

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)	
)	
POLICE OFFICER NENAD MARKOVICH,)	No. 09 PB 2717
STAR No. 19638, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
POLICE OFFICER PATRICK JAYCOX,)	No. 09 PB 2718
STAR No. 12128, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
POLICE OFFICER DERRICK DENTON,)	No. 09 PB 2719
STAR No. 19152, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
)	(CR No. 1004297)
RESPONDENTS)	

FINDINGS AND DECISION

On August 5, 2009, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Nenad Markovich, Star No. 19638, Police Officer Patrick Jaycox, Star No. 12128, and Police Officer Derrick Denton, Star No. 19152 (hereinafter sometimes referred to as "Respondents"), recommending that the Respondents be discharged from the Chicago Police Department for violating various Rules of Conduct.

On August 28, 2009, the Superintendent filed a Motion to Consolidate the cases for hearing and disposition. The Respondents did not object to the motion. The motion was granted by Thomas E. Johnson, Hearing Officer of the Police Board, on October 1, 2009.

The Police Board caused a hearing on these charges against the Respondents to be had before Hearing Officer Johnson on December 14 and December 15, 2009, and January 5, January 8, and January 11, 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 Johnson made an oral report to and conferred with the Police Board before it rendered a 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 Respondents were at all times mentioned herein employed as police officers 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 of the charges was to be held, together with a copy of the original charges, were served upon the Respondents more than five (5) days prior to the hearing on the charges.
3. Throughout the hearing on the charges the Respondents appeared in person and were represented by legal counsel.
4. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich committed the offense of Official Misconduct, in that in his official capacity Officer Markovich knowingly performed an act which he knew to be forbidden by law to perform, to wit: Officer Markovich knew and/or should have known that Police Officer Patrick Jaycox prepared a search warrant containing false, inaccurate, or incomplete information, and/or Officer Markovich executed a search warrant containing false, inaccurate, or incomplete information, thereby violating Chapter 720 of the Illinois Compiled Statutes, Section 5/33-3(b).

The Superintendent has the burden of proof by a preponderance of the evidence. Officer Markovich's and Officer Jaycox's testimony that the complaint for search warrant and search warrant were accurate, as corroborated by the testimony of Judge William Kunkle, were not overcome by the testimony of Wendell Phillips, Courtney Harris and Curtis Jones. The Board finds that Ms. Harris's testimony is not credible, given her demeanor (including her decision to leave the witness stand), her impeachment, and the multiple contradictions between her testimony and that of Mr. Phillips or other evidence in the record, including whether Mr. Phillips

told her to place the gun at 5018 West Huron Street, the nature of the gun allegedly planted, and the extent to which the gun was handled without any physical evidence of its being handled. Mr. Phillips's testimony that he knew nothing of 5018 West Huron Street and could not be found in that neighborhood because of his gang affiliation was undercut by evidence of his arrest at 802 North Lavergne Avenue, only about two blocks away. Mr. Jones's testimony adds little to the case, as he did not offer any evidence that the officers (as opposed to Mr. Phillips) knew what Ms. Harris was doing with the gun. Moreover, Mr. Phillips's, Ms. Harris's, and Mr. Jones's multiple and serious criminal convictions cast further doubt on the credibility of their testimony, particularly where, as in Mr. Phillips's case, he denies the truth of a conviction to which he pleaded guilty (the drug charge giving rise to this case). Ms. Harris's audio recording of conversations with Officers Markovich and Jaycox cannot be credited. Comparing it to the phone records in evidence, it obviously does not include all of the conversations that took place, and even those recorded are mostly inaudible. The two arguably incriminating statements on the tape, which appear on pages 2 and 3 of the transcript (Superintendent's exhibit no. 8), are both made by Ms. Harris when she is leaving a message (either for Mr. Phillips or Office Markovich), and not by the officers. The few snippets of statements made by the officers are consistent with their testimony that they were properly completing an investigation that would result in the recovery of a weapon. Therefore, there is insufficient evidence in the record to find the Respondent guilty of this charge.

5. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich committed the offense of Official Misconduct, in that in his official capacity Officer Markovich knowingly performed an act which he knew to be forbidden by law to perform, to wit: Officer

Markovich communicated with Courtney Harris over the telephone and told her to place a firearm in a residence and in exchange Wendell Phillips would be released from custody and/or Courtney Harris's vehicle would be released from the pound, thereby violating Chapter 720 of the Illinois Compiled Statutes, Section 5/33-3(b).

