

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER JOSE VELEZ,) **No. 15 PB 2882**
STAR No. 19367, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1044797)**
RESPONDENT.)

FINDINGS AND DECISION

On April 22, 2015, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jose Velez, Star No. 19367 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 1: Violation of any law or ordinance.
- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 14: Making a false report, written or oral.

The Police Board caused a hearing on these charges against the Respondent to be had before Police Board Hearing Officer Fredrick H. Bates on August 14, 17, and 28, 2015.

Following the hearing, the members of the Police Board read and reviewed the record of the proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Bates made an oral report to and conferred with the Police Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and

determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.
2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were personally served upon the Respondent more than five (5) days prior to the hearing on the charges.
3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.
4. The Respondent filed a Motion to Strike and Dismiss requesting that the charges filed against him be stricken and the case dismissed for the following reasons: (a) the failure to bring timely charges violates the due process rights of the Respondent; (b) the charges should be barred by laches; and (c) Chicago Police Department General and Special Orders were ignored by the delay in bringing the charges.

Respondent's Motion to Strike and Dismiss is **denied**. In his motion, Respondent made general due process and laches arguments. However, Respondent failed to articulate any specific facts in support of either argument or to establish how he was specifically prejudiced by the content or the length of the investigation that culminated in charges before this Police Board. The Illinois Appellate Court has recently affirmed the Board's decision denying a motion to dismiss that makes essentially the same arguments as the Respondent makes in his motion. In that case, the Appellate Court found the Board's reasoning and result consistent with the law. *Chisem v. McCarthy*, 2014 IL App (1st) 132389 (December 23, 2014). Based on *Chisem* and for the reasons set forth below, the Respondent's motion is denied.

- a. Due Process. Citing *Morgan v. Department of Financial and Professional Regulation*,

374 Ill. App. 3d 275 (2007), and *Lyon v. Department of Children and Family Services*, 209 Ill.2d 264 (2004), the Respondent claims that the Constitution precludes such a lengthy delay in the investigation of the Respondent's alleged misconduct. Both of these cases are distinguishable. *Morgan* and *Lyon* involved a delay in *adjudication* of allegations of misconduct after the respective plaintiffs had been suspended from their jobs—not delay in the *investigation* leading to the initial suspensions. *Morgan* involved a clinical psychologist accused of sexually abusing a patient, where the state took fifteen months to decide the case after the suspension. *Lyon* involved a teacher accused of abusing students where the director of DCFS failed to honor specific regulatory time limits for decision-making.

The Respondent's case before the Police Board is different from *Morgan* and *Lyon*, as the Respondent in his Motion is complaining about the delay from the time of the incident to the bringing of charges, not the time it took to try him once the charges were filed. This difference is important because the due-process analysis in *Morgan* and *Lyon* is triggered by the state's decision to deprive the psychologist and teacher of their jobs, thus preventing them from working for prolonged periods of time before they were accorded the opportunity to have a hearing and decision to clear their names. Here, the Respondent was working and was being paid his full salary and benefits during the entire period from the time of the incident up to the filing of charges with the Police Board.

In addition, once charges were filed, Respondent's case before this Board was resolved within seven (7) months. Respondent cited no precedent, and we are not aware of any, where a Due Process violation was found where a matter is resolved in the administrative adjudicative process within seven months. The Due Process clause precludes a state or local government from "depriving any person of life, liberty or property [i.e. a public job] without due process of law."

Here, the Respondent was not suspended without pay from his job until *after* the charges were filed with the Police Board. Therefore, the Respondent was *not* deprived of his job prior to the filing of charges, and any delay in bringing the charges is therefore *not* a violation of the Respondent's due process rights.

