

Findings of Fact

On September 16, 2016; the Sheriff brought written charges against Respondents before the Merit Board seeking to terminate their employment with the Cook County Sheriff's Office based on alleged various violations of the Sheriff's policies and procedures and the Merit Board Rules and Regulations. On January 23, 2018, the Sheriff filed amended written charges against Respondents. On July 10, 2019, the Merit Board issued a decision and ordered Respondents reinstated to the Cook County Sheriff's Department effective September 16, 2016. On April 29, 2021, the Honorable Judge Michael T. Mullen issued an order in Mendez, et al. v. Dart, et al., Case No. 19 CH 9302, remanding the case to the Merit Board with the following specific instructions: a. The Board is to determine (inclusive of calculating) the amount of back-pay monies owed, as well back benefits owed to Plaintiffs. The Board is to clarify whether it intended to award backpay and back benefits to the Plaintiffs. On June 28, 2021, during a status hearing, the Merit Board determined and clarified that the Board did intend to award backpay to Respondents. On August 9, 2021, during a status hearing, the Merit Board clarified that, in the past, the Board has allowed for offsets and mitigation as part of the back pay award.

The parties subsequently filed their calculations and documents in support of their respective positions regarding the amount of backpay owed. The Sheriff filed its brief on March 14, 2022, and the Respondents filed their brief on March 14, 2022, and April 1, 2022.

Based upon the calculations and supporting documents submitted by the Parties, the Merit Board found that the Respondents were entitled to backpay and benefits as delineated below:

Respondent Goral

Back Pay \$243,321.43 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus.

\$2,250.00 uniforms

\$1,750 gang pay

\$1,500 language pay

Total: \$250,021.43

Deduction for mitigation \$64,000. Respondent Goral submitted 1099 forms for the following income received during his suspension:

2016: [REDACTED] \$18,900.00

2018: [REDACTED] \$23,100.00

2019: [REDACTED] \$22,600.00

As noted below, this calculation has been adjusted to reflect that the previously noted mitigation calculation has been adjusted and that the amount of \$64,000.00 previously deducted has been added to Respondent Goral's final backpay calculation.

Total: \$250,021.43

Restoration of Benefit Time

Sick: 273.8 hours

Vacation: 320 hours

Holiday: 280 hours (96 hours is the max and anything over the max is to be converted to compensatory time)

1. 96 hours of holiday
2. 160 hours converted to compensatory time (max)
3. Remaining 24 hours are paid out

Personal: 32 hours

Floating holiday: 8 hours

Respondent Mendez

Back Pay \$258,930.12 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus

\$2,250.00 uniforms

\$1,750 gang pay

Subtotal \$264,130.12

Deduction for mitigation \$161,319.95. Respondent Mendez submitted W2 forms for the following income received during his suspension:

2016:	██████████	\$4,912.50
2016:	██████████	\$4,763.00
2017:	██████████	\$38,635.00
2017:	██████████	\$20,669.00
2018:	██████████	\$25,817.50
2018:	██████████	\$15,037.00
2018:	██████████	\$13,615.20
2019:	██████████	\$3,290.00
2019:	██████████	\$27,257.50
2019:	██████████	\$7,323.25

Total \$102,810.17

Restoration of Benefit Time

Sick: 273.8 hours

Vacation: 320 hours

Holiday: 280 hours (96 hours is the max and anything over the max is to be converted to compensatory time)

1. 96 hours of holiday
2. 160 hours converted to compensatory time (max)
3. Remaining 24 hours are paid out

Personal: 32 hours

Floating holiday: 8 hours

Respondent Stojkovic

Back Pay \$258,930.12 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus

\$2,250.00 uniforms

\$1,750 gang pay

\$1,500 language pay

Subtotal \$265,630.12

Deduction for mitigation \$114,498.51. Respondent Stojkovic submitted W2 forms for the following income received during his suspension:

