

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTERS OF CHARGES FILED AGAINST)	
POLICE OFFICERS)	
EULALIO RODRIGUEZ, STAR No. 12828,	)	No. 23 PB 3013
AMIN ELMESQUINE, STAR No. 17593,	)	No. 23 PB 3014
NOBLE WILLIAMS, STAR No. 7073,	)	No. 23 PB 3018
DANIEL BARNAK, STAR No. 5189,	)	No. 23 PB 3022
ADRIANNA KONDILIS, STAR No. 16374,	)	No. 23 PB 3024
ERIC STILLMAN, STAR No. 19277,	)	No. 23 PB 3025
MARK JOHNSON, STAR No. 8781,	)	No. 23 PB 3029
PATRICK BUNYON, STAR No. 16768,	)	No. 23 PB 3030
JEAN LINDGREN, STAR No. 14791,	)	No. 23 PB 3031
KRIS A. STIPANOV, STAR No. 9128,	)	No. 23 PB 3032
BERNADETTE KELLY, STAR No. 7186,	)	No. 23 PB 3033
STEFANIE MINGARI, STAR No. 3265,	)	No. 23 PB 3034
ADOLFO BOLANOS, STAR No. 16767,	)	No. 24 PB 3037
DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
)	
RESPONDENTS.)	

MEMORANDUM AND ORDER

On June 26, 2023, Neutral Chair Edwin H. Benn (the “Neutral Chair”) issued an Interim Award and Opinion (the “Interim Award”) in an interest arbitration proceeding between the City of Chicago and the Fraternal Order of Police Lodge 7 (the “FOP” or “Lodge”) concerning the parties’ successor collective bargaining agreement (“CBA”) to their 2012-2017 CBA, which expired June 30, 2017 (the “2012-2017 CBA”). The Interim Award adopted the FOP’s proposal for the successor CBA to provide for “[t]he ability of the Lodge to have the option to have certain grievances protesting discipline given to officers in excess of 365-day suspensions and separations (dismissals) decided by an arbitrator in final and binding arbitration or by the Police Board as opposed to the current procedure of having all such disciplinary actions decided by the Police Board.” Interim Award at 72. The matter was remanded “to the parties for drafting of language consistent with the terms of [the] Interim Award.” *Id.*

Police Board
Memorandum and Order

The City and FOP subsequently submitted competing language proposals, both of which were rejected in a Supplemental Interim Opinion and Award on August 2, 2023 (the “Supplemental Interim Award”). In his Supplemental Interim Award, the Neutral Chair found that neither party submitted reasonable language proposals, drafted his own “language to meet the intentions of the adopted proposal[] found by the Interim Award,” and held that such language “shall be the contract language for . . . arbitration of suspensions in excess of 365 days and separations” unless the parties agreed to alternative language within seven days of the opinion. Supplemental Interim Award at 30-31. The parties did not agree to alternative language within the seven-day period. The language adopted by the Supplemental Interim Award on this issue reflected that its modifications to the parties’ CBA would be deemed “retroactive to September 14, 2022.” *Id.* at Appendix C.

On October 19, 2023, the Neutral Chair issued a Final Opinion and Award (the “Final Award”), which reiterated the Interim Award’s and Supplemental Interim Award’s adoption of the Lodge’s proposal for the parties’ successor CBA to include an option to arbitrate grievances protesting discipline given to officers in excess of 365-day suspensions and separations. Pursuant to the terms of the 2012-2017 CBA, the Final Award was sent to the City Council of the City of Chicago (“Chicago City Council”) for ratification. On December 13, 2023, the Chicago City Council rejected the arbitration provisions of the Final Award, which returned the matter to the Dispute Resolution Board for consideration. On January 4, 2024, the Neutral Chair issued a Supplemental Final Opinion and Award (the “Supplemental Final Award”) which concluded that the “arbitration provisions of the Final Award stand unchanged.” Supplemental Final Award at 64.

