

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

William Carter,)	
)	
Plaintiff,)	
)	Case No. 17 cv 07241
v.)	
)	
City of Chicago, Ronald Watts,)	Judge LaShonda Hunt
Phillip Cline, Debra Kirby, Darryl)	
Edwards, Alvin Jones, Kallatt)	
Mohammed, John Rodriguez,)	
Calvin Ridgell, Jr., Elsworth J.)	
Smith, Jr., Gerome Summers, Jr.,)	
and Kenneth Young, Jr.,)	
)	
Defendants.)	

**DEFENDANT OFFICERS' RESPONSE TO PLAINTIFF'S LOCAL RULE
56.1(b)(3) STATEMENT OF ADDITIONAL MATERIAL FACTS**

Defendants Darryl Edwards, Alvin Jones, John Rodriguez, Calvin Ridgell, Jr., Elsworth J. Smith Jr., Gerome Summers, Jr., and Kenneth Young, Jr. (collectively "Defendants" or "Defendant Officers"), by their attorneys, submit the following response to Plaintiff's Local Rule 56.1(b)(3) Statement of Additional Material Facts as follows:

1. Plaintiff has never sold drugs, and he and [sic] did not sell drugs on March 3, 2004, June 18, 2004, or May 19, 2006. (Plaintiff's Exhibit 1 ¶ 3, Declaration of William Carter.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, disputed. As set forth in Defendant Officers' Statement of Undisputed Facts (hereinafter "DSOF") number 46, on December 16, 2004, Plaintiff pled guilty to his March 3, 2004 arrest and to his June 18, 2004 arrest. ECF No. 195, p. 9. Therefore, Plaintiff did sell drugs on March 3,

2004 and on June 18, 2004, and he is legally barred from claiming otherwise. *See Tollett v. Henderson*, 411 U.S. 258, 267 (1973) (“when a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea.”). In addition, as set forth in DSOF number 111, on February 1, 2007, a jury found Plaintiff guilty of possession with intent to deliver a controlled substance. ECF No. 195, p. 22. Therefore, Plaintiff did sell drugs on May 19, 2006.

2. During plaintiff’s arrest on March 3, 2004, defendant Kenneth Young pushed plaintiff’s head into a wall. (Plaintiff’s Exhibit 1 ¶ 4(a), Declaration of William Carter; Exhibit 1 to Plaintiff’s Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Defendants also object to Plaintiff’s Exhibit 1 ¶ 4(a) Declaration of William Carter, as a sham affidavit. *See Kelley v. Stevanovich*, 40 F.4th 779, 787 (7th Cir. 2022) (the sham-affidavit rule prohibits a party from submitting an affidavit that contradicts the party's prior deposition or other sworn testimony.) Defendants also object to Exhibit 1 to Plaintiff’s Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, on the basis that the statements it contains are inadmissible hearsay. *See Fed. R. Evid. 801(c), 802; Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) (“A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment”). Subject to and without waiving said objections, disputed. As set forth in DSOF number 15, Plaintiff testified that an officer he called “Chinaman” but whose name he did not know, pushed his head against the wall during the March 3, 2004 arrest. The officer he called “Chinaman” is not one of the Defendant Officers. ECF No. 195, p. 4.

3. Defendant Darryl Edwards and defendant Kallatt Mohammed were present during plaintiff's arrest on March 3, 2004. (Plaintiff's Exhibit 1 ¶ 4(a), Declaration of William Carter); Exhibit 1 to Plaintiff's Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, C.R. # 296355.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to Exhibit 1 to Plaintiff's Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004 C.R. # 296355, on the basis that the statements it contains are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) ("A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment"). Subject to and without waiving said objections, disputed. The cited materials do not support the proposition that Defendants Edwards and Mohammed "were present during Plaintiff's arrest," but rather, that they were on scene when Defendant Young allegedly pushed his head into a wall. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

4. Defendant Mohammed asserted his Fifth Amendment rights and refused to answer the following questions: "Were you involved in arresting William Carter on March 3rd, 2004?" and "Were you involved in framing William Carter on March 3rd, 2004?" (Plaintiff's Exhibit 2, Deposition of Kallatt Mohammed at 228:2-4, 230:24-231:8.)

