

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket No. 1822
Correctional Officer)	
Jesus Barajas)	
)	

DECISION

This matter coming on to be heard pursuant to notice before Patrick Brady (former Board Member), on April 19, 2016 and reassigned to John J. Dalicandro, Board Member, the Cook County Sheriff's Merit Board finds as follows.

Jurisdiction

Jesus Barajas, hereinafter Respondent, Respondent was appointed a Correctional Officer on January 10, 1994.

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 (1st) 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 6, 2015. 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 2, 2015 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 2, 2015, 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.

Detective [REDACTED] testified, he is employed with the Chicago Police Department in the Area Central Detective Division and has been with the Department for 30 years at the time of the hearing. (R. 23) He has significant experience in effectuating arrests. (R. 27) A determination as to whether to arrest someone is based on the facts of the case when presented to him by the parties involved and he determines if there is enough there after interviewing and speaking with the parties involved. (R. 28) Arrests are always documented by general offense case report and arrest report. The arrest reports states and he believes it is accurate that the arrest took place at [REDACTED], in Chicago. (R. 33) He was responding to a disturbance domestic call and a man with a gun at that location which had come over the radio looking for officers to respond. (R. 33). He was the first officer on scene and he first spoke with Ms. [REDACTED]. He learned that she was the one who called the police. (R. 36). He went in and spoke with both Respondent Barajas and Ms. [REDACTED] and was explained that they were involved in an argument and she attempted to leave the apartment and the Respondent stopped her, grabbed her by the arm and forced her back into the apartment and would not let her leave. (R. 40). He decided to arrest the Respondent based on the fact that Ms. [REDACTED] was being truthful, and he had his officers take Respondent Barajas into custody. (R. 42. 43) Following a discussion with Ms. [REDACTED], Sgt. [REDACTED] arrested Officer Barajas, despite the fact that Sgt. [REDACTED] did not observe any marks on her face. (R. 40, 47). Sgt. [REDACTED]’s investigation on the scene was essentially a “he said/she said” analysis. (R. 46). Sergeant [REDACTED] testified that Officer Barajas was cooperative, a gentleman, and very courteous throughout his arrest. (R. 46).

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Officer [REDACTED] testified, with the 10th District of the Chicago Police Department and has been there for more than 10 years. (R. 53) She was working on the night in question and recalls making the arrest of the Respondent specifically because it is not typical to arrest other officers. (R. 58) She recalls the arrest took place at [REDACTED] in Chicago after receiving a call from dispatch on their in-car computer that there was a violation of an order of protection. (R. 59) When the call came out over the radio the specific name of the Respondent was mentioned as violating the order of protection. (R. 61) There was a quick pat down after he was put into cuffs in which the located and retrieved two picking devices out of his pocket. (R. 62, 63) The device was used to pick locks such as a locksmith would use. (R. 63)

Officer [REDACTED] looked up the order of protection on the Respondent on her vehicle computer and learned that there was an active order of protection in place from the 21st of January. (R. 66) During that informal conversation, the Respondent stated that he had an order of protection, he had gone to court on the morning of the 29th earlier that morning. (R. 66, 67) The Respondent stated that he was there to pick up mail during the time that he had an active order of protection. (R. 68) Respondent Barajas did not indicate that he had permission to be inside the building. (R. 69)

[REDACTED] testified he is the son of [REDACTED]. (R. 74) He stated that Respondent Barajas had previously dated his mother and he used to live at [REDACTED], which was a 7-unit apartment building. (R. 75) He lived there for approximately four years from 2011 – 2015 and he had his own apartment located there. (R. 76) His mother also lived in one of the apartments and he lived with his girlfriend and his daughter. (R. 76) His mother's apartment was on the rear of the third floor and his was on the front of the third floor. (R. 77) Respondent Barajas had been living with [REDACTED]'s mother around January 2015 but does not know if they were technically living together but he was staying there sometimes. (R. 78)

