

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)	
DETECTIVE JASON VILLARREAL,)	No. 20 PB 2980
STAR No. 20071, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	(CR No. 1061914)
RESPONDENT.)	

MEMORANDUM AND ORDER

On November 12, 2020, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Detective Jason Villarreal, Star No. 20071 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department for violating several Rules of Conduct.¹

On August 12, 2021, the Superintendent filed a Motion to Withdraw Charges (“Motion”) against Respondent, stating that the Superintendent and Respondent have reached an agreement to settle the matter. *See* Motion at ¶ 3; Ex. B. The Police Board has reviewed and considered the Motion and its accompanying Exhibits.

I. FACTUAL BACKGROUND

According to the factual background included in the Motion, on or about May 1, 2013, at approximately 4:30 p.m., Respondent was off duty and driving his personal vehicle westbound on 35th Street, near Hermitage Avenue in Chicago. As Respondent passed Hermitage, he observed a traffic accident at the intersection of 35th Street and Hermitage. Respondent made a U-turn, turned his vehicle eastbound, and then made a “sharp” and “sudden” left turn onto Hermitage. *Id.* at Ex. A (Charges Against Detective Jason Villarreal); Ex. D (Statement of

¹At the time of the incident that underlies these charges, Respondent held the rank of police officer. He was promoted to detective on or about July 16, 2019.

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██████████ to the Independent Police Review Authority² (IPRA)); Ex. F (Statement of Heather Arriaga to the IPRA).

Around the same time, ██████████ (██████████) and ██████████ (██████████) were walking westbound on the north side of 35th Street. As ██████████ and ██████████ entered the crosswalk to cross Hermitage, Respondent turned onto Hermitage and nearly struck ██████████ and ██████████. ██████████ apparently pulled on ██████████ to prevent her from being struck by Respondent's vehicle. *See id.* at Ex. E (Statement of ██████████ ██████████).

According to witnesses, Respondent then stopped his car in the intersection of Hermitage and 35th Street. Respondent exited the car, approached ██████████ and yelled at him. Motion ¶ 9. According to one witness, Respondent "jumped out of the car, got in [██████████] face," and said, "What the fuck is your problem[?] [A]re you going to do something?" *Id.* at Ex. D, E. Respondent then pushed ██████████³. Several bystanders witnessed the altercation between Respondent and ██████████. When some of these onlookers objected to Respondent's actions, Respondent called 911, telling the 911 dispatcher that an off-duty police officer needed assistance and that a crowd was "harassing" him. *See* Motion ¶ 11.

Sometime thereafter, police officers responded to the scene and spoke with Respondent. The officers then arrested ██████████ based entirely on representations made by Respondent about the altercation. ██████████ was subsequently charged with aggravated assault and resisting arrest. *See id.* at Ex. H (Arrest Report for ██████████ May 1, 2013). ██████████ has since pled guilty to resisting arrest; the remaining charge was stricken with leave to reinstate.

² The Civilian Office of Police Accountability (COPA) replaced IPRA on September 15, 2017.

³ It is unclear whether Respondent identified himself as a police officer before pushing ██████████. *See* Motion ¶ 12.

II. CHARGES AGAINST RESPONDENT

On November 12, 2020, the Superintendent charged Respondent with violating four Rules of the Chicago Police Department: Rule 2 (Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department); Rule 8 (Disrespect to or maltreatment of any person, while on or off duty); Rule 9 (Engaging in any unjustified verbal or physical altercation with any person while on or off duty); and Rule 14 (Making a false report, written or oral).