RESPONSE: Defendants object to this paragraph as immaterial to Defendants' motion for summary judgment and because it is inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Although *Baxter v. Palmigiano*, 425 U.S. 308 (1976), holds that under certain circumstances in a civil case, a defendant's silence may give rise to an adverse evidentiary inference against the party asserting the privilege, "Baxter does not hold that an adverse finding

could properly rest on the silence, without other evidence....” *National Acceptance Co. of America v. Bathalter*, 705 F. 2d 924, 930 (1983) (emphasis added). Accordingly, in *Bathalter*, the district court erred when it granted judgment on the pleadings based solely on the fact the defendant had asserted the Fifth Amendment privilege in his answer. See *GmbH v. Design Indus.*, 2008 U.S. Dist. LEXIS 31150, *7, 2008 WL 819032 (D. M.D. N.C.) (court should treat properly invoked claim of privilege “as the equivalent of a specific denial and put the plaintiff to his proof of the matter covered by the ‘denial’.”) Plaintiff therefore cannot rely solely on Mohammed’s invocation of his Fifth Amendment privilege to defeat a motion for summary judgment. Moreover, it should be noted that to the extent there is an adverse inference, it is only against Mohammed and no other defendant and, consequently, irrelevant to the motions for summary judgment of all the other defendants.

Without waiver of these objections, undisputed that Mohammed invoked his Fifth Amendment right against self-incrimination when asked about the Plaintiff’s arrests during his November 21, 2019 deposition, but that he testified fully about these events at his February 4, 2025 deposition, when he generally denied his misconduct and others.¹

5. Plaintiff made a complaint of misconduct regarding his arrest on March 3, 2004, but the Chicago Police Department did not sustain the complaint. (Plaintiff’s Exhibit 3 at F PL JOINT 03969, Chicago Police Department, Office of Professional Standards, File for C.R. # 296355.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Subject to and without waiving said objection, disputed. The cited materials do not support the proposition that Plaintiff made a complaint “regarding his arrest,” that is, Plaintiff did not complain that he was falsely arrested. Rather,

¹ The transcript of said deposition is not yet available at the time of the filing this Response.

Plaintiff complained that “Officer Kenneth Young, Jr. 1) pushed Mr. Carter’s head and body into a wall and 2) stomped on his back.” See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

6. As part of the investigation into plaintiff’s first misconduct complaint, defendant Edwards wrote a memo, stating that he assisted in the arrest of plaintiff on March 3, 2004. (Plaintiff’s Exhibit 3 at F PL JOINT 04007, Memorandum from Edwards to Anaele, July 21, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Subject to and without waiving said objection, admitted.

7. Defendant Edwards assisted in the arrest of plaintiff on March 3, 2004. (Plaintiff’s Exhibit 3 at F PL JOINT 04007, Memorandum from Edwards to Anaele, July 21, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 9. ECF No. 195, p. 3. Subject to and without waiving said objections, admitted.

8. As part of the investigation into plaintiff’s first misconduct complaint, plaintiff viewed photos of police officers and identified defendant Kenneth Young as the officer who pushed plaintiff’s head into a wall and identified defendant Darryl Edwards and defendant Kallatt Mohammed as being present during plaintiff’s arrest on March 3, 2004. (Plaintiff’s Exhibit 1, Declaration of William Carter ¶ 4(a); Exhibit 1 to Plaintiff’s Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Defendants also object to Plaintiff’s Exhibit 1 ¶ 4(a)

Declaration of William Carter, as a sham affidavit. See *Kelley v. Stevanovich*, 40 F.4th 779, 787 (7th Cir. 2022) (the sham-affidavit rule prohibits a party from submitting an affidavit that contradicts the party's prior deposition or other sworn testimony.) Defendants also object to Exhibit 1 to Plaintiff's Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, on the basis that the statements it contains are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) ("A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment"). Subject to and without waiving said objections, disputed. As set forth in DSOF number 15, Plaintiff testified that an officer he called "Chinaman" but whose name he did not know pushed his head against the wall during the March 3, 2004 arrest. The officer he called "Chinaman" is not one of the Defendant Officers. ECF No. 195, p. 4. Moreover, the cited materials do not support the proposition that Defendants Edwards and Mohammed "were present during Plaintiff's arrest," but rather, they were on scene when Defendant Young allegedly pushed his head into a wall. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

9. On March 3, 2004, defendant Mohammed signed a Complaint for Preliminary Examination charging Plaintiff with unlawful possession of a controlled substance in violation of 720 ILCS 520/402. (Defendant Officer's Exhibit 10, ECF No. 195-11.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 23. ECF No. 195, p. 5. Subject to and without waiving said objections, admitted.

