

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER MICHAEL A. MONTI,) **No. 16 PB 2915**
STAR No. 6939, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1075931)**
RESPONDENT.)

FINDINGS AND DECISION

On October 3, 2016, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Michael A. Monti, Star No. 6939 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

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

The Police Board caused a hearing on these charges against the Respondent to be had before Hearing Officer Thomas E. Johnson on March 21, 2017.

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

POLICE BOARD FINDINGS

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

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.
2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were personally served upon the Respondent more than five (5) days before the date of the initial status hearing of this case.
3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.
4. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

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

On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti knowingly or intentionally possessed a usable quantity of marijuana two ounces or less in violation of Texas Health and Safety Code §481.121(b)(1), a Class B misdemeanor; Officer Monti thereby violated any law or ordinance.

There is no dispute in this case that on June 29, 2015, Police Officer Michael Monti (“Officer Monti”) and his then nineteen-year old son Michael Monti (“the son” or “Michael”) were stopped by Texas State Trooper Cody Carter for speeding while driving on Interstate 10 in West Texas, outside El Paso. Trooper Carter was later assisted at the scene by Texas State Trooper Manuel Ferro. There is also no dispute that less than two ounces of marijuana, as well as a marijuana pipe (pictured in Supt’s Ex. No. 4), were seized at the scene from a backpack belonging to Officer Monti, which was in the car. It is conceded that Officer Monti purchased this marijuana

pipe, which is sometimes called a “one-hitter,” in Colorado, while driving out to California in order to retrieve his son. Finally, it is not disputed (and confirmed by the testimony of the troopers, Officer Monti, and the dashboard video of the stop) that when Trooper Carter recovered the marijuana and marijuana pipe, Officer Monti told Trooper Carter that the marijuana and marijuana pipe belonged to him, and that he had smoked the marijuana twelve hours earlier with his son, as a way to bond with him.

Michael was arrested at the scene because (prior to the discovery of the marijuana and marijuana pipe) the son showed Trooper Carter a pill bottle containing Ritalin, which was not marked and for which neither Officer Monti nor Michael could produce a prescription, thereby making the pills a controlled substance under Texas law. Officer Monti was arrested at the scene for possession of marijuana. After his arrest, Officer Monti changed his story and told Trooper Carter, on the way to the police station, that the marijuana belonged to his son Michael.

Officer Monti testified at the Police Board hearing that the marijuana, in fact, belonged to his son. He claimed that he told the Texas troopers it was his in order to prevent them from arresting his son, as his son has a troubled history of emotional issues. Officer Monti says he changed his story once his son was arrested on the controlled substance charge for the Ritalin. Officer Monti relies upon drug tests performed on July 7, 2015, and July 13, 2015, where he tested negative for the presence of marijuana.

The Board does not credit the testimony of Officer Monti that the marijuana belonged to his son and finds that the marijuana, as well as the recovered marijuana pipe, belonged to Officer Monti. There is no dispute (even by Officer Monti—see p. 41 of the hearing transcript) that the marijuana was found in Officer Monti’s backpack, and not in his son's belongings. There is no dispute that Officer Monti purchased a pipe in Colorado that is used for smoking marijuana, which

was found in the same backpack as the marijuana. Officer Monti initially admitted to Trooper Carter that the marijuana belonged to him. The board credits Trooper Carter's testimony that the marijuana pipe purchased by Officer Monti and found with the marijuana in Officer Monti's backpack had marijuana residue on it.¹ Officer Monti's account of what transpired, including his son's possession of marijuana, is not corroborated by any witness, including his son (who did not testify). When Officer Monti changed his story while driving to the police station with Trooper Carter, he claims he muttered under his breath an explanation for his admission to the possession of marijuana; specifically, he says he had to sell the story of his possession, or words to that effect. His conversation with Trooper Carter in the squad car, on the way to the station, however was recorded and the Board does not find this statement on the tape of their conversation. Finally, Officer Monti's drug tests of July 7, 2015 (which was not monitored by the Chicago Police Department) and of July 13, 2015 (which was monitored by the Chicago Police Department) only relate to usage of marijuana and not possession. Moreover, they were done considerably after June 28, 2015 (when Officer Monti said he last smoked marijuana).

5. The Respondent, Police Officer Michael A. Monti, Star No. 6939, 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,

¹Officer Monti notes that Trooper Carter claimed in his Affidavit of Probable Cause (Respondent's Ex. No. 1) that he had obtained consent to search the vehicle from Officer Monti, but then at the hearing said he did not need consent for the search after he had recovered the unmarked Ritalin bottle. Officer Monti contends this makes all of Trooper Carter's testimony incredible. In fact, most of Trooper Carter's testimony was corroborated by the video evidence, and the testimony of Trooper Ferro and Officer Monti. The Board finds further that Trooper Carter had no reason to lie and testified credibly, even under forceful cross-examination. His failure to recall whether he obtained consent or did not need consent was collateral to the principal issues in the case. As such, the Board credits Trooper Carter on the question of whether the marijuana pipe had marijuana residue on it.

