

COOK COUNTY SHERIFF S MERIT BOARD

SHERIFF OF COOK COUNTY)
)
vs)
) **DOCKETS NO. 2134 and 2162**
Ronald Swintek)
Correctional Officer)
Star #14556)

DECISION

This matter coming on to be heard pursuant to notice before Byron T. Brazier, Board Member, on October 22, 2019, January 9, 2020, January 16, 2020, March 5, 2020, June 22, 2020, July 15, 2020, October 22, 2020 and November 19, 2020 the Board finds as follows:

Jurisdiction

Ronald Swintek, hereinafter referred to as the Respondent, was appointed a Correctional Officer on April 26, 1993. 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 for Merit Board Docket No. 2134 was filed with the Merit Board's administrative staff on August 1, 2018. The original Complaint for Merit Docket No. 2162 was filed on March 25, 2019, and an Amended Complaint for Docket No. 2134 was filed on April 19, 2019. 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 26, 1993, Ronald Swintek was appointed a Correctional Officer. That on August 6, 2017, the RESPONDENT was assigned to the Warehouse of the Cook County Department of Corrections ("CCDOC"), located at 2323 S. Rockwell Street, Chicago, Illinois. And on August 6, 2017, the RESPONDENT was assigned to the Warehouse of the CCDOC, located at 2323 S. Rockwell Street, Chicago, Illinois.

Docket #2162

The original complaint charges that on September 28, 2017 at approximately 0840 or 0850 hours, after being notified of his required interview by OPR as an accused employee and after speaking with the OPR investigator over the phone, the RESPONDENT intentionally fell while working at the Warehouse. That on September 28, 2017, RESPONDENT exaggerated any pain or injury caused by his intentional fall. And that on September 28, 2017, RESPONDENT caused a misleading official report to be made with his Employee Accident Report describing his fall without indicating that the fall was intentional. And that on September 28, 2017, RESPONDENT failed to follow policy when he refused to sign the Employee Accident Report's authorization of release of medical documents to his employer.

After hearing the testimony of several witnesses, that were present at the time the Respondent's fall, it is inconclusive that the fall was intentional. However, the Respondent delayed signing off on a medical release at the request of the Cook County Sheriff's Office because he wanted to speak with his then-workers' compensation attorney before he did so. (Tr. 334-35). After speaking with his then-workers' compensation attorney, he signed the medical release. (Tr.335). All of the Respondent's records were produced to Cook County and the Cook County Sheriff's Office as a result of his signing the release and as part of his workers' compensation case. (Tr. 336).

This admission and rationale for Respondent's delay, in not providing medical records to the Sheriff, at the Sheriff's request, is insufficient rationale. The Sheriff's Policies and Orders are not subject to Respondent's personal discretion. The Respondent was in possession of the medical

records and should have submitted them, upon request. Therefore the Respondent is found to be in violation of **SHERIFF'S ORDER 11.2.20.1 (effective: March 12, 2015)** Section VI-E 29 & 30. (29. Failure to disclose or misrepresenting facts, or the making of any false or misleading statement on any application, examination form or other official document, report or form, or during the course of any work-related investigation. 30. Giving any false or misleading statement, or misrepresenting or omitting material information, to a supervisor or other person in a position of authority in connection with any investigation or in the reporting of any CCSO-related business.)

Docket #2134

That on various dates between August 11, 2016 and on or about July 27, 2017, RESPONDENT posted to his Facebook account under the moniker "[REDACTED]," disrespectful and inappropriate comments and pictures denigrating the Muslim faith and its adherents.