10. Plaintiff spent the night in the lockup at the police station following his arrest on March 3, 2004. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(a).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 44. ECF No. 195, p. 8. Subject to and without waiving said objections, admitted.

11. Plaintiff was transported to court in the early morning hours on March 4, 2004. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(b).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 44. ECF No. 195, p. 8. Subject to and without waiving said objections, admitted.

12. Plaintiff remained in custody while he waited in a lockup at the courthouse for several hours before his bond hearing. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(b).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 44. ECF No. 195, p. 8. Subject to and without waiving said objections, admitted.

13. After plaintiff saw the judge, he received a bond that allowed him to go home, but he remained in custody and was not free to leave for several hours. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(c).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial

of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 44. ECF No. 195, p. 8. Subject to and without waiving said objections, admitted.

14. On May 4, 2004, defendant Mohammed testified before a grand jury that returned an indictment charging plaintiff with possession of a controlled substance with intent to deliver in 04-CR-9579. (Plaintiff's Exhibit 4, Transcript of Testimony in 04-CR-9579, April 13, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 24. ECF No. 195, p. 5. Subject to and without waiving said objections, admitted.

15. Mohammed testified that police officers saw plaintiff holding bags and drugs and found plaintiff be in possession of drugs. (Plaintiff's Exhibit 4, Transcript of Grand Jury Testimony in 04-CR-9579, April 13, 2004, at 4-5.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF numbers 10 and 24. ECF No. 195, pp. 3, 5. Subject to and without waiving said objections, admitted.

16. During plaintiff's arrest on June 18, 2004, defendant Alvin Jones punched plaintiff on the right jaw. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 4(b); Exhibit 2 to Plaintiff's Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, CR #299023.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to Exhibit 2 to Plaintiff's

Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, CR #299023, on the basis that the statements it contains are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) (“A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment”). Subject to without waiving said objections, disputed. Defendant Jones never punched Plaintiff in the jaw. ECF No. 230-5, p. 27. Defendant Edwards never saw Defendant Jones punch anyone in the jaw. DSOF number 41. ECF No. 195, p. 8.

17. Defendant Darryl Edwards and defendant Kallatt Mohammed were present during plaintiff’s arrest on June 18, 2004. (Plaintiff’s Exhibit 1, Declaration of William Carter ¶ 4(b).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Defendants also object to Exhibit 2 to Plaintiff’s Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, CR #299023, on the basis that the statements it contains are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) (“A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment”). Subject to and without waiving said objections, disputed. The cited materials do not support the proposition that Defendants Edwards and Mohammed “were present during Plaintiff’s arrest,” but rather, that they were on scene when Defendant Jones allegedly punched Plaintiff on the right jaw. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

18. Plaintiff made a complaint of misconduct regarding his arrest on June 18, 2004, but the Chicago Police Department did not sustain the complaint. (Plaintiff’s Exhibit 5 at F PL JOINT 04029, Chicago Police Department, Office of Professional Standards, File for C.R. # 299023.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to Plaintiff's Exhibit 5 at F PL JOINT 04029, Chicago Police Department, Office of Professional Standards, File for C.R. # 299023, on the basis that the statements it contains are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) ("A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment"). Subject to and without waiving said objections, admitted.

19. As part of the investigation into plaintiff's second misconduct complaint, defendant Mohammed wrote a memo stating that he came into contact with plaintiff and had personal knowledge regarding the circumstances of plaintiff's arrest on June 18, 2004. (Plaintiff's Exhibit 5 at F PL JOINT 04058, Memo from Mohammed to Wilmouth, August 25, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to this paragraph as it is argumentative and conclusory, rather than factual. See *Patterson v. Ind. Newspapers, Inc.*, 589 F.3d 357, 359 (7th Cir. 2009) (appropriate to strike argumentative facts); and *Alonso v. Weiss*, 301 F. Supp. 3d 885, 890–91 (N.D. Ill. 2018), *aff'd*, 932 F.3d 995 (7th Cir. 2019). Subject to and without waiving said objections, admitted in part and disputed in part. Admitted that Defendant Mohammed wrote a memo stating that he came into contact with Plaintiff on June 18, 2004. Disputed that the cited materials support the proposition that he "had personal knowledge regarding the circumstances of plaintiff's arrest on June 18, 2004." The memo sets forth Defendant Mohammed's knowledge of certain facts, which primarily addresses the physical contact between officers and Plaintiff. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F.

Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

20. Defendant Mohammed was involved in the arrest of plaintiff and had personal knowledge of the circumstances of plaintiff's arrest on June 18, 2004. (Plaintiff's Exhibit 5 at F PL JOINT 04058, Memo from Mohammed to Wilmouth, August 25, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to this paragraph as it is argumentative and conclusory, rather than factual. See *Patterson v. Ind. Newspapers, Inc.*, 589 F.3d 357, 359 (7th Cir. 2009) (appropriate to strike argumentative facts); and *Alonso v. Weiss*, 301 F. Supp. 3d 885, 890–91 (N.D. Ill. 2018), *aff'd*, 932 F.3d 995 (7th Cir. 2019); and *Alonso v. Weiss*, 301 F. Supp. 3d 885, 890–91 (N.D. Ill. 2018), *aff'd*, 932 F.3d 995 (7th Cir. 2019). Subject to and without waiving said objections, admitted in part and disputed in part. Admitted that Defendant Mohammed came into contact with Plaintiff on June 18, 2004 and that he was, in a way, "involved in the arrest." Disputed that the cited materials support the proposition that he "had personal knowledge regarding the circumstances of plaintiff's arrest on June 18, 2004." The memo sets forth Defendant Mohammed's knowledge of certain facts, which primarily addresses the physical contact between officers and Plaintiff. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

21. As part of the investigation into plaintiff's second misconduct complaint, plaintiff viewed photos of police officers and identified defendant Alvin Jones as the officer who punched plaintiff on the right jaw and identified defendant Darryl Edwards and defendant Kallatt Mohammed as being present during plaintiff's arrest on June 18, 2004. (Plaintiff's Exhibit 1, Declaration of William Carter ¶4(b); Exhibit 2 to Plaintiff's Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to Exhibit 2 to Plaintiff's Exhibit 1, Memo from Richmond to Chief Administrator, July 8, 2004, on the basis that the statements it contains are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) ("A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment"). Subject to and without waiving said objections, disputed. The cited materials do not support the proposition that Defendants Edwards and Mohammed "were present during Plaintiff's arrest," but rather, they were scene when Defendant Jones allegedly punched him on the right jaw. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

22. Defendant Jones prepared a Chicago Police Department Vice Case Report about the June 18, 2004 arrest of plaintiff. (Defendant Officers' Exhibit 8, Deposition of Alvin Jones at 225:10-15, ECF No. 195-9 at 5.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 30. ECF No. 195, p. 6. Subject to and without waiving said objections, admitted.

23. The Vice Case Report lists the following defendants as "WITNESSED" in Box 18: Edwards, Young, Rodriguez, Mohammed, Ridgell, and Watts. (Defendant Officers' Exhibit 13, Vice Case Report, June 18, 2004, ECF No. 195-14.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial

of Defendants' summary judgment motion. Subject to and without waiving said objections, admitted.

24. When Jones checked "WITNESSED" in Box 18 of a Vice Case Report, he meant that the officers listed witnessed some portion of the arrest. (Plaintiff's Exhibit 6 at 581:2-10, Deposition of Alvin Jones, February 27, 2020; Plaintiff's Exhibit 7 at 62:14-16, Deposition of Kallatt Mohammed, November 15, 2023; Plaintiff's Exhibit 8 at 522:4-10, Deposition of Kenneth Young Jr., January 9, 2021.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, disputed. The cited materials do not support the assertion that "the officers listed witnessed some portion of the arrest." Defendant Jones testified, Q: And that's because those officers witnessed something? A: Yes. Plaintiff's Exhibit 6 at 581:8-10. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

25. Defendant Mohammed asserted his Fifth Amendment rights and refused to answer the following questions: "Were you involved in arresting William Carter on June 18th, 2004?" and "Were you involved in framing William Carter on June 18th, 2004?" (Plaintiff's Exhibit 2, Deposition of Kallatt Mohammed at 246:17-19; 251:1-8.)

