

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
vs.)
) Docket No. 2211
Thomas Clemmons)
Police Officer)

DECISION

This matter coming on to be heard pursuant to notice before Eleni P. Sianis, Board Member, on June 16, 2021, and June 17, 2021. Board finds as follows:

Jurisdiction

Thomas Clemmons, hereinafter referred to as Respondent, was appointed a Correctional Officer on April 7, 1997. On March 29, 2004, Respondent was promoted to Police Officer and assigned to the Cook County Sheriff's Police Department ("CCSPD"). Respondent's position as a Police Officer involves duties and responsibilities to the public; each member of the Cook County Sheriff's Merit Board, hereinafter the "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.

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 for that purpose.")).

Background and Complaint

In 1997, Respondent Thomas Clemmons was hired as a correctional officer with the Cook County Sheriff's Office. Tr. 207. He was promoted to Police Officer in 2004 and assigned to the Cook County Sheriff's Police Department ("CCSPD"). Tr. 208. After working patrol for approximately a year and a half, Respondent was assigned to the property unit on light duty due to a knee injury. Tr. 208. Subsequently, Respondent was assigned to the Cook County Sheriff's Police Investigations section as a detective for six to seven years. Tr. 209. In 2013, Respondent was assigned to the Cook County Sheriff's Office IT Department where he acted as the liaison between the CCSPD and the Cook County Sheriff's IT Department. Tr. 209. While in the IT Department, Respondent's work location was the South Campus Building 1. Tr. 209.

A complaint was received on November 8, 2019, wherein Petitioner sought termination of Respondent's employment with the Cook County Sheriff's Office for violations of policies regarding harassment, conduct, and use of electronic mail. The complaint reflects Petitioner's allegations that Respondent violated the Rules and Regulations and General Orders of the Cook County Sheriff's Office ("CCSO"), the Cook County Sheriff's Police Department ("CCSPD"), and the Cook County Sheriff's Merit Board. Specifically, Petitioner alleges that by his actions, Respondent violated the following Rules and regulations and policies of the CCSO and CCSPD:

Cook County Sheriff's Police Department Law Enforcement Services manual Policy 104 (effective September 29, 2017) Discrimination and Harassment, in its entirety, including but not limited to the following subparts: 104.1 Purpose and Scope, 104.2 Policy, 104.3 Discrimination Prohibited, and 104.3.2 Retaliation;

Cook County Sheriff's Police Department Law Enforcement Services Manual Policy 104 (effective June 1, 2018) Prohibition Against Discrimination and Harassment, in its entirety, including but not limited to, the following subparts: 104.1 Purpose and Scope, 104.1.1 Issuance/Effective Date, 104.2 Policy, 104.3 Discrimination Prohibited, 104.3.2 Prohibition Against Retaliation;

Cook County Sheriff's Office Police Department Law Enforcement Services Manual Policy 100 (effective September 1, 2017) Conduct, in its entirety, including but not limited to, the following subparts: 100.1 Purpose and Scope, 100.2 Policy, 100.3 Compliance With All Laws, Ordinances, and Regulations, 100.4 Conduct Policy, 100.5 Conduct Which May Result in Discipline, 100.5.2 Conduct, 100.5.5 Performance;

Cook County Sheriff's Office Police Department Law Enforcement Services Manual Policy 101 (effective March 1, 2018) Conduct, in its entirety, including but not limited to, the following subparts: 101.1 Purpose and Scope, 101.1.1 Issuance/Effective Date, 101.2 Policy, 101.3 Compliance With All Laws, Ordinances, and Regulations, 101.4 Conduct Policy, 101.5 Conduct Which May Result in Discipline, 101.5.2 Conduct, 101.5.5 Performance;

Cook County Sheriff's Office Police Department Law Enforcement Services Manual Policy 101 (effective December 3, 2018) Conduct, in its entirety, including but not limited to, the following subparts: 101.1 Purpose and Scope, 101.1.1 Issuance/Effective Date, 101.2 Policy, 101.3 Compliance With All Laws, Ordinances, and Regulations, 101.4

Conduct Policy, 101.5 Conduct Which May Result in Discipline, 101.5.2 Conduct, 101.5.5 Performance;

Cook County Sheriff's Office Police Department Law Enforcement Services Manual Policy 139 Electronic Mail, in its entirety, including but not limited to, the following subparts: 139.1 Purpose and Scope, 139.3 Prohibited Use of Email; and

Cook County Sheriff's Department Merit Board Rules and Regulations, in its entirety, including but not limited to, the following subparts: Article X, Paragraph B.

