

**COOK COUNTY SHERIFF'S MERIT BOARD**

<b>Sheriff of Cook County</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>Docket No. 2107</b>
<b>Correctional Officer</b>	)	
<b>Toriano Barnes</b>	)	
	)	

**DECISION**

This matter coming on to be heard pursuant to notice before Gray Mateo-Harris (former Board Member), on January 9, 2019 and reassigned to John J. Dalicandro, Board Member, the Cook County Sheriff's Merit Board finds as follows.

**Jurisdiction**

Toriano Barnes, hereinafter Respondent, Respondent was appointed a Correctional Officer on October 6, 2003.

Respondent's position as a Correctional Officer involves duties and responsibilities to the public; 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; the Board has jurisdiction of the subject matter of the parties in accordance with 55 ILCS 5/3-7001, *et seq*; and the Respondent was served with a copy of the Complaint and notice of hearing and appeared before the Board with counsel to contest the charges contained in the Complaint.

As a threshold matter, a proceeding before the Merit Board is initiated at the time the Sheriff files a written charge with the Merit Board. 55 ILCS 5/3-7012. A document is considered filed, in this case with the Merit Board, "when it is deposited with and passes into the exclusive control and custody of the [Merit Board administrative staff], who understandingly receives the same in order that it may become a part of the permanent records of his office." See *Dooley v. James A. Dooley Associates Employees Retirement Plan*, 100 Ill.App.3d 389, 395 (1981)(quoting *Gietl v. Commissioners of Drainage District No. One*, 384 Ill. 499, 501-502 (1943) and citing *Hamilton v. Beardslee*, 51 Ill. 478 (1869)); accord *People ex rel. Pignatelli v. Ward*, 404 Ill. 240, 245 (1949); *in re Annex Certain Terr. To the Village of Lemont*, 2017 IL App (1<sup>st</sup>) 170941, ¶ 18; *Illinois State Toll Highway Authority v. Marathon Oil Co.*, Ill. App. 3d 836 (1990) ("A 'filing' implies delivery of a document to the appropriate party with the intent of having such document kept on file by that party in the appropriate place." (quoting *Sherman v. Board of Fire & Police Commissioners*, 111 Ill. App. 3d 1001, 1007 (1982))); *Hawkyard v. Suttle*, 188 Ill. App. 168, 171 (1914 ("A paper is considered filed when it is delivered to the clerk

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for that purpose.”).

The original Complaint in this matter was filed with the Merit Board’s administrative staff on July 16, 2018. Regardless of whether Merit Board Members were properly appointed during a given term, the Merit Board, as a quasi-judicial body and statutorily created legal entity, maintained at all times a clerical staff not unlike the Clerk of the Circuit Court (“Administrative Staff”). These Administrative Staff members receive and date stamp complaints, open a case file, assign a case number, and perform all the functions typically handled by the circuit clerk’s office. Just as a timely filed complaint would be accepted by the circuit clerk even if there were no properly appointed judges sitting on that particular day, so too was the instant Complaint with the Administrative Staff of the Merit Board. Accordingly, the Complaint filed on July 16, 2018 commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

**Findings of Fact**

Sheriff’s complaint dated July 16, 2018, in which the Petitioner (Sheriff) sought, upon a finding of guilt, the removal of the Respondent from duty with the Cook County Sheriff’s Department.

██████████ and Respondent are first cousins. ██████████ was also Respondent’s barber. (R.108) On June 29, 2016, ██████████ stopped by Respondent’s home, located at ██████████ for approximately ten (10) minutes. (R.102) ██████████ left Respondent’s home and as he was entering his car, ██████████ was arrested by Federal Law enforcement officers. (R. 103-104) Respondent did not realize that he was required to report contact with the law enforcement agency in this instance. ██████████ was not arrested in Respondent’s home or on his property. Furthermore, the arresting agency did not question Respondent, nor did he provide a statement. (R. 106)