The charges filed with the Board against Respondent were based on two specifications. In Specification No. 1, the Superintendent outlined the facts summarized above and charged Respondent with violating Rules 2, 8, and 9. In Specification No. 2, the Superintendent charged Respondent with violating Rules 2, 8, 9, and 14. Specification No. 2 alleged that Respondent made a false report to the responding police officers after the altercation occurred. Specifically, Respondent "falsely told responding officers" that when Respondent exited his vehicle, ██████████ "approached him in an aggressive manner, ... threatened [Respondent]," or "stated words to the effect of 'I'll whup your ass'" to Respondent. These statements "caus[ed] ██████████ ██████████ to be arrested for aggravated assault." According to Specification No. 2, however, Respondent "was the aggressor, and/or ... was the one who exited his car abruptly, and/or ... was the one who approached ██████████ and then pushed ██████████"

Based on the foregoing, the Superintendent recommended that Respondent be discharged from the Chicago Police Department.

III. MOTION TO WITHDRAW CHARGES

On August 12, 2021, the Superintendent filed its Motion to Withdraw Charges against Respondent, as the Superintendent and Respondent reached a settlement agreement (the

“Stipulation”). Per the Stipulation, Respondent and the Fraternal Order of Police, Lodge No. 7 acknowledge that Respondent violated Rules 2, 8, and 9 of the Department’s Rules and Regulations as outlined in the charges under paragraph 1 of the Specifications. *See* Motion, Ex. B at ¶ 5. Respondent and the Lodge “do not agree that [Respondent] violated Rules 2, 8, 9, and 14 ... as stated in the charges under paragraph 2 of the Specifications.” *Id.* Based on the parties’ Stipulation and as noted in the Superintendent’s Motion, Respondent agrees to accept a 180-day suspension without pay. *See id.*; Motion at ¶ 4.

A. ANALYSIS

Pursuant to Section II.E of the Rules of Procedure for the Police Board, the Superintendent and Respondent may “enter into a Stipulation in which Respondent and the Superintendent agree to recommend a specific disciplinary action, including a specific term of suspension.” Before the Board accepts a Stipulation, the Board must determine that there is a factual basis for the Stipulation. In doing so, “the Board may require the parties to provide the factual basis for the charges and a summary of what evidence would be tendered at a hearing,” a summary of exculpatory and inculpatory evidence, and facts in aggravation or mitigation. Police Bd. R. Proc. II.E.2. Additionally, the parties must show that the Chief Administrator of the Civilian Office of Police Accountability does not object to the Stipulation. Police Bd. R. Proc. II.E.3.

First, the Board finds that the Motion to Withdraw provides an adequate factual basis for the charges against Respondent. The Superintendent provided the following documents as Exhibits to the Motion: a copy of the charges filed against Respondent (Ex. A), a copy of the parties’ Settlement Agreement and Release (Ex. B), a Statement of Respondent taken August 16, 2014 (Ex. C), a Statement of ██████████ taken May 2, 2013 (Ex. D), a Statement of ██████████

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██████████ taken May 2, 2013 (Ex. E), a Statement of ██████████ ██████████ taken May 1, 2013 (Ex. F), a video recorded by civilians after Respondent pushed ██████████ (Ex. G), and a copy of the Chicago Police Department Arrest Report for ██████████ dated May 1, 2013 (Ex. H). Respondent's actions described by the above-named witnesses, *see* Ex. D-F, and shown in a video recorded on the date of the incident, *see* Ex. G, provide an adequate factual basis for the Stipulation.

And there is a compelling reason for the Board to accept the parties' Stipulation. At a hearing on the charges, the Superintendent must prove the charges against Respondent by a preponderance of the evidence. *See generally Clark v. Bd. of Fire & Police Comm'rs of the Vill. of Bradley*, 613 N.E.2d 826 (Ill. App. Ct. 1993). In his Motion, the Superintendent states that he will be challenged in carrying this burden. Despite repeated and diligent efforts, the two principal witnesses to Respondent's actions, ██████████ and ██████████ are unable or unwilling to testify. There is no known address for either ██████████ or ██████████ to compel their appearance by subpoena. And while Ms. ██████████ was willing to testify via Zoom, on June 10, 2021, the Board ordered that the hearing on these charges would be held in-person.⁴ The Board subsequently denied the Superintendent's motion requesting that Ms. ██████████ be allowed to testify via Zoom. Ms. ██████████ is unwilling to travel to Illinois to testify in person and has ceased

