

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

Khalid Ali,)
)
 Plaintiff,)
) No. 19-cv-00022
 -vs-)
)
 City of Chicago, Chicago Police) (Judge Chang)
 Officers Nora Valdes, #8413, John)
 K. Kelyana, #7717, and Lieutenant)
 Kevin D. Reppen, #355,)
)
)
 Defendants.)

PLAINTIFF'S LOCAL RULE 56.1(b) STATEMENT

Plaintiff submits the following pursuant to Local Rule 56.1(b):

1. Plaintiff Khalid Ali ("Plaintiff") brought this action pursuant
to 42 U.S.C. § 1983. See Plaintiff's Second Amended Complaint
("Complaint") ECF. No. 26, attached hereto as Exhibit A, ¶ 1. The
Court has original jurisdiction of this action pursuant to 28
U.S.C. § 1333 & 1337. *Id.*

Response: Agreed.

2. Plaintiff filed his Complaint, which is the operative complaint, on July 11, 2019 against Defendants alleging that he was deprived of his rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States. *Id.* at ¶ 29.

Response: Agreed.

3. Plaintiff's Complaint alleges that he was wrongfully arrested and detained overnight based upon an arrest warrant issued by a court in DuPage County. Id. ¶¶ 5-28.

Response: Objection: Plaintiff's legal theories, which are discussed in his memorandum, are not "material facts."

4. Plaintiff's Complaint alleges that although his name is the same as the person identified in the warrant, Defendants failed to take the appropriate steps to verify that Plaintiff was the subject of the warrant. Id. According to Plaintiff, had Defendants taken the

appropriate steps, they would have discovered that Plaintiff was not subject of the warrant. Id.

Response: Objection: Plaintiff's legal theories, which are discussed in his memorandum, are not "material facts."

5. During his deposition, Plaintiff explicitly stated that he was told by some unknown officers that they could not accept his money to post bond and that he would have to go to court. See Exhibit C at 34:5-20, 41:5-20.

Response: Disputed as to "unknown officers." (Ali Dep. 34:5-13, ECF 79-3 at 11) (police officer with the blue shirt); Ali Dep. 34:14-20 (tall officer with white shirt); (Ali Dep. 41:17-20, ECF 79-3 at 12) ("police officer with the uniform, he told me [we cannot take money here, so you have to go to court] while the white shirt police officer was there").

6. At all times relevant, Defendants were employed by the City of Chicago as sworn police officers, were acting in their official capacity within the scope of their employment, and under color of law. Id. at ¶ 4.

Response: Agreed.

7. On June 12, 2017, a judge in the Circuit Court of the Eighteenth Judicial Circuit of DuPage County in the State of Illinois issued a body attachment for indirect civil contempt directed at an individual named Khalid Ali. (hereinafter "warrant"). See Warrant for the arrest of Khalid Ali, attached hereto as Ex. B, See Exhibit A at ¶¶5-9.

Response: Agreed.

8. On April 15, 2018, Plaintiff was driving his vehicle on Michigan Avenue when he committed an illegal U-turn. See Exhibit A at ¶ 10. See Deposition of Khalid Ali, attached hereto as Exhibit C at 16:10-18. See Deposition of Defendant Valdes, attached hereto as Exhibit D at 5:21-24, 6:1-9. See Traffic Ticket, attached hereto as Exhibit E.

Response: Agreed.

9. On April 15, 2018, Defendant Valdes, who was on routine patrol at that time, observed Plaintiff make the illegal U-Turn and initiated a traffic stop of Plaintiff's vehicle for the purposes of issuing a traffic citation. See Exhibit D at 5:18-24, 6:1-15. 8:1-10.

Response: Agreed.

10. During the traffic stop Plaintiff provided his driver's license to Defendant Valdes. See Exhibit C at 19:16-22; See Exhibit D at

7:14-17. See Body Camera Video, attached hereto as Exhibit J-1 at 2:00-2:12.

Response: Agreed,

11. During the traffic stop, Defendant Valdes conducted a routine Law Enforcement Agencies Data System (hereinafter "LEADS") inquiry by inputting the information on Plaintiff's driver's license into her squad car's computer. See Exhibit D at 13:4-7. See Exhibit A at ¶ 9; See Exhibit J-1 at. 2:12-9:04.

Response: Disputed. Valdes did not make a LEADS query during the traffic stop; she asked the dispatcher to do a check on plaintiff's driver's license number. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, at 4 minutes and 29 seconds after she turned on her recorder. See Plaintiff's Exhibit 1 at 2.) The LEADS query was made at 2:35 p.m. on April 15, 2018. (LEADS Report, ECF No. 79-8 at 2.) Valdes left the scene of the traffic stop at 2:24 p.m., 45 minutes and 13 seconds after she began recording at 1:39 p.m. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10.)