RESPONSE: Defendants object to this paragraph as immaterial to Defendants' motion for summary judgment and because it is inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Although *Baxter v. Palmigiano*, 425 U.S. 308 (1976), holds that under certain circumstances in a civil case, a defendant's silence may give rise to an adverse evidentiary inference against the party asserting the privilege, "Baxter does not hold that an adverse finding could properly rest on the silence, without other evidence...." *National Acceptance Co. of America v. Bathalter*, 705 F. 2d 924, 930 (1983) (emphasis added). Accordingly, in *Bathalter*, the

district court erred when it granted judgment on the pleadings based solely on the fact the defendant had asserted the Fifth Amendment privilege in his answer. See *GmbH v. Design Indus.*, 2008 U.S. Dist. LEXIS 31150, *7, 2008 WL 819032 (D. M.D. N.C.) (court should treat properly invoked claim of privilege “as the equivalent of a specific denial and put the plaintiff to his proof of the matter covered by the ‘denial’.”) Plaintiff therefore cannot rely solely on Mohammed’s invocation of his Fifth Amendment privilege to defeat a motion for summary judgment. Moreover, it should be noted that to the extent there is an adverse inference, it is only against Mohammed and no other defendant and, consequently, irrelevant to the motions for summary judgment of all the other defendants.

Without waiver of these objections, undisputed that Mohammed invoked his Fifth Amendment right against self-incrimination when asked about the Plaintiff’s arrests during his November 21, 2019 deposition, but that he testified fully about these events at his February 4, 2025 deposition, when he generally denied his misconduct and others.

26. On June 18, 2004, Jones gave permission to another police officer to sign his name on a Complaint for Preliminary Examination charging plaintiff with unlawful possession of a controlled substance in violation of 720 ILCS 520/402. (Defendant Officer’s Exhibit 27, ECF No. 195-28; Defendant Officers’ Exhibit 8, Deposition of Alvin Jones at 231:10-19; 232:3-8; 232:15-19).

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Subject to and without waiving said objection, admitted.

27. It was normal practice for an officer to sign another officer’s name on a criminal complaint. (Defendant Officers’ Exhibit 8, Deposition of Alvin Jones at 233:3-13).

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial

of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

28. Plaintiff spent the night in the lockup at the police station following his arrest on June 18, 2004. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(d).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

29. Plaintiff was transported to court in the early morning hours on June 19, 2004. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(e).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

30. Plaintiff remained in custody while he waited in a lockup at the courthouse for several hours before his bond hearing. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(e).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

31. After plaintiff saw the judge, he received a bond that allowed him to go home, but he remained in custody and was not free to leave for several hours. (Plaintiff's Exhibit 1, Declaration of William Carter ¶ 5(f).)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial

of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

32. Defendant Jones testified at the preliminary hearing for Plaintiff's June 18, 2004 arrest. (Defendant Officers' Exhibit 14, Report of Proceedings in 04-MC112914001, July 14, 2004, ECF No. 195-15)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 37. ECF No. 195, p. 7. Subject to and without waiving said objections, admitted.

33. Jones testified that on June 18, 2004, he saw plaintiff holding a bag that appeared to contain drugs, and he recovered the bag, which contained drugs. (Defendant Officers' Exhibit 14 at 3-4, Report of Proceedings in 04-MC112914001, July 14, 2004, ECF No. 195-15.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objections, admitted.

34. On December 16, 2004, Plaintiff pleaded guilty to the criminal charges arising out of his arrests on March 3, 2004 (Case No. 04-CR-9579) and June 18, 2004 (Case No. 04-CR-17677). (Defendant Officers' Exhibit 23, Report of Proceedings, December 16, 2004, ECF No. 195-24.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in the DSOF number 46. ECF No. 195, p. 9. Subject to and without waiving said objections, admitted.

35. At the guilty plea hearing, plaintiff's attorney stipulated to the facts asserted in the arrest report for each arrest as providing a factual basis for the convictions and the judge found those facts sufficient for the offenses as charged. (Defendant Officers' Exhibit 23 at 4-5, Report of Proceedings, December 16, 2004, ECF No. 195-24.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted in part and disputed in part. Admitted that at the guilty plea hearing, Plaintiff's attorney stipulated that "there is a stipulation to the facts in the arrest report as being sufficient to prove his [Plaintiff's] guilt beyond a reasonable doubt," and the judge found those sufficient for the offenses as charged. Defendant Officers' Exhibit 23 at 4-5. Disputed that "plaintiff's attorney stipulated to the facts asserted in the arrest report for each arrest as providing a factual basis for the convictions," as that is not supported by the cited record. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

36. The arrest report for the arrest of plaintiff on March 3, 2004 states that police officers saw plaintiff with bags in his hand and that the bags contained drugs. (Defendant Officers' Exhibit 6, ECF No. 195-7.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted in part and disputed in part. Admitted the arrest report states "R/O's" saw plaintiff with bags in his hand and that the bags contained drugs, and the "R/O's" listed are Defendants Mohammed and Young. Disputed that the arrest report generally states "police officers."

