

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER JOSE ALVAREZ,) **No. 15 PB 2895**
STAR No. 13055, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1055267)**
RESPONDENT.)

FINDINGS AND DECISION

On September 25, 2015, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jose Alvarez, Star No. 13055 (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 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

The Police Board caused a hearing on these charges against the Respondent to be had before Hearing Officer Thomas E. Johnson on February 16 and April 25, 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 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 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, Police Officer Jose Alvarez, Star No. 13055, 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 July 4, 2012, at or about 0400 hours, at or around [home address redacted], in Chicago, while off duty, you struck your wife, Dora Alvarez, on or about her head and/or face, and/or restrained her against her will, thereby knowingly without legal justification causing bodily harm and/or making physical contact of an insulting or provoking nature with any family or household member, in violation of 720 ILCS 5/12-3.2, "Domestic Battery."

While Officer Alvarez and his wife, Dora Alvarez, testified that a battery and restraint did not occur, and that Ms. Alvarez's injuries were the product of a fall, the Police Board finds that this testimony was untruthful. The Board credits the testimony of Officer Amor Lopez, who arrived on the scene in the early morning hours of July 4, 2012, to find Ms. Alvarez clinging to the railing of Ms. Kristine Young's home in her night clothes, with Officer Alvarez pulling Ms. Alvarez from

Ms. Young's railing. The Board further credits Officer Lopez's testimony that on the night in question, Ms. Alvarez told her that Officer Alvarez had slapped her multiple times, while holding her hands over her head, in their bed. This physical punishment was inflicted because Officer Alvarez believed his wife had been flirting with another man at a party earlier that evening. It was accompanied by threats of further physical violence if this alleged flirting occurred again. The Board credits Officer Lopez's testimony that Ms. Alvarez was not intoxicated and was distraught on the night in question. Officer Lopez's testimony is corroborated, in part, by her partner, Officer Sabrina Sanders, as well as by Officer Patrick Kennedy, who also responded to the scene, after Ms. Young called the police. Officer Lopez's account of what transpired and Ms. Alvarez's fear of her husband, after the battery, was also corroborated by Ms. Kristine Young, who observed Ms. Alvarez clinging to the railing outside her home and crying for help, as is documented by Ms. Young's 911 calls.

Officer Alvarez's and his wife's testimony is plainly not credible for several reasons. First, the Board finds that the nature of Ms. Alvarez's injuries was not consistent with the falls she and her husband described. The Board finds that Dr. Rachel Oosterbaan credibly testified that a fall will cause an abrasion and injuries to the prominent parts of one's face (if a person does not catch herself), *e.g.* the chin, nose, and cheekbones. A fall will not cause the kind of injuries that were photographed and conceded here, particularly lateral injuries that include damage to the interior part of both eye sockets. Dr. Chiodo's competing testimony, offered on behalf of the Respondent, was not credible, particularly Dr. Chiodo's inability to convincingly testify concerning the eye socket injuries, and his testimony that the injuries to the left and right side of the eyes were abrasions and not bruises.

Second, Ms. Alvarez's account of her intoxication was quite clearly manufactured. She

testified that she consumed over 30 drinks over a thirteen hour period. This would leave a 130 pound woman severely inebriated, likely reaching a .4 alcohol level, according to Dr. Oosterbaan. Ms. Alvarez's later retreat from her testimony, suggesting she could not accurately recall the number of drinks she had consumed, merely underscored the manufactured nature of her testimony. Further, neither Officer Lopez nor Officer Sanders found Ms. Alvarez to be intoxicated when they arrived on the scene. Finally, Ms. Alvarez's and Officer Alvarez's testimony that after returning to the party, she got dressed in her night clothes, and later ran from the apartment a considerable distance, are completely inconsistent with the level of intoxication Ms. Alvarez claimed.

Third, Officer Alvarez's testimony and that of his wife are inconsistent in another important way. Ms. Alvarez claims she fell twice (on each side of her face) as she entered their home after the party. Officer Alvarez says she fell once at home and once as she ran from him on the street. This is an important difference and undermines their testimony.

Fourth, the Mr. and Mrs. Alvarez testified they left the party at about 2:00 a.m., and then argued at their home at about 2:30 a.m., prompting Ms. Alvarez to flee the home. Ms. Young's 911 call, however, occurred about 4:30 a.m. The time of Ms. Young's calls is inconsistent with Mr. and Mrs. Alvarez's testimony but consistent with the account of a battery Ms. Alvarez gave to Officer Lopez on the night it happened.

5. The Respondent, Police Officer Jose Alvarez, Star No. 13055, 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 July 4, 2012, at or about 0430 hours, while off duty, you pursued your wife, Dora Alvarez, from about [home address redacted] to about [home address redacted], in Chicago, as she attempted to get away from you, and/or at or around [home address redacted], in Chicago, you grabbed and/or pulled at her about the body, including as she held on to a railing and/or called for help and/or told you “no,” or words to that effect, thereby knowingly without legal justification making physical contact of an insulting or provoking nature with any family or household member, in violation of 720 ILCS 5/12-3.2, “Domestic Battery.”

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference. As described above, the Board credits the testimony of Ms. Kristine Young as to what happened on the front porch of her home, prompting her to call the police. Her testimony is corroborated by her 911 calls, as well as the observations of all four responding police officers; namely, Officers Amor Lopez, Sabrina Sanders, Patrick Kennedy and Michael Higgins.

6. The Respondent, Police Officer Jose Alvarez, Star No. 13055, 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 July 4, 2012, at or about 0400 hours, at or around [home address redacted], in Chicago, while off duty, you struck your wife, Dora Alvarez, on or about her head and/or face, and/or restrained her against her will, thereby impeding the Department’s efforts to achieve its policy and goals and/or bringing discredit upon the Department.