12. LEADS is a nationwide database containing the status of driver's licenses and other information, including active warrants. See Deposition of Defendant Vogt, attached hereto as Exhibit F at 18:18-22, 47:14-17; See Deposition of 30(b) (6) Witness, Curtis G. Mullenix, attached hereto as Exhibit G at 24:1-24-26:1-9.

Response: Objection: This contention is not supported by the cited material. Lieutenant Vogt explained his understanding of the information contained in LEADS, as appears in the cited portion of his deposition: "The issuing agency, as I understand it, when a warrant is issued in a court, they put it into a national database with all the particular information of the person who is wanted." (Vogt Dep. 18:18-22, ECF 79-6 at 6.) Vogt also stated his understanding of the person who inputs the information into the LEADS report: "As I understand it, it is the issuing court system." (Vogt Dep. 47:16-18, ECF 79-6 at 13.) Nothing in the cited material shows that Vogt has personal knowledge of LEADS.

Lieutenant Mullenix testified in the cited portion of his deposition in response to the question: "How do you determine if the person shown you have in custody is the person sought in the warrant?" (Mullenix Dep. 24:3-5, ECF No. 79-7 at 12.) Nothing in Mullenix's lengthy answer (Mullenix Dep. 24:6-26:9, ECF No. 79-7 at 12-13) provides any information about LEADS.

13. When a warrant is issued by a court, the issuing court puts that warrant as well as the person's identifying information into

LEADS. See Exhibit F at 18:18-22, 47:14-17; See Exhibit G at 24:1-26:9.

Response: Objection: This contention is not supported by the cited material. Nothing in the record shows that the court, rather than the Sheriff, places warrant information into LEADS. See *Vasquez v. Will Cty. Sheriff's Office*, No. 18 C 3137, 2019 WL 4189477, at *1 (N.D. Ill. Sept. 4, 2019) ("The Will County Sheriff's Office is the agency that enters all warrants issued in Will County into the LEADS system, and it is responsible for editing and deleting those warrants as necessary.")

14. The results of that LEADS inquiry indicated that there was an active warrant for Plaintiff's arrest issued by DuPage County for contempt of court; See Exhibit D at 13:4-7, 14:6-7; See LEADS Report, attached hereto as Exhibit H; See Exhibit A at ¶16.

Response: Disputed. The LEADS query was made at 2:35 p.m. on April 15, 2018. (LEADS Report, ECF No. 79-8 at 2.) Valdes left the scene of the traffic stop at 2:24 p.m., 45 minutes and 13 seconds after she began recording at 1:39 p.m. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10.) All that Valdes knew while she was at the scene was that plaintiff "may have a warrant." (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10 at 5:48, Plaintiff's Exhibit 1 at 2.)

15. The LEADS report contained the same identifying information that is on Plaintiff's driver's license, which included the same: name, date of birth, driver's license number, sex, height, and hair and eye color. See Exhibit H; See Exhibit C at 9:11-17; See Exhibit A at ¶ 11; See Exhibit F at 16:15-24; See Exhibit D at 8:15- 24 See Plaintiff's Arrest Report, attached hereto as Exhibit I at 1; See Exhibit E.

Response: Disputed insofar as this paragraph is a contention that the LEADS report was available to defendants during the traffic stop. The LEADS query was made at 2:35 p.m. on April 15, 2018. (LEADS Report, ECF No. 79-8 at 2.) Valdes left the scene of the traffic stop at 2:24 p.m., 45 minutes and 13 seconds after she began recording at 1:39 p.m. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10.)

16. During the traffic stop, Defendant Valdes attempted further to verify that Plaintiff was the subject of the warrant by calling DuPage County who would not release the information to her over the phone. See Exhibit D at 17:7-18; See Exhibit J-1 at 9:19-14:49; 15:52-16:30; 18:56-23:00, 24:05-25:00.

Response: Agreed.

17. During the traffic stop, to further to verify that Plaintiff was the subject of the warrant several additional LEADS inquiries

were made again. See Exhibit D at 17:15-22; See J-1 at 16:30-21:00, 24:05-25:00, 26:00-32:00.