2016: [REDACTED] \$22,407.00

2017: [REDACTED] \$35,601.50

2018: [REDACTED] \$23,300.75

2018: [REDACTED] \$648.00

2019: [REDACTED] \$6,633.00

2019: [REDACTED] \$15,592.26

2019: [REDACTED] \$10,316.00

Total \$151,131.61

Restoration of Benefit Time

Vacation: 178.25 hours – Stojkovic retired on September 30, 2021, and received a payout on 141.75 hours of vacation; therefore, Stojkovic is only entitled to another 178.25 hours of vacation time to be paid out ($141.75 + 178.25 = 320$ max hours of vacation)

Holiday: previously paid out at retirement.

Conclusion

In determining the measure of mitigation to be considered relative to each calculation, the Merit Board relied upon the documents tendered by each Respondent relative to their respective earning during their duty suspensions. A further examination of those documents reveals that the Merit Board incorrectly deducted income from Respondent Goral for monies received from rental properties reported as 1099 income. These monies should not have been deducted as mitigation as that income was clearly compatible with Respondent Goral's employment as a police officer. The current calculations have been adjusted to correct that error.

With regard to Respondents Mendez and Stojkovic, The Merit Board finds that the sums deducted from their final awards of backpay and benefits were correct as this income was received from security jobs that were obtained and performed during their suspensions as police officers during the pendency of this matter. The Merit Board finds that these security positions were incompatible with the full-time employment and duties of a police officer assigned to the Central Warrants Unit, and were performed as substitute employment during their period of suspension. *Feldstein v. Guinan*, 148 Ill. App. 3d 610, 614 (1st Dist. 1986) (allowing offset), when an officer is wrongfully terminated and later awarded back pay, "damages should be offset by plaintiff's other earnings. The employee is to be made whole by compensating him only to the extent that the wrongful deprivation of salary resulted in financial loss." Under this rule, back pay must be offset by income from other jobs worked if the other jobs were "incompatible" with defendant's former employment. *Id.* at 614. See also *Fruhling v. Cnty. Of Champaign*, 95 Ill. App. 3d 409, 418 (4th Dist. 1981).

Order

Wherefore, based on the foregoing, it is hereby ordered that Respondent's are to receive backpay and benefits consistent with the calculations contained in this order.

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
JAMES J. SEXTON. Board Member



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ROBERT F. HOGAN. Hearing Officer

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

DOCKET NO. 1929, 1930, 1931, 1932
POLICE OFFICER
MATTHEW GORAL
MICHAEL MENDEZ
MILAN STOJKOVIC

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

Voted Yes:

John J. Dalicandro, Byron Brazier, Vincent T. Winters, Kimberly Pate Godden, Terrence J. Walsh, Marla M. Kaiden, Wade Ingram Sr. and James J. Sexton

Voted No: None

Not Present: None

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 12th DAY OF OCTOBER, 2023.

**STATE OF ILLINOIS
COOK COUNTY SHERIFF'S MERIT BOARD**

Sheriff of Cook County

vs.

Milan Stojkovic
Employee # [REDACTED]
Star # 495

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Docket No. 1932

DECISION

This matter coming on to be heard pursuant to notice before Juan Leonardo Baltierres, Board Member, on December 10 2018; December 11, 2018; December 18, 2018; January 16, 2019; January 28, 2019; January 29, 2019; February 6, 2019; February 8, 2019; February 20, 2019; March 8, 2019; March 18, 2019; March 19, 2019; and March 21, 2019, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

MILAN STOJKOVIC, hereinafter "Respondent", was appointed a correctional officer on September 16, 1996. On January 17, 2000, Respondent was promoted to Sheriff's police officer. Respondent's position as a Sheriff's police 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

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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. Commisssioners 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 September 16, 2016. Regardless of whether or not Merit Board Members were properly appointed during a given term, the Merit Board, as a quasi-judicial body and statutorily created legal entity, maintained at all times a clerical staff not unlike the Clerk of the Circuit Court (“Administrative Staff”). These Administrative Staff members receive and date stamp complaints, open a case file, assign a case number, and perform all of the functions typically handled by the circuit clerk’s office. Just as a timely filed complaint would be accepted by the circuit clerk even if there were no properly appointed judges sitting on that particular day, so too was the instant Complaint with the Administrative Staff of the Merit Board. Accordingly, the Complaint filed commencing the instant action, was properly filed, and will be accepted as the

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controlling document for calculating time in this case.

