

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 11**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated October 6, 2022, the Office of Public Safety Administration gave Applicant written notice of its decision to remove him from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reasons for the disqualification decision (“Notice”).

On December 7, 2022, Applicant appealed this decision to the Police Board by filing a written request specifying why the Department of Police erred in the factual determinations underlying the disqualification decision and bringing to the Police Board’s attention additional facts directly related to the reasons for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”).

On December 27, 2022, the Chicago Police Department (the “Department”) filed a response to the Appeal (the “Response”).

Appeals Officer Cooper has reviewed the Notice, Appeal and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Cooper, 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.

Filings by the Parties

On December 7, 2022, Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago.

According to the Notice, which expressly relies on and references a background investigation, Applicant was removed from the Eligibility List for several reasons. For instance, the Notice indicates that Applicant: (1) was suspended from his job as a correctional officer for 75 days because he closed a cell door on an inmate’s hand, failed to obtain medical attention for the inmate and then failed to complete the necessary reports regarding the incident; (2) was apparently “less than truthful” in the statement he did write about the incident; (3) made false statements in his Personal History Questionnaire (“PHQ”); and (4) has a history of insubordination and rule breaking. (Notice at pgs. 3-7.)

In his Appeal, Applicant neither takes responsibility for nor provides an explanation for any of the above conduct. Instead, Applicant claims that “the discipline projected upon [him] was strictly due to racism,” and that the unnamed individual who “initiated the discipline” against him was subsequently discharged for “lying and ghost payrolling.” (Appeal.)

In its Response, the Department refers the Police Board to the Notice, and it stands on the reasons contained therein in support of its position that the decision to remove Applicant from the Eligibility List should be affirmed. (Response.)

Findings of Relevant Facts¹

¹ Applicant did not attach any documents from his file to his Appeal. Accordingly, the findings in this section are based solely on the information contained in the Notice and Applicant’s one-page Appeal.

Biographical Information

Applicant is a twenty-nine-year-old African American male. (Notice at pg. 3; Appeal.)

Work History

The limited record provided to this Appeals Officer indicates that, at least from 2017 to 2021, Applicant worked as a correctional officer for the Cook County Department of Corrections.

2017 Incident

The record indicates that, in 2017, while working as a correctional officer, Applicant was involved in an incident that resulted in an injury to an inmate. (Notice pg. 4.) Specifically, the Notice states that Applicant “closed a cell door injuring an inmate's hand and failed to make notifications, failed to complete reports and failed to obtain medical attention for the inmate.” (*Id.*) The Notice further indicates that Applicant was “less than truthful” about this incident in his statement to the Office of Professional Review (“OPR”). (*Id.*) While the OPR recommended that Applicant be fired for his role in the incident, the Merit Board subsequently reduced his punishment to a 75-day suspension. (*Id.* at pg. 3.)

Other Work-Related Issues

In addition to the above, the record reveals that Applicant failed to adequately perform his job duties in other ways while working as a correctional officer. For example, he: (1) improperly re-assigned a prisoner to a different cell; (2) took no action when he “observed other prisoners ‘popping’ open a cell door”; (3) did not maintain order in the day room and had too many detainees out of their cells at one time; (4) placed a fifth detainee into a cell which already had four detainees; and (5) was otherwise inattentive to his duties. (*Id.* at pg. 4.) Applicant was also ordered to undergo counseling for at least one unexcused absence. (*Id.* at a pg. 5.)

Personal History Questionnaire

Applicant’s PHQ was submitted on July 27, 2021. (*Id.* at pg. 6.) Applicant reviewed and

updated his responses on October 15, 2021. (*Id.*) Despite the above, in his PHQ, Applicant responded “No” to the following questions:

1. PHQ # 37: Have you ever been counseled or discharged from any employment specifically for insubordination, absenteeism or tardiness?;
2. PHQ #44: Have you ever been terminated or suspended from any law enforcement agency?; and
3. PHQ #45: Have you ever been the recipient of any complaints or disciplinary action while employed as a law enforcement officer?

(*Id.* at pgs. 6-7.)

Moreover, while Applicant answered “Yes” to PHQ #46, which asks whether an applicant has ever received a reprimand from a law enforcement agency, he claimed that the inmate involved in the door closing incident was “faking” his injury and that he tried to contact his supervisors about the incident multiple times. (*Id.* at pg. 7.) A Cook County Sheriff’s Investigation, however, revealed that Applicant “failed to make any notifications nor complete any reports.” (*Id.* at pg. 7.)

Disqualification Decision and Appeal

Due to the results of his background investigation and the answers to his PHQ, on October 16, 2022, the Office of Public Safety Administration (the “Office”) sent Applicant written notice of its decision to remove him from the Eligibility List. (*See* Notice.) This appeal followed.

Conclusions of Law

Standard of Review

Pursuant to Section 2-84-035(c) of the Municipal Code of Chicago, an applicant challenging the decision to remove him or her from the Eligibility List has the burden of showing, by a preponderance of the evidence, that the decision was erroneous.

Disqualification Based on Prior Employment History, Other Conduct and False Statements

Special Order 21-01 (the “Special Order”) contains the “Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer.” (See Special Order 21-01.) The relevant sections and language from Special Order 21-01 are as follows:

<u>Section</u>	<u>Language</u>
Section IV(D)(2) - Disqualification based on Prior Employment History	“... an applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination ... or failure to follow”
Section IV(D)(3) - Disqualification based on Prior Employment History	“... an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago, Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment ”
Section IV(H)(1) - Disqualification based on Other Conduct	“... any applicant that exhibits a pattern of repeated .. lack of respect for authority or law ... 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”
Section IV(I)(1) - Disqualification based on False Statements or Omissions and/or Failure to Cooperate in the Application Process	“... failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process”

The record, which establishes that, among other things, Applicant (1) was suspended from his job as a correctional officer for 75 days because he closed a cell door on an inmate’s hand, failed to obtain medical attention for the inmate and then failed to complete the necessary reports regarding the incident; (2) was “less than truthful” in the statement he did write about the incident;

(3) made false statements in his PHQ; and (4) has a history of insubordination, rule breaking and absenteeism more than supports the Office of Public Safety Administration's decision to remove Applicant from the Eligibility List. In fact, as the Department notes in its Response, Applicant's "past actions revealed that had he been [a Chicago Police Officer,] he would have been in violation of at least seven (7) Rule violations."

Accordingly, Applicant has failed to demonstrate that the decision to remove him from the Eligibility List was in any way erroneous.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **affirmed**.

Respectfully submitted,

/s/ Kyle A. Cooper

Appeals Officer

Date: February 8, 2023

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) 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: Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF APRIL, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director