

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
vs.)
) **Docket No. 2172 and 2216**
DEPUTY SHERIFF)
LUKE HATZIPETROS)
STAR #10015)

DECISION

This matter to be heard pursuant to notice before Dr. Byron T. Brazier, Board Member, on October 19, 2022 and October 20, 2022, the Merit Board finds as follows:

Jurisdiction

Luke Hazipetros, hereinafter referred to as the Respondent, was appointed a Cook County on October 2, 2000, the RESPONDENT was appointed a Deputy Sheriff. And that on August 1, 2012, the RESPONDENT was assigned to Civil Process - Skokie. Respondent's position as a Sheriff's Deputy 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 Original Complaint and the Amended Complaint.

As a threshold matter, proceedings before the Merit Board are 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 April 26, 2019, and the amended complaint was files on December 9 2019. 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 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 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

In the first complaint, the Sheriff of Cook County, State of Illinois, filed written charges for cause against Deputy Sheriff Luke Hatzipetros ("RESPONDENT"), pursuant to 55 ILCS 5/3-7011 & 7012. In support thereof, the Sheriff states as follows:

That the respondent was absent from scheduled work shifts and the absences were unauthorized in excess of the allowed unauthorized absence occurrences between October 10, 2012, and January 30, 2019, in violation of Cook County Sheriff's Office policies. And that the RESPONDENT incurred at least six (6) occurrences of unauthorized absences on the following dates: October 10, 2012, December 29, 2018, and January 1, 2, 3 and 4, 2019. That the third occurrence of unauthorized absence occurred on January 5, 8, 9, 10 and 11, 2019. That the fourth occurrence of unauthorized absence occurred on January 12, 15, 16, 17 and 18, 2019. That the fifth occurrence of unauthorized absence occurred on January 19, 22, 23, 24 and 25, 2019. And the sixth occurrence of unauthorized absence occurred on January 26, 29 and 30, 2019.

The amended complaint, the respondent was criminally charged with five (5) felony counts of Criminal Sexual Assault and five (5) felony counts of Aggravated Criminal Sexual Abuse by the January 2019 Grand Jury of the Circuit Court of Cook County. The victims were minors at the time, (hereinafter identified as "AM" and "JM") and whose mother was dating the respondent.

Statement of Fact

The original complaint is about the respondent's failure to follow the Cook County Sheriff's Office attendance policies from October 2012 to January 2019. Based on direct testimony, the respondent admitted that he received counseling with the Attendance Review Unit in 2012. (Tr. 121). Respondent initially stated that his absence from December 29, 2018, through January 29, 2019, was not unauthorized but later admitted that he was not notified by anyone that the absence was authorized. (Tr. 121). Respondent stated that he talked to his attorney on the phone while he was incarcerated in Cook County jail. (Tr. 125). Respondent stated that he talked to his family on the phone while he was incarcerated in Cook County jail. (Tr. 126). In addition, the respondent stated that he called his family's business on the phone while he was incarcerated in Cook County jail. (Tr. 126). He admitted that he did not call his union on the phone while he was incarcerated in Cook County jail. (Tr. 126) and admitted that he did not call into his work on the phone while he was incarcerated in Cook County jail. (Tr. 126). And finally, he admitted that he did not call anyone to acquire a leave of absence while he was incarcerated in Cook County jail. (Tr. 126).

Respondent admitted that he did not call anyone to acquire a leave of absence while he was incarcerated in Cook County jail. (Tr. 126)

Respondent admitted that he took no steps to justify or authorize his absence or seek a leave of absence from his position as Deputy Sheriff while he was incarcerated in Cook County jail. (Tr. 126-127)

Respondent stated that he was more concerned about his criminal proceedings while he was incarcerated in Cook County jail. (Tr. 126-127)

Respondent further admitted that he never tried to obtain a leave of absence from H.R. (Tr. 128)

Respondent further admitted that he did not take any steps to ensure that his job was secure while he was in custody. (Tr. 128)

Respondent further admitted that he did not take any steps to ensure that his job was secure while he was on Electronic Monitoring ("EM"). (Tr. 129)

Respondent stated that he was concerned about his criminal case, not his employment, during that time. (Tr. 129)

In response to the Sheriff's finding of fact, Tr 42: 16-24, 43: 1-6, The first occurrence was dated October 12, 2012, and his second occurrence was August 10, 11, and 12 of 2017. Upon receipt of his second occurrence, Deputy Hatzipetros chose the grievance procedure, via grievance number GR 171005-UDOS. (Sx. 8). TR 45: 1-5 Through the Grievance procedure, his grievance was granted, and the unauthorized absence was basically null and void.

