

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 17**
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 April 26, 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 with said report dated April 15, 2023, along with the reason(s) for the disqualification decision and conduct alleged (“Notice” or "disqualification letter"). Department cited conduct under four (4) bases.

In a May 2, 2023, letter, Applicant appealed the disqualification decision to the Police Board by 1) filing a written request seeking to specify why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) bring 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”). Department filed a Response June 5, 2023. No Reply was filed an unsigned Reply dated June 24, 2023.

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 PARTIES

The Appeal, Response and Reply were timely filed and as permitted by Section 2-84-035(b) of the Municipal Code of Chicago.

According to the Notice and Response, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason(s):

Basis #1

IV-D¹. 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 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.
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. 1-3)

Department cited the following incidents of conduct, in summary:

Applicant was terminated from employment as a medical assistant by two employers for absenteeism. Neither employer would rehire Applicant. One employer reported Applicant called in sick at least once a week and "constantly" used her cell phone during work even after several warnings from the office manager. Applicant's performance at that employer was reported as "poor" and it was reported that Applicant "did not get along with others." The

¹ Scrivener's error in the Report listed the Basis as IV A instead of IV D.

second employer reported Applicant to be a "good employee" but "too distracted by her family situation," could not work Fridays or change hours and was warned several times about attendance.

(Background Investigation Report, p. 1-3)

Basis #2

IV-H. Disqualification Based on Other Conduct

1. "Police officers are required to show respect for authority, uphold the law, and defend the dignity and rights of the public. Therefore, any applicant who has engaged in conduct that exhibits a pattern of repeated abuse of authority; lack of respect for authority or law; lack of respect for the dignity and rights of others; or a combination of traits disclosed during the pre-employment investigation that would not by themselves lead to a finding that an applicant is unsuitable for employment, but when taken as a whole, exhibit that the applicant is not suited for employment as a police officer, will be found unsuitable for employment." (Background Investigation Report, p. 3)

Department cited the conduct described in Basis #1 above.

(Background Investigation Report, p. 3-4)

Basis #3

IV-I. 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 full cooperation with the application process, are thus extremely important in 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. 4)

Department cited the following, in summary:

Investigator reported that per employment policy an applicant must provide three (3) neighbor references, but Applicant was not willing to do so. Applicant originally submitted three friends of her father's that lived 1.3 to 4.2 miles from her father's residence. Background investigator requested neighbor contacts but after Applicant still did not provide any, she was told the report would be submitted without them and Applicant said, "Okay, that's fine, I do remember at the academy when we were doing drug screens. They stated if we don't have neighbors around or don't want people to know about us joining CPD, they stated it was fine." (Investigation Report, p. 4)

Basis #4

IV-J. Disqualification Based on Polygraph Results

"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 full cooperation with the application process, are thus extremely important to the maintenance of the Chicago Police Department's force and the integrity of its hiring process. Applicants may therefore be given a polygraph examination. The polygraph examination is used as a tool to elicit information and verify responses elicited during the application process and to verify information collected during the pre-employment investigation. The results of the polygraph examination will be used as part of the hiring process in determining an applicant's suitability for the position of Police Officer. Admissions made during a polygraph examination, or an indication of deception, along with other factors, may be used as a basis for disqualification." (Investigation Report p. 4-5)

Department cited inconsistencies in Applicant's polygraph examination answers with her answers in the background investigation interview and her Personal History Questionnaire ("PHQ") as to Applicant's use of marijuana. On her PHQ at Q69, Applicant answered that she used marijuana at the age of 16. During the background interview, Applicant stated she used marijuana between 2009-2011 approximately 40 times. According to the report of questioning during the Polygraph examination process, Application stated she used marijuana approximately 1,500 times between the ages of 16 and 19.

(Investigation Report, p. 5)

Appeal, Response and Reply

APPEAL

Applicant stated she is a single mother of a disabled six-year-old child who moved to her current residence approximately one year ago, keeps to herself, and does not know her neighbors. She stated she spends a lot of time at her parents' house in the City. She stated she told the background investigator and was told she could use the neighbors that she did know, but was later told that the people she listed lived too far away, and that during the drug screening at the academy they were told they didn't have to tell people they were joining the police force if they felt uncomfortable doing so and it wouldn't be held against them.

