

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST) POLICE OFFICER THOMAS WAGNER,) STAR No. 3242, DEPARTMENT OF POLICE,) CITY OF CHICAGO,) RESPONDENT)	No. 09 PB 2714 (CR No. 1014857)
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FINDINGS AND DECISION

On May 12, 2009, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Thomas Wagner, Star No. 3242 (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 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 6: Disobedience of an order or directive, whether written or oral.

The Police Board caused a hearing on these charges against Police Officer Thomas Wagner to be had before Jacqueline A. Walker, Hearing Officer of the Police Board, on February 25 and March 3, 2010.

Following the hearing, the members of the Police Board read and reviewed the record of proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Walker 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 charges were filed in writing and a Notice, stating the time, date, and place, when and where a hearing on the charges was to be held, together with a copy of the original charges, were served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. Throughout the hearing the Respondent was present and was not represented by legal counsel.

4. The Respondent, Police Officer Thomas Wagner, Star No. 3242, 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:

On or about March 10, 2008, at or about 0900 hours, the Respondent failed to report to the Center for Applied Psychology and Forensic Studies, located at or about 205 West Randolph in Chicago, Illinois, for a psychological evaluation, as directed by Sergeant Fabian Saldano on March 5, 2008, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The Respondent pled guilty to the charge of failing to report to the Center for Applied Psychology and Forensic Studies for a psychological evaluation. The Respondent testified that he told Sergeant Kelly Lewison that he would visit the Union doctor. However, on rebuttal, the Department presented testimony from Sergeant Lewison that Wagner told her he did not go to the Center because he did not want to argue with the doctor at the Center, and that he would be found unfit for duty.

5. The Respondent, Police Officer Thomas Wagner, Star No. 3242, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that:

Count I: On or about March 10, 2008, at or about 0900 hours, the Respondent failed to report to the Center for Applied Psychology and Forensic Studies, located at or about 205 West Randolph in Chicago, Illinois, for a psychological evaluation, as directed by Sergeant Fabian Saldano on March 5, 2008.

Count II: On or about March 10, 2008, at or about 0900 hours, the Respondent failed to report to the Center for Applied Psychology and Forensic Studies, located at or about 205 West Randolph in Chicago, Illinois, for a psychological evaluation, as directed by Sergeant Fabian Saldano on March 5, 2008, in violation of Administrative Special Order 05-01, "Drugs, Drug Abuse, and Mandatory Physical and/or Psychological Examinations," Section VII-B-1.

The Respondent also pled guilty to disobeying the order given to him by Sergeant Fabian Saldano to report to the Center for Applied Psychology and Forensic Studies.

6. The Police Board has considered the facts and circumstances of the Respondent's conduct on March 10, 2008, the evidence presented in defense and mitigation, and the evidence presented in rebuttal. The Board finds that the conduct of which the Board has found the Respondent guilty is not sufficiently serious to warrant a penalty of discharge, and finds that a suspension is the appropriate penalty in this case. In addition, the Board finds that the Respondent must be certified as psychologically fit for duty in order to be considered for reinstatement to his position, as set forth below.

By reason of the findings of fact and of guilt set forth herein, cause exists for the suspension of the Respondent, Police Officer Thomas Wagner, Star Number 3242, from the Department of Police, and from the services of the City of Chicago, until the Board orders his reinstatement, as further delineated below in its Decision.

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, Jacqueline A. Walker, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and, in reaching its decision as to the penalty imposed, the Board has taken into account not only the facts of this case but also the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A; and

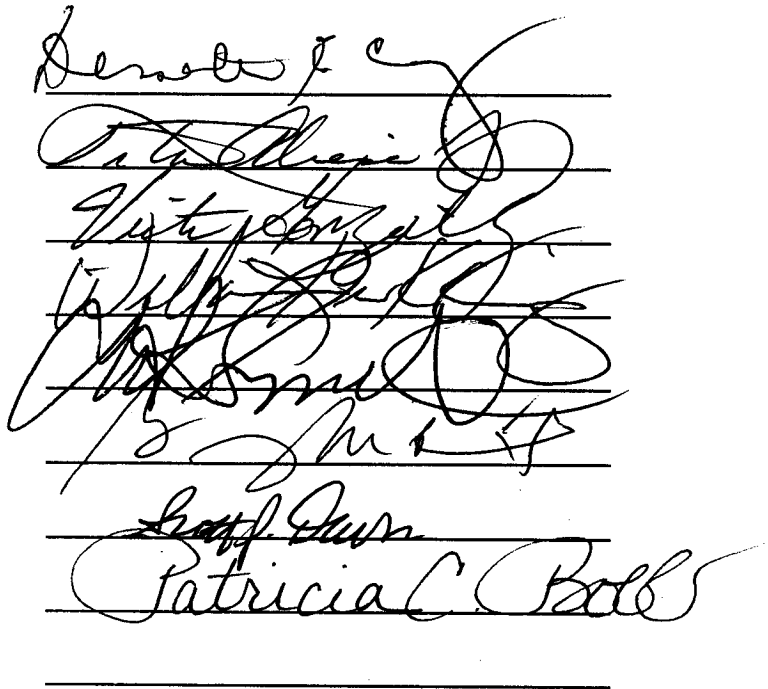
IT IS HEREBY ORDERED that the Respondent, Police Officer Thomas Wagner, Star No. 3242, as a result of having been found **guilty** of all charges in Police Board Case No. 09 PB 2714, be and hereby is **suspended** from his position as a police officer with the Department of Police, and from the services of the City of Chicago, from May 21, 2009, until the Board orders his reinstatement, which shall not occur sooner than May 20, 2010. **IT IS FURTHER ORDERED** that the Respondent is required to undergo a psychological examination, as referenced in Department Administrative Special Order 05-01, and be certified as psychologically fit for duty by the Center for Applied Psychology and Forensic Studies, 205 West Randolph Street, Suite 830, Chicago*. The Police Board will not order the Respondent's reinstatement until this requirement is met, as described below.

