, People v. Brown*, 892 N.E. 2d. 1034, 229 Ill.2d 374, 325 Ill. Dec. 42 (2008).

When Respondent completed the Employee Residency Affidavit on February 10, 2009, he was put on notice that he was required to reside in Chicago and that he had a duty to immediately report any change in his address. Title 2, Chapter 152, Section 050 of the Municipal Code of Chicago requires Chicago Police Officers to reside in Chicago. This ordinance has been

interpreted to mean that officers must have their permanent abode or home in Chicago; and that it requires their “physical presence and intent to make that location their permanent home” *See Miller v. Police Board*, 38 Ill. App.3d 894, 349 N.E. 2d 544 (1976). The issue to be decided by the Board is to determine the officer’s intent. *See Peirce v. Peirce*, 379 Ill. 185, 192, 39 N.E. 990 (1942) (the question of a person’s domicile is largely one of intent).

The investigation of Respondent’s residency was conducted by the Bureau of Internal Affairs and assigned to Sergeant Matthew Brown, who received some assistance from Officer Brian Reidy. Both Sergeant Brown and Officer Reidy testified in this case.

Sergeant Brown testified that in conducting the investigation of Respondent’s residency, his approach was to try and gather as much information as possible to either prove or disprove the allegations. He initially obtained a picture of Respondent and a copy of the Employee Residency Affidavit that Respondent signed in 2009 when he joined the Chicago Police Department. Respondent listed the Chicago address as his residence. Sergeant Brown determined that his approach would be to investigate the Chicago address and the Oak Lawn address that had been referenced by the anonymous tipster. He had access to certain databases that allowed him to obtain public records such as property ownership records, driver’s license records, and tax information. Sergeant Brown took three statements from Respondent—on May 5, 2016, on June 15, 2016, and on July 15, 2016. Between March 2015 and April 2016 (the “surveillance period”), Sergeant Brown conducted surveillance at the Chicago address and at the Oak Lawn address. Some of the surveillance was also conducted by Officer Reidy, who conducted surveillance on 14 occasions and wrote reports about the activity he observed at the Chicago address and at the Oak Lawn address.

The evidence gathered and presented by Sergeant Brown and Officer Reidy collectively showed that during the surveillance period Respondent was never observed at the Chicago

address; and his 2007 Acura was never seen parked at this address. Respondent has no ownership interest in the Chicago address. This property is owned by his in-laws, George and Bobette Witry. Respondent used the Chicago address to file his tax returns for 2014 and 2015; he received bank statements at this address from September 2014 through April 2016; and he received credit union statements from April 2014 through March 2016.

With respect to the Oak Lawn address, the evidence presented collectively showed that Respondent does not own this property. This property is also owned by his in-laws. The only document presented that connected Respondent to the Oak Lawn address was an AT&T bill in his wife's name that listed his phone number. No other bills, documents, or statements of any kind with Respondent's name and this address were presented. Respondent's car was seen parked at the Oak Lawn address 55 times; and Respondent was observed at this address on 27 occasions. Sergeant Brown testified that he observed a pattern of Respondent coming to this address at the end of his shift and not coming back out. He also observed Respondent sitting in the living room wearing his police uniform.

In April 2016, Sergeant Brown advised Respondent that he had been under surveillance for an alleged residency violation. Sergeant Brown took Respondent's statements on May 5, 2016, June 15, 2016, and July 15, 2016; and also asked him to produce additional documents for his review as part of the investigation.

Respondent denied that he was living at the Oak Lawn address. In statements to Sergeant Brown as well as his testimony in the hearing, he explained that he was living at the Chicago address up until 2015. He was having marital problems with his wife and that year he moved to XXXX South Knox Avenue, Chicago, (hereinafter the "Knox address"), a two-flat owned by his stepfather, Gregory Marin. Mr. Marin testified that Respondent was living on the 2nd floor at the

Knox address; and that they had a lease from January 2015 through January 2016; and a second lease from January 2016 through January 2017. Respondent testified that he paid rent to Mr. Marin, and he paid the utilities even though none of the accounts were in his name. There were four additional witnesses who testified that Respondent was living at the Knox address during the surveillance period because they either saw him there or they had attended a barbeque at this address (Magdalena Aragonés, Officer Raul Cortez, Officer Michael Wialano, and Officer Anthony Johnson). Respondent admitted that he never reported his change of address to the Department until April 2016 after Sergeant Brown advised him that he had been under investigation. He testified that it was an oversight because he was focused on repairing his marriage and taking care of his son (from a previous marriage), who had health issues.