Findings of Fact

The Sheriff filed a complaint on September 16, 2016 and an amended complaint on January 23, 2018. In the complaint, the Sheriff alleges that the Respondent failed to report to work as required and did not work his tour of duty on December 25, 2014. That Respondent did not enter any Cook County Facility, did not meet with his Supervisor, Sergeant [REDACTED], that there was no I-Pass transponder or Mi-Fi puck usage by Respondent on December 25, 2014. That Respondent falsified timekeeping/ attendance on December 25, 2014. That on March 11, 2015, Respondent submitted a memorandum detailing his activities for December 25, 2014 which contained false information. That on July 9, 2015, Respondent provided false statements to Investigator [REDACTED]. That Respondent's conduct does not reflect favorably on the Cook County Sheriff's Office. The Sheriff is requesting termination of employment.

On September 16, 1996, MILAN STOJKOVIC (hereinafter referred to as "Respondent") was appointed as a correctional officer with the Cook County Sheriff's Department. On January 17, 2000, Respondent was promoted to police officer. On November 11, 2012, Respondent was assigned to the Central Warrants Unit. On December 25, 2014, Respondent was assigned to work in the Central Warrants - Fugitive Apprehension Unit – North Team. (Tr. 950, 951).

On or about February 2015, the Office of Professional Review (hereinafter referred to as "OPR") received a complaint regarding an anonymous letter alleging that members of the fugitive apprehension unit did not come into work on Christmas Day (December 25, 2014), used their covert vehicle for personal use and left work early every day (Tr. 27 thru 29).

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Lt. ██████████ (hereinafter referred to as "Lt. ██████████") was assigned to Internal Affairs as an investigator in 2014. (Tr. 25) He recalls being assigned to investigate an anonymous complaint in February or March of 2014. (Tr. 27). The anonymous letter that was given to him by Inspector ██████████ regarding this particular investigation was entered into evidence as Sheriff's Exhibit 1. (Tr. 28) The individual named in Sheriff's Exhibit 1 were Sgt. ██████████ and the allegation was that he and the Respondent who worked with him did not come to work on Christmas Day and they were told to use their covert cars for personal reasons and left work early every day. (Tr. 28, 29) After receiving the anonymous letter, he began by investigating who was working on that day. He called the timekeepers and asked for time sheets for December 25, 2014. (Tr. 29, 30) The timekeeper's time sheets for December 25, 2014 were entered as Sheriff's Exhibit No. 2. (Tr. 30) He spoke with Deputy Chief ██████████ who oversaw the Fugitive Apprehension Unit and requested that he collect memorandums from the officers for their activities on that day which included all the members of the Unit, not just the Respondents. (Tr. 33) Lt. ██████████ testified that there was no activity regarding Respondent's gas card, tollway transponder, computer usage, radio usage. (Tr. 41) A memorandum detailing his activities for December 25, 2014 was submitted to Chief ██████████ was entered as Sheriff Exhibit No. 5. (Tr. 43) Respondent stated in his memorandum that he worked on his files in the Bridgeview area. (Tr. 109) Respondent stated he was with Investigator ██████████ and ██████████ from his unit on December 25, 2014. (Tr. 109) Respondent stated that he did not use his computer, radio, buy gas or go to any Sheriff's facility that day. (Tr. 95)

Chief ██████████ (hereinafter after referred to as "Chief ██████████") testified that on that he had been retired for two years at the time of the hearing. (Tr. 10) From 1977 until the