On January 4, 2024, the Lodge filed a verified complaint in the Circuit Court of Cook

Police Board
Memorandum and Order

County which sought to confirm and enforce the arbitration provisions of the Supplemental Final Award and to compel the compliance of respondents, including the City of Chicago. The parties to that proceeding (Case No. 2024 CH 00093) filed cross-motions for summary judgment, and on March 21, 2024, the Court issued a Memorandum Opinion and Order (the “Order”) which decided the disputed issues in the case. The Order provided, *inter alia*, that the “City of Chicago is required by the terms of the Supplemental Final Opinion and Award to offer any police officer, who is protesting a suspension in excess of 365 days or separation (dismissal), with the option to present any grievances to final and binding arbitration instead of having the Chicago Police Board decide the disciplinary action.” Order at 25. The Order likewise enjoined the City of Chicago “from conducting any such disciplinary hearings before the Chicago Police Board unless any officer so charged on or after September 14, 20[2]2, has consented to such a procedure.” *Id.* at 26. The Order further clarified that its terms “appl[y] to *all* pending disciplinary hearings that have not proceeded to an evidentiary hearing.” *Id.* (emphasis in original). Regarding the arbitration proceedings, the Order stated that the “restriction of public access to arbitrations for serious police discipline is in direct contravention of the well-defined and dominant public policy of accountability and transparency of the government services in general and the Chicago Police Department specifically.” Order at 20. The Order vacated “[t]hat portion of the Supplemental Final Opinion and Award that requires any arbitration proceeding to be held in a private forum.” Order at 26.

Following the issuance of the March 21, 2024, Order, Respondents listed above each filed a Motion to Transfer This Matter to the Arbitration Call and Terminate All Police Board Proceedings (“Motion”). Each Motion references the Order requiring the City of Chicago to offer any police officer protesting a suspension in excess of 365 days or separation (dismissal)

Police Board
Memorandum and Order

with the option to have those grievances resolved through final, binding arbitration, argues that Respondent is an officer within the retroactive scope of the Order (and is thus entitled to elect to have her/his disciplinary grievance resolved in arbitration), and indicates that Respondent has so elected, depriving the Chicago Police Board of “jurisdiction of this case based upon the circuit court’s order” and requiring “all charges [to] be immediately dismissed from [the Board’s] docket.” Motion at 3.

The Board agrees that each Respondent listed above is an officer that falls within the retroactive scope of the March 21, 2024, Order. Specifically, the Board observes that the Superintendent filed charges against each Respondent recommending suspension of more than 365 days or discharge from the Chicago Police Department, that those charges were filed after the September 14, 2022, date for retroactivity, and that each Respondent’s case has not yet proceeded to an evidentiary hearing. However, it would be premature, at this time, for the Board to dismiss all charges against each Respondent from its docket and terminate its proceedings for three reasons.

First, the Board notes that pursuant to Illinois Supreme Court Rule 303, the parties to Case No. 2024 CH 00093 in the Circuit Court of Cook County have 30 days after entry of the Order (until April 22, 2024) to timely file a notice of appeal from the same. Accordingly, the Board cannot be certain as to the final outcome of Case No. 2024 CH 00093, or as to the ultimate status of each Respondent’s potential right to elect to have a disciplinary grievance proceed in arbitration instead of before the Board.

Second, the Board does not have the authority to independently transfer a disciplinary matter to the arbitration call, as each Respondent requests in the Motion. In order for a disciplinary matter to be heard and decided by an arbitrator, the accused officer must first file a

Police Board
Memorandum and Order

grievance challenging the recommendation for discipline, and the FOP must decide to advance the grievance to arbitration and inform the Chicago Police Department of the same. *See* Supplemental Interim Award at 24-25. The Board cannot decide, on behalf of the FOP, to advance an officer's grievance to arbitration and, accordingly, cannot simply transfer a disciplinary matter to the arbitration call upon the request of the officer.

Third, as noted in the Superintendent's response to each Motion, there is no indication that the City of Chicago and the FOP have agreed on and established a process for arbitration proceedings that are open to the public. It would be premature to terminate these Police Board proceedings before there is in place an arbitration process that conforms to the well-defined and dominant public policy of accountability and transparency identified in the Order.

POLICE BOARD ORDER

IT IS HEREBY ORDERED that, for the reasons set forth above, each Respondent's Motion to Transfer This Matter to the Arbitration Call and Terminate All Police Board Proceedings is **entered and continued**. The Police Board will further consider each Respondent's Motion after: (1) it has been confirmed to the Police Board whether the parties to Case No. 2024 CH 00093 in the Circuit Court of Cook County are appealing the March 21, 2024, Order; (2) the Police Board receives documentation showing whether each Respondent filed a grievance challenging the recommendation for discipline and whether the FOP informed the Chicago Police Department that the FOP will advance the grievance to arbitration; and (3) the Police Board receives documentation showing that the City of Chicago and the FOP have agreed on and established a process for arbitration proceedings that are open to the public.

Police Board
Memorandum and Order

This Order is entered by a majority of the members of the Police Board: Kyle Cooper, Steven Block, Aja Carr-Favors, Nanette Doorley, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF APRIL, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director