After discovery in this matter was completed, a formal hearing was called for on June 16, 2021, and continued to completion on June 17, 2021. At the hearing, court reporter being present, all witnesses sworn under oath, testimony was taken from witnesses called by the parties. Petitioner called the following witnesses: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. Respondent called the following witnesses: [REDACTED] and [REDACTED]. Documents were introduced by Petitioner and Respondent and received into evidence. Specifically, Sheriff's Exhibits 1-13 and 15-36 were admitted into evidence. Subsequently, Petitioner and Respondent made closing arguments addressing the issues in the hearing.

Issues Presented

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

Findings of Fact

This case centers around Respondent Thomas Clemmons professing his love to a coworker, Ms. [REDACTED], via emails, texts, and journal entries. Ms. [REDACTED] did not reciprocate his feelings and Respondent expressed his disappointment in writing to Ms. [REDACTED], including referring to Ms. [REDACTED] as "a self-centered cunt." As a result, Ms. [REDACTED] alerted her supervisor of Respondent's communications to her. When Respondent became aware that he was under investigation, he filed a civil lawsuit against Ms. [REDACTED] alleging she sexually harassed him by describing her extra marital affairs to him. Respondent represented himself in this civil lawsuit and it was subsequently dismissed. At one point while representing himself, Respondent contacted Ms. [REDACTED]'s attorneys via email wherein he addressed counsel as "assholes" and again referred to Ms. [REDACTED] as a "self-centered cunt." In addition, Respondent used his Cook County email to contact Ms. [REDACTED]. The facts of this case as set forth during the two day trial are detailed below.

Respondent Clemmons testified he works for the Cook County Sheriff's Police as a police officer and has worked with the Sheriff's office since 1997. (R. 207). Respondent met [REDACTED] when he worked in the South Campus IT Department. (R. 210). In 2017, they were very good friends and never had a romantic or sexual relationship. (R. 211). During that time, both Respondent and Ms. [REDACTED] were married to other people. (R. 212). Respondent alleges that Ms. [REDACTED] indicated to him that she was entertaining or having an affair with someone named [REDACTED] as well as an OPR investigator that was an African American whose wife was also a correctional

officer. (R. 214). Respondent admits to proposing a romantic relationship with Ms. [REDACTED] and professing his love to her but that she said she wanted to remain friends and it was best that they did not talk about anything sexual in nature. (R. 216). However, Respondent alleges that during a lunch in October 2017, Ms. [REDACTED] told him in graphic detail about sexual encounters and that he was very distraught as a result. (R. 220).

During his testimony, Respondent admitted to sending emails, journal entries, text messages, and photos to Ms. [REDACTED]. (R. 166, 167). Respondent admitted that he attempted to have a romantic relationship with Ms. [REDACTED] and that she rejected him. (R. 166, 167). Respondent also admitted that he called her names, used his Cook County email to contact Ms. [REDACTED], sent shirtless pictures to Ms. [REDACTED], created fake email accounts, searched for Ms. [REDACTED]'s mother's email address, used inappropriate language when he talked to Ms. [REDACTED]'s attorneys, and said Ms. [REDACTED] had extramarital affairs. (R. 167, 168). Emails from Clemmons to Lavelle Law (Ms. [REDACTED]'s attorneys in the civil lawsuit) read, in part, "Dear Assholes at Lavelle Law" and "if that self-centered cunt gets into any trouble please let me know" referring to Ms. [REDACTED]. (R. 157; Sheriff's Exhibit 21, Bates 257).

Investigator [REDACTED] testified that she is with the Office of Professional Review and has been with the Sheriff's Office since 2013 as an investigator. (R. 117). She was the investigator responsible for the Respondent Clemmons matter. (R. 119). Respondent Clemmons admitted to Investigator [REDACTED] that he sent various communications to Ms. [REDACTED] from [REDACTED] which belongs to Respondent Clemmons and to account [REDACTED] which belongs to [REDACTED]. (R. 128).