We recognize that the Circuit Court of Cook County, in *Orsa v. City of Chicago Police Board*, 11 CH 08166 (March 1, 2012) found that the protections of the Due Process clause are triggered by an unreasonable delay in the investigation of a matter, even if the officer retains his job, salary and benefits during the investigation. However, *Orsa* is also distinguishable from this case in several ways. The Court cited *Stull v. Department of Children and Family Services*, 239 Ill.App.3d 325 (1992). *Stull* involved a teacher accused of sexually abusing two of his students. The statute and regulations governing DCFS investigations of child abuse provided strict time limits on the length of any investigation and on the time within which a hearing must be conducted and a decision entered if the adult found to have abused children sought a hearing. The *Stull* court found that DCFS had grossly violated these time limits and required expungement of the adverse finding against the teacher, even though the administrative appeal found that he had been properly "indicated" as an abuser. The *Stull* court did find that the teacher's due process rights had been infringed, but it was not because of a delay in DCFS's investigation of the case. The court held that due process was violated by the more than one-year delay in adjudicating the teacher's appeal because during that period of time there was an indicated finding of child abuse lodged against the teacher and this finding prohibited him from working, (*see* 239 Ill.App.3d at 335), thus triggering the kind of deprivation that is not present in the Respondent's case. *Cavaretta v. Department of Children and Family Services*, 277 Ill.App.3d 16 (1996), also cited by the Circuit Court, is identical to *Stull*, which it relies upon. The *Cavaretta* court was quite careful to find that due

process was not implicated until DCFS (after its investigation was complete) “indicated” the teacher as a child abuser and placed the teacher’s name in the state’s central registry, which directly deprived the teacher of the ability to work.¹ The issues identified in the *Orsa*, *Stull* and *Cavaretta* cases simply do not exist here. For all of these reasons, there is no basis in the record to support a Due Process violation.

b. Laches. Respondent’s laches argument is equally lacking in merit. The Respondent argues that the doctrine of laches should apply here in supporting the dismissal of charges, because the delay in bringing the charges against him resulted in prejudice to him by placing him “in a situation where he must attempt to defend himself against an incident which is not fully in his memory due to the passage of time” and by affecting “his ability to locate counter evidence years after the fact to defend against these charges.” Motion to Strike and Dismiss, p. 8.

Laches is an equitable doctrine that is used to prevent a party in litigation from enforcing a right it otherwise has because it has not been diligent in asserting this right and the opposing party has been prejudiced by the delay. Private parties and public agencies are not on an equal footing when it comes to the application of the laches doctrine. Many cases, including *Van Milligan v Board of Fire and Police Commissioners of the Village of Glenview*, 158 Ill.2d 85 (1994), hold that laches can only be invoked against a municipality under “compelling” or “extraordinary” circumstances. In addition, the party that invokes the doctrine of laches has the burden of pleading and proving the delay and the prejudice. *Hannigan v. Hoffmeister*, 240 Ill. App. 3d 1065, 1074 (1992). Under Illinois law, the Respondent must demonstrate that the Superintendent’s unreasonable delay caused material prejudice to the Respondent; the Respondent must submit

¹The Circuit Court also cited *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), but only in general terms. There was no issue in *Loudermill* that a deprivation, for due process purposes, had occurred as it involved the discharge of school district employees.

evidence in support of his claims of prejudice (for example, testimony that witnesses could no longer recall what happened, or affidavits stating that records had been lost or destroyed during the intervening years). *Nature Conservancy v. Wilder*, 656 F.3d 646 (7th Cir. 2011).