Response: Disputed. Valdes did not make a LEADS inquiry while at the scene. The first LEADS inquiry was initiated at 2:45 p.m., after Valdes arrived at the police station with plaintiff. See response to paragraph 11 above. The cited portion of the deposition of Defendant Valdes (Valdes Dep. 17:15-22, ECF N. 79-4 at 6) does not provide any evidence of a LEADS inquiry. The same is true for the cited excerpts of the bodycam recording. For example, Valdes states as follows at 24 minutes into the recording:

Hey. Okay. I need your help. Okay. So I stopped this fucking cabbie. He comes back with a possible warrant. Dispatch told me to call Dupage. Dupage says they can't tell me anything over the phone. [inaudible]

(Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10; Plaintiff's Exhibit 1 at 8.)

18. If a LEADS inquiry returns results of an active warrant the police officer usually calls OEMC to verify that the information that they inputted for the LEADS inquiry matches the information that OEMC has. See Exhibit G at 24:1-26:9.

Response: Objection. Valdes did not make a LEADS inquiry while at the scene. See Response to Contention 17. Evidence about what an officer "usually" does is not material.

19. During the traffic stop, Defendant Valdes attempted further to verify that Plaintiff was the subject of the warrant by contacting a dispatcher to confirm the warrant and informed the dispatcher that she was not able to receive information directly from DuPage County. See Exhibit D at 17:23-18:1; See J-1 at 14:49-15:52, 24:05-25:00.

Response: Agreed.

20. During the traffic stop, Defendant Kelyana arrived on scene to assist Defendant Valdes. See Exhibit D at 30:8-9; See Deposition of John Kelyana, attached hereto as Exhibit L at 7:5-16; See Exhibit J-1 at 28:29; See Body Camera Video, attached hereto as Exhibit J-2 at 00:01- 00:29.

Response: Agreed.

21. Based upon the information she received from LEADS and to further investigate the warrant, Defendant Valdes arrested Plaintiff at approximately 1:42 pm and transported him to the eighteenth district police station at 2:25 pm. Exhibit D at 22:17-

24, 23:1-7, 29:17-22; 52:19-22; See Exhibit I at 1,4; See Exhibit H; See Exhibit J-1 at 40:00-44:00.

Response: Disputed. Valdes did not receive any information from LEADS at the scene of the traffic stop. See response to paragraph 11 above. **Objection:** This contention is not material because plaintiff does not challenge his detention before he arrived at the police station.

22. The bottom of the LEADS response states "confirm with ORA." See Exhibit H.23. "Confirm with ORA" means that the officer should confirm the information contained in the LEADS response with the originating agency. See Deposition of Kevin Reppen, attached hereto as Exhibit K at 13:16-24, 17:1.

Response: Disputed as to "should." Reppen testified "To my knowledge, it [confirm with ORA] means confirm with the originating agency." (Reppen Dep. 13:23-14:1, ECF No. 79-11 at 5.) **Objection:** This contention is not material because plaintiff does not challenge his detention before he arrived at the police station.

24. To "confirm with ORA" an officer provides the LEADS desk with the information contained in the initial response from the LEADS inquiry in order to confirm that the results were accurate. See *Id.* at 14:5-10.

Response: Objection for lack of foundation: Reppen did not explain the basis for his "understanding." (Reppen Dep. 14:5, ECF No. 79-11 at 5.)

25. It is the responsibility of the person at the LEADS desk to contact the originating agency to confirm the validity of the LEADS response. See *Id.* at 14:16-24, 15:1-3.

Response: Objection for lack of foundation: Reppen did not explain the basis for his "understanding." (Reppen Dep. 14:16, ECF No. 79-11 at 5.)

26. Defendant Vogt received a facsimile of the warrant on April 15, 2018. *Id.* at 18:1-6.

Response: Agreed.

27. The top portion of the warrant contains Plaintiff's name as the person that is the subject of the warrant, and the bottom portion of the warrant contains an address, weight and date of birth, and an inch height that differs from the information on Plaintiff's driver's license. See Exhibit B. See Exhibit H; See Exhibit C at 9:11-17; See Exhibit A at ¶ 11; See Exhibit F at 16:15-24; See Exhibit D at 8:15- 24; I at 1; See Exhibit E.

Response: Agreed.

28. The warrant did not contain an I.R. number. *Id.*; See Exhibit F at 19:14- 20:1-4. An I.R. number is a record that identifies an

individual by their fingerprints and other demographics. See Exhibit F at 20-15.

Response: Agreed.

29. The warrant set a cash bond for \$150 and states that if bond is not able to be posted then arrestee should be taken before any judge within 24 hours following the arrest. See Exhibit B.

Response: Agreed.

30. [a] Defendant Vogt only looked at the name on the top portion of the warrant [b] because he believed that the LEADS printout accurately reflected the content of the warrant. See Exhibit F at 18:1-17.

Response: [a] Agreed.

[b] Objection: Vogt's subjective beliefs are not relevant to plaintiff's Fourth Amendment claims.

