

**COOK COUNTY SHERIFF'S MERIT BOARD**

**Sheriff of Cook County** )  
 )  
**vs.** )  
 ) **Docket No. 1956**  
**Correctional Officer** )  
**Martenia M. Shyne** )  
**Star # 15302** )

**DECISION**

This matter coming on to be heard pursuant to notice before Vincent T. Winters, Board Member, on September 24, 2018, the Cook County Sheriff's Merit Board finds as follows:

**Jurisdiction**

Martenia M. Shyne, hereinafter Respondent, was appointed a Correctional officer on July 8, 2002. Respondent was assigned to different Divisions of the Cook County Department of Corrections ("CCDOC"), her last assigned was to Division V of the CCDOC, on May 8, 2016. 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. Commiissioners 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 (1<sup>st</sup>) 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.")).

Martenia Shyne  
Correctional Officer  
Docket #1956

The original Complaint in this matter was filed with the Merit Board's administrative staff on January 20, 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 on January 20, 2017 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 January 20, 2017 and an amended complaint on January 23, 2018. The Sheriff is requesting termination.

On July 8, 2002, Respondent was appointed a Correctional Officer. Respondent had been transferred to different departments throughout her career. Respondent testified that she had been in contact with inmates that she knew were gang members however she initially told [REDACTED], an investigator with the Office of Professional Review, ("OPR"), that she did not have contact with any but later changed her answer. (Tr. 38 and 74). Respondent testified that she ran inmate [REDACTED]'s name more than 50 times in the system but did not have an answer as to why she did so. (Tr. 37, 38). During Respondent's OPR interview she admitted to knowing all of the listed inmates that she was provided and that she knew that they were all convicted felons and were gang affiliated (Tr. 38, 46). Initially Respondent told OPR that she only knew the inmates from the jail, but then changed her story to say that she knew them from her neighborhood (Tr. 39). Respondent admitted to having communications with [REDACTED] regarding how his brother [REDACTED], an inmate at CCDOC, was doing (Tr. 46). Respondent never documented that she was contacted by phone from an inmate [REDACTED] (Tr. 48). Respondent never documented that she had been contacted by inmates after they had been released, nor did she document that she had contact with known gang members, nor did she document that she had social media exchanges with detainees (Tr 46,60,70,71,76). Respondent testified that she knew the policy regarding contact with gang members and convicted felons (Tr. 76). Respondent admitted that she received a phone from an inmate on her birthday and that she told him to be careful over there in the jail but she never documented the call nor did she do the proper to/ from memo regarding her cousin [REDACTED] when he was in jail (Tr 77,78,79).

Martenia Shyne  
Correctional Officer  
Docket #1956

**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 did violate the Cook County Sheriff's General Order 3.8, 11.2.20.0, 11.2.20.1, as well as the Cook County Sheriff's Department Rules and Regulations, Article X, Paragraph B.

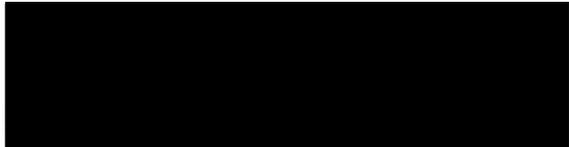
**Order**

Wherefore, based on the foregoing, it is hereby ordered that Respondent Martenia M. Shyne be separated from the Cook County Sheriff's Office effective January 20, 2017.

