

No. 1-14-2427

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

ROBERT E. TAYLOR, Sr.,)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Cook County
)	
v.)	No. 13 CH 6574
)	
POLICE BOARD OF THE CITY OF CHICAGO,)	
and GARRY F. MCCARTHY, Superintendent of Police,)	Honorable
)	Mary Lane Mikva,
Respondents-Appellees.)	Judge Presiding.

PRESIDING JUSTICE PIERCE delivered the judgment of the court.
Justices Neville and Hyman concurred in the judgment.

ORDER

¶ 1 *Held:* The final decision of the Police Board to terminate petitioner's employment for violations of the Department's Rules and Regulations is affirmed.

¶ 2 Petitioner appeals the final decision of the Police Board of the City of Chicago (Board) to terminate his employment for falsely certifying in his divorce proceedings that he did not know the whereabouts of his estranged wife, and for falsely testifying in a separate criminal proceeding. Here, defendant argues that the Board's decision to terminate him was arbitrary,

unreasonable and unrelated to the requirements of his service. For the following reasons, we affirm the decision of the Board.

¶ 3

BACKGROUND

¶ 4 Petitioner Robert E. Taylor, Sr. was a Chicago police officer from October 23, 1973 until his discharge on June 19, 2008. After a hearing before the Board, he was terminated from the department for violating Rules 1 and 2 of the Chicago Police Department's (Department) Rules and Regulations. Taylor sought administrative review of that decision in the circuit court. The circuit court affirmed the Board's finding. This court affirmed the Board's finding that Taylor violated Rule 2, but reversed the Board's decision that Taylor violated Rule 1 and remanded the case to the Board with instructions to reconsider his termination in light its finding. *Taylor v. Police Board of the City of Chicago*, 2011 IL App (1st) 101156.

¶ 5 A full recitation of the facts of this case can be found in *Taylor*, 2011 IL App (1st) 101156. Here, we recite only those facts necessary to the disposition of this appeal. Taylor and Tamela R. Baker were married in 1982 and had one son, Robbie. Taylor, Baker and Robbie lived together in Chicago until 1995 when Baker moved to Sikeston, Missouri. At that time, Taylor hired an attorney to secure a divorce from Baker. During the divorce proceedings, Taylor was frequently out of the country serving in the United States Air Force Reserve, and he assumed that the attorney had obtained his divorce. In November of 2002, Taylor and Bridgette A. Jones applied for a marriage license, on which Taylor indicated that he had not been previously married. Taylor and Jones were married in December 2002. In January 2004, Taylor filed a petition for dissolution of his marriage to Baker. In that petition, Taylor stated that he was not aware of Baker's "current residence or whereabouts" despite the fact that he had spoken with

Baker and Robbie on the telephone at the address where they lived. Taylor's attorney served Baker with a notice of the divorce proceeding by publication.

¶ 6 On March 10, 2004 Taylor appeared at a hearing to prove-up his divorce before circuit court Judge Eileen Brewer. At this hearing, Taylor was asked by Judge Brewer "so you just could not find out where she lives?" Taylor responded "that's correct your [sic] Honor." Judge Brewer entered a judgment for dissolution of Taylor's marriage to Baker.

¶ 7 In August of 2004, following an altercation with Jones, Taylor pressed criminal charges against her. Taylor alleged that Jones damaged some of his property and threatened to inform the Department that he had committed bigamy after learning that he was still married to Baker when he married her, which would jeopardize his job.

¶ 8 During a hearing on those criminal charges before Judge Gloria Coco, Taylor was asked questions about his divorce proceeding before Judge Brewer. Taylor asserted that he never appeared in court before Judge Brewer, and that a lawyer appeared on his behalf.

¶ 9 Shortly thereafter, on October 4, 2005, the Chicago Police Department sought to discharge Taylor, alleging that he had committed bigamy by being married to Baker and Jones at the same time. The Board ultimately found that Taylor was not guilty of bigamy because he "reasonably believed that he was legally eligible to marry Jones."

