

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED]) **No. 23 AA 18**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Candidate 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 April 10, 2023, the Office of Public Safety Administration advised Applicant that following a review of his December, 2017 application, it was determined that he did not meet the established criteria for the Probationary Police Officer position. He was advised that based on a prior police board decision in 2019, the conditions which disqualified him are incontrovertible, and his disqualification from the eligible list would remain. As a result, his March, 2023 Police Officer Examination would not be processed any further.

On April 17, 2023, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and bringing to the Board’s attention additional facts directly related to the reason(s) for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”).

On April 20, 2023, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a prior background investigation (dated September 28, 2018), along with the reason(s) for the disqualification decision (“Notice”).

On June 1, 2023, the Office of Public Safety Administration filed with the Police Board a

copy of the Notice and its response to Applicant's Appeal ("Response"). Applicant did not file a Reply. Police Board Appeals Officer Mamie Alexander has reviewed the April 10, 2023 Correspondence, Notice, Appeal, and Response.

APPEALS OFFICER'S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, 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

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago, and the Response was filed within the time period allowed by the Police Board Rules of Procedure.

According to the Notice, Applicant was removed from the Eligibility List for the following reasons:

- IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

B. Disqualification Based on Criminal Conduct

1. One purpose of the pre-employment investigation is to determine whether the applicant has engaged in criminal conduct. This is important because the police hold a unique position of public trust and are tasked with protecting the public and enforcing the law. Therefore, an applicant will be disqualified from consideration for a police officer position if there is evidence that the applicant has engaged in criminal conduct, even if the applicant was never convicted of any criminal offense. Applicants with a history of criminal conduct that falls within the Department's disqualification standards are deemed unable to protect the public and its trust in the police. It is the conduct itself, not the fact that the applicant was convicted, that makes the applicant unsuitable for employment.

7. **Other Criminal Conduct**

a) Conduct Involving Drugs

2. An applicant who has sold, distributed or manufactured any illegal drug at any time will be found unsuitable for employment.

C. Disqualification Based on Driving Record

1. Police officers are regularly required to operate motor vehicles in dangerous situations. They are thus required, to the extent reasonable, to operate vehicles in a careful manner protective of the public. Applicants with a poor driving history are deemed unable to meet this requirement. Therefore, an applicant who has a single incident involving reckless driving or driving under the influence of alcohol or other mood altering substances within the last five (5) years (from the date of PHQ submission); more than one DUI or reckless driving incident, regardless of the date of the incident; or any driving-related incidents which resulted in the suspension or revocation of a driver's license on two or more occasions, will be found unsuitable for employment.
2. Exceptions to this standard will apply where one or both suspensions of driving privileges were the result of failure to comply with a Vehicle Emissions Inspection Law or failure to pay parking fines. While such conduct alone may not lead to disqualification, in combination with other factors, it may be the basis for finding an applicant unsuitable for employment.

D. Disqualification Based on Prior Employment History

2. A poor employment history will result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations will be found unsuitable for employment.

Applicant was disqualified by Department based on his criminal conduct, driving record, and prior employment history. The conduct included possessing and selling drugs, gambling, domestic battery, telephone harassment, criminal sexual abuse, DUI resulting in driver's license

suspension, and termination from the Indiana Department of Corrections.

Appeal and Response

Applicant appeals the decision, stating that the allegations contained in the Notice are from old arrests that “go back from March 2000 to February 2010.” He states that every arrest listed has been expunged and removed from his record. Applicant presents additional information regarding his education and work history, and states that in 2022, he attended and graduated from the Chicago Police Academy’s Metropolitan Alliance of Police Program (“MAP”).

Applicant shares that he was born and raised in Chicago and would like the opportunity to serve his community as a Chicago Police Officer.

Department’s Response states that the appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. Department maintains that the pre-employment disqualification standards under which Applicant’s disqualification decision was based upon are clear (namely, Disqualification Based on Criminal Conduct [Multiple Counts], Disqualification Based on Other Criminal Conduct-Conduct Involving Drugs [Multiple Counts], Disqualification based on Driving Record, and Disqualification Based on Prior Employment History). Department states that the evidence in Applicant’s file supports its decision to disqualify Applicant from hiring, and the Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O’Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

Department also notes that had Applicant been in their employ, he would have been in violation of multiple rule violations, “each of which would serve by themselves as grounds for disqualification.” Department states that Applicant’s history is extremely troubling, and that

Applicant would not be able to fulfill the Chicago Police Department's mission to “strive to attain the highest degree of ethical behavior and professional conduct at all times.”

Findings of Fact

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove his name from the eligibility list. Department determined that that Applicant’s criminal conduct, driving record, and prior employment history were grounds for disqualification.

Department articulated the standards by which the conduct was assessed by section and paragraph, and articulation of the standard gives reasonable notice as to the basis for disqualification.

Criminal Conduct

Between March, 2000 and February, 2010, Applicant was arrested for numerous criminal code violations both as a juvenile and an adult. As a juvenile, Applicant was arrested for Disorderly Conduct (3/28/2000) and Theft (10/26/2000). As an Adult, Applicant was arrested for Manufacturing /Delivery of Narcotics (07/06/2001), Gambling (02/02/2002), Possession of Crack Cocaine (11/09/2002) and Possession of Cannabis (04/02/2008). In addition, Applicant was the target of a search warrant, and was arrested in February, 2010 for Unlawful Use of a Weapon, Possession of Drug Paraphernalia, and Possession/Manufacturing and Delivery of Cannabis.

