

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
vs.)
) **Docket No. 1938**
Correctional Officer)
Tabas Jackson)
Star # 17049)

DECISION

This matter coming on to be heard pursuant to notice before Vincent T. Winters, Board Member, on April 10th, April 11th, and April 26th 2018, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Tabas Jackson, hereinafter Respondent, was appointed a Correctional officer on January 28, 2013. 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.")).

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The original Complaint in this matter was filed with the Merit Board's administrative staff on October 20, 2016 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 on October 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 October 20, 2016 and an amended complaint on January 23, 2018. The Sheriff is requesting termination.

On January 28, 2013, Respondent was appointed a Correctional Officer and was assigned to Cermak of the Cook County Department of Corrections ("CCDOC"), located at 2700 S. California Avenue, Chicago, Illinois 60608. (Tr. 256) On January 28, 2016, Respondent suspended due to an incident that took place on January 24, 2016. (Tr. 254)

OPR Investigator [REDACTED] was assigned to investigate this case. (Tr. 170). [REDACTED] testified that the case originated pursuant to two Complaint Registers being filed, one by detainee [REDACTED] and one by Superintendent [REDACTED]. (Tr. 170) [REDACTED] reviewed the Complaint Registers, reports, videos, and conducted interviews of several witnesses. (Tr. 171) [REDACTED] viewed Sheriff's exhibit #11, video footage of the incident which occurred on January 24, 2016 in Division 2. (Tr. 179). [REDACTED] testified that Respondent denied choking [REDACTED] or [REDACTED] and also admitted that he did not document the force he alleged to use on the inmates. (Tr 195). Investigator [REDACTED] testified pursuant to the Response to Resistance / Use of Force training manual, the only time an officer is justified in using force likely to cause death or great bodily harm is when that officer or someone else is "under the immediate threat of death or great bodily harm." (Tr. 194, 213). [REDACTED] testified that Respondent grabbed inmate [REDACTED] by the neck, with his left hand on ther side and back of [REDACTED]'s neck and his right hand on the front of [REDACTED]'s neck. (Tr. 184-185). [REDACTED] testified that he did not find any evidence in the video or elsewhere that detainee [REDACTED] spit on or kicked Respondent, nor did the Respondent document anything in his incident report about [REDACTED] spitting or kicking him. (Tr. 190).

Lieutenant [REDACTED] testified that she is currently employed in Division 9 of the Cook Counbty Jail and on January 24, 2016, she was working in Division 2 as the watch lieutenant for the 3:00- 11:00pm shift (Tr. 109, 111, 133). Lieutenant [REDACTED] testified that the protocol for reporting what an officer believes is an unlawful order by a supervisor, is to bring it to the attention of the supervisor's supervisor, and up the chain of command accordingly. (Tr.

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125). She further went on to testify that when officers are involved in a use of force incident or go hands on with a detainee, they are required to get on a radio and call a supervisor; Officer Jackson never called her on the radio on the night of January 24, 2016. (Tr 125, 126). Lieutenant [REDACTED] testified that a "choke hold" is never authorized unless deadly force is needed, where there is imminent bodily harm or death. (Tr 131).

Respondent testified that inmate [REDACTED] was handcuffed from behind and remained in shackles as he walked him down the stairwell. (Tr 279,281,332). Respondent also testified that [REDACTED] was handcuffed and shackled throughout. (Tr 394). Respondent testified that he was taught about de-escalation techniques, including lowering the voice, creating space, using the least amount of resistance necessary, but stated those situations depended on the totality of the circumstances. (Tr 326-327). Respondent testified that inmate [REDACTED] was "purposefully spitting on me as he was yelling and made contact with me, he kicked me." (Tr. 267) Respondent denied choking or putting inmate [REDACTED] in a choke hold. (Tr. 289, 294, 339).

Respondent testified that the reason he grabbed inmate [REDACTED] around the neck was to brace him on the wall and because he didn't grab firm enough and that he wiggled out of his control. It was at that point Respondent felt he needed to put more force on inmate [REDACTED]. (Tr. 299, 352).

Conclusion

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Board finds that Respondent violated the Cook County Sheriff's Department Rules and Regulations, General Order #11.2.1.0 Response to Resistance/Use of Force; General Order 11.2.2.0 Response to Resistance/ Use of Force Duties, Notifications and Reporting Procedures General Order #24.9.1.0 Reporting Incidents.

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Order

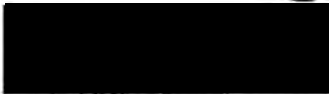
Wherefore, based on the foregoing, it is hereby ordered that Respond Tabas Jackson be terminated from the Cook County Sheriff's Office effective October 20, 2016.



James P. Nally, Chairman



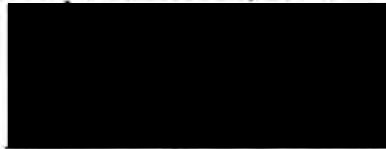
Byron Brazier, Vice Chairman



John J. Dalicandro, Secretary



Patrick M. Brady, Board Member



Vincent T. Winters, Board Member



Kim R. Widup, Board Member



Juan L. Baltierres, Board Member



Gray Mateo-Harris, Board Member

Dated: October 26, 2018