

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED]) **No. 23 AA 12**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Candidate 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 February 15, 2022, 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, along with the reason(s) for the disqualification decision (“Notice”).

In an undated letter filed with the Police Board on April 11, 2023, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and 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 April 24, 2023, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). Applicant did not file a Reply. Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, 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, and 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 Eligibility List for the following reasons:

IV. OPSA Special Order No. 21-01/Pre-employment Investigation Standards for Applicants to the Position of Police Officer

B. 7 a)(3)(4)(5)-Other Criminal Conduct-Conduct Involving Drugs

An Applicant who has used any illegal drug, other than marijuana, within the last five (5) years (from the date of PHQ submission), or has engaged in more than minimal experimentation at any point in his or her life will be found unsuitable for employment.

B. 7(c)-Other Criminal Conduct-Conduct Indicating Violent Tendencies

Applicants who have demonstrated a propensity for violence do not meet those requirements. Therefore, any conduct demonstrating a propensity for violence will be grounds for disqualification. Conduct demonstrating a propensity for violence includes but is not limited to, conduct which would constitute murder; kidnapping; sex offenses; assault; battery; aggravated battery; offenses against property; robbery; domestic violence; stalking; disorderly conduct; and mob action.

As noted above, an applicant who has engaged in any act falling within the scope of this section that constitutes a felony: IV-8-6 Felonies will be found unsuitable for employment.

J. Disqualification Based on Polygraph Results

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.

I. Rules and Regulations of the Chicago Police Department

B. Standards of Conduct

4. A member must scrupulously avoid any conduct which might compromise the integrity of him/herself, his fellow members or the Department.

Applicant was disqualified by Department based on her past Conduct Involving Drugs, Conduct Indicating Violent Tendencies, and Polygraph Results. The conduct alleged includes using and selling drugs, fighting, blackmail, and theft.

Appeal and Response

Applicant appeals the decision, stating that she last used marijuana over a year ago, and no longer uses drugs of any kind. She states that she was given ecstasy on two occasions without her consent, and has never “taken part in” selling or using hard drugs.

Applicant states that she was in an abusive relationship with her ex-boyfriend for over seven years, and they fought several times. She was also suspended for a fight while in high school, but was defending a friend and was not the initial aggressor.

Applicant believes that the polygraph questions were deceptive, and claims that many of her answers were misconstrued. Applicant states that she is not a bad person, and that her family members and friends consider her to be one of the most “dedicated, hardworking individuals that they know.” She acknowledges that she has been in some “unforeseen circumstances,” and says that she is not proud of some of the things that have taken place. Applicant stresses that she is “improving daily” and making better decisions about who should be allowed in her life. She is an advocate for domestic violence victims and believes that violence should not be normalized. Applicant asserts that she is deeply passionate about becoming a Chicago Police Officer.

Department’s Response states that the Appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. Department maintains that the Pre-Employment Disqualification Standards (“Standards”) under which Applicant’s disqualification decision was based upon are clear (namely, Disqualification Based on Other Criminal Conduct-Conduct Involving Drugs and Conduct Indicating Violent

Tendencies, and Disqualification Based on Polygraph Results). Department states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and the Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

Department also notes that Applicant violated Article I of the Rules and Regulations of the Chicago Police Department by failing to avoid conduct which might compromise the integrity of herself, her fellow members, or the Department. Department states that Applicant's past actions revealed that she would have been in violation of at least three of Department's Rules had she been in their employ, each of which would serve as grounds for disqualification.

Findings of Fact

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove her name from the Eligibility List. Department determined that Applicant's Conduct Involving Drugs, Conduct Indicating Violent Tendencies, and Polygraph Results were all grounds for disqualification.

Department articulated the Standards by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Conduct Involving Drugs

Applicant reported in her Personal History Questionnaire ("PHQ") that she last used marijuana in July, 2021, has never used hallucinogens, and sold marijuana to a childhood friend. During her Polygraph Exam, Applicant told the Polygraph Examiner ("PE") that she last smoked marijuana in January, 2022, took Xanax without a prescription, used ecstasy two times in 2019

and 2020, and sold marijuana three times to a childhood friend. When questioned by the Investigator, Applicant said she no longer uses drugs, and last used drugs in January, 2022.

In her Appeal, Applicant states that she last used marijuana in January, 2022, and never intentionally used hard drugs. She claims that the two times that she used ecstasy, it was ingested without her consent. The first time was when she was in Vegas for a friend's birthday, and the drug was placed in her unattended drink when she went to the restroom. The second time that she used ecstasy was in January, 2022 when her ex-boyfriend crushed it into a cigar, and she smoked the cigar believing that it only contained marijuana. Applicant states that since that day, she no longer uses drugs of any kind, nor did she continue to date her ex-boyfriend.

Conduct Indicating Violent Tendencies

Applicant advised the PE that during the course of their relationship, she stabbed her ex-boyfriend in the foot, slashed his mattress and window treatments, and hit him in the eye with a padlock. She also struck him on the head with an air freshener bottle and sprayed him with mace.

