

**BEFORE
BRIAN E. REYNOLDS
ARBITRATOR**

**In the matter of an Arbitration of a
dispute between**

**COUNTY OF COOK AND THE
COOK COUNTY SHERIFF,**

Joint Employers

and

**ILLINOIS FRATERNAL ORDER OF
POLICE LABOR COUNCIL,**

Union

| | |
|-------------------|--------------------------|
| Unit: | Police Officers |
| Grievant: | William Jones |
| Grievance# | 19-0129-01 |
| FOP# | GR190123-SCRL |
| Issue: | Discipline |
| Hearing: | September 5, 2019 |
| Decision: | September 6, 2019 |

OPINION AND AWARD

This matter is an arbitration of a grievance filed pursuant to the terms of the collective bargaining agreement effective from December 1, 2017 to November 30, 2020 (Agreement) between the County of Cook and the Cook County Sheriff (Employer or County and Sheriff, respectively) and the Illinois Fraternal Order of Police Labor Council (FOP or Union) for the bargaining unit of the Employer's Police Officers below the rank of Sergeant. (Unit) The grievance concerns the Employer's discipline of Unit member William Jones allegedly in violation of the Agreement. (Grievance)

On August 9, 2018, the Union filed the Grievance alleging the Employer's actions violated the Agreement. The parties selected the undersigned to serve as the arbitrator for the arbitration of the Grievance. The parties were afforded an opportunity to present testimony, exhibits, and other evidence relevant to the dispute at a hearing held on September 5, 2019 at the Union's offices. Now, having considered the evidence, the argument of the parties, the contract language and the record, the undersigned makes the following award.

ISSUE

Did the Employer violate the Agreement when it disciplined Grievant for failing to secure his firearm? If so, what is the remedy?

STATEMENT OF FACTS

The Grievant has worked as a Police Officer for the Employer for 23 years. The Grievant legally possesses a Glock 26 pistol as an off-duty firearm (Weapon).

On October 22, 2018, the Grievant was at The Bar Louie, a bar in Naperville Illinois, for about 60 to 90 minutes, from approximately 1:30 p.m. until shortly before 3:00 p.m. Grievant

had his Weapon in a black leather satchel secured by a strap over his shoulder. The grievant was with his girlfriend at the bar and consumed 2 martinis and a glass of water. Grievant testified that he did not feel any affect of the alcohol. Grievant is 6'3' and 260 pounds. There is no evidence of any impaired behavior by Grievant.

At approximately 3:00 p.m. the Grievant received a phone call from a high school coach for one of the Grievant's sons concerning a possible college scholarship. Grievant hurried out of the bar and left his satchel behind on the table. A server-in-training found the satchel, and gave it to the bartender, Courtney Chaddick. Chaddick secure the bag behind the bar.

Grievant called the bar at approximately 3:30 p.m. Grievant said he would come pick the satchel up but had to wait as he was taking care of his young daughter at the time and had to wait until he could drop her off. Craddick said the bar would be open until midnight.

When Craddick's shift ended, she told her relief, Bar Manager Jessica Konkowski about the bag. At about 11:00 p.m., Grievant had not yet picked up the Weapon, and as Konkowski was not comfortable with the Weapon, she called the Naperville Police Department. The Police immediately dispatched officers to Bar Louie. The Naperville officers took the Weapon back to their department offices, unloaded the weapon, discovered negative results on LEADS.

Grievant went to the Bar Louie shortly before midnight and was told the Weapon was with the Naperville Police. Grievant went to the Department that night but it was closed. Grievant spent the night in Naperville and went back to the Naperville Police Department the next day, October 22, 2018. The officer at the Front Lobby desk, Police Service Officer Radzicki refused to give the Weapon to Grievant as he stated he was not authorized to do so. Grievant eventually left without his weapon.

The Naperville Police contacted the Employer. Deputy inspector Sullivan from the CCSPD picked the satchel up and secured it at the headquarters until Grievant picked it up on October 26, 2018.

The Employer's Office of Professional Review (OPR) investigated Grievant's leaving the Weapon at the Bar Louis and issued a report on December 11, 2018. The Employer issued Grievant a 40-day suspension for the incident and the Union filed the Grievance on the Grievant's behalf.

DISCUSSION & ANALYSIS

The Grievance alleges that the Employer violated the Agreement since it did not have just cause to issue discipline at the level of a 40-day suspension.

The Employer alleges that Grievant violated the Employer's standards in 3 instances.

- 1) Carrying a Firearm While Consuming Alcohol;
- 2) Conduct Unbecoming; and
- 3) Improper Filing a Report.

The Grievant did consume alcohol while in possession of the Weapon in violation of Policy 108. However, Policy 108 prohibits consuming alcohol while in possession of a Firearm, by an individual “who has consumed an amount of alcoholic beverage ... that would tend to adversely affect the members’ senses or judgment.” In this case there is no evidence supporting that Grievant’s senses or judgement was adversely affected by the alcohol. The OPR report indicates that it relies on the fact that Grievant has admitted consuming 2 martinis. While 2 martinis are sufficient to impair many individual’s senses, the Grievant is 6’3” and 250 pounds, larger than most people. Grievant testified that he wasn’t impaired by this amount and there is no evidence of any impairment except that he left the satchel.

The Grievant admits that his conduct was unbecoming as he knows he should not be leaving his off-duty weapon at a bar. However, there is no evidence of other misconduct at the bar or with the Naperville Police Department.

Finally, the Employer alleges a violation as Grievant did not mention consuming alcohol in his report. The Grievant states that he did not report it since he didn’t think it relevant as he did not feel impaired. The Grievant answered honestly when questioned about his drinking and made no attempts to hide the fact outside of failing to disclose it in the first instance. However, I find that the Grievant should have reported his drinking in the first instance and that this omission is technically a violation of Policy 101.5.5 (af) for “omitting material information...in the reporting of any Sheriff’s Office-related business. However, considering Grievant’s truthful conduct otherwise, I don’t find this violation to be egregious.

Accordingly, I find that while the Employer has provided sufficient evidence of Conduct Policy violations to provide just cause to issue discipline, considering the lack of actual impairment evidence and other mitigating factors, there was not just cause for the amount of discipline actually issued.

AWARD

Having reviewed the evidence presented and the arguments of the parties, under the authority invested in the Arbitrator, I grant the Grievance in part. While I uphold the Employer’s just cause to discipline Grievant for misplacing his Weapon, I find that, considering the mitigating factors, a 40-day suspension is excessive. I therefore reduce the discipline issued Grievant to a 10-day suspension (64 hours total) with options.

Issued: September 6, 2019 at Springfield, Illinois

Brian E. Reynolds

Brian E. Reynolds,
Arbitrator