

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SALVATORE ZICCARELLI, )  
Plaintiff, )  
v. )  
THOMAS J. DART, Sheriff of Cook County, )  
Illinois and COOK COUNTY, ILLINOIS, a )  
Municipal Corporation and Body Politic, )  
Defendants. )  
Case No. 17 C 3179  
Hon. John J. Tharp

**DEFENDANTS' LOCAL RULE 56.1(a) STATEMENT OF UNDISPUTED  
MATERIAL FACTS IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

Defendants, Thomas J. Dart in his official capacity as Sheriff of Cook County (“the Sheriff’s Office”) and Cook County as indemnitor submit this statement of undisputed material facts as to which there is no genuine issue and that entitles them to judgment as a matter of law. Defendants submit these facts as undisputed for purposes of summary judgment.<sup>1</sup>

## The Parties

1. Plaintiff, Salvatore Ziccarelli, was employed with the Cook County Sheriff's Office for twenty-seven years, beginning in 1989. (Ex. 1, Pl. Compl. ¶ 4; Ex. 2, 3/12/2024 Tr. 261:9-10; Ex. 5, Resignation letter).
2. Thomas Dart is an elected official of Cook County, Illinois and is the Sheriff of Cook County. (Ex. 1, Pl. Compl. ¶ 4).
3. Cook County is named as indemnitor. (Ex. 1, Pl. Compl. ¶ 140).

<sup>1</sup> “Pl. Compl.” refers to Plaintiff’s Complaint, attached as Ex. 1; “Trial. Tr.” refers to the March 11-12, 2024 trial transcripts, attached as Ex. 2; “Time Tracker” refers to the Time Tracker for FMLA hours, attached as Ex. 3; “Timesheet” refers to Plaintiff’s attendance records, attached as Ex. 4; “Resignation letter” refers to the letter Plaintiff signed on September 20, 2016, attached as Ex. 5.

## **Jurisdiction and Venue**

4. Plaintiff's sole remaining claim alleges a violation of his rights under the Family Medical Leave Act of 1993, ("FMLA") 29 U.S.C. § 2601. This Court has jurisdiction under 28 U.S.C. § 1331. (Ex. 1 Pl. Compl. ¶ 2).
5. Specifically, Plaintiff alleges that the Sheriff's Office interfered with his FMLA rights when he called Wylola Shinnawi, the FMLA manager from the Sheriff's Office, and she told him that "if he did take more [FMLA] time off then action would be taken to discharge him from his employment at [the Sheriff's Office]." (Ex. 1, Pl. Compl. ¶¶ 14-15).
6. Venue is proper in this Court as all acts complained of occurred in the County of Cook, State of Illinois, within the geographic expanse of this Court. (Ex. 1, Pl. Compl. ¶ 3).

## **2016 FMLA request**

7. Plaintiff applied for FMLA leave in December 2015, submitting paperwork identifying several medical conditions necessitating his leave. (Ex. 2, 3/12/2024 Tr. 266:22- 267:10).
8. The Sheriff's Office approved Plaintiff's application for FMLA leave in January 2016. (Ex. 1, Pl. Compl. ¶ 7; Ex. 2, 3/12/2024 Tr. 267:22-23).
9. Plaintiff knew that, pursuant to the Sheriff's Office's FMLA policy, he could take up to 12 weeks of leave per year, which is 480 hours. (Ex. 2 3/12/24 Tr. 265:1-10).
10. In July 2016, Plaintiff's psychiatrist recommended that he take eight weeks of leave from work to undergo a partial hospitalization program. (Ex. 1, Pl. Compl. ¶ 10).

## **Plaintiff's telephone call with Ms. Shinnawi**

11. After Plaintiff received his psychiatrist's recommendation, he called Ms. Shinnawi via telephone. (Ex. 2, 3/11/2024 Tr. 217:12-218:1).
12. While he cannot recall the date, Plaintiff telephoned her while he was on duty during his shift at work. (Ex. 2, 3/11/2024 Tr. 217:21-218:7).

13. At the time he called Ms. Shinnawi, he had already used FMLA time in 2016. (Ex. 2, 3/12/2024 Tr. 268:15-16).
14. At the time of his conversation with Ms. Shinnawi, Plaintiff knew he still had FMLA time remaining. (Ex. 2, 3/11/24 Tr. 217:18-20).
15. The FMLA hours are tracked in a database that Ms. Shinnawi can access. (Ex. 2, 3/11/2024 Tr. 152:12-16; 24-153: 1; 3/12/2024 Tr. 268:18-20; Ex. 3, Time Tracker).
16. When he called Ms. Shinnawi, Plaintiff knew that he did not have eight weeks of FMLA leave remaining. (Ex. 2, 3/12/2024 Tr. 253:1-3; 269:6-8).
17. Plaintiff had a two- or three-minute telephone conversation with Ms. Shinnawi. (Ex. 2, 3/12/2024 Tr. 254:21-23).
18. In that conversation, he told Ms. Shinnawi that he needed to take FMLA leave and she told him that he could not take any more leave or he would be disciplined. (Ex. 2, 3/11/24 Tr. 218:17-219:3; 3/12/24 Tr. 256:2-6).
19. He thought the word “discipline” would mean getting fired. (Ex. 2, 3/11/24 Tr. 220:14-19).
20. Plaintiff had never been disciplined for taking FMLA leave and Ms. Shinnawi had never disciplined him nor was discipline under her purview. (Ex. 2, 3/12/2024 Tr. 256:7-10, 258:1-6).
21. While Plaintiff had additional leave time available at the time of his request, Ms. Shinnawi only approves FMLA leave, and Plaintiff never asked his chain of command to approve other leave time after this one telephone call with Ms. Shinnawi. (Ex. 2, 3/12/2024 Tr. 257:2-16, 258:21-25).
22. After Plaintiff had this telephone call with Ms. Shinnawi, he took additional FMLA time. (Ex. 2, 3/12/2024 Tr. 256:2-6).
23. Plaintiff's timesheet corroborates that Plaintiff took additional FMLA time after the telephone call. (Ex. 2, 3/11/2024 Tr. 145:2-5; Ex. 4, Timesheet at 5-6).

24. After his telephone conversation with Ms. Shinnawi and after taking additional FMLA leave following his conversation with Ms. Shinnawi, Plaintiff was not disciplined. (Ex. 2, 3/12/2024 Tr. 255:23-256:1).
25. The Sheriff's Office never disciplined Plaintiff for taking FMLA leave. (Ex. 2, 3/12/2024 Tr. 256:9-10).
26. Plaintiff resigned from the Sheriff's Office on September 20, 2016. (Ex. 2, 3/11/2024 Tr. 210:4-18; Ex. 5, Resignation letter).
27. Plaintiff remained employed as correctional officer at his regular salary until he resigned on September 20, 2016. (Ex. 1, Pl. Compl. ¶ 4).
28. When he resigned, Plaintiff had 176 hours of FMLA time remaining. (Ex. 4, Time Tracker).

Respectfully submitted,  
EILEEN O'NEILL BURKE  
State's Attorney of Cook County

By: /s/ Kathleen C. Ori  
Kathleen C. Ori  
Nazia Hasan  
Assistant State's Attorneys  
500 Richard J. Daley Center  
Chicago, Illinois 60602  
(312) 603-4635/3618  
[kathleen.ori@cookcountysao.org](mailto:kathleen.ori@cookcountysao.org)  
[nazia.hasan@cookcountysao.org](mailto:nazia.hasan@cookcountysao.org)