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time of his retirement, he was a Cook County Sheriff's Police Officer. (Tr. 11) At the end of his career he worked in the Fugitives Unit where he had responsibilities to try and bring back any of the people who had escaped from home electronic monitoring. (Tr. 11, 12) He supervised respondent. (Tr. 14-15) They all had the responsibility to investigate and retrieve fugitives or persons that had warrants out. (Tr. 16) He is not certain as to whether the officers needed to report a 10-8 when they went on duty and off duty. (Tr. 22) He testified that Christmas, Fourth of July and Thanksgiving were dangerous days to be inside a family home trying to apprehend someone. (Tr. 35) He states that officers were told not to make lock ups on Christmas Day if possible. (R. 36) The reason for this policy was that family would be around, it would be a very highly emotional situation considering the holidays, alcohol consumption. (Tr. 37) The Respondent did not report directly to him but to Sgt. [REDACTED]. (Tr. 40) He believed that the officers also carried paper files in their trunks upwards up to 300 files and that they would work on the paperwork when they were not actively searching for fugitives. (Tr. 52) He believes that the official policy of the Sheriff's Office is to work and attempt to apprehend fugitives on every day and it was only his unofficial policy regarding not working on Christmas Day in terms of going into people's homes. (Tr. 60, 61) It was his unwritten policy that an officer could do surveillance on his own. (Tr. 64) He would give lee way for officers who lived far away and let them remain on duty while they were driving home and not be officially quote "off duty" until they left Cook County. (Tr. 93, 94) It is his understanding that there was never a time when the officers did not have any work that they could be doing whether it be file review, updating or searching for criminals. (Tr. 107, 108) Chief [REDACTED] testified that the North team, the entire time that I was with them, or as their boss anyway, before I took over from [REDACTED], I

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didn't worry about them. They had so much activity, you know, so many arrests that they doubled and tripled the arrests of the South team. They basically were workaholics. (Tr. 17)

Inspector [REDACTED] (hereinafter after referred to as "Inspector [REDACTED]") testified that he has been with the Cook County Sheriff's Office for 26 years. (Tr. 622) His duties are to conduct administrative investigations of alleged wrongdoing by Sheriff's employees. (Tr. 634) Upon being assigned to this investigation to looked at everything that was already gathered, all the evidence, all the interviews that were conducted, and determine if any further investigation was warranted. (Tr. 625) He relied on all of the Sheriff's exhibits including the memorandums by the Respondents, the vehicle information from the gas card, I-Pass, Mi-Fi [internet access] puck and computers. (R. 631-633) Inspector [REDACTED] testified that he did not interview Respondent's supervisors, Commander [REDACTED] nor Sgt. [REDACTED], regarding orders to Respondent not to make arrests on Christmas Day. (Tr. 687 thru 689) Inspector [REDACTED] testified that he did not know if the Respondent was to report to a Cook County facility each day for work because he did not interview Respondent's supervisors, Commander [REDACTED] or Commander [REDACTED]. (Tr. 711, 755-756) Inspector [REDACTED] testified that he did not try to subpoena Respondent's cell phone tower records. (Tr. 744)

[REDACTED] (hereinafter after referred to as "Mr. [REDACTED]") testified that he has been with the Cook County Sheriff's Office since 1995 where he spent 7 years in corrections, 3 years in patrol, a year at the Academy and the remainder in the Sheriff's IT Department since approximately 2005. (Tr. 828) His responsibilities have included everything from delivering computers to data base work up until his current role which is Director of all Information Security. (Tr. 828) One of the contract vendors is Verizon that does both telephones and

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something called the Mifi puck which is a small device the size of a hockey puck which allows for connectivity to other devices and the internet for computers. (R. 830) The Mi-Fi puck has a specialized identification number that is given to each employee that utilizes them. (Tr. 831, 832) He testified that there was no data usage by Respondent for December 25, 2014. (Tr. 833) When the Mi-Fi pucks are set up it is not supposed to be used for personal devices, only Sheriff's devices. (Tr. 834) He was asked to check on email activity as well as Mi-Fi puck activity and he learned that there was no ongoing email from any of these accounts. (Tr. 837)