Applicant was also named as the offender in several other criminal matters, including Telephone Harassment (10/28/2002) and Domestic Battery on numerous dates (05/19/2003), (05/17/2004), (03/03/2007), and (03/08/2008).

In addition to the above, according to CPD Case Report RD#JA142231, Applicant was

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named as the offender in a Criminal Sexual Abuse case. The victim in that case related that her landlord (Applicant) made multiple unwanted advancements toward her, and she consistently asked him to stop. One night, she awoke to Applicant standing over her bed. A struggle ensued as Applicant tried to remove the victims clothing while telling her "you are going to give me this 'coochie' right now." The victim further related that while struggling to free herself from Applicant's aggression he touched her breast and put his hand in her pajama pants. Applicant then fled the scene in an unknown direction.

Conduct Involving Drugs

In addition to Applicant's arrests for Manufacturing/Delivery of Narcotics, Possession of Crack Cocaine, Possession of Cannabis, Possession of Drug Paraphernalia, and Possession/Manufacturing and Delivery of Cannabis, Applicant admitted on his Personal History Questionnaire ("PHQ"): "Unfortunately, when I was younger I possessed and sold drugs."

Driving Record

In 2007, Applicant's driver's license was suspended for an uninsured crash. In 2014, Applicant's license was suspended twice, once in June following a guilty plea to Driving Under the Influence, and again in August for refusing to take an Alcohol/Drug test.

Employment History

Applicant was employed by the Indiana Department of Corrections as a Probation Officer from April 2016-October, 2017. During his employ, Applicant was reprimanded twice for unauthorized leave, and was reprimanded a third time and terminated after an insurance audit.

Applicant argues that in his "defense," every arrest listed has been expunged and removed from his record, and that the disqualification is based on arrests that date as far back as 2000. He shares that since that time, he has made "great achievements in getting [his] life

together.” Applicant states that he went back to school and earned two degrees (an A.A.S. and B.S. in criminal justice) and worked as a teacher and a Probation Officer for the Cook County Probation Department. He says that he is currently employed as a police officer for the city of Harvey and attended and graduated from the Chicago Police Academy in the MAP Program on June 10, 2022. He says that CPD commercials state that the CPD wants applicants to be “part of the change,” and that he is the change that the CPD “proudly advertises.” He requests that he be allowed to serve his community as a Chicago Police Officer.

Applicant includes in his Appeal a resume listing his positions with the Harvey Police Department, Cook County Probation Department, and Indiana Department of Corrections. He also includes photos of himself in uniform at what appears to be his MAP ceremony.

Conclusions of Law

Because Applicant’s disqualification is based on findings contained in his September, 2018 background investigation, Section IV. of the Bureau of Support Services Special Order 17-01 contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal.

Applicant was disqualified based upon Criminal Conduct, Driving Record, and Prior Employment History. Based on the details provided in the Notice and Response, Applicant’s past conduct contains numerous violations that could be considered grounds for disqualification based on Department’s Standards.

Applicant was arrested for Disorderly Conduct, Theft, Manufacturing/Delivering Narcotics, Gambling, Possession of Crack, and Possession of Cannabis. He was also the target of a search warrant for Unlawful Use of a Weapon, Possession of Drug Paraphernalia, and Possession/Manufacturing/Delivery of Cannabis. In addition to his arrests, Applicant was named

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as an offender in numerous domestic battery cases and was accused of telephone harassment.

Most disturbing are the allegations contained in the CPD Case Report regarding Applicant's Criminal Sexual Abuse of his tenant. Not only was Applicant accused of making unwanted sexual advances, he was also accused of entering her bedroom and trying to remove her clothes while touching her breast and putting his hand in her pajama pants.

In his Appeal, Applicant does not deny any of the allegations contained in the Notice, nor does he provide additional information or an explanation for the conduct. Even after Department filed a Response reiterating the arrests, allegations, and criminal conduct contained in the Notice (and included additional facts from the Criminal Sexual Abuse case), Applicant failed to file a Reply.

Applicant's Appeal focuses on the fact that his record has been expunged and highlights his current positions in law enforcement. However, Section B(1) of the Standards specifically states: "...an applicant will be disqualified from consideration for a police officer position if there is evidence that the applicant has engaged in criminal conduct, even if the applicant was never convicted of any criminal offense."

In his PHQ, Applicant freely admitted to possessing and selling drugs when he was younger. Section B(7)(a)(2) states that "An applicant who has sold, distributed or manufactured any illegal drug at any time will be found unsuitable for employment."

In addition to his criminal conduct, Applicant could also be disqualified for his driving record and prior employment history. Applicant's driver's license was suspended three times-for an uninsured crash, DUI, and refusal to take an Alcohol/Drug test. Section C(1) of the Standards specifically states that an Applicant that has "...any driving related incidents which resulted in the suspension or revocation of a driver's license on two or more occasions will be found

unsuitable for employment.”

Furthermore, Applicant’s termination from the Indiana Department of Corrections could also serve as a basis for disqualification, as he was reprimanded for unauthorized leave and failed to comply with insurance standards. Section D(2) of the Standards states that “...an applicant who has been discharged or disciplined for offenses which include...absenteeism, tardiness, or failure to follow regulations will be found unsuitable for employment.”

No additional facts, evidence or arguments were submitted in Applicant’s Appeal that support his contention that Department erred in disqualifying Applicant based upon his criminal conduct, driving record, and prior employment history.

In considering and weighing the numerous grounds for disqualification that were presented, Applicant has failed to show, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was 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/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: August 10, 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 9 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Jorge Montes, and Andreas Safakas) 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 Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 17th DAY OF AUGUST, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director