

COOK COUNTY SHERIFF S MERIT BOARD

STATE OF ILLINOIS)

) **SS;**

COUNTY OF COOK)

COOK COUNTY SHERIFF'S MERIT BOARD HEARING

THOMAS J. DART,)
SHERIFF OF COOK COUNTY,)

IN THE MATTER OF:

Petitioner,) DOCKET NO. 1952

vs)

Anthony V. Vose)

Respondent.)

DECISION

This matter coming on to be heard pursuant to notice before Byron T. Brazier, Board Member, on March 14, 2019 Board finds as follows:

Jurisdiction

Anthony Vose, hereinafter referred to as the Respondent, was appointed a Cook County Correctional Officer on April 25, 2011. 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 January 19, 2017 and an Amended complaint was filed on January 23, 2018. Regardless of whether or not 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 commencing the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

Background:

On April 25, 2011, Anthony Vose was appointed a Correctional Officer and was assigned to the Visitor Information Center (VIC) as a temporary employee. The VIC staff was responsible for processing the visitor applications from the public when they are attempting to visit the Cook County Department of Corrections or an inmate. (R. 13). The VIC is located at the South Campus, Building 2 on the 1st floor and the supervisor was Sgt. [REDACTED] (R. 15). Vose was assigned to the VIC and working November 18 and 19, 2015 and received a memorandum transferring him to that Department under an Article U meaning he was under investigation for some other issue. (R. 15)

On January 19, 2017 the Sheriff filed and original complaint. In addition, the Sheriff filed an amended complaint on January 23, 2018, seeking respondent’s termination from the CCSO.

As a summary of the original complaint, it alleges that Anthony Vose abandoned his post by on multiple occasions without prior permission or approval. He also arrived late on multiple occasions and falsified attendance sheets on November 21, 22, 27, and 29.

As a summary, the amended complaint alleges that the Respondent had a videotaped altercation with a civilian, [REDACTED], that he failed to notify his supervisor of the incident and that his demeanor and actions were unbecoming an officer of CCSO.

Evidence was submitted that Anthony Vose did leave approximately one hour early as alleged in the original complaint and Vose testified to OPR and the Merit Board that he took his lunch at the end of his shift. That he was directed by the 1st shift supervisor to work out the lunch arrangements with others working the shift. And because of Sheriff Department's rules and regulations, if he were not assigned a lunch, and his work was completed, that CO's are permitted to either take their lunch at the end of the shift or receive overtime if they work through their lunch. Vose elected to take his lunch at the end of the shift.

Findings of Fact:

[REDACTED]

Deputy Chief [REDACTED] is in charge of Quality, Improvement and Accountability in the Cook County Sheriff's Office and has been employed by the Sheriff's Department for 23 years. (R. 12) In the fall of 2015, she worked in the Human Resources Department and oversaw the policy office as well as the Visitor Information Center (VIC). (R. 12) The VIC staff was responsible for processing the visitor applications from the public when they are attempting to visit the Cook County Department of Corrections or an inmate. (R. 13). They would run criminal background checks, check out the applications, make sure there were not any warrants or were not recently released from jail or prison and then they would make a determination whether that person could enter the facility. (R. 13) She recalls Respondent Vose being assigned to the VIC and working November 18 and 19, 2015 and received a memorandum transferring him to that Department under an Article U transfer meaning he was under investigation for some other issue. (R. 15)

Because of the initial interaction [REDACTED] had with respondent, she initiated an investigation and pulled his proxy card to see when he punched in and punched out. (R. 20) She has done this in the past with other employees. (R. 20) Sheriff's Exhibit 1 was marked for identification which is the proxy card reading for Anthony Vose which would have been for November 21st and November 22nd. (R. 21) She immediately noticed that his reporting time and the times he left did not match up with the attendance records where Respondent Vose signed it and out for the 21st and 22nd. (R. 21). He signed in at 2:00 pm and out at 10:00 pm but his proxy card reflected differently and showed him leaving at approximately 8:58 pm on 21st and 8:57 on the 22nd. (R. 22). His card showed him checking out at 6:30 pm on the 19th, on the 27th at 9:00 pm and the 29th at 9:22 pm. (R. 22)

After looking at the proxy cards and the attendance records, [REDACTED] had the video of Respondent Vose entering and existing post 12 to confirm the proxy card readings. She also spoke with Sgt. [REDACTED] who reported that one of the civilian supervisors reported that Respondent Vose was leaving at 9:00 pm and after looking at all of this information she filed a Complaint register. (R. 24). The video was shown at the hearing and showed Respondent Vose leaving

early. (R. 24). ██████ filed the Complaint register based on the severity of the allegations, the amount of time he was taking off early (not just a few minutes), suggesting attendance fraud and that the charges should be handled by OPR to look into the matter, given he had been transferred to the VIC pending an OPR investigation. (R. 25)

Sheriff's Exhibit 8 was marked for identification which are the attendance sheets that are on the clipboard for signing in and out. (R. 53) Officers are supposed to put in the exact times they come in and out and if they had some sort of issue to leave early, they would sign out as medical time or personal time but they are supposed to put the time they actually came in and out. (R. 53, 54). Exhibit 8 showed that several employees being specific with their times in and out down to the minute or the reason they were not there. (R. 54).

