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, et al.,	)	*(Judge Chang)*
	)	
Defendants.	)	

MEMORANDUM IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

The Court should deny the motion for summary judgment filed by the defendants Valdes, Kelyana, Vogt, and Reppen.[1] Plaintiff explains below that the unconstitutionality of defendants' actions was clearly established, and that a jury would be entitled to find that defendants knew, after reviewing the actual warrant:

1. Plaintiff was not the person described in the warrant, and

2. Plaintiff had enough cash to post the bond set on the warrant.

I. Introduction: The Undisputed Historical Facts

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. (Plaintiff's Additional Facts ¶ 1.) Plaintiff provided Valdes with his valid Illinois driver's license and his City of Chicago chauffeur's license. (Plaintiff's Additional Facts ¶ 3.)

[1] Defendant City of Chicago has not moved for summary judgment on plaintiff's *Monell* claim, which can proceed even if the Court grants summary judgment the individual defendants. *E.g.*, *Thomas v. Cook County Sheriff's Dep't*, 604 F.3d 293, 305 (7th Cir. 2010).

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. Plaintiff submits as Exhibit 1 a transcript of the audio extracted from the bodycam worn by defendant Valdes.[2] (Plaintiff's Additional Facts ¶ 2.)

Defendant Valdes detained plaintiff while she asked the dispatcher to run a check on plaintiff's driver's license.[3] (Plaintiff's Additional Facts ¶ 4.) The dispatcher responded to the query and reported that plaintiff may be the subject of a warrant for contempt of court from DuPage County. (Plaintiff's Additional Facts ¶ 5.) Valdes then telephoned DuPage County to attempt to confirm the warrant, but DuPage refused to provide any information by telephone (Plaintiff's Additional Facts ¶ 6.) Valdes referred in that conversation to the name check as showing a "possible hit." (Plaintiff's Additional Facts ¶ 7.)

Valdes telephoned the Law Enforcement Agencies Data System ("LEADS") desk of the Chicago Police Department but was again unable to confirm the warrant. (Plaintiff's Additional Facts ¶ 8.) Valdes explained her plight to another officer, admitting that there was "a possible warrant" and that she had not been able to confirm that it was "a

[2] Plaintiff tenders this transcript to assist the Court in following the video; plaintiff does not contend that the transcript is evidence of what was said and who said it. *See* SEVENTH CIRCUIT CRIMINAL PATTERN INSTRUCTION 3.14.

[3] Defendants mistakenly assert that Valdes ran a "LEADS" check at the scene. (Defendants' Rule 56 Statement, ¶¶ 11, 14, 15, 18.) This is incorrect. Valdes requested the dispatcher to perform a driver's license check, which indicated a possible warrant from DuPage County in a civil matter for a person with the same name as plaintiff, but having a different date of birth, different residence address, different employment, and weighing 50 pounds more than plaintiff. *See, infra* at 4.

good warrant."(*Id.*) Valdes then spoke with her sergeant, who told Valdes to bring plaintiff to the police station. (Plaintiff's Additional Facts ¶ 9.)

Defendant Kelyana suggested to Valdes that she ask plaintiff if he knew about the warrant. (Plaintiff's Additional Facts ¶ 10.) Plaintiff denied all knowledge of any warrant and stated that he had never been to DuPage County. (Plaintiff's Additional Facts ¶ 11.) Defendant Kelyana encouraged Valdes to forget about the warrant, but Valdes refused ("Dude, I'm not going to release somebody that's wanted in a fucking –"). (Plaintiff's Additional Facts ¶ 12.) Valdes then took plaintiff to the police station. (Plaintiff's Additional Facts ¶ 13.)

II. Constitutional Issues Presented by the Conduct of Defendant Valdes at the Traffic Stop

Defendant Valdes required probable cause to make the initial traffic stop. Plaintiff does not dispute that Valdes saw him make an illegal U-turn and had probable cause.

Similarly, plaintiff does not challenge the decision of defendant Valdes to conduct a name check while she wrote the traffic citations. *Hall v. City of Chicago*, 953 F.3d 945, 948 (7th Cir. 2020) (detention for a name check is reasonable).

