

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

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

SUPPLEMENTAL MEMORANDUM

Plaintiffs submit this supplemental memorandum to discuss the impact on this case of *Conyers v. City of Chicago*, ___ F.4th ___ (No. 20-1934, August 18, 2021), *petition for rehearing filed* September 2, 2021.

Neither of the Due Process claims plaintiffs raise in this case was before the *Conyers* court: The *Conyers* plaintiffs did not raise a substantive due process claim and their procedural due process claim turned on the availability of notice posted on a website. *Conyers*, slip op. 14-19. Plaintiffs' procedural due process claim in this case turns on "additional or substitute procedural safeguards" (ECF No. 151 at 13-14), a question that was also not at issue in *Conyers*. Plaintiffs therefore limit this memorandum to their Fifth Amendment Takings Claim

This case, like *Conyers*, involves the practice of a municipality’s police department to sell or destroy property seized from arrestees if not claimed within 30 days of arrest. The *Conyers* court, considering the City of Chicago’s policy, relied on “constraints on storage space for seized property” (slip op. 12, 13) to make it “plain enough to entitle the City to treat as abandoned any property that remains unclaimed after 30 days have gone by.” (Slip op. 14.) The record in this case shows that Evanston does not have such constraints: Evanston stopped destroying detainee property on February 18, 2016. (ECF No. 107, Order, May 15, 2018.)

The *Conyers* court also relied on a Chicago ordinance declaring that detainee property not reclaimed within 30 days of arrest is “presumptively abandoned.” (Slip op. 1-2.) The City of Evanston does not have such an ordinance. The relevant Evanston ordinance, Evanston Code of Ordinances, Chapter 7, Section 9-7-1 (filed as ECF No. 152-20), authorizes the sale or destruction of arrestee property “within sixty (60) days from the date of the final disposition of the court proceedings.”

The Court held in its class certification order (ECF No. 75) that the phrase “final disposition of the court proceedings” used in the ordinance means when court proceedings “reached a final, appealable judgment, or were terminated without reaching a judgment.” (ECF No. 75 at 12.)

[signatures on next page]

Respectfully submitted,

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