

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED]) No. 24 AA 03
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 December 13, 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 background investigation found in the Candidate Background Investigation Summary (“Background Investigation Report”), along with the reason(s) for the disqualification (collectively, “Notice”).

On January 5, 2024 an email was received from Applicant seeking to appeal the disqualification decision to the Police Board by 1) filing a written request specifying why the Department of Police erred in the factual determinations underlying the disqualification decision and/or 2) 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 February 22, 2024, the Office of Public Safety Administration filed with the Police Board a Response to Applicant’s Appeal (“Response”). On February 29, 2024, an email was received as Applicant's Reply (“Reply”). Police Board Appeals Officer Laura Parry has reviewed the Notice, Appeal, Response and Reply.

APPEALS OFFICER'S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Laura Parry, 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

All filings were timely filed as provided by Section 2-84-035(b) of the Municipal Code of Chicago ("MCC") and the Police Board City of Chicago Rules of Procedure ("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 reasons:

Basis #1

IV-D. Disqualification Based on Prior Employment History

1. "Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is critical to the proper functioning and administration of the Chicago Police Department, which in turn is vital to the Chicago Police Department's ability to protect the public. A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis.
2. A poor employment history may 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.
3. Further, 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. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment." (Background Investigation Report, p. 1-2)

Department cited the following conduct and/or alleged conduct, in summary:

Applicant could not explain why he has been unemployed since June 2018. He told Background Investigator on August 24, 2022, and November 21, 2023 that he has not received unemployment benefits, that he was once employed by his father's transportation logistics

company. He has not attended school since 2014. (Background Investigation Report, p. 2-3).

Basis #2

IV-D. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process

1. "Honesty and credibility are vital characteristics for a police officer to possess in order to ensure the integrity of police operations and investigations and to protect the public and maintain its trust in the police. Honest and complete answers to background questions asked of applicants during the application process, as well as cooperation with the application process, and thus extremely important to the maintenance of the Chicago Police Department's force and the integrity of its hiring process. Therefore, applicants are required to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer shall be disqualified. Prohibited conduct within this category includes, but is not limited to: failure to provide any required information; failure to respond to requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; 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; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed." (Background Investigation Report, p. 2-3).

Department cited the following conduct and/or alleged conduct, in summary:

Applicant answered, "no," when asked whether he had applied to any other law enforcement agencies or submitted to other background investigation in his interview on November 21, 2023. When the Background Investigator was contacted via phone by a background investigator from the Michigan State Police on October 31, 2023, he expressed concern about Applicant's failure to provide a reason for his unemployment. On December 1, 2023, the same Michigan investigator told the Background Investigator via phone that Applicant had recently been rejected due to his employment history. (Background Investigation Report, p. 3)

Appeal and Response

Appeal, in summary

Applicant explained that he truly needed this job and had full respect for law enforcement,

averring that he did not lie or keep information from Department about applying to other law enforcement agencies. Applicant stated that he "had confirmed" that he had applied unsuccessfully to other agencies, and posited that there could have been a misunderstanding in what he said because he did not know when the Michigan State Police investigation started. He stated there was a long lag of time during application processes and that he may have had things confused because he was in different parts of the application process for both departments. Applicant said it would have been pointless to lie about it because the two departments could communicate with each other.

As to the gap in his work history, Applicant explained he was going through a "rough time" especially when his car broke down, that he was complacent and unemployed living rent-free in his parents' home. He explained that he is now back working at his father's family-owned small business logistics company in dispatch and the office. Applicant asserted he has realized his mistakes and has been trying hard to get everything in order and be a responsible adult.

(Appeal)

Response, in summary

Department iterated the conduct alleged and its decision to disqualify. Department asserted that the evidence supports its decision to disqualify Applicant and that it was within its rights to do so, citing Illinois Appellate cases *Apostolov v. Johnson*, 2017 IL App (1st) 173408, ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20. Department further asserted Applicant denied owning or driving a vehicle, not having owned one since 2019. Department argued Applicant's limited employment history and driving experience along with his inability to answer certain questions in the application process leads to questions of his ability to make critical evaluations in any situation, especially in a stressful or complex one and fulfill Department's mission to "strive to attain the highest degree of ethical behavior and professional conduct at all

times." Department found Applicant's history "mysterious" and "extremely troubling."

(Response)

Reply, in summary

Applicant disputed Department's assertion that he has limited employment or driving experience, and that he has worked in the past and is working now. He asserted that he owned a vehicle in the past and though he hasn't owned one since 2019, it does not affect his driving experience as he has an insurance card and drives his father's vehicle. Applicant stated, "How does this work, I passed my Chicago Police Background Investigation last time but failed it a year apart." He stated it is not fair to be disqualified over an honest mistake of forgetting or losing track of the two application processes. He finally asserted that he is "being discriminated against because I'm a foreigner or a Muslim." (Reply)

Findings of Fact

All filings were timely filed as provided by Section 2-84-035(b) of the Municipal Code of Chicago ("MCC") and the Police Board City of Chicago Rules of Procedure ("Police Board Rules of Procedure").

Applicant did not dispute that he did not answer questions regarding the gap in his employment. He explained he had gone through a rough time and that he had worked for his father's company prior to June 2018 and is working there again. There is no evidence that he explained to that to the Background Investigator in either interview. **Applicant DID NOT** provide sufficient additional facts directly related to or adequately specify why the Department erred in the factual determinations underlying the decision.

Applicant disputes he has limited driving experience because he drives his father's vehicle even though he doesn't own one himself. Department did not state a Basis for Disqualification for this, rather just a general assertion that it, along with other factors, should be disqualifying.

Applicant DID provide sufficient additional facts directly related to or adequately specify why the Department erred in the factual determinations underlying the decision.

Applicant did not disclose that he applied to and was undergoing a background investigation for the Michigan State Police. He explained he may have misunderstood, maybe was misunderstood, or he may have forgotten or gotten confused as to when he was undergoing a background investigation at another law enforcement agency. These assertions were not persuasive. **Applicant DID NOT** provide sufficient additional facts directly related to or adequately specify why the Department erred in the factual determinations underlying the decision.

Conclusions of Law

Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)). Therefore, according to the law and procedures, findings and recommendations are based upon whether Applicant’s Appeal shows by a preponderance of the evidence that Department erred in removing Applicant's name from the Eligibility List, based upon the employment standards established by the Department.

Applicant's assertion that he is being discriminated against exceeds the scope of authority for review here and therefore the Appeals Officer declines to consider or make recommendations thereon.

Caselaw cited by Department support the proposition that the authority to define the disqualification standards lies solely with the CPD and that there is broad discretion afforded the Department in disqualifying applicants.

Applicant **DID NOT** show by a preponderance of the evidence that Department erred in

the exercise of its decision to remove Applicant's name from the Eligibility List for the reasons stated herein and any one basis will suffice to uphold a decision to disqualify.

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,

A handwritten signature in cursive script, appearing to read "Laura Parry", is written over a horizontal line.

Laura Parry
Appeals Officer
Date: April 15, 2024

POLICE BOARD DECISION

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

The Police Board hereby adopts the Appeals Officer’s findings, conclusions, and recommendation by a vote of 8 in favor (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Ghian Foreman, 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: Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Ghian Foreman, 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