The Center for Applied Psychology and Forensic Studies shall report in writing on its official letterhead whether the Respondent is psychologically fit for duty. The Respondent shall sign the necessary waivers of confidentiality to permit the Police Board to receive such a report. The Respondent shall undertake the psychological examination on his own time and at his own expense.

* If the Center for Applied Psychology and Forensic Studies is no longer under contract to provide such services to the Chicago Police Department, the Department shall designate another provider to conduct the examination.

In order to be eligible for reinstatement, the Respondent must tender the above-referenced report to the Board. This report must be received by the Board no later than Sept. 20, 2010. The Board shall reconsider this matter after receiving said documentation. If the Respondent fails to tender said documentation by the above deadline, the Board shall issue an Order as it deems appropriate.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF MARCH, 2010.



Attested by:



Executive Director
Police Board

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DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY
OF MARCH, 2010.

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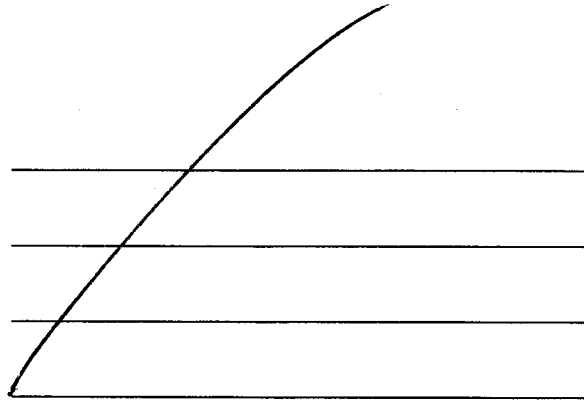
Attested by:

M. A. Copman

**Executive Director
Police Board**

DISSENT

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



RECEIVED A COPY OF

THE FOREGOING COMMUNICATION

THIS ____ DAY OF _____, 2010.

SUPERINTENDENT OF POLICE

Report Date: 02 Jul 2008
Report Time: 1236 Hrs

Information Services Division
Data Warehouse
Produced by: PC01338

Chicago Police Department

Personnel Division



Complimentary History

NAME	OFFICER	UNIT	REPORT	DATE	TIME	STATUS
WAGNER, THOMAS J	1	1	1	1	1	1

Achievements

Total No.

COMPLIMENTARY LETTER
HONORABLE MENTION
MAJORITY AWARD

1
5
6

PERSONNEL SERVICES



JUL 02 2008



CHICAGO POLICE DEPARTMENT

CR# 1014857



NOTE: THIS REPORT IS FOR OFFICIAL LAW
ENFORCEMENT / AUTHORIZED USE ONLY.
THE INFORMATION IS CURRENT AS OF THE
DATE AND TIME OF THE REPORT. THIS

Chicago Police Department
CLEAR
Citizen & Law Enforcement Analysis & Reporting
Clear Center

CL# 1014857
Attachment# 20
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CHICAGO POLICE DEPARTMENT

Sustained Complaints History Report

03-JUL-2008 07:10:06 AM

Social Sec. # Name Star #. Emp. # Rank Description Unit
 [REDACTED] WAGNER THOMAS J. 3242 39570 9161 POLICE OFFICER 002
Sex Race Birth Date Appointed Date No. Of CR's No. Of SPAR's
 M WHITE 15-FEB-1957 03-JAN-1995 4 0

Case #. Incident Date Suspension Dates Disciplinary Action Taken Final Category Less Serious Transgression
 [REDACTED]
Civil Suit # [REDACTED] Police Board # [REDACTED]
Comments

Case #. Incident Date Suspension Dates Disciplinary Action Taken Final Category Less Serious Transgression
 [REDACTED]
Civil Suit # [REDACTED] Police Board # [REDACTED]
Comments

Case #. Incident Date Suspension Dates Disciplinary Action Taken Final Category Less Serious Transgression
 C 1004950 11-APR-2007 05-MAY-2008 15 DAY SUSPENSION 10B-MEDICAL ROLL
Civil Suit # 19-MAY-2008 Police Board #
Comments

Case #. Incident Date Suspension Dates Disciplinary Action Taken Final Category Less Serious Transgression
 C 1008024 27-JUL-2007 20-MAY-2008 7 DAY SUSPENSION 09L-DRIVER'S LICENSE
Civil Suit # 26-MAY-2008 Police Board # REVOKED/SUSPENDED
Comments