

**COOK COUNTY SHERIFF'S
MERIT BOARD**

IN THE MATTER OF:

**DEPUTY SHERIFF
IYHAB A. NEMEH**

**EMPLOYEE # [REDACTED]
STAR # 10403**

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DOCKET NO. 1916

DECISION

This matter coming on to be heard pursuant to notice before Vincent T. Winters, a Board Member, the Cook County Sheriff's Merit Board finds as follows:

1. The Respondent Iyhab NemeH was appointed a Deputy Sheriff on April 7, 1997.
2. On May 13, 2007 the Respondent was assigned to the George N. Leighton Criminal Court Building ("CCB"), located at 2650 S. California Avenue, Chicago, Illinois.
3. Respondent's position as a Deputy Sheriff involves duties and responsibilities to the public; and
4. Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; and
5. The Board has jurisdiction of the subject matter over this proceeding as well as the parties in accordance with Chapter 55 of the Illinois Compiled Statutes; and
6. Respondent was personally served with a copy of the Complaint against him as well as Notice of Hearing and appeared before the Board to originally contest the charges contained in the Complaint with counsel as well as appearing for the various hearing dates, status, and ultimately trail; and
7. This matter came for hearing on December 8, 2016. Respondent NemeH has been charged by way of a Complaint filed on August 17, 2016 with violating Rules and

Regulations and General Orders of the Cook County Department of Corrections, specifically Sheriff's Order 11.2.2.0 II., IV. M and Q, V, A. 1, B. 2, 4, 6; XIII. A., B., C.; Sheriff's Order 11.2.20.0 II. III., VI. A. 2, B. 1 and 2, E. 1 a. and b.; Sheriff's Order 11.2.20.1 II., III., IV., V. A., VI. E. 26, 230, and 43, VIII; as well as Cook County Sheriff's Department Merit Board Rules and Regulations, Article X, Paragraph B 3. At the start of the trial the Sheriff dropped the charges of General Order 24.9.1.0 II., VI., A. 1,2,3,4, B., C.; VII., A. 1 and 2, B. 2,3,6, C., F., 2 and 5.

Issues Presented:

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what discipline is warranted if a violation occurred.

Resolution of Issues:

We the Board find that Respondent Iyhab Nemeh did not violate Sheriff's Order 11.2.20.0 Rules of Conduct II., IV. M and Q, V., A. 1, B. 2, 4, 6; XIII. A., B., C., Sheriff's Order 11.2.20.0 II., III., VI., A. 2, B. 1 and 2, E. 1 a and b; Sheriff's Order 11.2.20.1II., III., IV., V. A., VI., E 26, 30 and 43, VIII. ; General Order 24.9.1.0 VIII.; and Article X, Paragraph B, 3 of the Cook County Sheriff's Department Merit Board Rules and Regulations.

Factual Background

An evidentiary hearing was held on December 8, 2016. Present was the Sheriff through counsel as well as the Respondent and Respondent's counsel. Testimony was taken from the Respondent, Iyhab Nemeh, as well as [REDACTED] on behalf of the Sheriff. There were six joint exhibits, the Sheriff admitted ten exhibits and Respondent admitted Exhibits #1 and 2 into evidence.

Sheriff's Case

[REDACTED]

The Sheriff called [REDACTED] an employee of the Cook County Sheriff's Office of Professional Review. [REDACTED] testified that he has been in OPR since 2013 and that prior he was a physical scientist for the FBI. [REDACTED] went on to testify that the case against Deputy Sheriff

Nemeh was initiated through a preliminary investigation for another incident. [REDACTED] testified that he attempted to make contact with the detainee in the video, [REDACTED] but was unable to do so. After not being able to contact the alleged victim [REDACTED], Investigator [REDACTED] showed the tape to Director [REDACTED] who agreed that the incident required a Use of Force Report and since Deputy Nemeh did not write a report that Investigator [REDACTED] open this case. [REDACTED] testified that on May 19, 2015, [REDACTED] filed a complaint register because [REDACTED] never responded to any of the communications that he sent him. Investigator [REDACTED] walked us through the incident and was asked questions about the tape as well as the Sheriff's Order's. Investigator [REDACTED] testified that he found that Officer Nemeh violated Sheriff's Order because he did not file a Use of Force Report.