37. The arrest report for the arrest of plaintiff on June 18, 2004 states that police officers saw [sic] holding a bag that appeared to contain drugs, they recovered bag, and the bag contained drugs. (Defendant Officers' Exhibit 12, ECF No. 195-13.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted in part and disputed in part. Admitted the arrest report states "A/O s" saw Plaintiff holding a bag that appeared to contain drugs, they recovered bag, and the bag contained drugs, and the "A/O s" listed are Defendants Jones and Edwards. Disputed that the arrest report generally states "police officers."

38. On February 16, 2005, plaintiff pleaded guilty to a charge of misdemeanor domestic battery, 720-5/12-3.2(a)(1), and he was sentenced to probation. (Plaintiff's Exhibit 9 at 2, Case Summary, Case No. 05118836701.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

39. On April 6, 2005, the State filed a petition for violation probation in Case Nos. 04-CR-9579 and 04-CR-17677, which was based in part on plaintiff's guilty plea to the charge of misdemeanor domestic battery. (Plaintiff's Exhibit 10, Petition for Violation of Probation and Warrant, 04-CR-9579 and 04-CR-17677.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

40. On July 8, 2005, plaintiff was re-sentenced to Cook County Department of Corrections Boot Camp because he violated his probation. (Defendant Officers' Exhibit 24, Report of Proceedings in 04-CR-09579 & 04-CR-17677, ECF No. 195-25.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

41. Plaintiff was in custody at the Cook County Jail from the time of his arrest on May 12, 2005 until July 8, 2005. (Defendant Officers' Exhibit 21, Certified Statement of Conviction / Disposition 04CR0957901, showing warrant executed and no bail on May 12, 2005 and in custody on July 8, 2005.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

42. Plaintiff's sentence to Boot Camp included a period of between 124 and 180 days in custody in the Boot Camp facility. (Plaintiff's Exhibit 11, Cook County Sheriff's Boot Camp, Consent to Participate of William Carter.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

43. The first and second arresting officers on the arrest report for plaintiff's arrest on May 19, 2006 are defendant Smith and defendant Jones. (Defendant Officers' Exhibit 32 at 3, Arrest Report, May 19, 2006, ECF No. 195-33.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants further object as this fact was already set forth in DSOF number 99. ECF No. 195, p. 20. Subject to and without waiving said objection, admitted.

44. The arrest report for the arrest of plaintiff on May 19, 2006 states that police officers saw plaintiff sell drugs to Sandra Berry. (Defendant Officers' Exhibit 32 at 2, Arrest Report, May 19, 2006, ECF No.195-33.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted in part and disputed in part. Admitted the arrest report states "A/O" saw Plaintiff sell drugs to Sandra Berry, and the "A/O" listed are Defendants Jones and Edwards. Disputed that the arrest report generally states "police officers."

45. Defendants Young and Mohammed were involved in the arrest of plaintiff on May 19, 2006. (Defendant Officers' Exhibit 9 at 207:9-11, Deposition of Kenneth Young, ECF No. 195-10.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to this paragraph as it is argumentative and conclusory, rather than factual. See *Patterson v. Ind. Newspapers, Inc.*, 589 F.3d 357, 359 (7th Cir. 2009) (appropriate to strike argumentative facts); and *Alonso v. Weiss*, 301 F. Supp. 3d 885, 890–91 (N.D. Ill. 2018), *aff'd*, 932 F.3d 995 (7th Cir. 2019). Subject to and without waiving said objections, admitted in part and disputed in part. Admitted that Defendants Mohammed and Young were on-scene on or about the time of Plaintiff's arrest. Disputed that the cited materials support the assertion that they were "involved in the arrest of Plaintiff." See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

46. Defendant Mohammed asserted his Fifth Amendment rights and refused to answer the following question: "Were you involved in arresting William Carter on May 19th, 2006?" and "Were you involved in framing William Carter on May 19th, 2006?" (Plaintiff's Exhibit 2 at at 261:6-8; 269:4-12, Deposition of Kallatt Mohammed.)

