

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket No. 1919
Correctional Officer)	
Willie Partee)	
Star # 15389)	

DECISION

This matter coming on to be heard pursuant to notice before James P. Nally, Board Member, on June 21 and June 22, 2017, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Willie Partee, hereinafter Respondent, was appointed a Correctional Officer on February 10, 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. Comminssioners 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 August 24, 2016. Regardless of whether or not Merit Board Members were properly appointed

Docket No. 1919
Correctional Officer
Willie Partee
Star # 15389

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 August 24, 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 August 24, 2016. The Sheriff is requesting termination of the Respondent. In the complaint, the Sheriff alleges that the Respondent on November 17, 2014 used excessive force against detainee Ahmed Al Rifaeli.

The complaint alleges violations of Sheriff's Order 11.2.1.0, Sheriff's Order 11.2.2.0, Sheriff's Order 11.2.20.0, Sheriff's Order 11.2.2 0.1, Gen. Order 24.9.1.0, and Merit Board Rules and Regulations Article X, paragraph B.

The following witnesses testified: Lieut. [REDACTED], Investigator [REDACTED], Correctional Officer [REDACTED], Correctional Officer [REDACTED], Correctional Officer [REDACTED], Correctional Officer [REDACTED], Correctional Officer [REDACTED], and the Respondent Correctional Officer Willie Partee

Respondent is a correctional officer and was appointed in 2003. TR 215-16 Partee handcuffed an inmate named [REDACTED] on November 17, 2014. TR 16. Partee wrote an incident report. TR 17; Sheriff Ex. 1Lt. [REDACTED] approved the incident report. TR 18 Partee also completed a use of force packet that [REDACTED] approved. TR 20, 21; Sheriff Ex. 2 Lt. [REDACTED] testified if an officer witnessed use of force, a report had to be completed. TR 23Lt. [REDACTED] identified Partee on the video of the incident. TR 26 Partee used force to place the detainee on the bench. TR 33

Partee completed an inmate discipline form. TR 37; Sheriff Ex. 6Lt. [REDACTED] signed off [approved] the inmate discipline form. TR 39Lt. [REDACTED] testified the inmate had no injury after the use of force, nor did he complain about any injury. TR 48Lt. [REDACTED] testified the watch commander report was not in the use of force packet completed by Partee. TR 51-2 Lt. [REDACTED] testified he would only complete the watch commander report if the use of force was "inappropriate or an excessive use of force". TR 52 Sheriff Order 11.2.2.0 was in effect on November 17, 2014. TR 54 If the watch commander report was not included in the use of force packet, the general order was not complied with. TR 4 Lt. [REDACTED] did not read the inmate's complaint to OPR. TR 56 In the video, the inmate is looking at Officer [REDACTED]. TR 59 The inmate throws a sheet at Partee. TR 59Lt. [REDACTED] did not observe any marks on the inmate's face and he was not bleeding. TR 62 Lt. [REDACTED] said he did not write in his report that the

Docket No. 1919
Correctional Officer
Willie Partee
Star # 15389

inmate complained Partee struck him. TR 63Lt. ██████ did not write anything about "muffing" in his report. TR 63Lt. ██████ testified the inmate did not identify Partee as the officer who threw water in his face. TR 64; Sheriff Ex. 1

Lt. ██████ identified the inmate as a low level assailant because he was not following Partee's direction. TR 65 Partee could have used physical direction with the inmate according to the use of force. TR 65-6 OPR did not interview Lt. ██████. TR 73 The video does not provide the totality of the circumstances. TR 77-8 Lt. ██████ was unaware whether the inmate had a weapon; what he was screaming to another inmate in the stairwell. TR 92 According to Lt. ██████, Partee was calm and his demeanor was "fine". TR 92-3 The inmate refused Partee's direction to go to the bench, but instead walked toward the female officers at the bench. TR 94 The inmate was not complying with Partee's direction and moving away from Partee. TR 95 Lt. ██████ testified the inmate was a moving resister, as he failed to comply with directions. TR 95 The inmate was moving away from Partee after Partee grabbed the inmate's arm. TR 96-7 Lt. ██████ had no reason to believe Partee used excessive force. TR 99