Martena Shyne  
Correctional Officer  
Docket # 1956



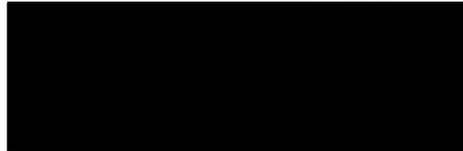
James P. Nally, Chairman



Byron Brazier, Vice-Chairman



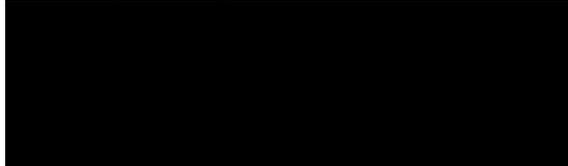
John D'Alcandro, Secretary



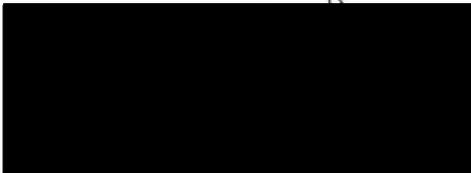
Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Juan L. Baltierres, Board Member



Patrick Brady, Board Member



Gray Mateo Harris, Board Member

Date January 15, 2019

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

Martenia Shyne,	)	
	)	
Plaintiff,	)	Case No. 19 CH 2193
v.	)	Hon. Caroline K Moreland
	)	Judge Presiding
Thomas J. Dart; The Cook County Sheriff's	)	Cal. 10
Merit Board; Kim Foxx; Cook County,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION AND ORDER**

Plaintiff, Martenia Shyne filed a complaint and a motion in support of her complaint for administrative review of a decision issued by the Cook County Sheriff's Merit Board (the "Merit Board") disciplining Martenia Shyne ("Shyne") with termination of her employment as a result of her violations of Cook County Sheriff's General Orders 3.8, 11.2.20.0, 11.2.20.01 and Cook County Sheriff's Department Rules and Regulations, Article X, paragraph B.

**I. BACKGROUND**

According to the factual finding of the Merit Board:

On July 8, 2002, [Shyne] was appointed a Correctional Officer. [Shyne] had been transferred to different departments throughout her career. [Shyne] testified that she had been in contact with inmates that she knew were gang members, however, she initially told [REDACTED], an investigator with the Office of Professional Review, ("OPR"), that she did not have contact with any, but later changed her answer. (Tr. 38 & 74). [Shyne] testified that she ran inmate [REDACTED]'s name more than 50 times in the system but did not have an answer as to why she did so. (Tr. 37, 38). During [Shyne]'s OPR interview she admitted to knowing all of the listed inmates that she was provided and that she knew that they were all convicted felons and were gang affiliated (Tr. 38, 46). Initially [Shyne] told OPR that she only knew the inmates from the jail, but then changed her story to say that she knew them from her neighborhood (Tr. 39). [Shyne] admitted to having communications with [REDACTED] regarding how his brother [REDACTED], an inmate at CCDOC, was doing (Tr. 46). [Shyne] never documented that she was contacted by phone from an inmate [REDACTED] (Tr. 48). [Shyne] never documented that she had been contacted by inmates after they had been released, nor did she document that she had contact with known gang members, nor did she document that she had social media exchanges with detainees (Tr. 46, 60, 70, 71, 76). [Shyne] testified that she knew the policy regarding contact with gang members and convicted felons (Tr. 76). [Shyne]

admitted that she received a phone (*sic*) from an inmate on her birthday and that she told him to be careful over there in the jail but she never documented the call nor did she do the proper to/from memo regarding her cousin [REDACTED] when he was in jail (Tr. 77, 78, 79).

Based on these findings, the Merit Board found that Shyne violated Cook County Sheriff's General Orders 3.8, 11.2.20.0, 11.2.20.01 and Cook County Sheriff's Department Rules and Regulations, Article X, paragraph B. Shyne asks this Court to overturn the determination of the Merit Board that Shyne violated Sheriff Department rules and regulation; reduce her termination to a suspension; or overturn the Merit Board's determination due to procedural violations.