RESPONSE: Defendants object to this paragraph as immaterial to Defendants’ motion for summary judgment and because it is inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants’ summary judgment motion. Although *Baxter v. Palmigiano*, 425 U.S. 308 (1976), holds that under certain circumstances in a civil case, a defendant’s silence may give rise to an adverse evidentiary inference against the party asserting the privilege, “Baxter does not hold that an adverse finding could properly rest on the silence, without other evidence....” *National Acceptance Co. of America v. Bathalter*, 705 F. 2d 924, 930 (1983) (emphasis added). Accordingly, in *Bathalter*, the district court erred when it granted judgment on the pleadings based solely on the fact the defendant had asserted the Fifth Amendment privilege in his answer. See *GmbH v. Design Indus.*, 2008 U.S. Dist. LEXIS 31150, *7, 2008 WL 819032 (D. M.D. N.C.) (court should treat properly invoked claim of privilege “as the equivalent of a specific denial and put the plaintiff to his proof of the matter covered by the ‘denial’.”) Plaintiff therefore cannot rely solely on Mohammed’s invocation of his Fifth Amendment privilege to defeat a motion for summary judgment. Moreover, it should be noted that to the extent there is an adverse inference, it is only against Mohammed and no other defendant and, consequently, irrelevant to the motions for summary judgment of all the other defendants.

Without waiver of these objections, undisputed that Mohammed invoked his Fifth Amendment right against self-incrimination when asked about the Plaintiff’s arrests during his November 21, 2019 deposition, but that he testified fully about these events at his February 4, 2025 deposition, when he generally denied his misconduct and others.

47. Plaintiff made a complaint of misconduct regarding his arrest on May 19, 2006, but the Chicago Police Department found the complaint unfounded without any investigation.

(Plaintiff's Exhibit 12 at F PL JOINT 04114, Chicago Police Department, Office of Professional Standards, File for C.R. # 296355.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to this paragraph as it is argumentative and conclusory, rather than factual. See *Patterson v. Ind. Newspapers, Inc.*, 589 F.3d 357, 359 (7th Cir. 2009) (appropriate to strike argumentative facts); and *Alonso v. Weiss*, 301 F. Supp. 3d 885, 890–91 (N.D. Ill. 2018), *aff'd*, 932 F.3d 995 (7th Cir. 2019). Subject to and without waiving said objection, admitted in part and disputed in part. Admitted that Plaintiff made a complaint of misconduct regarding his arrest on May 19, 2006, and the Chicago Police Department found the complaint unfounded. Disputed that the cited materials support the assertion that there was no investigation of Plaintiff's complaint. See *Dyson, Inc. v. Sharkninja Operation LLC*, 259 F. Supp. 816, 837 n.4 (N.D. Ill. Apr. 26, 2017) (ignoring an asserted fact that was not supported by the evidence cited).

48. Plaintiff was in custody of the Illinois Department of Corrections from April 27, 2007 until January 21, 2010 and from November 2, 2012 until December 13, 2012 for 06-CR-13571. (Plaintiff's Exhibit 13, Illinois Department of Corrections Offender Custody History, William Carter.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

49. On July 10, 2017, the Cook County Circuit Court entered orders vacating plaintiff's convictions in 04-CR-9579, 04-CR-17677, and 06-CR-13571. (Plaintiff's Exhibit 14, Orders in 04-CR-9579, 04-CR-17677, and 06-CR-13571.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Subject to and without waiving said objection, admitted.

50. On September 14, 2017, the Cook County Circuit Court entered orders granting plaintiff certificates of innocence in 04-CR-9579, 04-CR-17677, and 06-CR-13571. (Plaintiff's Exhibit 15, Orders Granting Certificates of Innocence in 04-CR-9579, 04-CR-17677, and 06-CR-13571.)

RESPONSE: Defendants object to this paragraph as immaterial and inconsistent with the purposes of Local Rule 56.1(b)(3) as it fails to set forth an additional fact or facts requiring denial of Defendants' summary judgment motion. Defendants also object to Plaintiff's Exhibit 15, Orders Granting Certificates of Innocence in 04-CR-9579, 04-CR-17677, and 06-CR-13571 on the basis that the COIs are inadmissible hearsay. See Fed. R. Evid. 801(c), 802; *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009) ("A party may not rely upon inadmissible hearsay to oppose a motion for summary judgment"). Subject to and without waiving said objections, admitted.

Dated: February 10, 2025.

Respectfully submitted,

/s/ Jason Marx

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