██████████ (hereinafter after referred to as "Commander ██████████") testified that he has been with the Cook County Sheriff's Office since September 2012. (Tr. 947) He has been a police officer for 20 years as a Patrolman, Tact Officer, Special Operations Officer, Sergeant, Gun Team, Patrol Sergeant and worked in the Police Academy. (Tr. 947) He has been on assignments and teams that have looked for people with warrants out on them. (Tr. 948) With the Sheriff's Office, he worked in the Central Warrant Division which had three sections including Child Support, Electronic Monitoring fugitives and Sheriff's Police fugitives. (Tr. 948) He was a supervisor over the fugitive unit in December 2014 and still holds that position today. (Tr. 949) In December 2014, all of the Respondents were members of the Fugitive Unit on the North Team. (Tr. 950, 951) At any given time in 2014, there were 44,000 warrants in Cook County so each officer probably was holding over 200 cases. (Tr. 953) Commander ██████████ testified that his policy was for officers to hit multiple houses on Christmas morning for low level warrants because that would not be good for the Sheriff's department. He testified that by of low level warrants he meant probation violations, violation of supervision, narcotics and traffic arrest warrants.

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Conclusion

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence in the record, the Board finds the Respondent's actions did not violate:

1. COOK COUNTY SHERIFF'S POLICE DEPARTMENT GENERAL ORDER, G.O. NUMBER: PER-03-01-A (Effective Date: March 1, 2003) PAYROLL AND TIMEKEEPING MANUAL;
2. COOK COUNTY SHERIFF'S POLICE DEPARTMENT GENERAL ORDER, G.O. NUMBER: ROC-00-01-A (Effective Date: April 3, 2001) RULES AND REGULATIONS;
3. SHERIFF'S ORDER 11.2.20.0 (Effective Date: January 25, 2013) RULES OF CONDUCT;
4. SHERIFF'S ORDER 11.2.20.1 (Effective Date: March 12, 2015) CONDUCT POLICY;
5. COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS – ARTICLE X.

This is a proceeding arising from an anonymous letter that was received by the Central Warrants - Fugitive Apprehension Unit alleging that members of the Fugitive Apprehension Unit 1) did not report to work on Christmas Day; 2) were allowed to use their covert cars for personal use, and 3) left work early every day. Respondent, MILAN STOJKOVIC, is one of several police officers assigned to the Fugitive Apprehension - North Unit. An investigation was conducted by the Office of Professional Review and a formal complaint filed by the Sheriff on September 16, 2016. The Sheriff's complaint alleges that the Respondent failed to report to

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work as required and did not work his tour of duty on December 25, 2014. That Respondent did not enter any Cook County Facility on December 25, 2014. That Respondent did not meet with his Supervisor, Sergeant [REDACTED] on December 25, 2014. That Respondent had no I-Pass transponder, cell phone, computer or Mi-Fi puck usage on December 25, 2014. That Respondent falsified timekeeping/ attendance on December 25, 2014. That on March 11, 2015, Respondent submitted a memorandum detailing his activities for December 25, 2014 which contained false information. That on July 23, 2015, Respondent provided false statements to Investigator [REDACTED]. That Respondent's conduct does not reflect favorably on the Cook County Sheriff's Office. A heavily contested and vigorously litigated 13 day trial was conducted and this decision is rendered by the Board.