## **II. ADMINISTRATIVE REVIEW**

The Administrative Review Law, 735 ILCS 5/3-101 *et seq.*, governs judicial review of a decision of the Merit Board. 55 ILCS 5/3-7012; *AFM Messenger Service v. Department of Employment Security*, 198 Ill. 2d 380, 390 (2001). "The applicable standard of review, which determines the degree of deference given to the agency's decision, depends upon whether the question presented is one of fact, one of law, or a mixed question of law and fact." *Id* at 390. Questions of fact are reviewed under a highly deferential against the manifest weight of the evidence standard. *City of Belvidere v. Illinois State Labor Rels. Board*, 181 Ill. 2d 191, 204 (1998). "An administrative agency's factual determinations are contrary to the manifest weight of evidence where the opposite conclusion is clearly evident." *Id*.

Questions of law are reviewed under a *de novo* standard. *Id* at 205. However, the Illinois Supreme Court has acknowledged that the agency's interpretation of its laws is relevant but not binding on the Court's review. *See AFM Messenger Service*, 198 Ill. 2d at 390; *Branson v. Department of Revenue*, 168 Ill. 2d 247, 254 (1995).

Mixed questions of both fact and law are reviewed under the clearly erroneous standard. *See City of Belvidere*, 181 Ill. 2d at 205. Under the clearly erroneous standard, "[a] finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *AFM Messenger Service v. Department of Employment Security*, 198 Ill. 2d 380, 393 (2001) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

## **III. Due Process Violations**

Administrative proceedings are "governed by the fundamental principles and requirements of due process of law. However, due process is a flexible concept and requires only such procedural protections as fundamental principles of justice and the particular situation demand." *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 92 (1992). However, the "procedural due process in an administrative proceeding does not require a

proceeding in the nature of a judicial proceeding" *Id.* The Court "has a duty to examine the procedural methods employed at the administrative hearing, to insure that a fair and impartial procedure was used." *Id.*, at 92-93.

Shyne alleges that her due process rights were violated because the board did not hold a meeting before issuing their final decision in this matter. The parties finding of facts were submitted on October 25, 2018. *See* MB 189-200. The Merit Board met on October 18, 2018, and did not meet again until January 17, 2019. *See* Mot. Ex. 1. Shyne argues this violates her due process rights because the Merit Board did not discuss her case before issuing its opinion.

The Merit Board asks that the Court strike Shyne's Exhibit 1 and ignore the information contained in the meeting minutes because it is not part of the administrative record. Pursuant to section 110 of the Administrative Review Law

Every action to review any final administrative decision shall be heard and determined by the court with all convenient speed. The hearing and determination shall extend to all questions of law and fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court. The findings and conclusions of the administrative agency on questions of fact shall be held to be prima facie true and correct.

Other than this objection the Merit Board provides no argument rebutting Shyne's argument.

The Illinois Supreme Court has stated that "no sound reason exists to deny judicial notice of public documents which are included in the records of other courts and administrative tribunals." *May Department Stores Co. v. Teamsters Union*, 64 Ill. 2d 153, 159 (1976). This notion has been applied to action pursuant to the Administrative Review law. *See Muller v. Zollar*, 267 Ill. App. 3d 339, 341 (3rd Dist. 1994). Therefore, the Court can take notice of the Merit Board meeting minutes showing that the Merit Board did not meet to discuss their decision.

Shyne argues the Merit Board's failure to meet prior to issuing its order on January 15, 2019, constitutes a violation of her due process rights. The Illinois Supreme Court stated "[p]rocedural due process is afforded where the absent Board members reviewed the transcript before making findings and recommendations." *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 95-96 (1992). In *Abrahamson*, the Supreme Court stated that this is met when the administrative agency "stated in its recommended findings that it reviewed the transcripts of all of the hearings, in addition to the other evidence." *Id.* Here, the Merit Board does state that "[b]ased on the evidence presented and after assessing the credibility of witnesses and the weight given by the evidence in the record . . ." MB 348. However, one key distinction between this case and *Abrahamson* is that it is clear the Illinois Department of Professional Regulation met to discuss the case before submitting its recommendations to the Department's director. *Abrahamson*, 153 Ill. 2d, 86-87. The Merit Board, as noted above, has

failed to rebut the argument that this failure to meet constitutes a violation of Shyne's due process rights. The Court has been able to locate substantial case law supporting Shyne's argument that the Merit Board's failure to hold a meeting constitutes an insurmountable failing. *See Baldermann v. Board of Trustees of the Police Pension Fund of Chicago Ridge*, 2015 IL App (1st) 140482; *Howe v. Retirement Board of the Firemen's Annuity & Benefit Fund of Chicago*, 2013 IL App (1st) 122446.