There is nothing on Ms. Harris's audio recording from Officer Markovich to support this allegation. The testimony of Ms. Harris, Mr. Phillips, and Mr. Jones is not credible for the reasons stated above in paragraph 4. Therefore, there is insufficient evidence in the record to find the Respondent guilty of this charge.

6. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not 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:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich communicated with Courtney Harris over the telephone and told her to place a firearm in a residence and in exchange Wendell Phillips would be released from custody and/or Courtney Harris's vehicle would be released from the pound, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons for the finding set forth in paragraph 5 above.

7. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not 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:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich participated in the preparation and/or execution of a search warrant at 5018 West Huron Street, Chicago, when he knew the facts of the warrant were provided by Courtney Harris and not Wendell Phillips, who was listed as a "John Doe," thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The Board believes the testimony of Officers Markovich and Jaycox, as corroborated by Judge Kunkle, over the testimony of Mr. Phillips, Ms. Harris, and Mr. Jones, for the reasons set forth in paragraph 4 above.

8. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not 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:

Count III: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich participated in the preparation and/or execution of a search warrant at 5018 West Huron Street, Chicago, when he knew and/or should have known that Police Officer Patrick Jaycox prepared the search warrant containing false, inaccurate, or incomplete information, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department

See the reasons for the finding set forth in paragraph 4 above.

9. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not guilty** of violating, to wit:

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

in that:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich disobeyed an order or directive, whether written or oral, in that Officer Markovich participated in the preparation and/or execution of a search warrant at 5018 West Huron Street, Chicago, when he knew the facts of the warrant were provided by Courtney Harris and not Wendell Phillips, who was listed as a "John Doe," in violation of Department Special Order 07-06.

See the reasons for the finding set forth in paragraph 7 above. In addition, it appears that Department Special Order 07-06 was issued on June 1, 2007, with an effective date of June 2, 2007, which is after the dates on which Officer Markovich is alleged to have violated it.

10. Respondent **Police Officer Nenad Markovich**, Star No. 19638, charged herein, is **not guilty** of violating, to wit:

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

in that:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Markovich disobeyed an order or directive, whether written or oral, in that Officer Markovich knew and/or should have known that Police Officer Patrick Jaycox prepared a search warrant containing false, inaccurate, or incomplete information, in violation of Department Special Order 07-06.

See the reasons for the finding set forth in paragraph 4 above. In addition, it appears that Department Special Order 07-06 was issued on June 1, 2007, with an effective date of June 2, 2007, which is after the dates on which Officer Markovich is alleged to have violated it.

11. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Jaycox committed the offense of Perjury, in that under oath or affirmation, in a proceeding or in any other matter where oath or affirmation is required, Officer Jaycox made a false statement, material to the issue or point in question, to wit: Officer Jaycox prepared and/or executed a search warrant containing false, inaccurate, or incomplete information, in violation of Chapter 720 of the Illinois Compiled Statutes, Section 5/32-2.

See the reasons for the finding set forth in paragraph 4 above.

12. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Jaycox committed the offense of

Official Misconduct, in that in his official capacity Officer Jaycox knowingly performed an act which he knew to be forbidden by law to perform, to wit: Officer Jaycox prepared and/or executed a search warrant containing false, inaccurate, or incomplete information, in violation of Chapter 720 of the Illinois Compiled Statutes, Section 5/33-3(b).

See the reasons for the finding set forth in paragraph 4 above.

13. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not 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:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Jaycox prepared and/or executed a search warrant for 5018 West Huron Street, Chicago, containing false, inaccurate, or incomplete information, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons for the finding set forth in paragraph 4 above.

14. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not 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:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Jaycox received information from Courtney Harris for a search warrant and listed Wendell Phillips as the "John Doe" on the search warrant, and/or Officer Jaycox failed to corroborate the information provided to him by Wendell Phillips and/or Courtney Harris before obtaining the search warrant, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons for the finding set forth in paragraph 4 above. Further, the audio recording made by Ms. Harris, to the extent that any of Officer Jaycox's words are audible, appears to support Officer Jaycox's testimony that prior to obtaining the warrant and conducting the search he was seeking to confirm with Ms. Harris the information Mr. Phillips provided.

15. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not 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:

Count III: The Superintendent did not prove by a preponderance of the evidence that on or about May 10, 2007, in the office of the Internal Affairs Division, Officer Jaycox made a false report to Sergeant Michael Barz in that Officer Jaycox reported to Sergeant Barz that on or about March 14, 2007, Officer Jaycox drove past and/or verified 5018 West Huron Street, Chicago, with Wendell Phillips, when in fact Officer Jaycox did not, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department

While Mr. Phillips testified that he was not driven by 5018 West Huron Street prior to the execution of the search warrant, his testimony is not sufficient to overcome that of Officers Jaycox, Denton, and Judge Kunkle, as well as the testimony of Sergeant Donald Markham, who convincingly testified that no search warrant would have been executed without such a drive-by. While the logbook does not show that a Police Department covert vehicle was checked out for this purpose, it is not clear that one was used. While Officer Denton indicated such a car was used, Officer Jaycox could not recall if this was the case. In any event, the Board finds, based on the testimony of Sergeant Markham, that the handwritten logbook was not regularly used and therefore is not a reliable indication of when covert vehicles were used. Therefore, there is insufficient evidence in the record to find the Respondent guilty of this charge.

16. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not guilty** of violating, to wit:

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

in that:

The Superintendent did not prove by a preponderance of the evidence that on or about March 13, 2007, and/or March 14, 2007, Officer Jaycox disobeyed an order or directive, whether written or oral, in that Officer Jaycox received information from Courtney Harris for a search warrant and listed Wendell Phillips as the "John Doe" on the search warrant, and/or Officer Jaycox failed to corroborate the information provided to him by Wendell

Phillips and/or Courtney Harris before obtaining the search warrant, in violation of Department Special Order 07-06.

See the reasons for the findings set forth in paragraphs 9 and 14 above.

17. Respondent **Police Officer Patrick Jaycox**, Star No. 12128, charged herein, is **not guilty** of violating, to wit:

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

in that:

The Superintendent did not prove by a preponderance of the evidence that on or about May 10, 2007, in the office of the Internal Affairs Division, Officer Jaycox made a false report to Sergeant Michael Barz in that Officer Jaycox reported to Sergeant Barz that on or about March 14, 2007, Officer Jaycox drove past and/or verified 5018 West Huron Street, Chicago, with Wendell Phillips, when in fact Officer Jaycox did not.

See the reasons for the finding set forth in paragraph 15 above.

18. Respondent **Police Officer Derrick Denton**, Star No. 19152, charged herein, is **not 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:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about May 15, 2007, in the office of the Internal Affairs Division, Officer Denton made a false report to Sergeant Michael Barz in that Officer Denton reported to Sergeant Barz that on or about March 14, 2007, Officer Denton drove past and/or verified 5018 West Huron Street, Chicago, with Wendell Phillips, when in fact Officer Denton did not, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons for the finding set forth in paragraph 15 above.

19. Respondent **Police Officer Derrick Denton**, Star No. 19152, charged herein, is **not 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:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about June 6, 2007, in the office of the Internal Affairs Division, Officer Denton made a false report to Sergeant Michael Barz in that Officer Denton reported to Sergeant Barz that on or about March 13, 2007, Officer Denton drove past and/or verified 5018 West Huron Street, Chicago, with Wendell Phillips, when in fact Officer Denton did not, and/or Officer Denton gave conflicting reports regarding when he met Wendell Phillips and/or when he drove past 5018 West Huron Street, Chicago, with Wendell Phillips, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons for the finding set forth in paragraph 15 above. In addition, the Board finds, after reviewing Officer Denton's testimony and his statements to the Internal Affairs Division, that Officer Denton did not intentionally make a false report.

20. Respondent **Police Officer Derrick Denton**, Star No. 19152, charged herein, is **not guilty** of violating, to wit:

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

in that:

Count I: The Superintendent did not prove by a preponderance of the evidence that on or about May 15, 2007, in the office of the Internal Affairs Division, Officer Denton made a false report to Sergeant Michael Barz in that Officer Denton reported to Sergeant Barz that on or about March 14, 2007, Officer Denton drove past and/or verified 5018 West Huron Street, Chicago, with Wendell Phillips, when in fact Officer Denton did not.

See the reasons for the finding set forth in paragraph 15 above.