Investigator ██████ testified the inmate had no injuries. TR114 ██████ testified Partee told him the detainee was trying to pick something up in the stairwell. TR 120 ██████ testified Partee told him he did not strike the inmate. TR 122 The inmate lied about "four or five CO's" jumping on him. TR 159 ██████ testified the inmate bent over in the stairwell, could not see if he had a weapon, or what he was doing. TR 161 ██████ testified Partee's demeanor was calm. TR 162 The inmate did not comply with Partee's direction to sit on the bench. TR 164 The inmate moves away from the bench, toward the counter and other officers, after Partee gave him a command to sit on the bench. TR 164 ██████ characterized the inmate as a moving resister. TR 165 ██████ testified because he was a moving resister, Partee could use physical manipulation. TR 166 ██████ cannot see any water [purportedly dumped out by the inmate] on the floor in the video. TR 167

██████ testified the video shows the inmate was hiding/shielding his property bag from Partee and then lays on top of it. TR168 The inmate did not tell ██████ he was "muffed" or that he had water poured on him. TR 172 ██████ testified Lt. ██████ did not find the use of force by Partee to be excessive. TR 177 The inmate did not complain about any injury on the date of the altercation. TR 178 ██████ testified Lt. ██████ did not identify Partee as the officer who threw water on the inmate in his report. TR 178-9 ██████ testified the inmate lied about blocking punches thrown, based upon the video. TR 181 ██████ testified neither ██████ nor ██████ saw a punch. TR 198 ██████ testified ██████ told him she did not see any use of force by Partee. TR 205 Officers ██████ and ██████ did not see Partee use any force. TR 205-06 ██████ believed ██████ and ██████ were truthful. TR 205-06

Docket No. 1919
Correctional Officer
Willie Partee
Star # 15389

Partee was working in Division II on November 17, 2014. TR 216 Partee had no prior history with inmate [REDACTED]. TR 216 Partee is familiar with the use of force model and proportionate response. TR 218 Partee understands he has to deescalate use of force if an inmate becomes compliant. TR 218 Partee's reports of the use of force are truthful. TR 221

Partee worked from the date of the incident until June 2015 before OPR questioned him. TR 223 Partee continued to work until August 2016 before being put off on leave without pay, pending the Merit Board hearing. TR 223 Partee heard an inmate swearing and screaming at Officer [REDACTED]. TR 226 Partee told the inmate to go down to the first floor. TR 226 Partee testified the inmate calmed down as he went down to the first floor. TR 227 Partee did not throw a water bottle at the inmate. TR 228 Partee was 10-12 feet behind the inmate as he went down the stairs and he saw the inmate bend over and pick something up in the stairwell. TR 230 Partee was not able to search the inmate or his property bag before the inmate came out of his cell. TR 230 Partee testified the inmate was not cuffed during the move because he was not a threat and inmates are not cuffed during a move. TR 231 Partee watched the video and testified about when he told the inmate to sit on the bench. TR 234 Partee wanted the inmate to sit on the bench to search the property bag because he bent over and picked something up. TR 235 Because the inmate would not comply with his direction to sit on the bench and he began walking toward the front desk, Partee characterized him as a moving resistor. TR 236 Partee was holding the inmate's right-side shoulder with his left hand and lost his balance. TR 237-38 The inmate then pulled away from Partee and caused Partee to spin around. TR 238 Partee testified he lost his balance after the inmate pulled away. TR 239

Partee testified he is right hand dominant. TR 239 Once the inmate is seated on the bench, he appears to be hiding something, maybe a water bottle. TR 240 Partee had his hand on the water bottle and the top "popped" off; the water spilled on Partee and the inmate. TR 240 The inmate was laying on his property bag, cursing at Partee, while Partee was asking him for his property bag. TR 241A water bottle is contraband. TR 242 Inmates put water on the floor so officers slip. TR 243 Partee tossed the inmate a blanket to wipe the water off his face. TR 245 The inmate keeps throwing property back at Partee as he empties the property bag. TR 246 Partee did not strike the inmate or wrap clothing around his hand to strike the inmate. TR 246 Partee performed an emergency takedown because the inmate was throwing his hands toward him and he was concerned about a battery. TR 248 Partee ordered the inmate to "stop resisting" as he was cuffed; his hands were behind his back. TR 250 Partee did not apply mechanical strikes, knee lock or wrist lock, nor did he put his knee in the inmate's back. TR 251 Partee testified the inmate did not have any injuries. TR 252