31. Neither Defendant Kelyana, Defendant Valdes, nor Defendant Reppen ever saw a copy of the actual warrant. See Exhibit L at 11:11-13, 12:15-19; See Exhibit D at 32:3-7, 42:18-21; See Exhibit K at 7:7-16.

Response: Disputed. (Ali Dep. 33:6-14, ECF No. 79-3 at 10) ("everyone was seeing" the warrant). Ali Dep. (47:11-21, ECF No. 79-3 at 14) (uniformed officers and two white shirt officers asking questions indicative of having seen the warrant).

32. At the police station, Defendant Kelyana contacted a representative from LEADS to confirm that the warrant for Plaintiff's arrest was valid. See Exhibit D at 31:19-32:1-2, 37:14-16; See Exhibit L at 10:19-24; 11:1-10; See Declaration of John Keylana, attached hereto as Exhibit M at ¶ 3.

Response: Objection: The Court should strike the Declaration of John Kelyana as an impermissible "patch-up" declaration, as plaintiff explains in his memorandum in opposition to the motion for summary judgment. Plaintiff does not otherwise dispute this contention.

33. The representative from LEADS did not tell Defendant Kelyana that the warrant had to be confirmed with DuPage County. See Exhibit L at 11:11-13, 12:15-19; See Exhibit D at 32:3-7.

Response: Objection. While information received by Kelyana might be relevant, the fact that the LEADS desk may not have provided specific information is not material.

34. Defendant Valdes wrote the arrest report and traffic citation for Plaintiff. See Exhibit D at 31:19-22, 37:17-18, 44:20-45:1; See Exhibit I at 3; See Exhibit E.

Response: Agreed.

35. The arrest report was completed at approximately 4:11 p.m. See Exhibit I at 3; See Exhibit D at 14:16; See Exhibit L at 13:11-14.

Response: Agreed.

36. Defendant Valdes submitted the completed arrest report to her supervisor, Defendant Reppen, for his review and approval. See Exhibit D at 37:23-24; 38:1-1-12; See Exhibit K at 5:8-20; Exhibit F at 39:12-13; See Exhibit I at 3.

Response: Agreed.

37. Defendant Reppen was working as watch operations commander at the time Plaintiff was brought to the police station on April 15, 2018. See Exhibit K at 4:24, 5:8-12.

Response: Agreed.

38. At 4:14 pm, Defendant Reppen approved the initial approval of probable cause to arrest Plaintiff pursuant to the warrant. See Exhibit I at 3; See Exhibit K at 5:5-20.

Response: Agreed.

39. The initial approval of probable cause to arrest Plaintiff was determined by reviewing the arrest report submitted to Defendant Reppen by the arresting officers and determining whether there was probable cause to detain Plaintiff pending the outcome of his processing. See Exhibit K at 5:8-20.

Response: Disputed. (Ali Dep. 47:11-21, ECF No. 79-3 at 14) (Reppen is one of the two white shirt officers who asked plaintiff questions indicative of having seen the warrant, which had arrived at the police station at 3:04 p.m., as appears in the fax header on the warrant, ECF No. 79-2 at 2.)

40. Plaintiff was received in lockup at 4:19 p.m. See Exhibit I at 4. See Exhibit D at 40:10-12.

Response: Agreed.

41. Plaintiff's booking photo was taken at 4:25 pm and his fingerprints were taken at 4:29 pm. See Exhibit I at 4.

Response: Agreed.

42. On April 15, 2018, Defendant Vogt was the Desk Sergeant on duty. See Exhibit F at 4:12-14, 8:18-9:1

Response: Agreed.

43. Defendant Vogt conducted the final approval of charges against Plaintiff at approximately 7:01 p.m. See Exhibit F at 12: 9-16, 16:11-14.

Response: Agreed.

44. Defendant Vogt approved the final charges based upon the LEADS report that he received which named Plaintiff as the person that was the subject of the warrant and that had all of Plaintiff's identifying information. *Id.* at 16:22-24, 17:1. See Declaration of Vincent Vogt attached hereto as Exhibit Q at ¶4.

Response: Objection: The Court should strike the "patch-up" declaration of Vogt for the reasons set out in plaintiff's memorandum in opposition to summary judgment. Otherwise, disputed: (Ali Dep. 47:11-21, ECF No. 79-3 at 14) (Vogt is one of the two white shirt officers who asked plaintiff questions indicative of having seen the warrant, which had arrived at the police station at 3:04 p.m., as appears in the fax header on the warrant, Warrant, ECF No. 79-2 at 2.)