¶ 10 In September of 2007, the Department brought a second disciplinary action seeking to discharge Taylor for violating Rules 1 and 2 of the department's rules and regulations and held a hearing. Rule 1 prohibits a "violation of any law or ordinance." The Department alleged Taylor violated Rule 1 by giving perjured testimony in the criminal proceedings before Judge Coco when he stated that he had not appeared in court before Judge Brewer on his divorce case. The

Board ultimately concluded that Taylor was guilty of violating Rule 1 by committing perjury in the criminal trial.

¶ 11 Rule 2 prohibits any “action or conduct which impeded the Department’s efforts to achieve its policy and goals, or brings discredit upon the Department.” The Department alleged Taylor violated Rule 2 by: (1) making the false statement during the criminal proceeding; (2) falsely stating on his marriage license application with Jones that he had never been married; and (3) falsely certifying in the petition for dissolution of his marriage with Baker that he did not know Baker’s whereabouts. The Board ultimately concluded that Taylor was guilty of violating Rule 2 because he was untruthful in the divorce proceedings when he said that he did not know Baker’s whereabouts, and in the criminal case against Jones when he stated that he had not appeared before Judge Brewer in his divorce case. The Board entered an order of discharge.

¶ 12 Taylor sought administrative review of the Board's decision. The circuit court of Cook County affirmed The Board's decision. Taylor then appealed to this Court. On November 4, 2011, this court affirmed in part and reversed in part the Board’s decision finding that: (1) *res judicata* did not bar the Department from bringing the disciplinary action; (2) the Rule 1 violation stemming from Taylor’s alleged perjury before Judge Coco was reversed because Taylor’s denial that he testified in the divorce proceeding was not material to the issues in the criminal proceeding against Jones; and (3) Taylor violated Rule 2 by making false statements in two different court proceedings. *Taylor v. Police Board of the City of Chicago*, 2011 IL App (1st) 101156, ¶ 55. This court remanded the matter to the Board to determine if Taylor’s termination was still warranted based solely on his violations of Rule 2. *Id.*

¶ 13 At the rehearing, the Board found that Taylor’s Rule 2 violations warranted dismissal.

Taylor again sought administrative review in the circuit court, which affirmed the decision of the Board. Taylor filed a motion for reconsideration, which the circuit court denied. This timely filed appeal followed.

¶ 14

ANALYSIS

¶ 15 The issue before this Court is whether Taylor's termination due to his violations of Rule 2 of the Department rules and regulations is proper. Before addressing the arguments of the parties on appeal, we discuss the standard of review to be applied in this case.

¶ 16 Judicial review of an administrative agency's final decision pursuant to the Administrative Review Law (735 ILCS 5/3-101 *et al.* (West 2010)) requires us to review the decision of the agency and not the circuit court. *Lindemulder v. Board of Trustees of the Naperville Firefighters' Pension Board*, 408 Ill. App. 3d 494, 500 (2011). The standard of review applied to the analysis depends on the question that is presented. *Comprehensive Community Solutions, Inc. v. Rockford School District No. 205*, 216 Ill. 2d 455, 473 (2005).

¶ 17 Our review of a decision by an administrative agency to terminate an employee is a two-step analysis. *Walsh v. Board of Fire & Police Commissioners*, 96 Ill. 2d 101, 105 (1983). This analysis requires that we determine: (1) whether the agency's findings are contrary to the manifest weight of the evidence, and (2) whether the findings of fact provide a "sufficient basis for the agency's conclusion that cause for discharge does or does not exist." *Id.* at 117. This court has already determined that the Board's finding that Taylor violated Rule 2 was not against the manifest weight of the evidence. *Taylor* 2011 IL App (1st) at ¶ 55. Therefore, the only issue left before this court is whether the Board's findings of fact provide a sufficient basis for its conclusion that cause for discharge exists. *Walsh*, 96 Ill. 2d at 117.