Docket No. 1919
Correctional Officer
Willie Partee
Star # 15389

Partee testified his action was in compliance with Sheriff Order 11.2.2.0 because he only used the amount of force necessary and then deescalated. TR 254-55; Sheriff Ex. 2 Partee was surprised he had to use a control hold because the inmate had previously been compliant. TR 262 Partee provided a blanket to the inmate when he complained about water on his face. TR 269-70 When the inmate threw the blanket into Partee's face, he was startled. TR 271 Partee did not punch or make contact with the inmate's face. TR 272 The inmate did not complain about being "hit" in the face. TR 274

Partee wanted to review the video before completing his report. TR 282 Partee has a better understanding of the incident once he saw the video. TR 283 The emergency handcuffing procedure was because the inmate's hands were getting close to Partee's face. TR 285 Partee testified OPR had his report and knew there was water on the inmate's face. TR 293 The use of force form completed for this incident was the first time Partee completed such a form on the new system. TR 296

Officer [REDACTED] did not see any strike. TR 307 Officer [REDACTED] did not see any use of force. TR 315 Officer [REDACTED] testified the inmate did not complain about any injury. TR 324 Officer [REDACTED] did not see Partee strike the detainee. TR 334 Officer [REDACTED] would have notified Lt. [REDACTED] if she witnessed a use of force. TR 347 Officer [REDACTED] witnessed use of force-handcuffing-but not excessive force. TR 354-5 Office [REDACTED] told OPR investigator [REDACTED] Partee did not strike the inmate. TR 358 Officer [REDACTED] did not see Partee strike the inmate, nor hear any complaints from the inmate. TR 369 Officer [REDACTED] did not witness Partee strike the inmate. TR 381 Officer [REDACTED] told OPR she did not see Partee strike the inmate. TR 390; 405

Conclusion

Based upon the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Board finds that the Respondent did not violate Sheriff's Order 11.2.1.0, Sheriff's Order 11.2.2.0, Sheriff's Order 11.2.20.0, Sheriff's Order 11.2.2 0.1, Gen. Order 24.9.1.0, and Merit Board Rules and Regulations Article X, paragraph B. The evidence does not show that Respondent used excessive force under the totality of the circumstances. The video evidence does not show any incident of excessive force by Respondent at the time detainee [REDACTED] was a moving resistor. The actions of the Respondent were within the parameters of the Sheriff's orders governing conduct of employees such as the Respondent.

Order

Wherefore, based on the foregoing, it is hereby ordered that the Merit Board finds Respondent Willie Partee did not violate any of the orders, policies, or rules and regulations and shall be returned to service effective August 24, 2016.

Docket 1919
Correctional Officer
Willie G. Partee
Star #15389



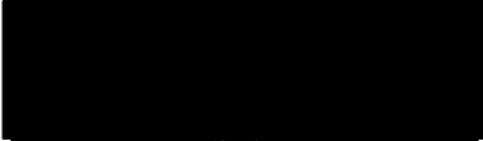
James P. Nally, Chairman



Byron Brazier, Vice-Chairman



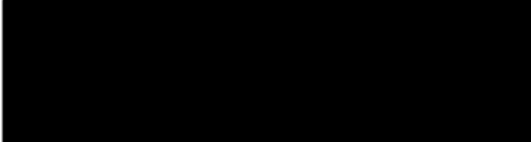
John Dalicandro, Secretary



Kim R. Widun, Board Member



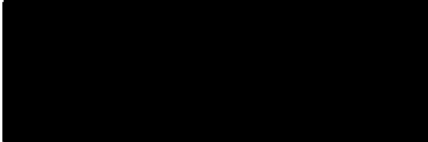
Vincent T. Winters, Board Member



Juan L. Baltierres, Board Member



Patrick M. Brady, Board Member



Kimberly Pate Godden, Board Member

Date July 9, 2019