45. [a] Defendant Vogt relied upon the LEADS printout [b] because it contained all of Plaintiff's identifying information and he therefore believed that it accurately reflected the information contained in the warrant. *Id.* at 16:22-24, 17:1-6; See Exhibit Q at ¶4.

Response: [a] Agreed.

[b] Objection: Vogt's subjective beliefs are not relevant to plaintiff's Fourth Amendment claims.

46. Plaintiff was arrested for the first time on April 15, 2018, therefore, he had no fingerprints on record or an I.R. number prior to his arrest on April 15, 2018. See Exhibit C at 28:16-23; 67:9-10; 77:12-14; See Exhibit G at 20:11-24 See Exhibit F at 6-15. See Plaintiff's Criminal History Report attached hereto as Exhibit N.

Response: Agreed.

47. Final approval of probable cause for an arrest on a warrant cannot occur until the fingerprints clear through the system, because fingerprints determine if the person arrested is the person that is subject of the warrant. See Exhibit F at 43:19-44:2. See Exhibit G at 37:12-21.

Response: Disputed. (Chicago Police Department Special Order S06-01, II(B)5, Plaintiff's Exhibit 2) (station supervisor may waive results of fingerprint check).

48. Defendant Vogt does not have a recollection as to what time the fingerprints cleared. See Exhibit F at 44:2-5.

Response: Agreed.

49. [a] Plaintiff had the cash to post bond, however, [b] Plaintiff was not entitled to post bond until the processing of his arrest is complete and [c] a court date is issued for his appearance. See Exhibit F at 11:12-22, 48:17-49:5; See Exhibit J-1 at 40:00-40:42; See Exhibit J-2 at 00:40-58.

Response: [a] Agreed.

[b] Agreed.

[c] This contention is not supported by any written rule or regulation of the Chicago police department. (Mullenix Dep. 32:11-13, ECF No. 79-7 at 32.) Lieutenant Mullenix, testifying as a Rule 30(b)(6) witness, claimed that there was such a rule, but he was unable to explain the basis for that belief. (Mullenix Dep. 35:20-36:4, ECF No. 79-7 at 15.)

50. The processing of Plaintiff's arrest was not complete until after 7:00 p.m. See Exhibit F at 11:12-22.

Response: Agreed.

51. On April 15, 2018, the courts would have been closed at approximately 4 p.m. and prior to 5 p.m. See Exhibit F at 48:23-49:24.

Response: Objection: This contention is not supported by the cited material. Vogt stated that he did not attempt to obtain a court date for plaintiff. (Vogt Dep. 24:23-24:2, ECF No. 79-6 at 7.)

52. Defendant Kelyana told Plaintiff that he believed he would be able to post bond. See Exhibit L at 15:21-23; See Exhibit L at C at 25:18-26:9; See Exhibit J-1 at 40:00-40:42; See Exhibit J-2 at 00:40-58.

Response: Agreed.

53. Defendant Vogt does not have a recollection that Plaintiff was not permitted to post bond on April 15, 2018. See Exhibit F at 11:12-22

Response: Vogt's claims of lack of recollection is immaterial and this contention should be stricken.

54. Defendant Valdes, Defendant Kelyana, and Defendant Reppen [a] did not tell Plaintiff he would not be able to post bond and [b] had no involvement in any decision of whether Plaintiff would be permitted to post bond. See Exhibit M at ¶4. [c] Nor did Defendant Valdes or Defendant Kelyana have the authority to permit or refuse a bond to be posted by or on behalf of an arrestee. See Exhibit M at ¶4; See Declaration of Nora Valdes attached hereto as Exhibit O at ¶3; See Declaration of Kevin Reppen attached hereto as Exhibit P at ¶4; See Exhibit D at 38:4-39:8; See Exhibit J-1 at 39:20-

39:36, 40:00-40:42; See Exhibit J-2 at 00:40-58; See Exhibit K at 5:21-23.

Response: [a] Objection: what these defendants told plaintiff about posting bond is not material to the questions at issue on summary judgment. Plaintiff also objects to the impermissible “patch-up” declarations for the reasons set out in plaintiff’s memorandum in opposition to summary judgment.

[b] Disputed. Valdes and Kelyana had the power to release plaintiff at the traffic stop.

[c] Agreed.

55. The Circuit Court of Cook County of Illinois General Administrative Order No. 2015-06 (hereinafter “Circuit Court Policy”) provides that “Defendants taken into custody by an arresting agency located within Cook County on an arrest warrant issued by an Illinois state court outside of Cook County shall be required to appear in bond court in the appropriate district or division of this court.” See Exhibit K at 5:21- 6:2; See Exhibit G at 16:14-17:6, 21:19-22:4, 22:17-23:1; See Exhibit F at 50:6-23. See Circuit Court Policy attached hereto as Exhibit R.