The Respondent in his Motion and at the hearing has not delineated any material prejudice. Indeed, respondent again failed to articulate any specific ways in which he has been prejudiced beyond making conclusory statements. Mere general assertions as to how he might theoretically have been prejudiced are insufficient to trigger the doctrine of laches. Respondent claims that the Superintendent's delay in filing charges "result[s] in obvious prejudice to the Respondent in being placed in a situation where he must attempt to defend himself against an incident which is not fully in his memory due to the passage of time." Motion to Strike and Dismiss, p. 8. However, Respondent does not articulate which aspects of the incident are "not fully in his memory," and there were ample resources available to refresh Respondent's memory. Respondent memorialized his recollections in several contemporary writings. For example, Respondent personally created the Arrest Report and Original Case Report, both of which were available to him at the hearing. In addition, Respondent had the benefit of his prior deposition testimony, as well as his Bureau of Internal Affairs ("BIA") interview. Similarly, his partners on the day in question, Officers Roberto Ruiz and Joseph Ceglarek, also had the benefit of their BIA interview transcripts, and were afforded the opportunity to refresh their recollections. Additionally, the surveillance videos in this case were available to the Respondent, his counsel, Officers Ruiz and Ceglarek, and the Board.

Moreover, the general assertions by Respondent and his partners that they could not recall exactly where they were located at the intersection of Lavergne and Augusta is insufficient to trigger the doctrine of laches in this case because, as set forth below, the Board finds that it is more likely than not that Respondent could not have seen the location of the drugs that he claims to have

observed from *any* vantage point at the location of the intersection of Lavergne and Augusta.

Respondent has not shown that the trier of fact will not be able to ascertain the truth of the matter in dispute.

Respondent was informed of allegations against him when a civil lawsuit was initiated on June 16, 2011, and further when BIA presented him with allegations against him on September 3, 2014. Respondent could have attempted to secure exonerating evidence long before charges were filed with the Police Board on April 22, 2015. Courts have refused to apply laches where there was no showing of prejudice and the parties could obtain a fair trial notwithstanding the delay in bringing suit. *Van Milligan*, p. 93.

Finally, the parties stipulated to many of the underlying facts for the case. The Respondent in his Motion and at the hearing has not delineated any material prejudice. For these reasons, the Respondent has not carried the burden of proving that he was prejudiced by a delay in the bringing of charges, nor has he demonstrated any “compelling” or “extraordinary” circumstances warranting a dismissal of this case due to laches.

c. General and Special Orders. The Respondent argues that the investigation by the Police Department failed to follow Chicago Police Department General Order G08-01, which requires a prompt and thorough investigation, and Special Order 08-01-01, which requires that the investigation be completed as soon as possible within a reasonable amount of time.

These Orders do not set an absolute deadline within which investigations must be completed, but provide that if they last more than 30 days, the investigator must seek and obtain an extension of time within which to complete the investigation. Once the investigator completes the process of gathering evidence, the matter is reviewed at several levels to ensure that a thorough investigation was conducted, as required by the General Order.

There is no evidence of any material violation of the Orders in the record of this case.

5. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about July 22, 2010, at the Circuit Court of Cook County, Criminal Division, First Municipal District, before the Honorable Judge Anthony John Calabrese, Officer Velez violated 720 ILCS 5/32-2 (Perjury), in that he, under oath or affirmation, in a proceeding or in any other matter where by law the oath or affirmation was required, made a false statement material to the issue or point in question, knowing the statement was false, to wit: he falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, and/or he observed a plastic baggie in Lance Conley's hand, and/or he observed Lance Conley look in his direction and start to walk away quickly, and/or he was 30 to 35 feet from Lance Conley when he made these observations, or used words to that effect, thereby violating any law or ordinance.

The evidence in this case established that at the preliminary hearing of the criminal case against Lance Conley, on July 22, 2010, it is more likely than not that Officer Velez falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, that he observed a plastic baggie in Lance Conley's hand, and/or he observed Lance Conley look in his direction and start to walk away quickly, and that he was 30 to 35 feet from Lance Conley when he made these observations, or words to that effect, thereby violating the law as alleged in the charges. At the Police Board hearing Officer Velez testified that he was obviously mistaken about his vantage point when he allegedly observed the drug transaction, and that he mistook Lance Conley for the actual offender, Eddie Lee Jefferson. He insisted that he did in fact observe Mr. Jefferson stuffing an item into the base of a stop sign, that he observed a plastic baggie in Jefferson's hand, and he observed Jefferson look in his direction and start to walk away quickly,

although he conceded that he had to have been more than 30 to 35 feet away from Jefferson when he made these observations. Based upon the totality of the evidence in this matter, the Board finds that Officer Velez's testimony at the Police Board hearing regarding what he observed take place at or about the intersection of Cortez and Lavergne lacked credibility in its entirety.