Investigator [REDACTED] testified that she reviewed various emails, texts, and journal entries. One email from Respondent sent on October 6, 2017 stated that "this will probably be the straw that broke the camel's back of our friendship and you referring to me as a moron here on out I am going to type another email you will have to delete forever because I have something to say. This is not an attempt to pester you or push the idea. I know that door is closed". (R. 129; Sheriff's Exhibit 12, Bates 146). Screenshots of Respondent Clemmons's journal entries on October 12, 2017 at 6:56 PM read "She said some things are left unsaid, which leads to think she wants the same thing." (R. 129-130; Sheriff's Exhibit 12, Bates 167). Screenshots of Respondent Clemmons's journal entries on October 12, 2017 read "[REDACTED], falling in love with you was the easiest thing that has ever happened to me. ... I know you said I risked a friendship and I'm sorry, but I couldn't keep it in." (R. 130; Sheriff's Exhibit 12, Bates 173). Screenshots of Respondent Clemmons's journal entries on October 13, 2017 read "I think what hurts worst is she didn't admit it too." (R. 130-131; Sheriff's Exhibit 12, Bates 175). Screenshots of Respondent Clemmons's journal entries on October 24, 2017 read "Weekdays you used to be mine." (R. 132; Sheriff's Exhibit 12, Bates 178). On the same day, Respondent Clemmons sent an email to Ms. [REDACTED] stating, "Yesterday was particularly tough because Mondays you were mine, the weekend was over and I could talk to you all day." (R. 132; Sheriff's Exhibit 12, Bates 147). Additional emails and journal entries exchanged between the two were reviewed by the investigator all indicating that the Respondent Clemmons was professing his feelings to [REDACTED] and Ms. [REDACTED] was not responding. (R. 132-135). In November 2017, Ms. [REDACTED] responds stating they have very different perspectives and points of view in this situation

and that she is sorry he was hurt and please stop. (R. 136; Sheriff's Exhibit 12, Bates 160). After the email, Respondent Clemmons says "Don't worry, I'm fucking done. Fuck you, you self-centered cunt." (R. 136; Sheriff's Exhibit 12, Bates 160). The last email where he apologized to Ms. [REDACTED] for "the last thing I said to you" was while he was working and using a Cook County Sheriff's email account. (R. 137; Sheriff's Exhibit 12, Bates 163). Ms. [REDACTED] again tells him to stop contacting her in any form. (R. 137). Respondent Clemmons also sent to Ms. [REDACTED] a shirtless picture of himself showing a tattoo, as he admitted during his OPR interview. (R. 137-138; Sheriff's Exhibit 12, Bates 164).

Respondent Clemmons also discussed his civil lawsuit against Ms. [REDACTED] with Investigator [REDACTED]. (R. 138). The lawsuit alleges that he was sexually harassed by Ms. [REDACTED] during a lunch in October 2017 when she discussed sexual relationships with other men. (R. 140, 141). During his interview with HR, Respondent Clemmons reported that Ms. [REDACTED] told him she had romantic relationships with someone she met at the gym at work and someone who she didn't name other than to say that he was a black investigator at OPR. (R. 147-148; Sheriff's Exhibit 13). Investigator [REDACTED] learned during the investigation that Respondent Clemmons is also blaming his knee injury on Ms. [REDACTED] in civil lawsuit. (R. 148).

Investigator [REDACTED] testified that she conducted interviews of all the other witnesses that were at the lunch between Respondent Clemmons and [REDACTED], where the alleged sexual harassment occurred, and all indicated that Respondent Clemmons did not look upset or distraught during that lunch. (R. 144). None of the witnesses she interviewed corroborated Respondent Clemmons's version of the events of him being sexually harassed by Ms. [REDACTED] at the lunch. (R. 144). Respondent Clemmons also admitted to Investigator [REDACTED] that he made a fake email and sent an email to Ms. [REDACTED]'s mother (R. 154).

[REDACTED] was not called to testify in this case. Instead, [REDACTED]'s recorded OPR interview was admitted into evidence. (R. 190-192). During the interview, Ms. [REDACTED] stated that she ignored Respondent Clemmons' emails and texts that were of a romantic or sexual nature. (Exhibit 29, 5:35). She also stated that nothing contained in the lawsuit filed by Respondent Clemmons is remotely true. (Exhibit 29, 22:50). Ms. [REDACTED] stated that she never discussed having any extramarital affairs with Respondent Clemmons. (Exhibit 29, 36:45). Ms. [REDACTED] also stated that she never said or insinuated that she was romantically interested in Respondent Clemmons. (Exhibit 29, 37:20).

