

1316 COUNTY-CITY BUILDING
227 WEST JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9251
FAX 574/ 235-9171

CITY OF SOUTH BEND JAMES MUELLER, MAYOR

BOARD OF PUBLIC SAFETY

June 15, 2022

VIA E-MAIL ONLY
Mr. Tomas M. Dixon
Dixon, Wright & Associates, P.C.
55255 Birchwood Court
Osceola, IN 46561
tdixon3902@comcast.net

RE: Findings of Fact – Justin Tidey

Dear Mr. Dixon

At their meeting of June 15, 2022, the Board of Public Safety approved and entered Findings of Fact in the matter of dismissal of Officer Justin Tidey.

Sincerely,

/s/ Theresa Heffner

Theresa Heffner, Clerk
Board of Public Safety

Enclosure

Cc: Chief Scott Ruszkowski, Police Department
Attorney Kylie Connell
Attorney Danielle Campbell Weiss

**BEFORE THE BOARD OF PUBLIC SAFETY
OF THE CITY OF SOUTH BEND, INDIANA**

IN THE MATTER OF
THE DISMISSAL OF OFFICER
JUSTIN TIDEY

FINDINGS OF FACT

Background:

On February 8, 2022, Scott Ruskowski, Chief of the South Bend Police Department (Department) submitted a letter to the Board of Public Safety for the City of South Bend (the Board) requesting the dismissal of Officer Justin Tidey (Tidey) pursuant to IC 36-8-3-4 (b)(2)(D), on the basis that Officer Tidey was not fit for duty.

On April 28, 2022, the Chief sent a supplemental notice to the Board and Officer Tidey, adding that Tidey had, since December 13, 2021, also violated Lexipol Policy 1005.4, sec. (d) and (g), relating to an officer's potential responsibilities for reporting ongoing medical information to the department if he/she is absent for more than three consecutive days due to injury or illness.¹

Officer Tidey contested his proposed dismissal and requested a hearing before the Board. A hearing on the matter was conducted on May 20, 2022 and May 27, 2022, before Board members Daniel Jones, Lee Ross, Melissa Colpitts, and Al Kirsits. Present also were Attorney Kylie Connell on behalf of the Department, Attorney Tom Dixon on behalf of Officer Tidey, Attorney Danielle Weiss on behalf of the Board of Public Safety, and Hearing Officer Roland Chamblee.

Having reviewed the documentary and testimonial evidence presented by the parties,

¹ At the hearing, the Department, through Chief Ruskowski, conceded that this letter was not intended to serve as additional grounds for dismissal; but rather as notice that evidence of Tidey's failure to provide required information would be raised during the hearing.

and after due deliberation, the Board makes the following relevant Findings of Fact:

1. Officer Justin Tidey has been a sworn officer with the South Bend Police Department since June, 2018, with the current rank of Patrolman 1st Class.
2. Tidey has had no disciplinary write ups during his tenure as a South Bend police officer.
3. On October 17, 2020, Tidey suffered an injury to his right knee while on duty and assisting with crowd control at the scene of a homicide.
4. Tidey's knee contacted the bumper of a parked vehicle and twisted, from which he felt a pop and buckling of his right knee.
5. Tidey reported the injury as required, and was referred for initial evaluation, followed by referral to an Orthopedic specialist who treated Tidey for approximately four months, which treatment included physical therapy.
6. At his request, due to his lack of improvement and concern over his initial orthopedic care, Tidey was referred to a second orthopedic physician for an independent Medical Records Review,² including records from two MRI scans³ performed on the knee.
7. Subsequently, on April 20, 2021, Tidey underwent an independent medical examination with the same Orthopedic surgeon who performed the Medical Records review⁴; and was again referred for continued physical therapy with a different therapist.
8. Neither of these physicians noted any damage to Tidey's anterior cruciate ligament (ACL), nor deemed surgical intervention to be indicated.
9. On June 23, 2021, Tidey was found to have reached maximum medical improvement by the second Orthopedic surgeon.⁵

² Plaintiff Ex. 6

³ Plaintiff Ex. 14 and 15

⁴ Plaintiff Ex. 7

⁵ Plaintiff Ex. 9

10. Subsequent to the finding of maximum medical improvement, Tidey underwent a 3rd MRI in October, 2021 and a third Orthopedist was consulted by the physician who found Tidey to have reached maximum medical improvement.

11. On December 8, 2021 the consulting physician performed an independent medical examination,⁶ and found no ACL damage, but ordered an EMG to rule out nerve damage. The EMG was normal.⁷

12. In the same November-December 2021 timeframe, Tidey independently consulted with another Orthopedist who had surgically treated him in 2019 for an unrelated shoulder injury.

13. This surgeon performed a diagnostic arthroscopy of Tidey's right knee; and upon doing so, determined that knee reconstruction was appropriate. The reconstruction followed immediately.

14. On April 12, 2022 Tidey's surgeon issued a return to work letter, releasing him to light duty on April 13, 2022 with anticipated return to full duty on August 13, 2022.⁸

15. After successful ACL reconstructive surgery, recovery time would be expected to be ten months to one year for a person with the physical requirements of an active police officer.

16. Tidey is progressing as expected in his post-surgical recovery, with some deficit in his neuromuscular coordination, which is expected to improve with continued therapy.

17. The earliest Tidey could return to full duty if the neuromuscular coordination issues resolve, would be August, 2022.

⁶ Plaintiff Ex. 11

⁷ Plaintiff Ex. 12

⁸ Resp. Ex. A

18. If the neuromuscular coordination does not return, Tidey would not be able to return to duty as a police officer.

19. Over the course of the twenty months since his injury, Tidey has had four separate Fitness for Duty Evaluations;⁹ and in each he was found unfit to return to full duty.

20. The average length of a light duty assignment within the Department is three to six weeks.

21. Since his injury in October, 2020 Tidey has served various light duty assignments with the Department until being placed on Administrative Leave in November, 2021.

22. There are no permanent light duty assignments available to sworn officers in the Department.

23. Tidey had been continuously physically unfit for duty for a period of approximately twenty months prior to the date upon which these Findings are made.

24. No evidence was presented during the hearing to indicate Tidey is currently fit for duty.

Having made the foregoing Findings of Fact, it is the decision of the Board that Officer Justin Tidey be Dismissed from his employment as an Officer with the South Bend Police Department.

⁹ Plaintiff Ex. 1-4

APPROVED
Board of Public Safety

Date: 06/15/2022







Distribution:
Kylie Connell, Esq.
Thomas Dixon, Esq.