TR 45: 9-13 The third occurrence took place on January 5, 8, 9, 10 and 11 of 2019. The fourth occurrence was January 12, 15, 16, 17, 18 of 2019. The fifth occurrence was January 19, 22, 23, 24, 25 of January 2019, and the Sixth was January 26, 29 and 30, of 2019. TR 94: 5-22 The

respondent argues that he did not have an ability to grieve the second, third, fourth, fifth and sixth occurrence. TR161: 5-11 The Sheriff issued occurrences two through six as progressive discipline without the respondent being afforded the opportunity to properly grieve each occurrence, despite the Sheriff's admission that they understood the process as outlined in the collective bargaining agreement. TR 127: 13- 24 When the Respondent was released to electronic monitoring, his request to return to work was denied.

In the Respondent's finding of fact, it was additionally stated that the Sheriff charged in TR 85:9-17 that the Respondent violated the conduct policy when he failed to make verbal notification via telephone to the Cook County Communications Center about the activities that resulted in official contact by any other law enforcement agency as required under the policy. And that, TR: 125: 2-15, the Respondent was housed in a cell by himself with only a bathroom, and the Respondent only had the ability to make collect calls. And that TR 85:18-24 Deputy Hatzipetros was found to have violated the conduct policy when he failed to submit a written report about the activities that resulted in official contact by any other law enforcement agency as required under the policy. That, TR141: 5-13 After his arrest, Deputy Hatzipetros did not return to work, did not have access to the Sheriff's County Court Services Department Memorandum form and did not have an opportunity to submit or write a form.

Finally, TR 86: 9-13 the Sheriff claims that the respondent violated the conduct policy when he failed to answer questions during the OPR investigation. However, TR: 133: 10-14: Respondent was advised by counsel not to provide facts forming the basis of his arrest and indictment and that

TR: 20: 9-12 The Sheriff has a Seams Policy, Article V, Discipline, which states in part that OPR may hold the investigation in abeyance pending the outcome of a criminal investigation.

Order

Order: Wherefore, based on the evidence for the asserted charges, and based on the creditability of the evidence and explanations to the charges, it is hereby ordered that Luke Hazipetros did knowingly violate the charges listed in the original complaint concerning failure to follow the Cook County Sheriff's Office attendance policies. It is normal to worry more about his criminal trial proceedings, rather than the Merit Board administrative hearing, but that does not excuse the on-going responsibility that is known or should have known by the respondent. The respondent was able to communicate with others and could have had his attorney respond to the administrative charges, which have notable consequences. The CCSO attendance policy is strict and does not allow an unauthorized absence even if there is a "valid reason" for the absence. (Tr. 106). Concerning not answering the questions during the respondent's OPR interview, the attorney's guidance does not supersede nor negates the rules and regulations of the Sheriff's Department or remove any liability.

Given the above, the respondent shall be suspended for a total of 120 days effective immediately.

For the amended complaint, TR: 162: 5-7 The criminal [*sic*] court determined that the accuser was significantly impeached, and Mr. Hatzipetros was found not guilty of all charges. No discipline will be necessary for this complaint.

JOHN J. DALICANDRO, Chairman
BYRON BRAZIER, Vice-Chairman
VINCENT T. WINTERS, Secretary
KIMBERLY PATE GODDEN, Board Member
TERRENCE J. WALSH, Board Member
MARLA M. KAIDEN, Board Member
WADE INGRAM SR. Board Member



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SHERIFF'S MERIT BOARD
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Luke Hatzipetros
Deputy Sheriff
Docket No. 2172 & 2216

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, Terrence J. Walsh and Wade Ingram Sr.

Not Present: Marla M. Kaiden

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 6th DAY OF FEBRUARY, 2023.