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

7. The Respondent, Police Officer Jose Alvarez, Star No. 13055, 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 July 4, 2012, at or about 0430 hours, while off duty, you pursued your wife, Dora Alvarez, from about [home address redacted] to about [home address redacted], in Chicago, as she attempted to get away from you, and/or at or around [home address redacted], in Chicago, you grabbed and/or pulled at her about the body, including as she held on to a railing and/or called for help and/or told you “no,” or words to that effect, thereby impeding the Department’s efforts to achieve its policy and goals and/or bringing discredit upon the Department.

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

8. The Respondent, Police Officer Jose Alvarez, Star No. 13055, charged herein, is **guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

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

Count I: On or about July 4, 2012, at or about 0400 hours, at or around [home address redacted], in Chicago, while off duty, you struck your wife, Dora Alvarez, on or about her head and/or face, and/or restrained her against her will, thereby disrespecting and/or mistreating her.

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

9. The Respondent, Police Officer Jose Alvarez, Star No. 13055, charged herein, is **guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

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

Count II: On or about July 4, 2012, at or about 0430 hours, while off duty, you pursued your

wife, Dora Alvarez, from about [home address redacted] to about [home address redacted], in Chicago, as she attempted to get away from you, and/or at or around [home address redacted], in Chicago, you grabbed and/or pulled at her about the body, including as she held on to a railing and/or called for help and/or told you “no,” or words to that effect, thereby disrespecting and/or maltreating her.

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

10. The Respondent, Police Officer Jose Alvarez, Star No. 13055, charged herein, is **guilty** of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty,

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

Count I: On or about July 4, 2012, at or about 0400 hours, at or around [home address redacted], in Chicago, while off duty, you struck your wife, Dora Alvarez, on or about her head and/or face, and/or restrained her against her will, thereby engaging in an unjustified physical altercation with her.

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

11. The Respondent, Police Officer Jose Alvarez, Star No. 13055, charged herein, is **guilty** of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty,

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

Count II: On or about July 4, 2012, at or about 0430 hours, while off duty, you pursued your wife, Dora Alvarez, from about [home address redacted] to about [home address redacted], in Chicago, as she attempted to get away from you, and/or at or around [home address redacted], in Chicago, you grabbed and/or pulled at her about the body, including as she held on to a

railing and/or called for help and/or told you “no,” or words to that effect, thereby engaging in an unjustified physical altercation with her.

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

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

The Police 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. Police officers are expected to protect the public from injury. Here, Officer Alvarez inflicted injury on his own wife. His actions were reckless, violent, and unjustified. He was out of control, and he demonstrated a complete lack of judgment. The beating he administered and the injuries he inflicted are completely inconsistent with what the Department can rightfully expect of its officers. This episode also reflects Officer Alvarez’s inability to control his emotions and rage. The city cannot have officers on the street who cannot control their emotions and instead resort to violence. Officer Alvarez’s conduct, and the lack of control and lack of judgment he has demonstrated, are incompatible with continued service with the Chicago Police Department. Returning him to duty as a sworn officer, armed and authorized to use deadly force, would pose an unacceptable risk to the safety of the public.

The Respondent offered evidence in mitigation, which the Board has considered thoroughly.¹ A Chicago police sergeant and an evidence technician who worked with the

¹ The Board considered the mitigation evidence (including “character” witness testimony and the Respondent’s complimentary and disciplinary histories) only for purposes of determining the penalty. The Superintendent objected to the Board reviewing this evidence prior to making its findings regarding guilt, requesting that mitigation evidence be reviewed after any guilty findings (see pp. 5-6 and 120-121 of the February 16 hearing transcript). This objection is

Respondent testified that he does excellent work and has a reputation as a well-respected, hard-working officer. Two of the Respondent's neighbors, one of whom is a CPD lieutenant, testified that the Respondent is family-oriented and they have never known him to become physical with his wife; the lieutenant also testified as to the Respondent's good reputation within the CPD. The Respondent has a complimentary history of 25 total awards, including 6 Department commendations and 12 honorable mentions. He has no disciplinary history. However, the Respondent's accomplishments as a police officer, the testimony regarding his positive job performance and character, his complimentary history, and the lack of prior disciplinary history, do not mitigate the seriousness of his misconduct.

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 that the law recognizes as good cause for him to no longer occupy his office.

overruled. The Board's Rules of Procedure do not require mitigation evidence to effectively be sealed until after a finding of guilt. The Rules of Procedure state in relevant part:

"The Superintendent shall present evidence in support of the charges filed, and the respondent may then offer evidence in defense *or mitigation*....At the close of *all* the evidence and arguments, the case will be taken under advisement by the Police Board, which in due course will render its findings and decision as provided by law. The Board *may, in its discretion*, after finding a respondent guilty of one or more rule violations, set the matter for additional proceedings for the purpose of determining administrative action. (Sections III-D and III-H, emphasis added).

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 votes of 8 in favor (Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 1, Rule 2, Rule 8, and Rule 9.

As a result of the foregoing, the Board, by a vote of 8 in favor (Lightfoot, Foreman, Ballate, Conlon, Eaddy, Fry, Simpson, 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 Jose Alvarez, Star No. 13055, as a result of having been found **guilty** of all charges in Police Board Case No. 15 PB 2895, 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: Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney,.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16th DAY OF JUNE, 2016.

Police Board Case No. 15 PB 2895
Police Officer Jose Alvarez

Attested by:

/s/ LORI E. LIGHTFOOT
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