The testimony of Investigator Hector Arellano of the City of Chicago Inspector General's office, buttressed by the video evidence in this case, particularly Superintendent Exhibit No. 1, the video taken from Lance Conley's home security system, belie Officer Velez's testimony that on June 28, 2010, he observed the transaction from any vantage point at the intersection of Lavergne and Augusta, from which he stated he made the alleged observations, irrespective of his admission that he mistook Lance Conley for Eddie Lee Jefferson. Moreover, the intersection of Lavergne and Augusta is much further from the intersection of Cortez and Lavergne, and Velez as an experienced Chicago police officer, was not simply "mistaken" about the distance. Finally, he could not possibly have seen a small baggie in anyone's hand from that intersection, nor was it possible for him to see the base of the stop sign.²

It is also noteworthy that Officer Velez was the surveillance officer in the squadrol on the day in question, and that both Officers Ruiz and Ceglarek were enforcement officers who relied upon his observations. Tellingly, both Officers Ruiz and Ceglarek testified, incredibly so, that neither made any independent observations of their own, even though they were both sitting in the

² Respondent himself admitted during the Police Board hearing that it was impossible for him to see the pole in question from the east side of the intersection of Lavergne and Augusta based upon his consultation with his Counsel. However, up until Respondent was presented with the charges for his discharge, he consistently testified that he was on the east side of the intersection (from which it was impossible to see the stop sign). Respondent's evidence that the sign could be seen from the west side of the street was not at all persuasive. We specifically credit the testimony of Investigator Hector Arellano over that of Respondent and his investigator in this regard. It is noteworthy that all of the testimony from the officers in the squadrol was that the Respondent was performing his surveillance from the passenger's side of a police SUV. The SUV was somewhere on a street, and not on the sidewalk in front of 1019 N. Lavergne, from which, based upon the credible evidence in this case, the stop sign became visible as one approaches Lavergne and Cortez from Lavergne and Augusta.

same car, in close physical proximity to Officer Velez while he allegedly made his surveillance observations.

The videos in this case do not support Officer Velez's testimony at the preliminary hearing. First, at no time do the videos show Conley stuffing anything into the base of a stop sign. Instead, on the videos Eddie Lee Johnson repeatedly returned to an area of grass, not the stop sign. Second, the videos show that Officer Velez and Officer Ceglarek had to search in multiple locations over a period of time before the drugs were discovered. All the while, Officer Velez was clearly speaking on the telephone. In fact, based upon the video evidence, the drugs were recovered first by Officer Ceglarek, not Officer Velez who ostensibly observed Conley (or Eddie Lee Johnson) stuffing an item into the base of a stop sign. Their search was not confined to the area of the stop sign. Officer Velez's testimony about the nature of this search was not credible. While it is plausible that police officers search an entire area for other contraband, it is clear in this case that Officer Velez did not immediately go to the stop sign to retrieve an item that he "observed" being placed there by someone he believed to be Conley. This failure undermines the observations Officer Velez claimed to have made.

Accordingly, the Superintendent proved by a preponderance of the evidence that Officer Velez knowingly fabricated his testimony at the preliminary hearing, on July 22, 2010, regarding what he observed on June 28, 2010. Accordingly, we find that it is more likely than not that he committed perjury in violation of 720 ILCS 5/32-2, when he, under oath or affirmation, at the preliminary hearing on July 22, 2010, a proceeding where by law the oath or affirmation was required, made a false statement material to the issue or point in question, knowing the statement was false.

6. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about March 24, 2011, at the Circuit Court of Cook County, Criminal Division, before the Honorable Judge Rickey Jones, Officer Velez violated 720 ILCS 5/32-2 (Perjury), in that he, under oath or affirmation, in a proceeding or in any other matter where by law the oath or affirmation was required, made a false statement material to the issue or point in question, knowing the statement was false, to wit: he falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, and/or he had a clear view of Lance Conley placing the item at the stop sign, and/or there was nothing obstructing his view, and/or he observed that Lance Conley was the only individual standing by the stop sign, and/or he reviewed video surveillance footage of the incident and saw Lance Conley bend down and place an item into the grass between the stop sign and the grass, and/or he observed Lance Conley at the stop sign for 30 or 40 seconds, and/or he was 30 or 45 feet away from Lance Conley when he made his observations, and/or the item he observed in Lance Conley's hand looked like a plastic baggie, and/or he switched who was placed in the squadrol because he had observed Lance Conley soliciting drug sales, and/or he observed Lance Conley's hand clinched holding something that he believed to be a plastic bag, and/or he observed where Lance Conley placed the bag in between the stop sign and the grass, or used words to that effect, thereby violating any law or ordinance.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference. As stated above, at the preliminary hearing Officer Velez testified under oath that he had observed Lance Conley stuff an item into the base of a sign pole, that Mr. Conley was holding a baggie, that Mr. Conley looked in his direction and quickly walked away, and that he was 30 to 35 feet away from Conley when he made these observations. At the bench trial on March 24, 2011, Officer Velez provided similar testimony, although he embellished his previous testimony by providing additional details. However, video surveillance footage from Mr. Conley's home clearly shows that Mr. Conley did not handle or sell heroin on June 28, 2010, and that at no point did he stand near the sign pole where drugs were hidden. Again, Officer Velez's position that this was all simply a case of mistaken identity because Lance Conley and Eddie Lee Jefferson were similarly

dressed, is contradicted by the credible evidence in this case. Specifically, in addition to the findings set forth above, it is clear that Officer Velez could not possibly have had a clear view of Lance Conley placing the item at the stop sign, and he also did not have an unobstructed view from any vantage point at the intersection of Lavergne and Augusta.

Moreover, Officer Velez could not have seen the stop sign at Cortez and Lavergne and therefore could not possibly have observed that Lance Conley (or Eddie Lee Johnson for that matter) was the only individual standing by the stop sign. It is unclear why Officer Velez switched Eddie Lee Johnson and Mr. Conley from the squadrol, but what is clear is that Officer Velez was not simply “mistaken” about his observation on the day in question. Officer Velez repeatedly fabricated his statements and testimony regarding his observations, including his testimony during his Police Board hearing, because he could not possibly have seen what he alleges that he saw that day—even if you simply substitute the name Eddie Lee Johnson for Lance Conley as argued by Respondent’s Counsel.³

Accordingly, we find that it is more likely than not that Officer Velez committed perjury in violation of 720 ILCS 5/32-2, when he under oath or affirmation, at the bench trial held on March 24, 2011, a proceeding where by law the oath or affirmation was required, made a false statement material to the issue or point in question, knowing the statement was false.

³ Respondent’s defense in this case, as argued by his counsel, was essentially that everything was an honest mistake. Respondent’s counsel claimed that the only thing Respondent got wrong was the identification of the person who bent down at the pole to retrieve the drugs. Counsel claimed that if you replace the name Lance Conley with Eddie Lee Jefferson, then the statements attributable to Officer Velez are factually accurate. We do not agree with that conclusion, because we find that Officer Velez could not possibly have seen what he insists he saw. As the Superintendent’s counsel noted, in actuality Respondent’s reports and testimony were wrong about many important details in addition to the identity of the person that bent down at the base of the pole. “He claims that he made a long series of innocent mistakes but his version of the events is not supported by the evidence or common sense.” Police Board Hearing Transcript, p. 538. We agree with this conclusion.

7. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about June 28, 2010, Officer Velez arrested Lance Conley without justification, and/or subsequently caused Lance Conley to be prosecuted for possession of a controlled substance by having filed false police reports and providing false testimony, thereby impeding the Department's efforts to achieve its policy and goals, and/or bringing discredit upon the Department.

See the findings set forth in paragraphs nos. 5 and 6 above and paragraph nos. 8 and 9 below, which are incorporated here by reference. The parties stipulated that Eddie Lee Johnson and not Lance Conley was engaged in the solicitation and sale of heroin on June 28, 2010, at the intersection of Lavergne and Cortez. It was undisputed that Lance Conley was falsely prosecuted for possession of a controlled substance. Officer Velez asserts that this was simply a case of mistaken identity and that he thought he observed Lance Conley when in fact he observed Eddie Lee Johnson. For the reasons stated above, we reject Officer Velez's explanation surrounding the false arrest of Lance Conley. False statements by Officer Velez similar to those set forth above appear in the Arrest Report and Original Case Incident Report authored by him. By violating each and every Rule alleged in the Charges, Officer Velez clearly impeded the Department's efforts to achieve its policy and goals. By falsely arresting Lance Conley, and by providing false testimony in both the preliminary hearing, and at the trial, Officer Velez brought discredit upon the Department. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 7.

8. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about June 28, 2010, Officer Velez falsified a Chicago Police Department Arrest Report, in that he falsely wrote that he was on patrol at 1028 North Lavergne Avenue, and/or observed Lance Conley stuffing an unknown item at the base of the northeast stop sign post located in front of 4954 West Cortez, and/or observed Lance Conley look in Officer Velez's direction and quickly walk off, or used words to that effect, thereby impeding the Department's efforts to achieve its policy and goals, and/or bringing discredit upon the Department.

See the findings set forth in paragraphs nos. 5 and 6 above, which are incorporated here by reference. Officer Velez repeatedly testified that he made personal observations on June 28, 2010, that we find he could not possibly have made from any vantage point near Lavergne and Augusta, from which he alleges he made the observations. These were not mistakes, as argued by Officer Velez. The Arrest Report in this matter contains written statements by Officer Velez similar to his testimony in the criminal case against Lance Conley. Specifically, Officer Velez states in the Arrest Report that he observed Lance Conley stuffing an unknown item at the base of the northeast stop sign post located in front of 4954 West Cortez, and observed Lance Conley look in his direction and quickly walk off. For the reasons set forth above, we find that those statements regarding his observations are untrue. Based upon these false statements, Lance Conley was falsely arrested. By providing false statements in the Arrest Report in this matter, Officer Velez impeded the Department's efforts to achieve its policy and goals, and he brought discredit upon the Department. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 8.

9. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about June 28, 2010, Officer Velez falsified a Chicago Police Department Case Incident Report, in that he falsely wrote that he was on patrol at 1024 North Lavergne Avenue, and/or observed Lance Conley stuffing an unknown item at the base of the northeast stop sign post located in front of 4954 West Cortez, and/or observed Lance Conley look in Officer Velez's direction and quickly walk off, or used words to that effect, thereby impeding the Department's efforts to achieve its policy and goals, and/or bringing discredit upon the Department.

See the findings set forth in paragraphs nos. 5, 6, and 8 above, which are incorporated here by reference. The Original Case Incident Report in this matter contains written statements by Officer Velez similar to the summary by Officer Velez in his Arrest Report, as well as his testimony in the criminal case against Lance Conley. Specifically, Officer Velez stated in the Case Incident Report that he observed Lance Conley stuffing an unknown item at the base of the northeast stop sign post located in front of 4954 West Cortez, and observed Lance Conley look in his direction and quickly walk off. For the reasons set forth above, we find that those statements regarding his observations are untrue. Based upon these false statements, Lance Conley was falsely arrested. By providing false statements in the Original Case Incident Report in this matter, Officer Velez impeded the Department's efforts to achieve its policy and goals and brought discredit upon the Department. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 9.

10. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty**

of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about July 22, 2010, at the Circuit Court of Cook County, Criminal Division, First Municipal District, before the Honorable Judge Anthony John Calabrese, Officer Velez falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, and/or he observed a plastic baggie in Lance Conley's hand, and/or he observed Lance Conley look in his direction and start to walk away quickly, and/or he was 30 to 35 feet from Lance Conley when he made these observations, or used words to that effect, thereby impeding the Department's efforts to achieve its policy and goals, and/or bringing discredit upon the Department.

See the findings set forth in paragraph nos. 5-9 above, which are incorporated here by reference. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 10.

11. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty**

of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count V: On or about March 24, 2011, at the Circuit Court of Cook County, Criminal Division, before the Honorable Judge Rickey Jones, Officer Velez falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, and/or he had a clear view of Lance Conley placing the item at the stop sign, and/or there was nothing obstructing his view, and/or he observed that Lance Conley was the only individual standing by the stop sign, and/or he reviewed video surveillance footage of the incident and saw Lance Conley bend down and place an item into the grass between the stop sign and the grass, and/or he observed Lance Conley at the stop sign for 30 or 40 seconds, and/or he was 30 or 45 feet away from Lance Conley when he made his observations, and/or the item he observed in Lance Conley's hand looked like a plastic baggie, and/or he switched who was placed in the squadrol because he had observed Lance Conley soliciting drug sales, and/or he observed Lance Conley's hand clinched holding something that he believed to be a plastic bag, and/or he observed where

Lance Conley placed the bag in between the stop sign and the grass, or used words to that effect, thereby impeding the Department's efforts to achieve its policy and goals, and/or bringing discredit upon the Department.

See the findings set forth in paragraph nos. 5-9 above, which are incorporated here by reference. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 11.

12. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about June 28, 2010, Officer Velez falsified a Chicago Police Department Arrest Report, in that he falsely wrote that he was on patrol at 1028 North Lavergne Avenue, and/or observed Lance Conley stuffing an unknown item at the base of the northeast stop sign post located in front of 4954 West Cortez, and/or observed Lance Conley look in Officer Velez's direction and quickly walk off, or used words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 5-9 above, which are incorporated here by reference. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 12.

13. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about June 28, 2010, Officer Velez falsified a Chicago Police Department Case Incident Report, in that he falsely wrote that he was on patrol at 1024 North Lavergne Avenue,

and/or observed Lance Conley stuffing an unknown item at the base of the northeast stop sign post located in front of 4954 West Cortez, and/or observed Lance Conley look in Officer Velez's direction and quickly walk off, or used words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 5-9 above, which are incorporated here by reference. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 13.

14. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about July 22, 2010, at the Circuit Court of Cook County, Criminal Division, First Municipal District, before the Honorable Judge Anthony John Calabrese, Officer Velez falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, and/or he observed a plastic baggie in Lance Conley's hand, and/or he observed Lance Conley look in his direction and start to walk away quickly, and/or he was 30 to 35 feet from Lance Conley when he made these observations, or used words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 5-9 above, which are incorporated here by reference. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 14.

15. The Respondent, Police Officer Jose Velez, Star No. 19367, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about March 24, 2011, at the Circuit Court of Cook County, Criminal Division, before the Honorable Judge Rickey Jones, Officer Velez falsely testified under oath that he observed Lance Conley stuffing an item into the base of a stop sign, and/or he had a clear view of Lance Conley placing the item at the stop sign, and/or there was nothing obstructing his view, and/or he observed that Lance Conley was the only individual standing by the stop sign, and/or he reviewed video surveillance footage of the incident and saw Lance Conley bend down and place an item into the grass between the stop sign and the grass, and/or he observed Lance Conley at the stop sign for 30 or 40 seconds, and/or he was 30 or 45 feet away from Lance Conley when he made his observations, and/or the item he observed in Lance Conley's hand looked like a plastic baggie, and/or he switched who was placed in the squadrol because he had observed Lance Conley soliciting drug sales, and/or he observed Lance Conley's hand clinched holding something that he believed to be a plastic bag, and/or he observed where Lance Conley placed the bag in between the stop sign and the grass, or used words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 5-9 above, which are incorporated here by reference. Accordingly, the Superintendent proved by a preponderance of the evidence the alleged Rule violation set forth in this paragraph no. 15.

16. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and his complimentary and disciplinary histories.

The Respondent offered evidence in mitigation that the Board has carefully considered. A lieutenant and a sergeant who supervised the Respondent and four police officers with whom the Respondent worked testified positively about the Respondent's job performance, stating that they found him to be honest, hardworking, professional, and respectful of citizens. In addition, the Respondent has a complimentary history of 73 total awards, including 59 honorable mentions and 2 unit meritorious performance awards.⁴

⁴Made part of the record along with the Respondent's complimentary history is the Respondent's disciplinary history, which includes a fifteen-day suspension for physically maltreating and verbally abusing a man during a traffic altercation while off duty. Police Board Case No. 13 SR 2309 (November 21, 2013).

However, the Respondent's accomplishments as a police officer and these positive evaluations of him do not outweigh the seriousness of his misconduct. The Board finds that the Respondent's misconduct is incompatible with continued service as a police officer and warrants his discharge from the Chicago Police Department. The Respondent arrested Lance Conley without justification, and then, by knowingly and intentionally falsifying official police reports and lying under oath at Conley's preliminary hearing and criminal trial, caused Conley to be prosecuted for an offense he did not commit. Such conduct by the Respondent is antithetical to that expected and required of a police officer, who at all times has a duty to serve and protect with honesty and integrity, not falsely arrest a citizen and then lie repeatedly in an effort to have him convicted of a crime of which he is innocent.⁵

The Respondent's dishonesty relates directly to his public duties as a police officer, and renders him unfit to hold that office. Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, particularly one as a police officer. The duties of a police officer include making arrests and testifying in court, and a police officer's credibility is at issue in both the prosecution of crimes and in the Police Department's defense of civil lawsuits. A public finding that a police officer falsified official reports and lied under oath in criminal court is detrimental to the officer's credibility as a witness and, as such, is a serious liability to the Department. *See Rodriguez v. Weiss*, 408 Ill.App.3d 663, 671 (1st Dist. 2011).

The Board finds that the Respondent's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something that the law recognizes as good cause for him to no longer occupy his office.

⁵Officer Velez compounded his misconduct by further being dishonest during his testimony at the Police Board hearing.

POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By a vote of 9 in favor (Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, John H. Simpson, Rhoda D. Sweeney, and Claudia B. Valenzuela) to 0 opposed, the Board **denies** the Respondent's Motion to Strike and Dismiss; and

By votes of 9 in favor (Lightfoot, Foreman, Ballate, Conlon, Eaddy, Fry, Simpson, Sweeney, and Valenzuela) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 1, Rule 2, and Rule 14.

As a result of the foregoing, the Board, by a vote of 9 in favor (Lightfoot, Foreman, Ballate, Conlon, Eaddy, Fry, Simpson, Sweeney, and Valenzuela) to 0 opposed, hereby determines that cause exists for discharging the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Jose Velez, Star No. 19367, as a result of having been found **guilty** of all charges in Police Board Case No. 15 PB 2882, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, John H. Simpson, Rhoda D. Sweeney, and Claudia B. Valenzuela.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF NOVEMBER, 2015.

Police Board Case No. 15 PB 2882
Police Officer Jose Velez

Attested by:

/s/ LORI E. LIGHTFOOT
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

The following members of the Police Board hereby dissent from the Findings and Decision of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2015.

GARRY F. McCARTHY
Superintendent of Police