Investigator [REDACTED] had been identified in this case as one of the men who allegedly had an affair with Ms. [REDACTED]. Investigator [REDACTED] testified that he has been working for the Cook County Sheriff's Office for the past eleven years (R. 11). In March 2018, he appeared for an interview with HR, [REDACTED]. (R. 12, 13). Investigator [REDACTED] was asked if he had a sexual relationship with [REDACTED] and he told Ms. [REDACTED] that he did not. (R. 14). Investigator [REDACTED] further stated that he knew Ms. [REDACTED] from the Building 2 Gym and any questions regarding any romantic relationship were absurd. (R. 14).

[REDACTED] testified that he works for the Cook County Sheriff's Police Department for the past 11 years and has worked with Respondent Clemmons. (R. 30, 31). Based on his observation when he was in IT in 2014, he did not consider [REDACTED] to be flirtatious in general and was

not flirtatious with the Respondent. (R. 33). His observation was that the relationship between [REDACTED] and Respondent Clemmons was purely platonic and non-sexual. (R. 33). He did not believe that [REDACTED] treated Respondent Clemmons any differently than she treated him and was always as friends. (R. 33).

Sergeant [REDACTED] testified that she was Respondent Clemmons' supervisor in October 2017. (R. 39, 40). She has been with the Cook County Sheriff's Police Department Operational Support Command and has been with the Sheriff's Department for 27 years. (R. 40). In October 2017, she went to lunch at [REDACTED] with co-workers [REDACTED] and Lt. [REDACTED] and once there they saw Respondent Clemmons who was with a female who she did not recognize. (R. 40). She later learned that the female was [REDACTED]. (R. 41). Respondent Clemmons did not look upset or distraught in any way and he waved to them when they waved over to their table. (R. 41). She never saw Respondent Clemmons raise his voice or notice anything that caught her attention on that day. (R. 41). Her interpretation of Respondent Clemmons and Ms. [REDACTED] on that day were just two people having lunch. (R. 42). There was nothing odd about the lunch. (R. 42).

Lieutenant [REDACTED] testified that he works with the Cook County Sheriff's Police Department since 1995 and is currently a Lt. of Police. (R. 67). He was previously a detective and was a partner of Respondent Clemmons. (R. 67, 68). Lt. [REDACTED] considers himself a good friend of the Respondent. (R. 68). He talked with him often in 2018 probably multiple times a day, by phone, text, in person or email. (R. 68-69). Respondent Clemmons relayed to him that he and Ms. [REDACTED] had been friends, that he sought at one point to advance it beyond friendship, she did not want to do that but it remained amicable up until the end. (R. 71). Respondent Clemmons relayed a lunch that he had with Ms. [REDACTED] sometime before Thanksgiving and he believes at that time they had some sort of falling out. (R. 71, 72). At the time there was some sort of either agreement or understanding between the two, Respondent Clemmons and Ms. [REDACTED], that they were not going to have a sexual relationship and were not going to communicate in a sexual way. (R. 73). He believes that Respondent Clemmons relayed to him that Ms. [REDACTED] broke the agreement to not talk about sexual relationships and that she was being explicit about details of her romantic affairs that she had with other people in the Sheriff's Office and this greatly distressed Respondent Clemmons and their amicable relationship ended at that time. (R. 73). Lt. [REDACTED] indicated that Respondent Clemmons told him that he had called Ms. [REDACTED] a self-centered cunt during that time. (R. 74).

Mr. [REDACTED] testified that he is employed by the Cook County Sheriff's Office Business Intelligent Unit and has been with the Department for 5 years. (R. 86). He is familiar with [REDACTED] and they sat in similar cubes for the last 3 years. (R. 88). He is also neighbors with Ms. [REDACTED] and her husband [REDACTED] and they socialize outside of work. (R. 89). Ms. [REDACTED] has never once indicated that she is involved in any extramarital affairs in any capacity. (R. 89, 90). Mr. [REDACTED] is familiar with Respondent Clemmons and when he came to the workspace and the cubicle that he shares with Ms. [REDACTED] and that he was snooping around her desk, trying to open her drawers, rattling things, papers and approaching her personal items. (R. 92). Respondent Clemmons stated that he is a friend of [REDACTED]'s and trying to leave her a note. (R. 93).

██████████ further testified that he recalls in October 2017 that he and Ms. ██████████ had conversations regarding someone sending inappropriate emails to her where she was very reluctant to open the issue and it was hurtful to her and traumatic. (R. 94). Ms. ██████████ relayed to Mr. ██████████ that she declined Respondent's sexual advances on numerous occasions and he relayed to her his ultimate love for her and the final expression was "Fuck off, you self-centered cunt." (R. 95).