In addition, Applicant reported being suspended for fighting in high school, and also served several in-school suspensions. She advised the Investigator that she "grabbed a male by the head, and [they] started fighting," causing her to receive a 10-day suspension from school. Applicant also reported to the PE that she would hit her cat Smokey with a belt when he got on the table to get food.

In her Appeal, Applicant states that she was in an abusive relationship with her ex-boyfriend for over seven years, and they fought "multiple times." She states that she never initiated the fights, but was not going to allow herself "to be a doormat, nor a punching bag." She states that she never reported any of the violent incidents to the police. Applicant states that she is now an advocate for domestic abuse victims, and keeps the number to the DV Hotline in her phone to give to other victims.

Applicant's Appeal also provides additional details regarding the fight in high school. Applicant claims that the fight began because a close friend of hers was approached aggressively by a male classmate, and Applicant stepped up to defend her. Applicant states that the male began swearing at her and proceeded to place his hands around her neck, so she fought back in defense. She states that both she and the male student were suspended, and she was advised that she should have walked away to get help instead of fighting back.

Applicant states that when she was growing up, she had dreams of becoming a veterinarian, and would never harm an animal. She explains that her cat Smokey was like her child, and she "patted his butt" to signal him to get down from the table.

Polygraph Results

Applicant advised the PE that she threatened to blackmail a person for \$500.00. She also related that during the George Floyd riots, she looted from stores taking various items and receiving stolen items from other looters. Applicant was given a chance to correct her answers and/or fully explain the looting when answering the PHQ, but did not. Applicant both wrote and described her actions when asked to explain in a questionnaire with the PE. When asked about her answers by the Investigator, Applicant stated that she sang like a bird to the PE, but was only in the car with her cousins when they looted.

In her Appeal, Applicant states that the blackmail allegation is related to an incident in 2015 when she purchased gifts and gave money to a man she was dating for his birthday. Shortly thereafter, he decided to "move on with another person." Applicant states that she "wasn't upset about it," but asked him to return the gifts, or she would be "happy to inform his companion of the duration of our dealings."

Applicant now states in her Appeal that the PE asked her whether she knew anyone who was part of the riots, and she advised him that she indeed knew of people from her neighborhood

that were involved. She states that she “stood firm” with the PE on how wrong the whole ordeal was, because at the end of the day, “our neighborhood was being destroyed.” Applicant states that she “highly disagree[s]” with this type of behavior.

Standards of Conduct

Department alleges that Applicant has failed to scrupulously avoid conduct which might compromise the integrity of herself, her fellow members, or the Department. Department states that Applicant’s past actions revealed that had she been in Department’s employ, she would have been in violation of at least three of its Rules.

Applicant states that she was open and honest about all things in her past during the application process and should not be held back for “stating [her] truth.” Applicant claims that she has turned over a “new leaf,” and has better judgment when allowing other people into her life.

Conclusions of Law

Section IV. of the Bureau of Support Services Special Order 21-01 contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer that are applicable to this Appeal.

Applicant was disqualified based upon Conduct Involving Drugs, Conduct Indicating Violent Tendencies, and Polygraph Results. She was also disqualified for violating Department’s Standards of Conduct.

Applicant could be found to be in violation of Section B(7) a)(4) of the Standards by taking ecstasy on two occasions and taking Xanax without a prescription. In addition, Applicant sold drugs on between one and three occasions, depending on who she was speaking to. Applicant does not deny taking drugs, but states that the ecstasy was given to her without her

knowledge on both occasions, and she stopped smoking marijuana in January, 2022

(Applicant does not address the Xanax in her Appeal).

Applicant could also be found to have displayed Conduct Indicating Violent Tendencies in violation of Section B(7)(c) of the Standards during her numerous altercations with her boyfriend in which she stabbed him in the foot, hit him in the eye with a padlock, maced him, and slashed his mattress and window treatments. Even if Applicant was the victim in each of the incidents with her boyfriend, Applicant admitted to the PE that she struck her cat with a belt and grabbed her male classmate by the head prior to fighting him.

Applicant could also be disqualified pursuant to Section J of the Standards based on her Polygraph Results. Applicant advised the PE that she blackmailed an individual for \$500.00 and participated in the riots and looting following George Floyd's death. She told the PE that she took various items and received stolen items from other looters. Although she now states that she only rode in the vehicle and did not loot, Applicant had the opportunity to correct her answers or explain further in her PHQ, but did not.

Based on her own admissions, Applicant's conduct contained numerous violations, any one of which could be considered grounds for disqualification based on Department's Standards.

No additional facts, evidence or arguments were submitted in Applicant's Appeal that support her contention that Department erred in disqualifying Applicant based upon her Conduct Involving Drugs, Conduct Indicating Violent Tendencies, and Polygraph Results.

Even if what Applicant presented in her Appeal could be construed as a denial, in considering and weighing the numerous grounds for disqualification that were presented, Applicant has failed to show, by a preponderance of the evidence, that the decision to remove her from the Eligibility List was erroneous.

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/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: July 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 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 20th DAY OF JULY, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director