When Sgt. ██████ met with Vose for the first time, she explained that there may not be supervisors later on the shift or on weekends and this was explained to him and that he knew he needed to self-supervise at times and take the direction of the team leads. (R. 58). She explained that there should never be a need for an employee at the VIC to work through lunch because there is not an abundance of work to be done, it is a slow process especially the afternoon shift when the majority of the work is done during the day shift. (R. 59).

Sgt. ██████ testified that On November 19th, Respondent Vose signed in at 1400 and out at 2200. (R. 54). On November 28th he signed out for the same time. On November 21st, again the same time. (R. 55). On November 22nd he again signed in at 1400 and out at 2200. She testified that these attendance records are true and accurate copies of the attendance sheets for the VIC during that time period. (R. 56)

Sgt. ██████ testified that everyone on the staff has her cell phone number and she is always available and encourages them to call her if they ever need anything. (R. 59) She never received a call from Respondent Vose about leaving early or arriving late or an email about being late or a 3-part form from him about leaving late or arriving late. (R. 60). She has never had any conversation or follow-up with Respondent Vose about him allegedly putting a 3-part form on her desk. (R. 60). There was never any request by Vose by phone or email in leaving early. Respondent had no issues about lunch premiums and no lunch at the end of the shift when Respondent Vose first came to her and talked to her. (R. 72). She specifically explained to Respondent Vose how the attendance sheets worked and they needed to sign in and out. (R. 75, 76). You are supposed to put in the exact times you come in and out and if you had some sort of issue to leave early you would sign out as medical time or personal time but you were supposed to put the time that you actually came in and out. (R. 53, 54)

Sgt. ██████ testified that proxy cards are a second report, source of information, to see if an employee was coming in and out [of work]. TR 63

Sgt. ██████ cannot recall if she discussed lunch at the end of the shift with Vose. TR 64

Sgt. ██████ does not remember approving any lunches at the end of the shift while she was in VIC. TR 65

Sgt. ██████ testified proxy card reports were used for verification of work hours. TR 66

Even though she testified proxy cards were used for security, when an employee work history was not clear, no security check was made and when asked to further explain, Sgt. [REDACTED] admitted she is not sure what proxy cards are used for. TR 66-7

Sgt. [REDACTED] relayed that Vose did not tell her he “would not” do anything, just that he respected the chain of command and could not take orders from a civilian, which is in contradiction to the testimony of Deputy Chief [REDACTED]. TR 68

Sgt. [REDACTED] testified the civilians had no complaints about Vose. TR 69

Sgt. [REDACTED] testified a civilian told her Vose left early and she reported it to [REDACTED], but took no disciplinary steps against Vose. TR 69.

Sgt. [REDACTED] did not discuss taking lunch at the end of the shift with Vose after November 22, but she explained to him how lunches are used and assigned and they need to work out their lunches amongst themselves. (R. 58) After Vose was reassigned, she did send an email about it to all VIC employees—on the day Vose was transferred out of the unit. TR 71-2; Respondent Ex. 2

[REDACTED], Payroll Supervisor testified to the authenticity of Exhibit 8 & 9 and that Vose was paid the full amount for each day he worked. That the VIC was not connected to the proxy system for swiping in or out and if he was going to be late or leave early, he had to apply for it. She reviewed Sheriff's Exhibit 8 which is the attendance lists and roster used to enter the time into the payroll system on their time tracker. (R. 79) The sheets are used by the Payroll Department to determine the hours worked by the employees and if they say the employee worked from 2:00 pm to 10:00 pm that is what they get paid. (R. 79) Ms. [REDACTED] reviewed Sheriff's Exhibit 9 which is the time grid system used in Payroll which was used in November and December of 2015 which is specifically related to Respondent Vose. (R. 80) The document shows that Respondent Vose was paid for the full amount of each of the days on the document meaning he was paid on Thanksgiving and for 4 hours' holiday premium pay. (R. 80, 81) The Department is not connected to the proxy swiping in, swiping out system. (R. 82)

Anthony Vose

At the time of the hearing, Respondent Vose worked for the Cook County Sheriff's Department for 8 years and was working in November 2015. (R. 92) He was assigned to the VIC and previously he had been working with external operations. (R. 93) He was transferred there while OPR was investigating him. (R.93)

The respondent testified and admitted he received Respondent Ex. 2, and email from Sgt. [REDACTED], after he was removed from the unit. TR 95. Vose told Sgt. [REDACTED] he would not accept directives from a civilian, but would respect the chain of command and take orders from her. TR 96.

