

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---------------------------------|---|--------------------|
| Jermaine Wilson and Dameon |) | |
| Sanders, individually and for a |) | |
| class, |) | |
| |) | |
| <i>Plaintiffs,</i> |) | 14-cv-8347 |
| |) | |
| <i>-vs-</i> |) | <i>(Judge Lee)</i> |
| |) | |
| City of Evanston, Illinois, |) | |
| |) | |
| <i>Defendant.</i> |) | |

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs, by counsel, move the Court to enter summary judgment on liability in their favor.

As plaintiffs explain in the memorandum filed with this motion, the facts, viewed in the light most favorable to defendant, show:

1. Defendant City of Evanston may not, consistent with the Takings Clause of the Fifth Amendment, sell or destroy arrestee property other than for a “public use” and upon payment of “just compensation.” Evanston does neither.

2. The Evanston ordinance requiring the Evanston Police Department to store arrestee property for sixty days after the final disposition of court proceedings creates a constitutionally protected property interest

which is abridged by Evanston's policy to sell or destroy detainee property thirty days after arrest.

3. Evanston's policy of requiring a personal visit by an arrestee or agent to retrieve seized property is constitutionally invalid as applied to persons like plaintiffs who were incarcerated for more than 30 days after arrest and thus unable to travel to Evanston to retrieve their property.

The Court should therefore grant summary judgment on liability to plaintiffs.

Respectfully submitted,

/s/ Kenneth N. Flaxman
Kenneth N. Flaxman
ARDC No. 08830399
Joel A. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
(312) 427-3200
Attorneys for Plaintiffs