Under the Open Meetings Act (the "OMA") 5 ILCS 120/1 *et seq.*, [a]ll meetings of public bodies shall be open to the public unless there is an exception under OMA section 2 (c) and the meeting is properly closed to the public. 5 ILCS 120/2(a). The Merit Board qualifies as a public body under the OMA. *See* 5 ILCS 120/1.02. OMA section 2 (c) (4) does contain an exception for a closed meeting to consider evidence heard at an otherwise open meeting.

However, OMA states that "[n]o final action may be taken at a closed meeting. Final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted." 5 ILCS 120/2 (e). The Merit Board's disciplinary decision is considered a final action. *Simonis v. Countryside Fire Protection District*, 173 Ill. App. 3d 418, 427 (2nd Dist. 1988). In both *Baldermann* and *Howe* the appellate court overturned a decision because of an agencies failure to follow OMA's requirements. Here, the Court finds that the Merit Board's failure to follow the requirements of OMA constitutes a violation of Shyne's rights.

#### IV. CONCLUSION

1. The Merit Board's decision is reversed.

Entered: \_\_\_\_\_

*Judge Catharine Kate Moreland*

SEP 09 2020

Circuit Court - 2013



\_\_\_\_\_  
Judge C. Kate Moreland

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

Martenia Shyne,	)	
	)	
v.	)	Case No. 19 CH 2193
	)	Hon. Caroline Kate Moreland
	)	Judge Presiding
Thomas J. Dart; The Cook County Sheriff's	)	Cal. 10
Merit Board; Kim Foxx; Cook County,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on Defendants' motion to reconsider the Court's order of September 9, 2020. The Court, in its prior order, found that the Defendants violated Plaintiff's due process rights by failing to hold a public meeting pursuant to the Open Meetings Act ( the "OMA") 5 ILCS 120/1 *et seq.* Defendants argue that the Court erred by not remanding the case back to the Merit Board so that they could follow proper procedures under the OMA. Pursuant to *Howe*, which the Court cited in its own order, the Court will do just that. *See Howe v. Retirement Board of the Firemen's Annuity & Benefit Fund of Chicago*, 2013 IL App (1st) 122446, ¶¶ 32-33. IT IS HEREBY ORDERED:

1. The Defendants' motion to reconsider is GRANTED and this matter is ordered remanded to the Merit Board for compliance with the Open Meetings Act.
2. If, after the Merit Board renders a valid final decision on the merits, the case reaches us again, any party may file a motion asking to adopt the briefs already on file in this case as their briefs in the subsequent administrative review.

Entered: \_\_\_\_\_

Judge Caroline Kate Moreland  
JUN 00 2021  
Circuit Court - 2033



\_\_\_\_\_  
Judge Caroline Kate Moreland

**COOK COUNTY SHERIFF'S MERIT BOARD**

**Sheriff of Cook County**

vs.

**Correctional Officer  
Martenia M. Shyne  
Star # 15302**

**Docket No. 1956**

**DECISION**

This matter coming on to be heard pursuant to notice before Vincent T. Winters, Board Member, on September 24, 2018, the Cook County Sheriff's Merit Board finds as follows:

**Jurisdiction**

Martenia M. Shyne, hereinafter Respondent, was appointed a Correctional officer on July 8, 2002. Respondent was assigned to different Divisions of the Cook County Department of Corrections ("CCDOC"), her last assigned was to Division V of the CCDOC, on May 8, 2016. 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 Term. To the Village of Lemont*, 2017 IL App (1<sup>st</sup>) 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 20, 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 on January 20, 2017 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 January 20, 2017 and an amended complaint on January 23, 2018. The Sheriff is requesting termination.