A key defense by the Respondent was that the duties of a Fugitive Apprehension Officer are substantially different than those of a Correctional Officer, Deputy Sheriff or Sheriff's Police Officer. The position of Fugitive Apprehension Officer requires that the Respondent have much more discretion in the performance of those duties. This is not to say that the Respondent is free from accountability. In fact, Chief [REDACTED] testified that the Respondent's unit had so much activity, so many arrests that they doubled and tripled the arrests of the South team, going on to describe members of the Fugitive Apprehension North Unit as workaholics. Additionally, there was no testimony presented indicating that Respondent had a pattern of not reporting for work or leaving work early as alleged in the anonymous letter. Respondent's verbal and written statements reported that he worked on his files in the presence of Investigators [REDACTED] and [REDACTED] for the entire day on December 25, 2014. Respondent's immediate supervisor at that time, Sergeant Caridei, has since retired and did not appear at trial to testify. In light of the

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Respondent's discretion in performing his daily duties and the testimony presented of an unofficial order from Respondent's immediate chain of command to lay low on this specific holiday, the Sheriff's evidence that Respondent had no gas card charges, no I-Pass/ radio and/or computer usage for the day in question was relevant, but not persuasive, that no work was performed by the Respondent on December 25, 2014.

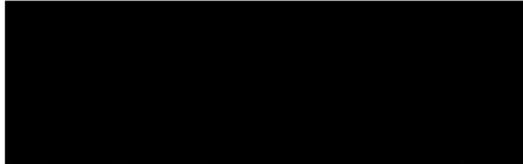
Order

Wherefore, based on the foregoing, it is hereby ordered that Respondent, MILAN STOJKOVIC, be reinstated to the Cook County Sheriff's Department effective September 16, 2016.

MB1932
Correctional Officer
Milan Stojkovic
Star 495



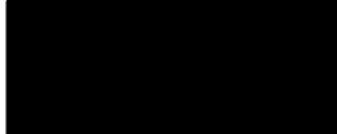
James P. Nally, Chairman



Byron Brazier, Vice-Chairman



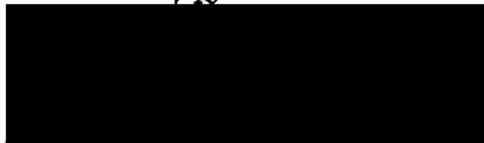
John Galicandro, Secretary



Kim R. Widdo, Board Member



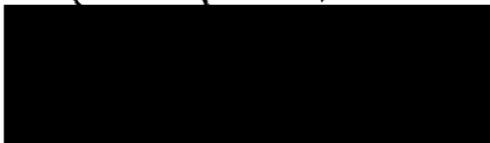
Vincent T. Winters, Board Member



Juan L. Baltierres, Board Member



Patrick M. Brady, Board Member



Kimberly Pate Godden, Board Member

Date July 10, 2019

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

MICHAEL MENDEZ, KEVIN BADON,
MILAN STOJKOVIC, and
MATTHEW GORAL,

Petitioners,

vs.

THOMAS J. DART, SHERIFF OF COOK
COUNTY, THE COOK COUNTY SHERIFF'S
MERIT BOARD, and COOK COUNTY,

Respondents.

No. 19 CH 9302

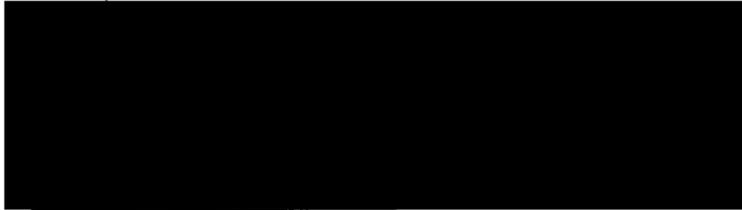
ORDER

This matter, coming before the court on April 20, 2021, the court being duly advised of the status and purpose, it is hereby ordered:

1. Parties appeared by respective counsel.
2. The court retains jurisdiction but that the above captioned matter is remanded to the Cook County Sheriff's Merit Board (BOARD) with the following instructions:
 - a. The Board is to determine (inclusive of calculating) the amount of back-pay monies owed, as well back benefits owed to Plaintiffs.
 - b. The Board is to clarify whether it intended to award backpay and back benefits to the Plaintiffs.

So ordered.

April 20, 2021.



Judge Michael T. Mullen.