21. Respondent **Police Officer Derrick Denton**, Star No. 19152, charged herein, is **not guilty** of violating, to wit:

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

in that:

Count II: The Superintendent did not prove by a preponderance of the evidence that on or about June 6, 2007, in the office of the Internal Affairs Division, Officer Denton made a false report to Sergeant Michael Barz in that Officer Denton reported to Sergeant Barz that on or about March 13, 2007, Officer Denton drove past and/or verified 5018 West Huron Street, Chicago, with Wendell Phillips, when in fact Officer Denton did not,

and/or Officer Denton gave conflicting reports regarding when he met Wendell Phillips and/or when he drove past 5018 West Huron Street, Chicago, with Wendell Phillips.

See the reasons for the finding set forth in paragraph 19 above.

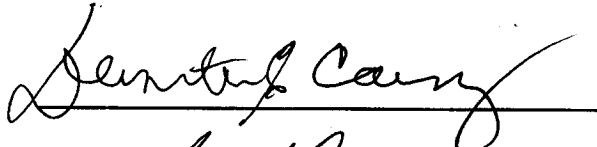
By reason of the Police Board's findings set forth herein, cause exists for restoring each Respondent, Police Officer Nenad Markovich, Star No. 19638, Police Officer Patrick Jaycox, Star No. 12128, and Police Officer Derrick Denton, Star No. 19152, to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective the date each Respondent was suspended upon the filing of charges with the Police Board.

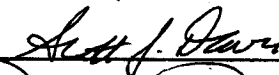
POLICE BOARD DECISION

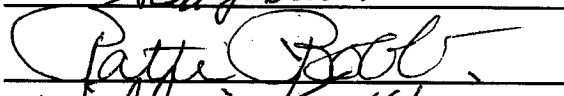
The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, Thomas E. Johnson, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and

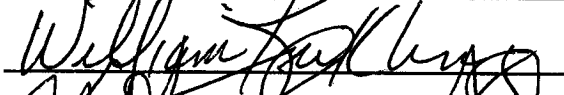
IT IS HEREBY ORDERED that the Respondent, Police Officer **Nenad Markovich**, Star No. 19638, as a result of having been found **not guilty** of the charges in Police Board Case No. 09 PB 2717, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective August 13, 2009.

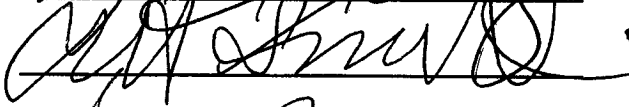
DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF JANUARY, 2010.




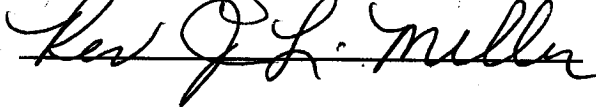












Attested by:



Executive Director
Police Board

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, Thomas E. Johnson, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and

IT IS HEREBY ORDERED that the Respondent, Police Officer **Patrick Jaycox**, Star No. 12128, as a result of having been found **not guilty** of the charges in Police Board Case No. 09 PB 2718, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective August 14, 2009.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF JANUARY, 2010.

Jeremy L. Carey

Scott Brown

Patrick Bobb

William J. Kelly

Chris Smith

Kevin J. Miller

Attested by:

Mark A. Caproni

Executive Director
Police Board

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, Thomas E. Johnson, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and

IT IS HEREBY ORDERED that the Respondent, Police Officer **Derrick Denton**, Star No. 19152, as a result of having been found **not guilty** of the charges in Police Board Case No. 09 PB 2719, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective August 13, 2009.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF JANUARY, 2010.

Derrick Denton

Scott Dawn

Patti Boll

William Kullung

John A. [unclear]

Rev. J. L. Miller

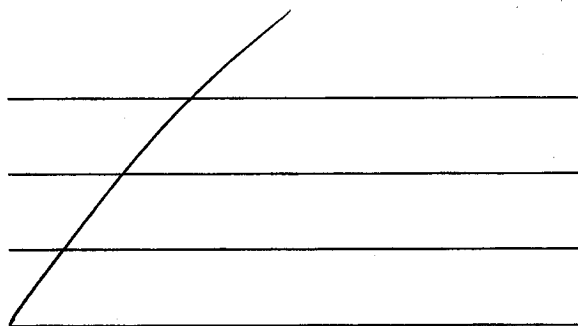
Attested by:

Max A. Caproni

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