Response: Agreed.

56. All arresting agencies are required to comply with the Circuit Court Policy. See Exhibit R.

Response: Disputed. “The GAO is not equivalent to a court order and violation of the GAO is not punishable by contempt of court.” *Alcorn v. City of Chicago*, No. 17 C 5859, 2018 WL 3614010, at *8 (N.D. Ill. July 27, 2018).

57. Plaintiff was held in custody overnight. See Exhibit C 56:15-17.

Response: Agreed.

58. The morning of April 16, 2018 at 6:25, Plaintiff was transported to a Cook County court and released on bond and given a date to appear in court in DuPage County. See Exhibit C 58:3-59:4, 60: 17-62:12, 64:10-66:18; See Exhibit I at 4.

Response: Agreed.

59. Plaintiff appeared in court in DuPage County on the warrant and the court determined that Plaintiff was not the subject of the warrant and his bond was returned to him. See Exhibit C at 71:10-73:24. See Receipt from Clerk of the 18th Judicial Circuit Court DuPage County, IL attached hereto as Exhibit S; See Circuit Court of the Eighteenth Judicial Circuit of DuPage County in the State of Illinois Court Order attached hereto as Exhibit T.

Response: Agreed.

60. [a] Defendant Vogt had no involvement or contact with Plaintiff after my (sic) tour of duty ended on April 15, 2018 and [b] had no involvement in any claims regarding the warrant on which Plaintiff was held. See Exhibit Q at ¶5.

Response: [a] Agreed.

[b] Disputed. Vogt made a decision to detain plaintiff. See Response to Contentions 44-45 above.

61. On April 15, 2018, [a] Defendant Valdes and Defendant Keylana had no involvement or contact with Plaintiff after his arrest was processed and [b] had no involvement in any claims regarding the warrant on which Plaintiff was held. See Exhibit O at ¶5; See Exhibit M at ¶5. See Exhibit 39:6-11, 40:7-12

Response: [a] Agreed.

[b] Plaintiff is unable to respond to this contention because the meaning of “had no involvement in any claims regarding the warrant on which Plaintiff was held” is unclear. Valdes and Keylana were responsible for detaining plaintiff at the scene of the arrest for nearly 45 minutes and thereafter at the police station.

62. On April 15, 2018, [a] Defendant Reppen had no personal contact with Plaintiff and [b] had no involvement in any claims regarding the warrant on which Plaintiff was held. See Exhibit P at ¶5.

Response: [a] Agreed.

[b] Disputed. Reppen made a decision to detain plaintiff. See Contention 38 above.

63. On April 15, 2018, Defendant Reppen’s only involvement in Plaintiff’s arrest was administrative in nature. See Exhibit P at ¶3.

Response: The Court should strike the “patch-up” declaration. Plaintiff is unable to respond to this contention because the meaning of “administrative in nature” is unclear. Otherwise: Disputed. Reppen made a decision to detain plaintiff. See Contention 38 above (“At 4:14 pm, Defendant Reppen approved the initial approval of probable cause to arrest Plaintiff pursuant to the warrant.”)

64. On April 15, 2018, Defendant Vogt’s only involvement in Plaintiff’s arrest was administrative in nature. See Exhibit Q at ¶3; 8:18-9:1

Response: The Court should strike the “patch-up” declaration. Plaintiff is unable to respond to this contention because the meaning of “administrative in nature” is unclear. Otherwise: Disputed. Vogt made a decision to detain plaintiff on the warrant. See Contentions 44-45 above.

Plaintiff's Additional Facts

1. Defendant Chicago Police Officer Nora Valdes stopped plaintiff, who was driving a Chicago taxicab, for making an illegal U-turn on April 15, 2018 at about 1:39 p.m. when she began recording on her bodycam. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10.)

2. The interactions between plaintiff and defendants Valdes and Kelyana during the traffic stop are preserved on the officers' body cameras, filed by defendants in digital format as Exhibit J, ECF 79-10, and transcribed (as an aid to the Court) as Plaintiff's Exhibit 1.

3. Defendants Valdes and Kelyana inspected plaintiff's valid Illinois driver's license and determined that he lived in the City of Chicago at a specified address in the 5000 block of North Harding Avenue, that he had been born on a specified date in April of 1972, that he was five feet eight inches tall, and that he weighed 200 pounds. (Answer to Amended Complaint, admitting ¶ 11, ECF No. 32 at 3.) Plaintiff also provided Valdes with his City of Chicago Chauffeur's license. (Ali Dep. 19:18-22, ECF No. 79-3 at 7; Plaintiff's Exhibit 3, frame grab of AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10.)