Analysis

The Merit Board finds Respondent clearly violated Cook County Sheriff's Police Department Law Enforcement Services Manual Policy 104 Discrimination and Harassment when Respondent alleged to coworkers that ██████████ had sexual relationships with other employees. Respondent's emails referring to Ms. ██████████ as a "self-centered cunt" on numerous occasions as well as Respondent's sexual propositions to her are also in violation of the harassment policy. In addition, Respondent sending an unwarranted shirtless photo of himself to Ms. ██████████ also constitutes harassment. Furthermore, the Board finds Respondent's harassment lawsuit against Ms. ██████████ to be retaliatory in nature and that it was filed in direct response to Ms. ██████████ reporting Respondent's harassing behavior to her supervisors and OPR. The Board finds most credible the testimony from witnesses who testified that at the Columbus Day lunch (where the supposed harassing conversation took place), neither Respondent nor Ms. ██████████ seemed distraught and there was no visual evidence that any upsetting conversation took place.

The Merit Board finds Respondent violated Cook County Sheriff's Office Police Department Law Enforcement Services Manual Policy 139 Electronic Mail for sending several of the harassing emails referenced above from his Cook County employee email address. In addition, Respondent violated the email policy by creating a fake email address and sending email from it to Ms. ██████████'s mother.

The Merit Board finds Respondent clearly violated Cook County Sheriff's Office Police Department Law Enforcement Services Manual Policies 100 and 101 on Conduct and the Cook County Sheriff's Department Merit Board Rules and Regulations for the same reasons set forth above. Namely, Respondent's actions that constitute sexual harassment, retaliation, and inappropriate use of work email is conduct unbecoming of a Cook County Sheriff's police officer.

Based on the reasons set for the above, the evidence presented, and the testimony of Respondent and witnesses, the Merit Board find that Respondent did violate the General Orders and Policies of the Cook County Sheriff's Police Department and the Rules and Regulations of the Cook County Sheriff's Merit Board. Although Petitioner has requested Respondent's employment with the Cook County Sheriff's Office be terminated, after all the facts and evidence in this case have been reviewed, the Merit Board finds the following mitigating factors: 1) the victim of sexual harassment, ██████████, was not called to testify, and therefore, the Board finds the absence of her testimony negates the severity of the harassment; 2) Respondent's acts of sexual harassment toward ██████████ were evident via written emails and texts and not via direct in person communication; and 3) Respondent's acts of sexual harassment via emails and texts to Ms. ██████████ were not ongoing for an extended period of time. In addition, the Board does not find Respondent's act of filing a civil lawsuit where he represented himself to be so egregious in its

retaliatory nature to warrant termination. Similarly, Respondent's conduct in this matter was unbecoming of a police officer and warrants discipline, but not termination. Consequently, the Merit Board finds that Respondent should be suspended for a period of ninety (90) days and undergo sexual harassment training. Respondent shall be responsible for locating and obtaining training and subsequently submit proof of completion of training.

Order

The Merit Board finds that Respondent did violate the General Orders and Policies of the Cook County Sheriff's Police Department and the Rules and Regulations of the Cook County Sheriff's Merit Board and that Respondent should be given a 90-day suspension and undergo sexual harassment training effective November 8, 2019. Respondent shall be responsible for locating and obtaining training and subsequently submit proof of completion of training.

JOHN J. DALICANDRO, Chairman
BYRON BRAZIER, Vice-Chairman
VINCENT T. WINTERS, Secretary
KIMBERLY PATE GODDEN, Board Member
ELENI P. SIANIS, Board Member
DARREN COLLIER, Board Member
TERRENCE J. WALSH, Board Member



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COOK COUNTY
SHERIFF'S MERIT BOARD
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Thomas Clemmons
Police Officer
Docket No. 2211

This Decision is adopted and entered by a majority of the Members of the Merit Board:

John J. Dalicandro, Byron Brazier, Vincent T. Winters, Kimberly Pate Godden, Eleni P. Sianis and Terrence J. Walsh.

Not Present: Darren Collier.

DISSENT

The following Members of the Merit Board dissent from the Findings and Decision of the majority of the Board.

[NONE]

DATED AT COUNTY OF COOK, STATE OF ILLINOIS, THIS 14th DAY OF OCTOBER, 2021.