He was aware of an order of protection against the Respondent that his mother had placed shortly after the domestic incident. (R. 82) He was aware that it was served on the Respondent when his mother showed him the paperwork which again was approximately one week after the domestic incident. (R. 83) He knows that Respondent Barajas had a cell phone and he had texted with him occasionally. (R. 83, 84) The Respondent never asked him to come to his mother's apartment on January 29th or 30th to pick up personal items. (R. 84) Respondent never texted him, called him or contact him in any way regarding this. (R. 84)

Investigator [REDACTED] testified; she works with the Office of Professional Review. (R. 106) The case began based on a January 14, 2015 domestic battery and an order of protection that was placed against the Respondent and any violation of that order on January 30th. (R. 110) She reviewed all of the police reports, saw memorandums, went through the criminal case, interviewed the Respondent and interviewed Mr. [REDACTED] and Ms. [REDACTED]. (R. 111) Findings were sustained for a number of violations of the Sheriff's Rules and Regulations. (R. 111, 112) She reviewed the initial reports from January 14th as well as the subsequent ones from January 30th regarding someone trying to break in the home of Ms. [REDACTED] where they had patted him down, found lock picking devices. (R. 114) Investigator [REDACTED] concluded that the January 30th memo was insufficient because he did not state the criminal trespass to

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property charge or state any facts forming the basis for arrest. (R. 208). She reviewed the memorandum that Respondent Barajas has sent to the Department notifying him that he was arrested on January 30th and that he had written he was arrested regarding the violation of an order of protection. (R. 117) The memo he wrote regarding his arrest left out the fact that he was also arrested for violation of the order in criminal trespass to property and he did not specify the facts leading up to the arrest or what happened that night. (R. 119) However, [REDACTED] had no knowledge of the dispositions in Barajas's criminal cases. (R. 203). [REDACTED] did not know that the trespass to property charge was nolle'd by the States Attorney's Office. (R. 204). She therefore did not know that, on or around July 28th or 29th of 2015, his case went to a bench trial where he was found not guilty of domestic violence. (R. 260-61). However, the alleged guilt of Officer Barajas is a fact upon which [REDACTED] based her conclusion that he violated the Sheriff's Policy.

Investigator [REDACTED] testified that, during his interview he denied pushing Ms. [REDACTED] but that he did put his arms around her and told her to go back to the apartment, so they could speak about their issues. (R. 125) During the January 30th arrest the Respondent stated during his OPR interview that he had received permission from [REDACTED], Ms. [REDACTED]' son, to get property from the apartment. (R. 125) She stated that he was only downstairs in the vestibule trying to contact [REDACTED] to get the property. He did not see Ms. [REDACTED]' car so he did not think she was home so therefore it would not be a violation of the order of protection. (R. 126) He stated that he carried lock picks with him all the time as a hobby and his family was in the locksmith business. (R. 126) After the interview she did further investigation with the IDPR and found out that the Respondent did not have a locksmith license and never has been licensed as a locksmith. (R. 128) She learned that he was not properly licensed to carry these types of tools. (R. 129) She further found that the Respondent had displayed conduct unbecoming in violation of Sheriff's Orders and that he been arrested, violated an order of protection and contacted Ms. [REDACTED] 554 times in a 3 to 4-day time period which she thought was obsessive and counteracted the conduct of an employee of the Sheriff's Department. (R. 194) She also found that the Respondent had violated the order in being truthful to OPR about what he was doing at the apartment and that he failed to properly report to the Sheriff's Department about his arrest. (R. 195, 196) She concluded the violations were egregious in that the domestic battery and arrest on January 14th on top of that to have additional allegations of violating the protective order. (R. 198) She further found that he violated General Order 4.1 when he violated state law and when he was untruthful during his investigation. (R. 199) He further violated Article X of the Rules and Regulations of the Sheriff's Merit Board, state and city laws and violated General Orders. (R. 202) Her belief after her full investigation that the Respondent had the intent to go into the victim's apartment using his lock pick devices. (R. 206) The report that the Respondent did for his January 30th arrest was insufficient because he did not put any facts forming the basis for the arrest, he just stated he was arrested but did not give any details. (R. 208) Being de-deputized is not sufficient notice to give the Sheriff regarding being arrested. (R. 219) Respondent was never able to give her a specific date when he supposedly spoke with [REDACTED] about coming to meet him on January 30th to get his stuff. (R. 219, 220)