On July 8, 2002, Respondent was appointed a Correctional Officer. Respondent had been transferred to different departments throughout her career. Respondent testified that she had been in contact with inmates that she knew were gang members however she initially told [REDACTED] an investigator with the Office of Professional Review, ("OPR"), that she did not have contact with any but later changed her answer. (Tr. 38 and 74). Respondent testified that she ran inmate [REDACTED]'s name more than 50 times in the system but did not have an answer as to why she did so. (Tr. 37, 38). During Respondent's OPR interview she admitted to knowing all of the listed inmates that she was provided and that she knew that they were all convicted felons and were gang affiliated (Tr. 38, 46). Initially Respondent told OPR that she only knew the inmates from the jail, but then changed her story to say that she knew them from her neighborhood (Tr. 39). Respondent admitted to having communications with [REDACTED] regarding how his brother [REDACTED] an inmate at CCDOC, was doing (Tr. 46). Respondent never documented that she was contacted by phone from an inmate [REDACTED] (Tr. 48). Respondent never documented that she had been contacted by inmates after they had been released, nor did she document that she had contact with known gang members, nor did she document that she had social media exchanges with detainees (Tr. 46, 60, 70, 71, 76). Respondent testified that she knew the policy regarding contact with gang members and convicted felons (Tr. 76). Respondent admitted that she received a phone from an inmate on her birthday and that she told him to be careful over there in the jail but she never documented the call nor did she do the proper to/from memo regarding her cousin [REDACTED] when he was in jail (Tr. 77, 78, 79).

Martenia Shyne  
Correctional Officer  
Docket #1956

**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 did violate the Cook County Sheriff's General Order 3.8, 11.2.20.0, 11.2.20.1, as well as the Cook County Sheriff's Department Rules and Regulations, Article X, Paragraph B.

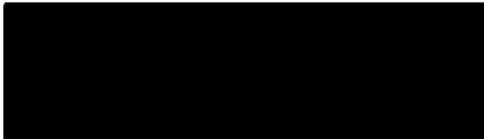
**Order**

Wherefore, based on the foregoing, it is hereby ordered that Respondent Martenia M. Shyne be separated from the Cook County Sheriff's Office effective January 20, 2017.

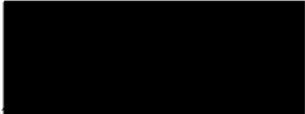
Marlena Shyne  
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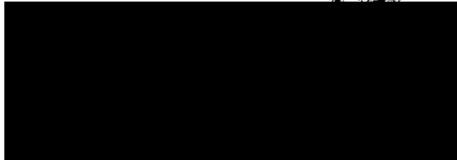
James P. Nally, Chairman



Byron Brazier, Vice-Chairman



John D. Andro, Secretary



Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Juan L. Baltierrez, Board Member



Patrick Brady, Board Member



Gray Mateo Harris, Board Member

Date January 15, 2019

JOHN J. DALICANDRO, Chairman  
BYRON BRAZIER, Vice-Chairman  
VINCENT T. WINTERS, Secretary  
KIMBERLY PATE GODDEN, Board Member  
ELENI P. SIANIS, Board Member  
DARREN COLLIER, Board Member  
TERRENCE J. WALSH, Board Member



Telephone: 312-603-0170  
Fax: 312-603-9865  
Email: Sheriff.MeritBoard@ccsheriff.org

**COOK COUNTY  
SHERIFF'S MERIT BOARD**  
69 West Washington - Suite 1100  
Chicago, IL 60602

Martenia Shyne  
Correctional Officer  
Docket No. 1956

This Remand 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, Eleni P. Sianis and Terrence J. Walsh.

Not Present: Darren Collier.

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 14<sup>th</sup> DAY OF OCTOBER, 2021.