4. Defendant Valdes detained plaintiff while she asked the dispatcher to run a check on plaintiff's driver's license. (Video,

AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 4:29, Plaintiff's Exhibit 1 at 2.)

5. The dispatcher responded to the query and reported that there was a "possible hit" (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 14:03, Plaintiff's Exhibit 1 at 4), and that plaintiff may be the subject of a warrant for contempt of court from DuPage County. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 5:48, Plaintiff's Exhibit 1 at 2.)

6. Valdes then telephoned DuPage County to attempt to confirm the warrant, (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 12:06, Plaintiff's Exhibit 1 at 4), but DuPage County refused to confirm the warrant over the telephone. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 16:17, 17:39, Plaintiff's Exhibit 1 at 5.)

7. Valdes referred to the LEADS response as showing a "possible hit" in her conversation with DuPage County. (Valdes Dep. 16:8-17:6, ECF No. 79-4 at 5-6.)

8. Valdes telephoned the police department's Law Enforcement Agencies Data System ("LEADS") desk (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 19:52,

Plaintiff's Exhibit 1 at 6.) Valdes explained her plight to another officer as follows:

Hey. Okay. I need your help. Okay. So I stopped this fucking cabbie. He comes back with a possible warrant. Dispatch told me to call DuPage. DuPage says they can't tell me anything over the phone. [inaudible]

That they can't tell me if it's a good warrant over the phone. That I will have to go through dispatch to send them a request, a LEADS request. I called LEADS. They're saying I will have to call dispatch which I did over the air and I'm like, "Hey, can you put in a request?" [inaudible]

(Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 24:00, Plaintiff's Exhibit 1 at 8.)

9. Valdes then spoke with her sergeant, who told Valdes to bring plaintiff to the police station. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 26:59, Plaintiff's Exhibit 1 at 9.)

10. Defendant Kelyana suggested to Valdes that she ask plaintiff if he knew about the warrant. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 31:05, Plaintiff's Exhibit 1 at 10.)

11. Plaintiff denied all knowledge of any warrant (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 33:36, Plaintiff's Exhibit 1 at 11), and stated that he had never been to DuPage County. (*Id.* at 33:41, Plaintiff's Exhibit 1 at 11.)

12. Defendant Kelyana encouraged Valdes to forget about the warrant (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 34:46, Plaintiff's Exhibit 1 at 11), but Valdes refused: "Dude, I'm not going to release somebody that's wanted in a fucking –" (*Id. at 34:48, Exhibit 1 at 12.*)

13. Valdes left the scene of the traffic stop at 2:24 p.m., 45 minutes and 13 seconds after she began recording at 1:39 p.m. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10.)

14. Before Valdes took plaintiff to the station, she and Kelyana learned that plaintiff had more than four hundred dollars in cash. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 41:19, Plaintiff's Exhibit 1 at 14.)

15. Kelyana continued to question plaintiff about the warrant while she drove to the station. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 42:38, Plaintiff's Exhibit 1 at 15.)

16. Plaintiff repeatedly asserted that he had never been to DuPage County, that he did not know anything about a warrant, and that he had not missed court anywhere, including DuPage County. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 43:28, Plaintiff's Exhibit 1 at 15.)

17. Plaintiff also told Valdes that he had never been arrested in Illinois. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 47:30, Plaintiff's Exhibit 1 at 17.)

18. The officers verified that plaintiff had never before been arrested when they secured plaintiff's "rap sheet," filed as Defendants' Exhibit N, ECF No. 79-14 at 2, which is part of the "court packet" that defendant Vogt prepared. (Vogt Dep. 9:6-15, ECF No. 79-6 at 4.)

19. Valdes knew that the warrant "[m]akes no sense" (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 47:35, Plaintiff's Exhibit 1 at 17), and asked plaintiff if he had been stopped by the police for anything. (*Id.* at 47:54)

20. Plaintiff continued to deny that he had missed court in DuPage County. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 48:52, Plaintiff's Exhibit 1 at 17.)

21. Plaintiff arrived at the police station at 2:34 p.m. on April 15, 2018. (Video, AXON_Body_2_Video_2018-04-15_1339.mp4, ECF No. 79-10, at 55:30.)

22. The City of Chicago requires its police to verify that a person arrested because of a computer "name check" is the person named in a warrant. *Hernandez v. Sheahan*, 455 F.3d 772, 774 (7th Cir. 2006).

23. The standard operating procedure of the Chicago Police Department following the arrest of person on a warrant is for “the station supervisor” to “verify that the arrestee and person wanted on the warrant are the same person.” (Chicago Police Department Special Order S06-01-04(IV)(C)(1), Exhibit 2 at 4; Mullenix Dep. 27:22-24, ECF No. 79-7 at 13.)