██████████ testified, she has worked with the Cook County Sheriff’s Office for 12-1/2 years and is currently in the Office of Professional Review. (R. 15) 8. This complaint was initiated by the State’s Attorney’s Office as they had evidence that Respondent Barnes testified at a convicted felon’s bond hearing and the self-admitted gang member was his cousin. (R. 20, 21) Respondent Barnes also testified at the bond hearing that part of the money that he put up from the bond came from secondary employment and that he had not disclosed the secondary employment to the Sheriff’s Office. (R. 21) At the time of the Hearing, the Sheriff had placed Barnes on administrative leave without pay. (R. 100) Cook County Sheriff’s policy requires the Respondent to report this contact with law enforcement officials to their supervisors. (R. 45)

Respondent’s OPR interview took place in December of 2017. (R. 125) Respondent admitted during his OPR interview that he worked a secondary job. (R. 118). His statements on the length of service in that job were not definitive during the OPR interview as he worked in that secondary position approximately two years prior to the interview. (R.115) The Respondent admitted during the bond hearing that he had worked secondary employment from January to

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May for approximately five months and did not complete the required paperwork to get approval for secondary employment. (R. 25) The Respondent also stated during the OPR recorded interview that he only worked secondary employment approximately one month. (R. 37)

The investigator also did a background search on [REDACTED], the self-admitted gang member and convicted felon. (R. 26) It showed that [REDACTED] was a member of [REDACTED] and the CPD had him registered as a new bred. (R. 27) Investigator [REDACTED] reviewed and obtained Exhibit 5 which was the Chicago Police Department's criminal history report. (R. 26, 27) The investigator also listened to the Securitas phone system to hear all his calls between the Respondent and [REDACTED] and those calls were marked as Exhibit 6. (R. 29)

Toriano Barnes the respondent. He admits that [REDACTED] is his cousin. (R. 102) He admits that [REDACTED] was present at [REDACTED] on June 29, 2016. (R. 102) when he was arrested on that street. (R. 102) His cousin [REDACTED] was detained at the Cook County Department of Corrections and he was aware of his arrest history. (R. 107) Respondent was aware that [REDACTED] was going to be incarcerated in Division 6 after his incarceration. (R. 109) Respondent admits to numerous conversations with his cousin while he was in jail. (R. 110)

He said he told [REDACTED] he was getting bid to move over to Division 6. He admits to paying some of [REDACTED]'s bond. (R. 114) He admits to working a secondary job during his time at DOC. (R. 114) Respondent claims that he did not believe he needed secondary employment approval because the job did not entail "deputy powers." (R. 115) He admits to never completing secondary employment forms for this job even though he had done it in the past. (R. 116) Respondent admits to running into his cousin at least three times and did not disclose his relationship with him to Cook County Sheriff's Office staff. (R. 122)

### **Conclusion**

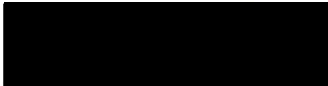
Based on the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Board finds that Respondent violated the Cook County Sheriff's Department Rules and Regulations.

The Respondent Toriano Barnes by his own admissions violated the Rules and Regulations and General Orders of the Cook County Sheriff's Office and the Cook County Department of Corrections. He failed to report his multiple contacts with a known felon. He failed to report his secondary employment. He also misrepresented facts and made false and misleading statements. Respondent knew the rules, He just decided to not follow any of them.

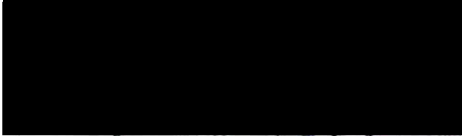
### **Order**

Wherefore, based on the foregoing, it is hereby ordered that the Sheriff's request to terminate and remove Toriano Barnes, respondent, from the Cook County Sheriff's Office is granted effective July 16, 2018.

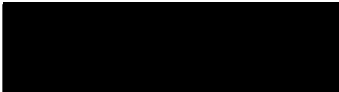
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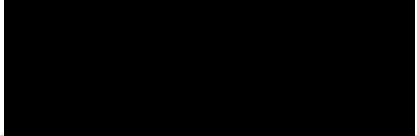
James P. Nally, Chairman



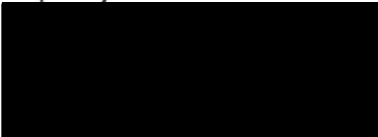
Byron Brazier, Vice-Chairman



John Dalicandro, Secretary



Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Patrick M. Brady, Board Member



Juan L. Baltierres, Board Member

Date April 26, 2019