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

Count I: On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti stated to Texas Highway Patrol officers during a traffic stop that a substance found in Officer Monti's vehicle and later determined to be marijuana belonged to him, or words to that effect, thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the department.

Officer Monti admitted he told the Texas officers that he possessed and smoked marijuana. His statements, in which he, a Chicago police officer, admitted to officers of another law enforcement agency that he possessed and used an illegal controlled substance, brought discredit on the Department.

6. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

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

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

Count II: On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti stated to Texas Highway Patrol officers during a traffic stop that he smoked marijuana approximately 12 hours prior to the traffic stop by said officers, or words to that effect, thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the department.

Officer Monti admits he made this statement to Trooper Carter. Whether or not Officer Monti actually smoked marijuana with his son, the Board finds as a Chicago police officer the fact that Officer Monti admitted making this statement to a fellow law enforcement officer during an investigation brings discredit upon the Department.

7. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

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

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

Count III: On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti stated to Texas Highway Patrol officers during a traffic stop that he smoked marijuana with his son as a way to bond with his son, or words to that effect, thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the department.

Officer Monti admits that he made this statement as well to Trooper Carter. Whether he smoked marijuana with his son in order to bond with him, or not, the Board finds that such a statement by a Chicago police officer to a fellow law enforcement officer during an investigation brings discredit on the Department.

8. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

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

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

Count I: On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti stated to Texas Highway Patrol officers during a traffic stop that a substance found in Officer Monti's vehicle and later determined to be marijuana belonged to him, or words to that effect; a statement he contradicted on or about September 18, 2015, at 3510 South Michigan Avenue, Chicago, Illinois, when he stated to Bureau of Internal Affairs Investigator Sergeant Majed Assaf that said substance belonged to Officer Monti's son, or words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 4 and 5 above, which are incorporated here by reference. For the reasons set forth in paragraph no. 4 above, the Board finds that Officer Monti was in possession of marijuana when stopped in Texas and therefore the Board finds that his statement to the Bureau of Internal Affairs, that the marijuana was his son's, was an intentional false report.

9. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

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

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

Count II: On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti stated to Texas Highway Patrol officers during a traffic stop that he smoked marijuana approximately 12 hours prior to the traffic stop by said officers, or words to that effect; a statement he contradicted on or about September 18, 2015, at 3510 South Michigan Avenue, Chicago, Illinois, when he stated to Bureau of Internal Affairs Investigator Sergeant Majed Assaf that he did not smoke marijuana approximately 12 hours prior to his June 29, 2015, traffic stop and/or that he has never smoked marijuana during his 12 years as an officer in the Chicago Police Department, or words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 4 and 6 above, which are incorporated here by reference. On the basis of the findings set forth in paragraph no. 4 above, the Board finds that Officer Monti did smoke marijuana during his trip to California and so his statement to the Bureau of Internal Affairs was an intentional false report. It bases this finding on Officer Monti's own statements to Trooper Carter, which Officer Monti admitted at the hearing, and to which Trooper Carter testified, as well as on the marijuana residue found on the marijuana pipe that Officer Monti admitted he recently purchased and that was recovered from Officer Monti's own backpack, and the lack of witnesses corroborating Officer Monti's later statements that he was covering for his son. The results of the two drug tests of Officer Monti, which were done considerably after the date when Officer Monti said he last smoked marijuana, do not outweigh the evidence set forth above that Officer Monti smoked marijuana.

10. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

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

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

Count III: On or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti stated to Texas Highway Patrol officers during a traffic stop that he smoked marijuana with his son as a way to bond with his son, or words to that effect; a statement he contradicted on or about September 18, 2015, at 3510 South Michigan Avenue, Chicago, Illinois, when he stated to Bureau of Internal Affairs Investigator Sergeant Majed Assaf that he was not being truthful to the Texas Highway Patrol officers when he told them that he smoked marijuana with his son as a way to bond with his son and/or that he has never smoked marijuana during his 12 years as an officer in the Chicago Police Department, or words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 4, 7 and 9 above, which are incorporated here by reference. The Board finds that his statement to the Bureau of Internal Affairs was an intentional false report based on Officer Monti's own admissions to Trooper Carter, to which both he and Trooper Carter testified at the hearing, as well as based on the marijuana pipe with marijuana residue found in Officer Monti's own backpack, and the failure of Officer Monti to offer any corroboration for his later statement that he was merely trying to cover for his son.

11. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **not guilty** of violating, to wit:

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

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count IV: On or about September 18, 2015, at 3510 South Michigan Avenue, Chicago, Illinois, Officer Monti stated to Bureau of Internal Affairs Investigator Sergeant Majed Assaf that during a traffic stop occurring on or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, Officer Monti was handcuffed by Texas Highway Patrol officers and then Officer Monti's son led the officers to a substance in Officer Monti's vehicle that was later determined to be marijuana, or words to that effect, thereby making a false report, written or oral.