24. Defendant Vogt was the desk sergeant (or “station supervisor”) at the 18th District Police Station from 1:00 p.m. to 10:00 p.m. on April 15, 2018. (Vogt Dep. 40:3-11, ECF No. 79-6 at 7; Vogt Dep. 4:10, ECF No. 79-6 at 7.)

25. Part of Vogt’s responsibility on April 15, 2018 was to review incoming faxes. (Reppen Dep. 18:13-15, ECF No. 79-11 at 4.)

26. Vogt received the fax of the warrant on April 15, 2018. (Vogt Dep. 18:18:1-4, ECF No. 79-6 at 6.)

27. The fax of the warrant arrived at the 18th District police station at 3:04 p.m. on April 15, 2018. (Fax Header, ECF No. 79-2 at 2.)

28. The contents of the warrant that were included in the fax did not match the LEADS printout. (Vogt Dep. 19:10-13, ECF No. 79-6 at 6.)

29. Another part of Vogt’s job on April 15, 2018 was to determine whether an arrestee was being erroneously held on a warrant. (Reppen Dep. 18:16-19, ECF No. 79-11 at 4.)

30. The warrant shows that it had been issued on June 13, 2017 in a civil lawsuit captioned *Nesbitt v. Klean Motors, Inc.* and described the person sought (named “Khalid Ali”) as 58 years of age, with a date of birth in 1957, five feet seven inches tall, and weighing 250 pounds. (ECF 79-2 at 2.)

31. Defendants had accepted the correctness of plaintiff’s 1972 date of birth, his employment as a Chicago taxicab driver, and his home address in the 5000 block of North Harding Avenue in Chicago in the traffic ticket (ECF 79-5 at 2) and the arrest report (ECF No. 79-9 at 2), which defendant Vogt approved at 7:01 p.m. on April 15, 2018. (ECF No. 79-9 at 6.)

32. The 15 year discrepancy between plaintiff’s date of birth and the date of birth of the person sought in the warrant was so great that more information would be needed to determine if the plaintiff was the person sought in the warrant. (Mullenix Dep. 30:2-14, ECF No. 79-7 at 14.)

33. The warrant stated that the person sought resided in Skokie, Illinois and was then employed at S.A. Auto, also in Skokie. (ECF No. 79-2 at 2.)

34. The warrant did not contain any information about the driver’s license number of the person sought. (ECF No. 79-2 at 2.)

35. Defendant Vogt based his decision to find probable cause (Answer to Amended Complaint, ¶ 21, ECF No. 32 at 4), solely on the information contained in the LEADS printout (Vogt Declaration, ¶ 4, ECF No. 79-17 at 2), which identified the person sought as five feet eight inches tall, weighing 167 pounds, with plaintiff's date of birth and plaintiff's driver's license; Vogt did not consider the discrepancies between the LEADS printout and the actual warrant (Vogt Dep. 18:13-17, ECF No. 79-6 at 6) when he approved holding Mr. Ali on the warrant at 7:01 p.m. on April 15, 2018. (Vogt Dep. 16:11-14, ECF No. 79-6 at 5.)

36. Defendant Reppen was the "watch operations lieutenant" or "watch commander" at the 18th District on April 15, 2018. (Reppen Dep. 5:2-7, ECF No. 79-11 at 3; Reppen Dep. 12:11-13, ECF No. 79-11 at 4.)

37. As the watch commander on April 15, 2018, defendant Reppen had the power to conclude that a person being held on a warrant was not the person sought in that warrant and to order the release of that person. (Reppen Dep. 19:20-20:13, ECF No. 79-11 at 6.)

38. Reppen approved the continued detention of plaintiff at 4:14 p.m. on April 15, 2018. (Reppen Dep. 8:18, ECF No. 79-3; Arrest Report at 3, ECF No. 79-9 at 4; Answer to Amended Complaint, ¶ 21, ECF No. 32 at 4.)

39. At the police station, two white shirted officers repeatedly asked plaintiff about his age, trying to reconcile plaintiff's date of birth in 1972 with the much older person sought in the warrant. (Ali Dep. 42:6-7, ECF No. 79-3 at 10.)

40. Sergeants and lieutenants in the Chicago police department, wear white shirts if not working in an undercover position. (Kelyana Dep. 13:24-14:9, ECF No. 79-12 at 5.)

/s/ Kenneth N. Flaxman
Kenneth N. Flaxman
ARDC No. 0830399
Joel A. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
Attorneys for Plaintiff