Circuit Court of Cook County, Chancery Division

Judge Michael T. Mullen

APR 29 2021



Circuit Court - 2084

9216
4361

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
vs.)
)
POLICE OFFICER)
MATTHEW GORAL,)
KEVIN BADON,)
MICHAEL MENDEZ,)
MILAN STOJKOVIC,)

Docket Nos. 1929, 1930, 1931, 1932

DECISION

This matter is currently before the Cook County Sheriff's Merit Board on remand, as ordered on April 29, 2021, by Cook County Circuit Court Judge Michael T. Mullen for parties to submit additional information and documents to support their position on back pay and restoration of benefit time. This case has a long procedural history, and this Board assumes the parties' familiarity with the facts and history of this case.

This matter coming on to be heard pursuant to notice before John Dalicandro, Board Member, in response to the Cook County Sheriff's Merit Board January 10, 2022, order for parties to submit additional information and documents to support their position on back pay and restoration of benefit time. the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Matthew Goral, Kevin Badon, Michael Mendez and Milan Stojkovic, hereinafter Respondents. Respondents position as Sheriff Police Officers 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.

Findings of Fact

On September 16, 2016, the Sheriff brought written charges against Respondents before the Merit Board seeking to terminate their employment with the Cook County Sheriff's Office based on alleged various violations of the Sheriff's policies and procedures and the Merit Board Rules and Regulations. On January 23, 2018, the Sheriff filed amended written charges against Respondents. On July 10, 2019, the Merit Board issued a decision and ordered Respondents reinstated to the Cook County Sheriff's Department effective September 16, 2016. On April 29, 2021, the Honorable Judge Michael T. Mullen issued an order in Mendez, et al. v. Dart, et al., Case No. 19 CH 9302, remanding the case to the Merit Board with the following specific instructions: a. The Board is to determine (inclusive of calculating) the amount of back-pay monies owed, as well back benefits owed to Plaintiffs. The Board is to clarify whether it intended to award backpay and back benefits to the Plaintiffs. On June 28, 2021, during a status hearing, the Merit Board determined and

clarified that the Board did intend to award backpay to Respondents. On August 9, 2021, during a status hearing, the Merit Board clarified that, in the past, the Board has allowed for offsets and mitigation as part of the back pay award. On September 10, 2021, the Petitioner tendered the payroll calculations of back pay and restoration of benefit time to Respondent's attorney. On October 29, 2021, the Petitioner filed First Set of Interrogatories and Requests to Produce Documents. On January 3, 2022, Respondents filed Responses to Sheriff Dart's 1st Set of Interrogatories & Requests to Produce to Respondents. On January 10, 2022, the Merit Board ordered parties to submit additional information and documents to support their position on the April 29, 2021 Circuit Court's Order.

Conclusion

On June 28, 2021, during a status hearing, the Merit Board determined and clarified that the Merit Board did intend to award back pay to the Respondents. On August 9, 2021, during a status hearing, the Merit Board clarified that, in the past, the Merit Board has allowed for offsets and mitigation as part of a back pay award. As a matter of law, Respondents' back pay must be offset to account for other jobs worked after the Respondents were placed on administrative leave without pay until the time they were reinstated to the Cook County Sheriff's Office, and the Petitioner should be allowed to offer evidence offset.

As explained in *Feldstein v. Guinan*, 148 Ill. App. 3d 610, 614 (1st Dist. 1986) (allowing offset), when an officer is wrongfully terminated and later awarded back pay, "damages should be offset by plaintiff's other earnings. The employee is to be made whole by compensating him only to the extent that the wrongful deprivation of salary resulted in financial loss." Under this rule, back pay must be offset by income from other jobs worked if the other jobs were "incompatible" with defendant's former employment. *Id.* at 614. See also *Fruhling v. Cnty. Of Champaign*, 95 Ill. App. 3d 409, 418 (4th Dist. 1981) (same).