Applicant explained that her absences during her employment as a medical assistant was due to issues with her son. She said that as to the one employer that reported her to have had "poor" performance, it was agreed during her job interview with them that her schedule would be flexible so she could tend to her son's needs, but ultimately it was not the case and scheduling issues created conflict between her and her supervisor. She was there only two weeks.

Finally, as to marijuana use, Applicant wrote that she used marijuana with friends when she was between the ages of 16 and 19 and does not know the exact number of times.

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(Appeal letter)

RESPONSE

Department, in summary, iterated the conduct and bases set forth in its disqualification letter. (Response)

FINDINGS OF FACT

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove Applicant's name from the eligibility list for which Applicant was given the opportunity to file a written appeal specifying why the Department erred in the factual determinations underlying the Department's decision *and/or* provide additional facts directly related to the bases for disqualification.

Findings of Fact as to Individual Incidents of Conduct Alleged

Applicant was terminated from her position as a medical assistant from two employers. Applicant did engage in this conduct. Applicant was terminated for absenteeism. Neither would be willing to rehire Applicant. While one employer reported she was a "good employee," the other employer reported she did not get along with others. By a preponderance of the evidence, Applicant did not show error or provide additional facts that show the conduct did not occur.

Applicant did not provide current neighbor contacts. Applicant did engage in this conduct. Applicant could have provided at least some of that information whether she personally knew the neighbors or not. Neighbors may have day-to-day knowledge of comings and goings, noise, etc. By not providing that information Applicant deprived the Department the ability to ask any questions during the background investigation which is part of the application process. Applicant provided additional references who were friends of her father's, but that is not the same type of reference. Additionally, even though she stated she spent a lot of time at her parents' house, the contacts she first listed were not neighbors of her parents' house. Applicant described her parents' house as being in the City and the contacts she listed lived between 1.3 and 4.2 miles away. While Applicant may have been told or misunderstood what was told at the

academy during drug screening about not having to provide that information, after repeated requests by the background interviewer for that information, Applicant should have provided it. She made no attempt to do so. By a preponderance of the evidence, Applicant did not show error or provide additional facts that show the conduct did not occur.

As to inconsistencies in Applicant's statements about her marijuana use, Applicant did engage in this conduct. There is a huge difference between using marijuana 40 times and 1500 times, and a huge difference between using it only at age 16 (one year) and using it from ages 16 to 19 (four years). It appears Applicant was not truthful in her answers on the PHQ and in her background interview, because it was not until the polygraph examination that she confessed to using marijuana 1500 times. By a preponderance of the evidence, Applicant did not show error or provide additional facts that show the conduct did not occur.

Findings as the Individual Bases Alleged

In applying the disqualification standards to the facts as found above, the followings findings are made:

Applicant DID NOT provide additional facts sufficient for all conduct cited directly related to and/or specify why the Department erred in the factual determinations underlying the disqualification decision as to Basis #1 **IV-D - Disqualification Based on Prior Employment History**; Basis #3 **IV-I - Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process**; and Basis #4 **IV-J - Disqualification Based on Polygraph Results**.

Termination for absenteeism, in and of itself, is a basis for disqualification. Applicant also did not cooperate with the application process when she chose not to even attempt to provide neighbor contacts, even if the neighbors had no information to share with the investigators. The polygraph results showed Applicant was not truthful in the process when it came to answering

questions about her marijuana usage.

Applicant DID provide additional facts sufficient for all conduct cited directly related to and/or specify why the Department erred in the factual determinations underlying the disqualification decision as to Basis #2 **IV-H Other Conduct**. She explained that her use of the cell phone at work and her absenteeism was related to her disabled child. It does not appear she meant to disrespect her coworkers or supervisors.

CONCLUSIONS OF LAW

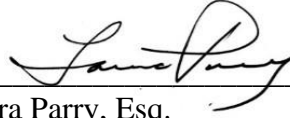
Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility 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 **DID NOT** show by a preponderance of the evidence for all the bases presented that Department erred in the exercise of its decision to remove Applicant's name from the Eligibility List for the reasons stated herein. Conduct on even just one basis would have been enough for disqualification.

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, Esq.
Appeals Officer

Date: August 13, 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