¶ 18 A police officer may not be discharged from his employment unless there is “cause” for his termination. 65 ILCS 5/10-1-18:1; *Thomas v. Police Board of City of Chicago*, 90 Ill. App. 3d 1101, 1105 (1980). “Cause” in Illinois has been defined as “some substantial shortcoming which renders [the employee’s] continuance in his office or employment in some way detrimental to the discipline and efficiency of the service and something which the law and a sound public opinion recognize as a good cause for his no longer occupying the place.” *Walsh*, 96 Ill. 2d at 105. Considerable deference must be afforded to an administrative finding of “cause” for discharge and should not be overturned unless it is arbitrary and unreasonable or unrelated to the requirements of the service. *Id.* at 105.

¶ 19 The decision of the board can be considered “arbitrary and unreasonable” when compared to the discipline that is imposed in a “completely related case.” *Lanius v. Board of Fire & Police Commissioners*, 151 Ill. 2d 419, 441-442 (1982). However, cause for discharge can also be found regardless of whether other employees have been disciplined differently for similar conduct. *Id.* at 442. The fact that the court would have imposed a different punishment does not give the court the authority to overturn the agency’s decision. *Sutton v. Civil Service Commission*, 91 Ill. 2d 404, 411 (1982).

¶ 20 It has long been recognized by Illinois courts that police departments require disciplined officers to function properly. *Siwek v. Police Bd.*, 374 Ill. App. 3d 735, 738 (2007). Accordingly, Illinois Courts have held that using discipline through punishment for the disobedience of “rules, regulations, and orders” is not “inappropriate nor unrelated to the needs of a police force.” *Id.* Additionally, an officer’s violation of a single rule has long been viewed as a sufficient basis for termination. *Id.*

¶ 21 In the case at bar, Taylor was found to have violated Rule 2 by making false statements in court on two separate occasions; once in civil court and once in criminal court. The Board found that Taylor's false statements will have a significant impact on his ability to perform his duties as a police officer, as testifying in court is crucial to a police officer's duty to the public. The Board also reasoned that since Taylor's statements were made in a public forum, his false statements provide a basis for his credibility to be attacked in subsequent cases where his testimony is required.

¶ 22 At the rehearing, the Board determined that Taylor "intentionally gave false testimony under oath in a court proceeding before Judge Gloria Coco." The Board also found that Taylor "filed a false petition under oath when he was seeking a divorce from his wife." As a result of these actions, the Board determined that Taylor "exhibited a significant lack of integrity, honesty, and trustworthiness," and that Taylor'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 [Department]."

¶ 23 Rule 2 specifically prohibits "[a]ny action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department." The comment to Rule 2 further provides that the rule is to apply to "both the professional and personal conduct of all members," and includes not only unlawful acts, but also lawful acts that "would degrade or bring disrespect upon the member or the department," and any action contrary to the "stated policy, goals, rules, regulations, orders or directives of the Department." <http://www.cityofchicago.org/content/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf> (last visited March 2, 2016).

¶ 24 Taylor argues that due to the fact these false statements were made while he was off-duty, involved his personal life, and did not concern his duties as a police officer, his termination was “arbitrary, unreasonable, or unrelated to the requirements of service.” To support his argument, he relies on *Kreiser v. Police Bd. Of the City of Chicago*, 69 Ill. 2d 27 (1977), and *Humbles v. Board of Fire and Police Commissioners of the City of Wheaton* 53 Ill. App. 3d 731 (1977). In *Kreiser*, this court reversed the Board’s decision to terminate an officer based on a false report to his commanding officer that he was not driving his personal vehicle while on duty. *Kreiser* 60 Ill. 2d at 30-31. In *Humbles*, this court held that discharge was not proper where a police officer lied to his commanding officer by saying that that he was going to testify in traffic court but in fact went to the courthouse for a matter involving his pending divorce. *Humbles* 53 Ill. App. 3d at 734-35.

