

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 21 AA 04**
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 June 8, 2021, the Office of Public Safety Administration (“OPSA”) 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 background investigation, along with the reason(s) for the disqualification decision (“Notice”).

On August 9, 2021, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Office of Public Safety Administration erred in the factual determinations underlying the disqualification decision.

On August 13, 2021, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). The Applicant did not file a reply to the Response. Police Board Appeals Officer Brian Porter has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Brian Porter, 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. 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 list of eligible applicants for the position of probationary police officer for the following reason(s):

Bureau of Organization Development Special Order No. 17-01 Section IV. 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. Applications 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 incident 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.

Background Investigator, Chicago Police Officer Susie Ortiz's report of April 12, 2019, indicates that Applicant's driver's license had been suspended one time for driving under the influence (DUI), and once for driving during a suspension.

Applicant appeals the merits of his removal from the eligibility list by arguing that "the only driving related incident which resulted in revocation was the single offense of DUI." Specifically, Applicant admits that he received a DUI conviction in 2006 and supervision (not a conviction) for reckless driving also in 2006. As a result of the DUI conviction, Applicant admits that his license was revoked by the Secretary of State until April 7, 2017. Applicant avers that he

was again given supervision (not a conviction) for driving without a valid license in 2014. Applicant states that he petitioned to have his license reinstated in September 2015 “and his license was fully reinstated.” Applicant argues that the only driving related incident which resulted in revocation was the single offense of DUI and submits his Illinois Court purposes driver’s abstract as his Exhibit G in support of his argument.

Applicant also alternatively argues that his appeal should be granted because he submitted his Personal History Questionnaire (PHQ) in April 2017, and completed his polygraph examination in May 2017, yet Officer Ortiz’s report was not authored until April of 2019, and he (Applicant) was not informed of his disqualification until June 8, 2021. Applicant further submits a letter of his own in his support (Applicant’s Exhibit H), and an unsigned letter of support from [name redacted]. Finally, Applicant argues that CPD staffing problems should be considered, and submits several articles from the Chicago Sun-Times and other publications in support, as well as, a Chicago Police Department Consent Decree from Case No. 17-cv-6260 in the United States District Court for the Northern District of Illinois.

In response, the Office of Public Safety Administration reiterated the pre-employment disqualification standards on driving, and argued that the evidence in Applicant’s admissions, polygraph notes, and emails support OPSA’s decision to disqualify the Applicant.

Findings of Fact

Applicant’s court purposes driver’s abstract, which was printed on April 10, 2017, reveals the following pertinent chronological information:

02/07/2004 Arrest date and conviction for driving 29 miles per hour over the speed limit, ticket 2849578, Illinois Court = Marshall

08/20/2005 Arrest date and conviction for DUI alcohol, ticket 285400, Illinois

Police Board Case No. 21 AA 04
Findings and Decision

Court = Champaign

03/17/2006 Arrest date and conviction for driving 1 – 10 miles per hour over the speed limit, ticket 3027092, State jurisdiction = Nebraska

07/21/2006 Arrest date and license suspension from 09/05/2006 – 04/07/2017 for failing to take blood alcohol content test, ticket 523760, Illinois Court = Cook 1st Dist.

Revocation 08/31/2006 – 04/07/2014, DUI

01/23/2014 Arrest date and supervision for driving while during a suspension / revocation, ticket TE258544, Illinois Court = Cook 1st Dist.

Driver's license issue date 04/08/2017

Thus, based solely upon Applicant's court purposes driver's abstract, there are two DUIs, one occurring on August 20, 2005, in or near Champaign, and one occurring on July 21, 2006, in or near Cook County. As stated above, the disqualification standards provide in pertinent part: "more than one DUI or reckless driving incident, regardless of the date of the incident ... will be found unsuitable for employment."

Applicant appears to argue the technical aspects of his driving abstract only show one driving suspension, as a result of supervision, however, the same technical reading of said abstract reveals a 6-month statutory suspension for failing to take a breath exam, and a revocation for a conviction of DUI. Moreover, such 'hair splitting' is not necessary, as the disqualification standards plainly provide that *more than one DUI incident, regardless of the date of the incident* will result in the candidate being found unsuitable for employment. Said DUI incidents do not require license suspensions, and Applicant fails to address the fact that there are two DUI arrests with two distinctive dates, two distinctive ticket numbers, and two distinctive Illinois jurisdictions on his driver's abstract.

Conclusions of Law

Applicant failed to meet his burden of proof of showing by a preponderance of the evidence that his removal from the Eligibility List was in error, and failed to show a preponderance of the evidence that said removal was not in compliance with a disqualification based upon the Bureau of Organization Development Special Order No. 17-01 Section IV. C. Disqualification Based on Driving Record.

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/ Brian R. Porter

Brian R. Porter
Appeals Officer

Date: October 3, 2021

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 6 in favor (Ghian Foreman, Paula Wolff, Nanette Doorley, Michael Eaddy, Steve Flores, and Andrea L. Zopp) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [name redacted], Applicant No. [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, Nanette Doorley, Michael Eaddy, Steve Flores, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF OCTOBER, 2021.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director