1. That on August 11, 2016, RESPONDENT posted to RESPONDENT's Facebook account under the moniker "[REDACTED]": "When are people going to understand Moslems are not part of America. (sic) They do not want to be part of America their only goal is to destroy and conquer America. And the only reason that is it (sic) because we will not bow down to Ali Baba and his pedophile Mohammed ..."
2. That on September 11, 2016, RESPONDENT posted to RESPONDENT's Facebook account under the moniker "[REDACTED]": "I swear to God I will never bend to my knees for Allah. Or (sic) his bitch Mohammed."
3. That on September 17, 2016, RESPONDENT posted to RESPONDENT's Facebook account under the moniker "[REDACTED]": "God bless Israel. Maybe (sic) they continue to kill muslims this worlds (sic) real enemy."
4. That on November 2, 2016, RESPONDENT posted to his Facebook account under the moniker "[REDACTED]" a photograph of himself wearing a CCDOC uniform hat and the caption "Ronald Swintek for president write my name in." (sic)
5. That on January 28, 2017, RESPONDENT posted to RESPONDENT's Facebook account under the moniker "[REDACTED]": "Thank God we have a president that is worried about American. (sic) And Americans. (sic) That Will fight to protect us from filthy Muslims." (sic).
6. That by his actions, RESPONDENT violated the Rules and Regulations and General Orders of the Cook County Sheriff's Office and the Cook County Department of Corrections,
 1. That RESPONDENT engaged in conduct unbecoming a member of the Cook County Sheriff's Office, reflecting unfavorably upon the CCSO as well as himself, when RESPONDENT opposed a religion and made offensive and disrespectful posts on social media using an account on which RESPONDENT also posted a photograph of himself wearing an unidentifiable uniform hat.

At the Respondent's OPR Interview with Inv. [REDACTED], he was asked about certain comments he

made on Facebook under a pseudonym, "[REDACTED]" (Tr. 341-42). The Respondent admitted to making the posts, but stated that they were from a purely personal Facebook page under the name [REDACTED] that he used for discussions with his friends and family, playing video games, and sharing photos. (Tr. 343).

The Respondent stated that he made the posts about Islam on an emotional basis and as a form of religious and political speech. (Tr. 346). He further testified that his posts were emotionally-driven because he was angry about articles of Muslim individuals destroying Christian relics and demanding that the Christian Cross be taken down. (Tr. 347-48). The respondent testified that he has been a Roman Catholic all of his life and was offended by articles he read, which motivated him to make the emotional posts in this case. (Tr. 348). The Respondent expressed regret for the language used in the posts during the Merit Board hearing. (Tr. 349).

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.

Based on the evidence presented and the testimony of the Respondent, Mr. Swintek violated the Sheriff's policy by making discourteous, disrespectful and discriminatory treatment of any member of the public or any member of the CCSO as provided on page 3 under k. (R. 183). He also made unwelcome solicitation of personnel, inappropriate language and gestures, directed to any person, that are abusive, harassing or insolent. (R. 184). He also violated Sheriff's policy regarding discrimination, harassment, or intimidation of any person because of age, ancestry, citizenship status, color, disability, ethnicity, gender identity, genetic information, marital status, medical condition, military service, national origin, order of protection status, parental status, political affiliation, pregnancy, race, religion, sex, sex orientation or other classification protected by law. (R. 184). The Respondent made statements on social networking sites that are contrary to the employee speech, expression and social networking policy. (R. 185)

165. The policy clearly states that it does not matter if he is on duty or off duty when he committed these acts and these violations. (R. 185). The Respondent's actions reflected negatively on the CCSO are violations of Policy. (R. 185-186) and violated the Merit Board's Rules and Regulations which were marked as Exhibit 19. (R. 186).

Order: The Merit Board finds that the respondent did violate the General Orders and Policies of the Cook County Sheriff's Department, specifically COOK COUNTY SHERIFF'S OFFICE POLICY MANUAL, POLICY 1029 (effective February 1, 2017). Policy 1029.1, 1029.1.1, 1029.2, 1029.4 (a,b,c,e,g) 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 and that the Respondent should be terminated effective August 1, 2018.

JOHN J. DALICANDRO, Chairman
BYRON BRAZIER, Vice-Chairman
VINCENT T. WINTERS, Secretary
KIM R. WIDUP, Board Member
JUAN L. BALTIERRES, Board Member
KIMBERLY PATE GODDEN, Board Member
ELENI P. SIANIS, Board Member



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Ronald Swintek
Correctional Officer
Docket No. 2134 and 2162

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

John J. Dalicandro, Vincent T. Winters, Kim R. Widup, Juan L. Baltierres, Kimberly Pate Godden and Eleni P. Sianis.

Not Present: Byron Brazier

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 21st DAY OF JANUARY, 2021.