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Jesus Barajas, Respondent testified, he was a Sheriff's Office Correctional Officer for 23 years. (R. 226) He knows Ms. [REDACTED] as his former girlfriend, and they dated for approximately one year and she lived at [REDACTED]. (R. 226, 227) The Respondent admits to having lock picking devices on his person when he was arrested, and he carries them most often because he helps out his brother and family. (R. 233) He admits that there was an argument on January 14, 2015 regarding finances. (R. 235) He testified it was no different than any other argument they had in the past. (R. 236) He testified that the argument took less than 5 minutes and it was just back and forth and that her brother and son came into the apartment. (R. 236, 237) He admits he was placed in the back seat of the police car and rode to the station. (R. 242) He admits he was investigated regarding a weapon. (R. 242) He admits he was arrested for domestic battery. (R. 244, 245) He was de-deputized by an OPR investigator at the Chicago police station. (R. 246)

Officer Barajas knew of the protective order against him; however, the order confused him. (R. 250). He had previously had a conversation with [REDACTED] where it was agreed that he would turn over all his personal belongings. (R. 251). The protective order read that he could not be present at the property when the protected person was present. (R. 250). On January 30, 2015, and under the impression that [REDACTED] was not present at the apartment building due to the fact that her car was not parked in her spot, Barajas never went to the third floor or [REDACTED]'s apartment. (R. 253).

The Respondent states that he was unaware of what he was being charged with and that is why he did not include more details in his to/from memo notifying the Sheriff of his arrest. (R. 157, 158) He was found guilty of violating the order of protection. (R. 161) He was given supervision for his violations. (R. 263) The Respondent testified on direct examination had never seen an order of protection before the ones he was served with and then on cross examination he admits that he has seen one before. (R. 269, 270)

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 Jesus Barajas knew of the protective order against him, He misrepresented facts and made false statements. He violated the Rules and Regulations and General Orders of the Cook County Sheriff's Office and the Cook County Department of Corrections.

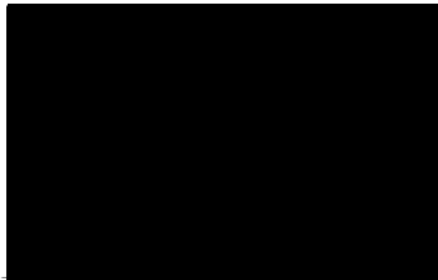
Order

Wherefore, based on the foregoing, it is hereby ordered that the Sheriff's request to terminate and remove Jesus Barajas, respondent, from the Cook County Sheriff's Office is granted effective July 6, 2015.

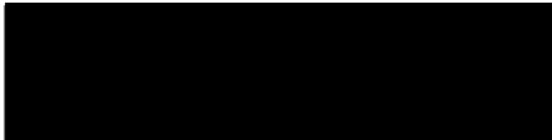
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James P. Nally, Chairman



Kim R. Widup, Board Member



Byron Brazier, Vice-Chairman



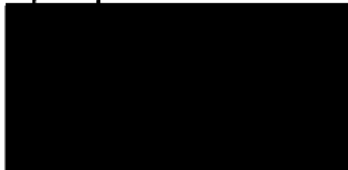
Juan D. Baltierres, Board Member



John J. Dalicandro, Secretary



Kimberly Pate Godden, Board Member



Vincent T. Winters, Board Member

Monica M. Torres-Linares, Board Member

Date August 15, 2019