¶ 25 *Kreiser* and *Humbles* are distinguishable from the case at bar. While it is true that Taylor’s false statements were made during proceedings that involved Taylor’s personal life and not his duties to the Department, these false statements were made during judicial proceedings and at least one was while he was under oath. Not only is there a public record of these false statements, it is well accepted that the honesty of a police officer while testifying in court is highly related to the requirements of his service. In addition, Taylor’s argument disregards the policy behind Rule 2. The comment to Rule 2 specifically provides that Rule 2 applies to the private conduct of all officers, and includes lawful acts that “degrade or bring disrespect” on the officer or the department. <http://www.cityofchicago.org/content/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf> (last visited March 2, 2016). The fact that Taylor made these false statements in his unofficial

capacity, in matters involving his personal affairs does not preclude the application of Rule 2. and therefore Taylor's argument must fail.

¶ 26 This court has upheld the termination of police officers for violating the Department's Rule 2 in *Kappel v. Police Bd. of Chi.*, 220 Ill. App. 3d 580 (1991) and *Rodriguez v Weis* 408 Ill. App. 3d 663 (2011). In *Kappel*, the officer was found guilty of violating Rule 2 of the Department rules and regulations resulting from various charges involving the sale of unregistered handguns. *Kappel*, 220 Ill. App. 3d at 586. On appeal, Kappel argued that his discharge for a violation of Rule 2 was improper. *Id.* at 588. This court upheld Kappel's discharge, noting that the Board's finding of cause for discharge "commands respect." *Id.* at 589. In reaching its decision, this court reasoned that the discharge of a police officer for "conduct unbecoming to the department is made not only for the purpose of punishing the officer," but also for the protection of the public, which "must maintain respect for the department." *Id.* at 591. The *Kappel* court also noted that Kappel's misconduct resulted from his failure to respect the laws which he is entrusted to protect, and found that the discipline and efficiency of a police force is impaired when a police officer does not abide by the laws he is entrusted to protect. *Id.* This court also emphasized that the Board is in the best position to determine the impact of one officer's discharge on other officers and may find that discharge will have a greater deterrent effect on other officers in the department which would enhance the protection of the public. *Id.* at 594.

¶ 27 In *Rodriguez*, 408 Ill. App. 3d 663 (2011), this court upheld the termination of a police officer for violating Rules 2 and 14 of Department's rules and regulations. Rodriguez submitted altered documents to the Department that falsely represented that a physician recommended that

her work duties continue to be limited due to injury. *Id.* This court ultimately found that the essence of the misconduct for which Rodriguez was found guilty focused on her lack of honesty and noted that “trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, particularly one as a police officer.” *Id.* at 671. We also noted that the credibility of a police officer is “inevitably” an issue whenever an officer testifies in any judicial proceeding. *Id.* Therefore, a public finding that an officer had previously lied is detrimental to that officer’s credibility, and therefore may be a serious liability to the department. *Id.* As a result, we determined that the Board’s decision to terminate Rodriguez was not arbitrary, unreasonable, or unrelated to the requirements of her service to the Department. *Id.*

¶ 28 Taylor’s violation of Rule 2 has been reviewed and upheld by this court. Similar to *Kappel* and *Rodriguez*, the Board, on remand in this case, determined that termination was the appropriate punishment for that violation. The Board is given wide latitude to determine appropriate punishments that not only punish the conduct of the officer, but also deter future conduct by other officers. *Kappel v. Police Board of the City of Chicago*, 220 Ill. App. 3d 580, 590 (1991).

¶ 29 As a court of review, we defer to the expertise and discretion of the Board in this case. We note that the violation of a single rule has long been accepted as a proper basis for the termination of a police officer. *Siwek* 374 Ill. App. 3d at 738. Therefore we cannot find that the Board's decision to terminate Taylor for violating Rule 2 was arbitrary, unreasonable, or unrelated to the requirements of his service.

¶ 30

CONCLUSION

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¶ 31 For the foregoing reasons, we affirm the final decision of the Board terminating Taylor's employment.

¶ 32 Affirmed.