Respondents also incorrectly argue that mitigation does not apply for the reason that for a period of time (between September 23, 2016, and March 14, 2018) the Merit Board lacked jurisdiction and, therefore, the officers should have been returned to the status quo. The Respondents were placed on administrative leave without pay pursuant to a Loudermill hearing. That decision was determined by the Cook County Sheriff's Office, not by the Merit Board.

In Respondents' March 14, 2022, brief, Respondents Stojkovic, Badon and Goral fail to mention to the Merit Board that a check was issued and mailed out to them on January 12, 2022, where they were paid for the step increases owed pursuant to the June 2, 2021 arbitration award.

Order

Wherefore, based on the foregoing, it is hereby ordered that Respondents back pay calculation be as follows:

Respondent Goral

Back Pay \$243,321.43 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus.

\$2,250.00 uniforms

\$1,750 gang pay

\$1,500 language pay

Subtotal \$250,021.43

Deduction for mitigation \$64,000

Total \$186,021.43

Restoration of Benefit Time

Sick: 273.8 hours

Vacation: 320 hours

Holiday: 280 hours (96 hours is the max and anything over the max is to be converted to compensatory time)

1. 96 hours of holiday

2. 160 hours converted to compensatory time (max)

3. Remaining 24 hours are paid out

Personal: 32 hours

Floating holiday: 8 hours

Respondent Badon

Back Pay \$251,933.02 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus

\$2,250.00 uniforms

\$1,750 gang pay

Subtotal \$257,133.02

Deduction for mitigation \$148,536.03

Total \$108,596.99

Restoration of Benefit Time

Sick: 273.8 hours

Vacation: 320 hours

Holiday: 280 hours (96 hours is the max and anything over the max is to be converted to compensatory time)

1. 96 hours of holiday

2. 160 hours converted to compensatory time (max)
3. Remaining 24 hours are paid out

Personal: 32 hours

Floating holiday: 8 hours

Respondent Mendez

Back Pay \$258,930.12 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus

\$2,250.00 uniforms

\$1,750 gang pay

Subtotal \$264,130.12

Deduction for mitigation \$161,319.95

Total \$102,810.17

Restoration of Benefit Time

Sick: 273.8 hours

Vacation: 320 hours

Holiday: 280 hours (96 hours is the max and anything over the max is to be converted to compensatory time)

1. 96 hours of holiday
2. 160 hours converted to compensatory time (max)
3. Remaining 24 hours are paid out

Personal: 32 hours

Floating holiday: 8 hours

Respondent Stojkovic

Back Pay \$258,930.12 gross wages prior to any withholding for income tax, health insurance premiums, Social Security benefits contributions, pension benefits contributions, and union dues.

\$1,200 signing bonus Minus \$114,498.51 in mitigation = \$145,631.61

\$2,250.00 uniforms

\$1,750 gang pay

\$1,500 language pay

Subtotal \$265,630.12

Deduction for mitigation \$114,498.51

Total \$151,131.61

Restoration of Benefit Time

Vacation: 178.25 hours – Stojkovic retired on September 30, 2021 and received a payout on 141.75 hours of vacation; therefore, Stojkovic is only entitled to another 178.25 hours of vacation time to be paid out (141.75 + 178.25 = 320 max hours of vacation)

Holiday: previously paid out at retirement.

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



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COOK COUNTY
SHERIFF'S MERIT BOARD
69 West Washington - Suite 1100
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Police Officers
Matthew Goral
Kevin Badon
Michael Mendez
Milan Stojkovic
Docket Nos. 1929, 1930, 1931, 1932

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

John J. Dalicandro, Vincent T. Winters, Kimberly Pate Godden, Eleni P. Sianis, Terrence J. Walsh,
Marla M. Kaiden, Wade Ingram, Sr.

Not Present: Byron Brazier

DISSENT

The following Members of the Merit Board dissent from the Findings and Decision of the majority of the Board.

[NONE]

DATED AT COUNTY OF COOK, STATE OF ILLINOIS, THIS 21th DAY OF APRIL, 2022.