Respondent's wife, Leah Wilson, testified that Respondent moved to the Knox address and she moved to the Oak Lawn address when they were having marital problems. Respondent's son, Drew Wilson, who was also living at the Oak Lawn address, testified that Respondent lived at the Knox address, and that because of a serious skin condition he (Drew Wilson) had, Respondent frequently came to see him at the Oak Lawn address to help him with his bandages.

After hearing and considering all the evidence, the Board is not persuaded that Respondent was actually residing at the Oak Lawn address. Respondent did not own the property, he did not pay bills at this property, he did not file taxes using this property address; and there was no evidence that he undertook any activities to maintain this property such as mowing the grass or shoveling snow. While Respondent clearly spent a great deal of time at the Oak Lawn address, the Board is not prepared to speculate that he lived there given the Superintendent's failure to prove that he did. Based on the insufficiency of the evidence to prove that Respondent actually resided at

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the Oak Lawn address, the Board finds Respondent not guilty of violating Rule 1, Rule 2, Rule 25, and Rule 26, as no residency violation has been proven by a preponderance of the evidence.

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 vote:

By a vote of 7 in favor (Lori E. Lightfoot, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp) to 2 opposed (Ghian Foreman and Eva-Dina Delgado), the Board finds the Respondent **not guilty** of violating Rule 1, Rule 2, Rule 25, and Rule 26.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Anthony B. Wilson, Star No. 5998, as a result of having been found **not guilty** of all charges in Police Board Case No. 17 PB 2937, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective October 2, 2017.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Lori E. Lightfoot, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 22nd DAY OF MARCH, 2018.

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Attested by:

/s/ LORI E. LIGHTFOOT
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

We hereby dissent from the findings and decision of the majority of the Board.

Respondent had a connection to three different addresses during the same period. He lived at the Oak Lawn address before he joined the Department. Given the requirement to reside in Chicago, he represented that he lived at the Chicago address. As the result of marital discord, his wife moves back to the Oak Lawn address, and he claims that he moved to the Knox address.

While the Board concludes that the Superintendent failed to meet the burden to prove that Respondent lived at the Oak Lawn address, we are of the view that Respondent's frequent visits to this address were sufficient to show a pattern that he was living there. The Superintendent charged that Respondent lived at the Oak Lawn address for *any period of time* from about January 2015 to about April 2016. The surveillance reports showed that his car was observed at this address on 55 occasions and he was observed 27 times at this address during that period of time.

It is no surprise that Respondent didn't receive any bills or statements at the Oak Lawn address. It is likely that he avoided a paper trail to the Oak Lawn address because he knew he wasn't supposed to be living there.

Respondent purportedly lived at the Knox address for over a year, from January 2015 through April 2016. He doesn't report it to the Department; he doesn't put any of the utility bills in his name; he receives no bank or credit union statements at this address; and he doesn't use this address to file his 2015 tax returns. Respondent's testimony that his failure to put anything in his name was because he was focused on repairing his marriage and helping his son is hardly credible. He knew he signed an affidavit that advised him he was required to immediately report a change of address to the Department. Given his failure to put anything in his name in relation to the Knox address, the likelihood that he would sign two lease agreements with his stepfather (prior to the

knowledge that he was under investigation) seems unlikely.

Indeed, it is only after he is confronted in April 2016 that he is under investigation does Respondent report that he has been living at the Knox address from January 1, 2015, through April 2016; he puts the Com Ed bill and the People Gas bill in his name; and he renews his driver's license using the Knox address. The fact that investigators didn't observe Respondent at the Knox address isn't convincing either, since Respondent didn't inform CPD of his change of address. Investigators didn't know to look at the Knox address.

Paperwork and formalities aside, Respondent's intended domicile was likely the place where he spent the most time and that would have been the Oak Lawn address. He was trying to repair a marriage and help his son; he often went to this address after his shift and never came out. Respondent intentionally avoided a paper trail to this address because he knew it would subject him to discharge. For these reasons, we find Respondent guilty of all charges.

/s/ GHIAN FOREMAN
Vice President

/s/ EVA-DINA DELGADO

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THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2018.

EDDIE T. JOHNSON
Superintendent of Police