Respondent Vose testified that on November called in an attempt to talk to a supervisor about why he was late on November 21, 2015 (snowstorm), but did not get an answer. So he left a three-part form asking to take four-hours times due. TR 103.

Vose further testified to the contract language for the lunch premium, namely if you did not get a lunch between the third and sixth hour of your shift, he could take comp time or leave an hour early. TR 105.

Vose told OPR he took lunch at the end of the shift because he was not assigned a lunch, the same as his testimony to the merit board. TR 109

Vose voluntarily gave OPR the December 2, 2015 an email from Sgt. [REDACTED] to VIC staff because it showed he had not been given the documentation prior and he was already assigned out of the unit. TR 113

Vose admitted to leaving the jail on November 19, 2015 at 6:30 PM, but the officer at the post did not clock him back in when he returned. TR 127.

Conclusion

The Board finds by the preponderance of the evidence and through the testimony of witnesses that the respondent did not leave early on November 19, 20,21,22,25,26,27,28 and 29 due to taking his lunch at the end of the shift. Testimony by his supervisor shows that he was instructed to work out the lunch times with the others on duty at the VIC and was also told that he should self-supervise. However, on several unknown days, the Respondent testified that he ate lunch at his desk on some of those days. It is an uncontested fact that Respondent could have taken his lunch at the end of his shift but eating during the shift was not in the original complaint. Given that, the facts do demonstrate that the Respondent took advantage of the absence of a direct supervisor and that he is not capable of self-supervision. Additionally, the respondent failed to communicate with the supervisor his intentions on taking his lunch at the end of the shift, which he acknowledged was a supervisor's prerogative. Concerning the amended complaint, there was no evidence presented that the respondent disrespected his chain of command.

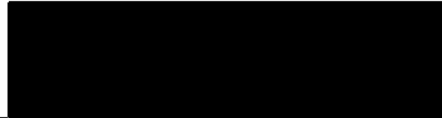
Concerning leaving a three-part form on the supervisor's desk, the explanation that the respondent was reassigned to another department as rationale for not ensuring receipt of proper documentation by the supervisor is not credible but irresponsible. Additionally, leaving the jail on November 19, 2015 at 6:30 PM, and being checked out by a CO and not being checked backed in later is also not credible.

Finally, in 2015, there is conflicting testimony between Director [REDACTED], Sgt. [REDACTED], and [REDACTED] concerning the use of proxy cards and their reconciliation with payroll records. It is also not credible that Director [REDACTED] testified that the respondent had no supervisor, (no chain of command) in the VIC after the 1st shift supervisor leaves. However, Sgt. [REDACTED] said, she was available by phone and was available at the beginning of the shift and took no action concerning the tardiness of the respondent because the proxy card was not the apparent vehicle for tracking

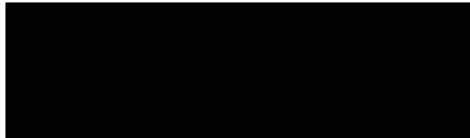
attendance. It is not credible for a supervisor not to directly address tardiness of an officer at the time of infraction and upon daily review of time sheets.

Order: The Merit Board finds that the respondent acted irresponsibly and did violate Sheriff's Order 11.2.20.1 (effective March 12, 2015) sub-section II, III, V-A., VI-A paragraph b and the Cook County Sheriff's Merit Board Rules and Regulations Article X, Paragraph B and should be suspended for 120 days effective January 19, 2017.

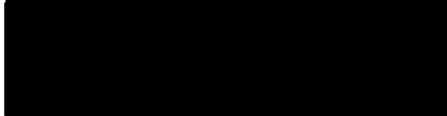
MB1952
Correctional Officer
Anthony V. Vose
Star 16690



James P. Nally, Chairman



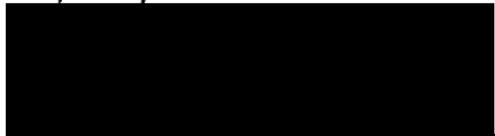
Byron Brazier, Vice-Chairman



John Galicandro, Secretary



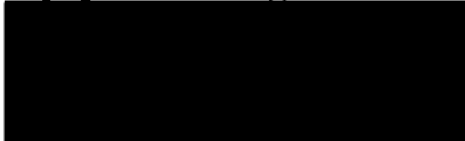
Kim R. Widup, Board Member



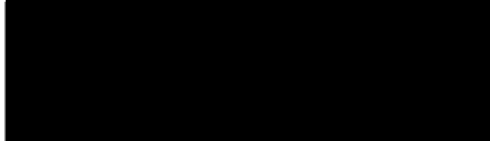
Vincent T. Winters, Board Member



Juan L. Baltierres, Board Member



Patrick M. Brady, Board Member



Kimberly Pate Godden, Board Member

Date

July 11, 2019