

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket No. 1904
Correctional Officer)	
Monta Servant)	
Star # 15345)	

DECISION

This matter coming on to be heard pursuant to notice before **John Jay Dalicandro**, Board Member, on September 20, 2017 and September 21, 2017, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Monta Sevant, hereinafter Respondent, was appointed a Correctional officer on March. 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 for that purpose.").

The original Complaint in this matter was filed with the Merit Board's administrative staff on June 20, 2016. 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 of 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 June 20, 2016 commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

Findings of Fact

The Sheriff filed a complaint on June 20, 2016. The Sheriff is requesting termination.

Investigator ██████ testified that he is an investigator assigned to the Office of Professional Review (OPR) excessive force unit. (Tr. 12). He was assigned to investigate an allegation of excessive force related to inmate ██████ that occurred in April 2015. (Tr. 13). The incident involved Respondent Monta Servant and was referred to OPR by the Use of Force Review Unit. (Tr. 14). ██████ testified that Respondent told him that Inmate ██████ had caused a problem in his cell and was being moved to a different cell. While moving the inmate to another cell, he walked away. Respondent then took hold of the inmate by wrapping his arm around the inmate's upper torso. Respondent did not ask for any help and escorted the inmate to his cell while his arm remained around the upper torso of the inmate. (Sheriff's Exhibit 5), (Tr. 31-32). ██████ testified that Respondent's denial was not a complete and accurate response to his question because the video of the incident shows Respondent's arm laying across the inmate's neck. (Tr. 33-34). ██████ determined that Respondent holding his arm around the inmate's neck was excessive. (Tr. 35-38). ██████ testified that he observed Respondent walk Inmate ██████ to his cell while leaving his arm around Inmate ██████'s neck. (Sheriff's Exhibit 1, Video), (Tr. 44)

██████ testified, she is employed by the Cook County Health and Hospitals System and is assigned to the 2nd floor of Cermak Hospital. (Tr. 74) She has worked in that unit, the psychiatric unit, for 22 years. She observed the detainee to be unresponsive to multiple officers' verbal commands to calm down, and further observed that the detainee was in a psychotic state. (Tr. 79) She was trying to get medication ready for the detainee when she observed Officer Servant and other officers attempting to walk the detainee to another room. (Tr. 80 – 81) She saw the inmate fighting with all his might and struggling to get loose from the officers. (Tr. 81) She did not see Officer Servant take any inappropriate action against the detainee during the incident. (Tr. 83) Ultimately, she had to give the detainee a sedative to calm him down. (Tr. 83 – 84)

██████ testified, he has been employed by the Department of Corrections for 20 years and has been a Lieutenant for nine years. (Tr. 108) He was the Watch Commander of Cermak Hospital on the midnight shift on April 2, 2015. Lieutenant ██████ stated it would be a loss to the Department if Officer Servant were terminated because he had a way of dealing with detainees

when they were at their worst that often deescalated the situation, and because Officer Servant had a gift for calming them down. (Tr. 114 – 115)

Respondent Servant stated on the audio recording that he did not reach around inmate's neck. (Tr. 33) ██████ took that to be in contradiction with the video. (Tr. 34) However, ██████ admitted that once the inmate swung he was a low-level assailant under the Sheriff's Use of Force policy. (Tr. 35 – 36) ██████ admitted that the detainee hit Servant on the video. (Tr. 36) ██████ learned that Servant applied the escort hold to the detainee as the detainee was walking away and acting as an active resister. (Tr. 36) ██████ thought that, in his opinion, Servant should have attempted to transition the hold after the escort.

Monta Servant testified that he became aware that the detainee in question was accused of urinating on another detainee's blanket, at which point Servant and the other officers tried to separate him. (Tr. 134 – 135) The detainee responded by threatening the officers with balled up fists and saying he would kick the officers' asses. (Tr. 135) Once they coaxed him out of the cell, the detainee refused to proceed to another cell, and Officer Servant then extended his arm out to take hold of the detainee's arm and guide him. (Tr. 136) That is when the detainee slapped Officer Servant's hand down, making physical contact with Servant. (Tr. 136) The detainee then turned his back to the officers and began to walk away, and Officer Servant, in response, grabbed the detainee with his right arm above his right chest, and used his left arm to hold his right arm. (Tr. 137) The detainee was struggling and resisting going into the other cell. (Tr. 137) Officer Servant considered this an escort hold. (Tr. 138) Officer Servant denied ever choking the detainee and denied ever cutting off his airway. (Tr. 139)

██████ is a consultant who previously worked for the Cook County Department of Corrections for 21 years. (Tr. 170) Between 2008 and 2011 he worked as Director of Operations at the Department of Corrections, overseeing policy, DOJ consent decrees, security, and other matters. (Tr. 172) He was involved in rewriting and recreating the Sheriff's Use of Force policy between 2008 and 2011. (Tr. 172) ██████ was tendered as an expert in the area of use of force. (Tr. 175) An escort hold can be used permissibly for an assailant or even for a non-moving resister. (Tr. 187) An escort hold can be many different things, including grabbing from behind and escorting the individual where to go. (Tr. 188) Based on ██████'s review of the available evidence, he determined, in his expert opinion, that Servant placed an arm around the detainee's chest, head, and neck area and began to escort the detainee. (Tr. 190) At this point ██████ determined that the detainee was moving his head around and communicating with the officers, which is not a characteristic of someone who is being choked. (Tr. 190) ██████ stated that use of force video recordings are often insufficient to experience a detainee's hostility and the tension of the situation. (Tr. 193)

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Merit Board finds that the Respondent Monte Servant did not violate the Cook County Sheriff's Department Rules and Regulations. The evidence clearly supports he was using an escort hold not a choke hold.

This is an incident in which a Correctional Officer attempted to control a detainee. He admits that his arms were around the detainee's upper torso. The detainee was struggling all the way as he was escorted into another room. Once inside the room, Witness [REDACTED] had to give the detainee a sedative to calm him down. The evidence clearly supports he was using an escort hold not a choke hold.

Order:

Wherefore, based on the foregoing, it is hereby ordered that the Respondent Monte Servant be returned to work at the Cook County Sheriff's Office effective June 20, 2016.

[REDACTED]

James P. Nally, Chairman

[REDACTED]

Byron Brazier, Vice Chairman

[REDACTED]

John J. Dalicandro, Secretary

[REDACTED]

Juan Baltierres, Board Member

[REDACTED]

Vincent T. Winters, Board Member

[REDACTED]

Kim R. Widup, Board Member

[REDACTED]

Patrick Brady, Board Member

[REDACTED]

Gray-Mateo Harris, Board Member

(Dissent)

Dated: October 14, 2018

COOK COUNTY SHERIFF'S MERIT BOARD



SHERIFF OF COOK COUNTY

vs.

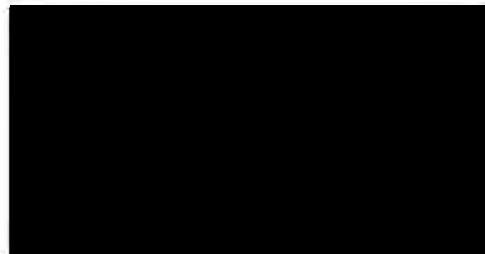
Monta Servant, Correctional Officer

}
}
}
}

DOCKET NO.: 1904

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