

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **NO. 23 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 January 5, 2023, the Office of Public Safety Administration (the “Office”) 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 February 28, 2023, Applicant appealed this decision to the Police Board by filing a written request specifying why the Chicago Police Department (the “Department”) 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 (the “Appeal”).

On March 27, 2023 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

Applicant timely appealed his removal from the Eligibility List, as authorized by Section 2-84-035(b) of the Municipal Code of Chicago.

The Notice indicates that the Applicant was removed from the Eligibility List for several reasons, including: (1) disqualification based on prior employment history; and (2) violating the rules of the Chicago Police Department. (Notice at pgs. 2-5.) Specifically, the Notice states that a background investigation revealed that during the early morning hours of December 30, 2021, Applicant, who at the time was an off-duty probationary police officer for the town of Normal, Illinois, witnessed and fled the scene of a homicide without rendering aid to the victims. (*Id.*) The Notice further states that while Applicant later made an anonymous 9-1-1 call to report the crime, he did not return to the scene of the crime to assist the police with their investigation. (*Id.*) The Notice also indicates that Applicant violated Normal Police Department's COVID-19 protocols by failing to isolate from the public on weekends and that he failed to promptly report the fact that he witnessed the homicide to his superiors, resulting in his termination as a Normal probationary police officer. (*Id.*)

In his Appeal, Applicant does not deny that he witnessed the homicide, that he fled the scene of the crime without rendering aid to the victims, that he failed to return to the scene of the crime to assist the police with their investigation or that he was subsequently fired from his position as a Normal probationary police officer due to his violations of COVID-19 protocols and his failure to timely convey to his superiors that he had information regarding a crime. (Appeal at pgs. 1-2.) Instead, Applicant admits that he “froze” during the incident and asks for forgiveness and another chance to become a police officer. (*Id.*)

On March 27, 2023, the Department filed a response to the Appeal. In its Response, the Department states that it continues to rely on the facts and evidence cited in the Notice in support of its decision to remove Applicant from the Eligibility List. (Response.)

Findings of Relevant Facts

Biographical Information

Applicant is a twenty-three-year-old male. (Notice at pg. 2.)

Probationary Police Officer Position with the Normal Police Department

On January 10, 2021, Applicant was hired by the town of Normal, Illinois to be a probationary police officer with the hope that after he completed his training at the Macon County Law Enforcement Training Center he would become a full-fledged officer. (Notice at pgs. 2-5.) Due to the ongoing COVID-19 pandemic, Applicant and his fellow trainees were ordered by their commanding officers to isolate from the public on the weekends. (*Id.*)

The January 30, 2021 Incident

In the early morning hours of Saturday January 30, 2021, Applicant observed a violent altercation outside of the Six Strings Club in Bloomington, Illinois. (*Id.*) Specifically, a black male in a gray hoodie fired several shots at a white female who fell to the ground along with another woman. (*Id.*) The assailant discarded his firearm and lay on the ground. Applicant believed that the assailant fired 6-8 shots. (*Id.*) Immediately following the incident and without rendering aid, Applicant and the group he was with fled the scene. (*Id.*) Applicant subsequently reported the incident to the police through an anonymous 9-1-1 call but did not stay or return to the scene, nor did he identify himself. (*Id.*) Applicant also did not inform his superiors at the Macon County Law Enforcement Training Center about the incident until the evening of the following day, January 31, 2021, even though prior to that time he was asked if he had anything to report and said that he did not. (*Id.*)

Applicant’s Termination from the Normal Police Department

On February 2, 2021, Applicant was terminated by the Normal Police Department for violating their Code of Conduct. (*Id.*) Specifically, Applicant was terminated for: (1) failing to report the crime and his witnessing of it in a timely manner; and (2) for his failure to adhere to the directive not to fraternize in public during the weekends because of the ongoing pandemic. (*Id.*)

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

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 from Special Order 21-01 state 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”

The record reveals that the Department did not err in removing Applicant from the Eligibility List based on the fact that he was fired from his previous job as a probationary police

officer because Applicant, in his Appeal, admits that he did not follow orders and “violated the COVID-19 protocol agreement that was in place for recruits.” (Appeal at pg. 1.)

The Department also did not err in removing Applicant from the Eligibility List based on the fact that he engaged in conduct that would have violated the Chicago Police Department’s Rules and Regulations had the applicant been a Chicago Police Department employee. For example, the record reveals and Applicant admits that he fled the scene of the crime without rendering aid to the victims, that he failed to return to the scene of the crime to assist the police with their investigation, that he failed to timely convey to his superiors that he had information regarding a crime and that he violated COVID-19 protocol. (Notice at pgs. 2-5.) As the Department correctly notes, these actions would have violated the Chicago Police Department’s Rules and Regulations had the applicant been a Chicago Police Department employee. Specifically, these actions would have violated the following rules:

<u>Rule</u>
Rule 5: Failure to perform any duty
Rule 6: Disobedience of an order or directive, whether written or oral
Rule 10: Inattentive to duty
Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action

Accordingly, because the decision was not erroneous, the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer should be **affirmed**.

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: June 12, 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 8 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, 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, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 15th DAY OF JUNE, 2023.

Police Board Case No. 23 AA 04
Findings and Decision

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director