⁴On June 10, 2021, based on the significant change in the COVID-19 landscape at that time, including declining cases and hospitalizations, increasing vaccinations, updated guidance from the U.S. Centers for Disease Control and local authorities, and Chicago's plans to enter into Phase 5 on June 11, 2021, the Board ordered testimony to be conducted in person. Respondents in Police Board cases have a right to confront and cross-examine witnesses against them (Chi. Ill. Mun. Code § 2-84-030). The Board found that when the reliability of a witness, such as a victim or a lone observer, in a Police Board hearing is vital to the Board's determination of guilt or innocence and in the absence of emergency conditions (which existed at the height of the COVID-19 crisis), due process likely requires that witness to appear in-person.

to cooperate. Without these witnesses, it is doubtful that the Superintendent would carry his burden of proving the charges outlined in Specification No. 2.

In the Motion to Withdraw, the Superintendent also cites Respondent's pending Motion to Dismiss, which is based on the length of time between the incident and the date the charges were filed. The incident in this case occurred on May 1, 2013. The charges were filed on November 12, 2020. Respondent has agreed to withdraw his Motion to Dismiss as part of the Settlement Agreement.

The Motion to Withdraw also includes facts in mitigation. Respondent graduated from Valparaiso University with a degree in psychology and worked as an investigator at the Department of Children and Family Services for seven years. He joined the Chicago Police Department in 2002. He worked at the juvenile detention center as a case screener, gang intelligence officer, and the commander's secretary. While he was in the Gang Resistance Education and Training (GREAT) program, he visited schools and mentored children about goal planning, conflict resolution, and resisting gang recruitment. He became a Detective on July 16, 2019, and his last assignment was in the missing person's section. Respondent "acknowledges that his actions were inappropriate and that he should have handled the situation better." *See* Motion ¶ 19.

Last, the Superintendent has provided a letter from Andrea Kersten, Interim Chief Administrator of the Civilian Office of Police Accountability, who states that her office has no objection to the Motion to Withdraw, the Settlement Agreement, or Respondent's acceptance of a 180-day suspension in accordance with the Settlement Agreement. This letter shall be made part of the Record as Hearing Officer Exhibit 1.

Given the above, the Board finds that the parties have satisfied the requirements set forth in Section II.E. of the Rules of Procedure. The Board finds the Superintendent's hesitancy to proceed to hearing credible: it is unlikely that the Superintendent would be able to meet his evidentiary burden without the cooperation of the two key witnesses in this case. The conduct of this officer and others who participated in the arrest of one of the parties as well as not giving credence to the members of the public who were concerned about police conduct is troubling. While the Board does not condone Respondent's conduct, it appears prudent to impose a 180-day suspension for his conduct to avoid holding a hearing on the charges during which the Superintendent likely could not meet his burden of proof.

POLICE BOARD ORDER

IT IS HEREBY ORDERED that, for the reasons set forth above, the Superintendent's Motion to Withdraw Charges is **granted**, and the proceedings before the Police Board are terminated, conditional upon the Superintendent ordering and Respondent accepting a 180-day suspension without pay for violating Rules 2, 8, and 9 as set forth in Specification No. 1 of the charges.

This Order is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Nanette Doorley, Michael Eaddy, Steve Flores, Jorge Montes, and Andrea Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 23rd DAY OF SEPTEMBER 2021.

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Attested by:



GHIAN FOREMAN
President



MAX A. CAPRONI
Executive Director

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DISSENT

The following members of Board hereby dissent from the Order of the majority of the Board.

[None]

RECEIVED A COPY OF

THIS MEMORANDUM AND ORDER

THIS ____ DAY OF _____, 2021.

DAVID O. BROWN
Superintendent of Police