The Board finds that while there is no evidence that Officer Monti's son led Trooper Carter

to the marijuana found in Officer Monti's backpack, the Superintendent has not proven that Officer Monti's statement to the Bureau of Internal Affairs was a willful or intentional false statement. The statement Officer Monti made to the Bureau of Internal Affairs reflected Officer Monti's own perception of what happened. The evidence shows it was speculation on his part, but speculation that proves to be wrong is not a violation of Rule 14.

12. The Respondent, Police Officer Michael A. Monti, Star No. 6939, charged herein, is **guilty** of violating, to wit:

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

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

Count V: On or about September 18, 2015, at 3510 South Michigan Avenue, Chicago, Illinois, Officer Monti stated to Bureau of Internal Affairs Investigator Sergeant Majed Assaf that during a traffic stop occurring on or about June 29, 2015, at approximately US Interstate 10, Mile Marker 63, in Hudspeth County, Texas, he only suspected that there was marijuana in his vehicle prior to the marijuana's seizure by Texas Highway Patrol officers, or words to that effect, thereby making a false report, written or oral.

See the findings set forth in paragraphs 4, 7 and 9 above, which are incorporated here by reference. The Board finds that Officer Monti was personally in possession of the marijuana recovered from his car, and therefore his statement to the Bureau of Internal Affairs that he only suspected the presence of marijuana was an intentional false report, as he knew marijuana was in his car.

13. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation.

The Respondent offered evidence in mitigation, which the Board has considered thoroughly. The Respondent joined the Police Department in 2002 and has a complimentary

history of 39 total awards, including one Department commendation, 22 honorable mentions, 7 complimentary letters, 3 attendance recognition awards, and 1 emblem of recognition for physical fitness. He has no sustained complaints on his disciplinary history. The Respondent did not call any mitigation witnesses.

The Respondent's accomplishments as a police officer, his complimentary history, and the lack of prior disciplinary history do not mitigate the seriousness of his misconduct. The Board determines that the Respondent must be discharged from his position due to the serious nature of the conduct of which it has found him guilty.

As Commander Robert Klimas explained in his testimony, where a police officer makes a material misstatement, and does so willfully, he violates a responsibility that is at the heart of law enforcement. We must be able to count on every officer to tell the truth. This is the case when the officer is on duty on the streets of Chicago and when the officer is off duty but engaged in conduct that violates the rules of the Police Board or the Department. Here, Officer Monti was wrongly in possession of marijuana. When he was caught, he sought to evade his responsibility for this misconduct by fabricating a story when he gave his statement to the Bureau of Internal Affairs. His decision to tell a false story rather than take responsibility for his misconduct jeopardizes his ability to testify in court as a police officer and disqualifies him from serving as a police officer.

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

POLICE BOARD DECISION

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

By votes of 8 in favor (Lori E. Lightfoot, Ghian Foreman, Eva-Dina Delgado, Michael Eaddy, Steve Flores, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney) to 1 opposed (John P. O'Malley Jr.), the Board finds the Respondent **guilty** of violating Rule 1 and Rule 14 (Count V); and

By votes of 9 in favor (Lightfoot, Foreman, Delgado, Eaddy, Flores Fry, O'Malley, Simpson, and Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 2 (Counts I – III) and Rule 14 (Counts I - IV)

As a result of the foregoing, the Board, by a vote of 8 in favor (Lightfoot, Foreman, Delgado, Eaddy, Flores, Fry, Simpson, and Sweeney) to 1 opposed (O'Malley), hereby determines that cause exists for discharging the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Michael A. Monti, Star No. 6939, as a result of having been found **guilty** of charges in Police Board Case No. 16 PB 2915, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Lori E. Lightfoot, Ghian Foreman, Eva-Dina Delgado, Michael Eaddy, Steve Flores, Rita A. Fry, John H. Simpson, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF MAY, 2017.

Police Board Case No. 16 PB 2915
Police Officer Michael A. Monti

Attested by:

/s/ LORI E. LIGHTFOOT
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

I hereby dissent from the Findings set forth in paragraph nos. 4 and 12 above. I find that there is insufficient evidence to prove that the Respondent knowingly or intentionally possessed marijuana, and that he intentionally made a false report when he stated to the Bureau of Internal Affairs that he only suspected that there was marijuana in his vehicle.

In addition, I dissent from the Decision of the majority of the Board to discharge the Respondent. Based on the circumstances of this off-duty incident, which involved a difficult family situation, and on the Respondent having no prior sustained complaints on his disciplinary history, a suspension is a more appropriate penalty in this case.

/s/ JOHN P. O'MALLEY JR.

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THESE FINDINGS AND DECISION

THIS _____ DAY OF _____, 2017.

EDDIE T. JOHNSON
Superintendent of Police