Cross-examination

On cross Investigator [REDACTED] was asked if he ever had to transport detainees from one holding cell to another, which he answered in the negative. [REDACTED] also testified that he ordered Deputy Nemeh's discipline record and that he has only received one reprimand back in 2011 for using a cell phone on duty. Investigator [REDACTED] testified that inmate [REDACTED] never filed a complaint with OPR. [REDACTED] went on to testify that he made the determination that inmate [REDACTED] was resisting by watching the video and that when he interviewed Deputy Nemeh, Nemeh told him that inmate [REDACTED] was compliant throughout the incident and that he did not have to use force other than handcuffing [REDACTED]. Investigator [REDACTED] was asked to review Joint Exhibit 3, which is the Response to Resistance/ Use of Force Duties in which it says that a cooperative subject is someone "regardless of the level of risk posed, a subject who complies with the officer's appropriate verbal direction, non-verbal cues, or social presence." [REDACTED] went on to testify that if you are dealing with someone who is cooperative then you do not need

to document anything. Investigator [REDACTED] was asked if he showed the tape to the Sheriff's Use of Force Unit which he testified that he did not, nor did he ask them any question because he did not believe it to be necessary.

Respondent's Case

Iyhab Nemeh:

Deputy Nemeh testified that he currently works in the Criminal Courts Building and that he has been with the Sheriff's office for almost twenty years. Prior to working in the Criminal Courts Building Nemeh worked in the Fugitive Warrants where he testified that he had to handcuff people. Nemeh testified about the incident and said that he needed to remove inmate [REDACTED] from the bullpen because he had got into a verbal altercation with another defendant and that he was being more aggressive. Nemeh testified that he needed to do this to not only protect [REDACTED] but also all the other detainees in the bullpen. Nemeh testified that [REDACTED] was upset and was trying to explain to him that he didn't do anything wrong but that at all times he was being compliant and listening to his orders. Nemeh testified that he had to handcuff [REDACTED] and put him on the ground because there was another inmate who was not being cooperative. Nemeh testified that at all times [REDACTED] was following his orders and directions. Nemeh testified that over the course of his career he has handcuffed thousands of people and that he knows when a person is being compliant and when a person is resisting. Nemeh testified that he gave OPR a statement about the incident and that he spoke to his Sergeant about completing a report and his Sergeant said he did not have to. Nemeh testified that he told his Sergeant everything that had happened and that [REDACTED] was cooperative the whole time, that he was not assaulted, and that [REDACTED] was never out of control, based upon that he was told that he did not have to write any reports. Nemeh also testified that he called Executive Director of Use of Force, [REDACTED],

to ask if he should write a use of force report and ██████ told him he did not have to. Nemeh testified that he has written several use of force reports in the past and that they are only one page reports that are not a big deal to complete.

Cross-examination

Nemeh testified on cross examination about the situation and the reason that he needed to remove ██████ from the bullpen. He went on to discuss and explain that he believed that ██████ was compliant the whole time although he was upset that he was the defendant removed from the bullpen and not the other defendant. Nemeh explained why he needed to put ██████ on the ground while another inmate was not being cooperative with another guard. Nemah also testified that he needed to put ██████ in handcuffs because he was in an unsecure area. Nemeh went on to discuss why he called Executive Director of the Use of Force ██████.

Redirect Examination

On redirect Nemah testified that there were many people that were not handcuffed that were shown on the video and that they were going to the Bond Court bullpen and that there was no reason for them to be handcuffed. Nemah went on to testify that the only reason ██████ was handcuffed was because of the other altercation that was taking place in the hallway just a few feet away from them. Nemah also testified that later in the video it shows him, ██████ and other people in a room and that ██████ was upset that he was singled out but that he never made any complaints about excessive force, about being hurt or about needing medical attention.

Findings/ Conclusion of the Law:

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence including all the exhibits that were admitted, the Board finds that the Respondent did not violate Sheriff's Order 11.2.20.0 II., IV. M., Q.; V. A. 1, B. 2, 4,6; XIII.

A., B., C.; 11.2.20.0 II. III., VI. A. 2. B., 1 and 2, E. 1. A and b. ii; 11.2.20.1, II. III., IV., V. A., VI. E. 26, 30 and 43; General Order 24.9.1.0 VIII. and Article X, Paragraph B, 3 of the Cook County Sheriff's Department Merit Board Rules and Regulations.

Order:

Wherefore, based on the foregoing, it is hereby ordered that the Sheriff's request to suspend Respondent from the Cook County Sheriff's Office for a period of forty five (45) is denied.

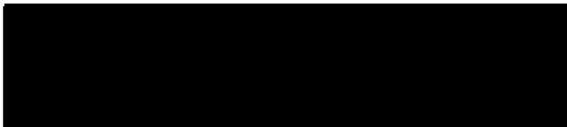
26, 30 and 43; General Order 24.9.1.0 VIII. and Article X, Paragraph B, 3 of the Cook County Sheriff's Department Merit Board Rules and Regulations.

Order:

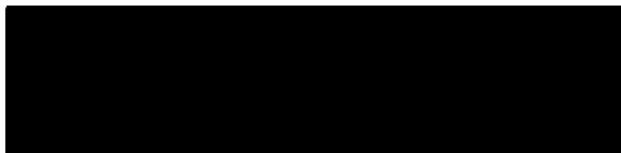
Wherefore, based on the foregoing, it is hereby ordered that the Sheriff's request to suspend Respondent from the Cook County Sheriff's Office for a period of forty five (45) is denied.

Iyhab A. Neme, Deputy Sheriff

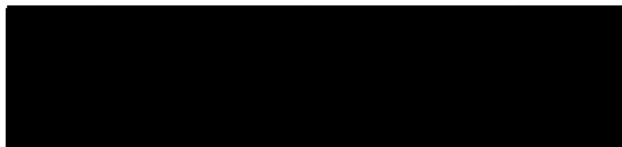
Docket No. 1916



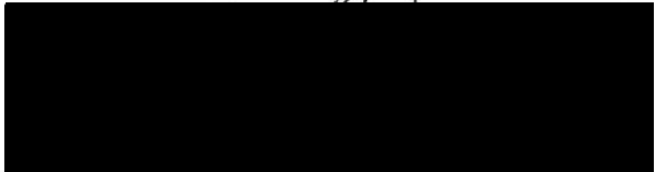
James P. Nally, Chairman



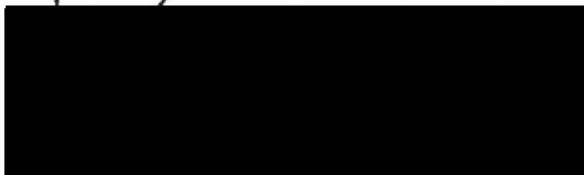
Byron Brazier, Vice-Chairman



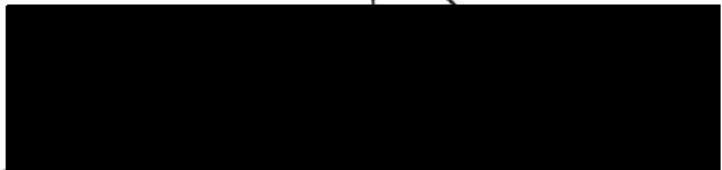
John J. Dalicandro, Secretary



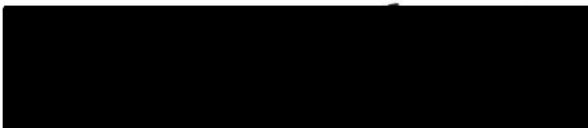
Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Patrick M. Brady, Board Member



Gray Mateo-Harris, Board Member

Date August 22, 2017

COOK COUNTY SHERIFF'S MERIT BOARD



SHERIFF OF COOK COUNTY

vs.

Iyhab A. Nemeh, Deputy Sheriff

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DISSENT ON DECISION

I hereby dissent in the findings of fact in this matter as in my opinion the record reflects sufficient evidence to sustain the charges contained in the complaint.

Patrick M. Brady, Commissioner