While the lengthy detention at the scene of the traffic stop may be problematic—Valdes pulled over plaintiff's taxicab at about 1:39 p.m. and detained plaintiff at the scene for about 45 minutes, until 2:24 p.m. (Plaintiff's Additional Facts, ¶ 13)— plaintiff does not challenge his detention at the scene. Nor does plaintiff challenge his continued detention while defendant Valdes drove him to the police station. Plaintiff's claims in this case start at 3:04 p.m. when a copy of the actual warrant arrived at the police station.

III. Defendant Vogt Received and Reviewed the Warrant

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. (Plaintiff's Additional Fact, ¶ 24.) Vogt's responsibility on April 15, 2018 included reviewing incoming faxes (Plaintiff's Additional Fact, ¶ 25) and determining if an arrestee was being erroneously held on a warrant. (Plaintiff's Additional Facts, ¶ 29.)

Defendant Vogt received a fax with a copy of the warrant (Plaintiff's Additional Facts, ¶ 26) at 3:04 p.m. on April 15, 2018. (Plaintiff's Additional Facts, ¶ 27.) The warrant showed that plaintiff was not the person whose arrest it authorized:

1. **Age difference:** Plaintiff was 45 years of age; the warrant authorized the arrest of a person who was 61 years of age. (Plaintiff's Additional Facts, ¶32.)
2. **Residence:** Plaintiff lived in Chicago; the warrant authorized the arrest of a person who lived in Skokie. (Plaintiff's Additional Facts ¶ 33.)
3. **Employment:** Plaintiff was a cab driver, licensed by the City of Chicago. The person sought in the warrant worked for "S.A. Auto" in Skokie. (Plaintiff's Additional Facts ¶ 33.)
4. **Height and Weight:** Plaintiff was five feet eight inches tall and weighed 200 pounds. (Plaintiff's Additional Facts ¶ 3.) The person sought in the warrant was five feet seven inches tall and weighed 250 pounds. (Plaintiff's Additional Facts ¶ 30.)

Defendant Vogt did not consider the discrepancies between plaintiff and the person sought in the warrant when he approved holding plaintiff on the warrant at 7:01 p.m. on April 15, 2018. (Plaintiff's Additional Facts, ¶ 35.) Instead, Defendant Vogt asserts that he relied solely on information contained in the LEADS printout. (*Id.)* This printout was plainly wrong, showing that the person sought in the warrant weighed 167 pounds—83 pounds less than the person in the warrant, and 33 pounds less than plaintiff.

(Plaintiff's Additional Facts, ¶ 35.) The LEADS printout also showed that the person sought shared plaintiff's date of birth, rather than the person born in 1957 who was described in the warrant. (*Id.*) Vogt acted unreasonably in holding plaintiff under these circumstances.

Vogt argues that he was not involved "in any alleged unconstitutional actions." (ECF No. 67 at 4.) Vogt concedes, however, that he reviewed the warrant (ECF No. 67 at 6) and that he approved holding plaintiff on the warrant (ECF No. 67 at 13), even though the information he knew about plaintiff's age, residence, weight, and employment (all contained in the arrest report that he approved, Plaintiff's Additional Fact ¶ 31), contradicted the information on the warrant.

The Court should reject Vogt's attempt to rely on the "patch-up" declaration he signed for defendants' summary judgment motion. (ECF No. 79-17.) Vogt avers in that declaration that his "only involvement" with plaintiff's treatment "was administrative in nature." (ECF No. 79-17 at 2, ¶ 3.) But Vogt admitted at his deposition that he had responsibility for determining if an arrestee was being erroneously held on a warrant. (Plaintiff's Additional Facts, ¶ 29.) If Vogt had claimed "administrative involvement" at his deposition, plaintiff would have inquired into what Vogt meant by this phrase. Vogt does not offer any explanation for his implicit argument that he cannot be liable for approving the warrant and refusing to permit plaintiff to post bond because these decisions were "administrative in nature." (ECF No. 79-17 at 2, ¶ 3.) The Court should not permit sandbagging and should decline to consider the post-deposition declaration. *Howell v. Smith*, 853 F.3d 892, 900 (7th Cir. 2017).

The Court should also decline to consider Vogt's averment that he "had no involvement in any claims regarding the warrant on which Plaintiff was held." (ECF No. 79 at 2, ¶ 5.) Plaintiff does not challenge the warrant; plaintiff's claim against Vogt arises from Vogt's decision to hold plaintiff on the warrant despite knowing the differences between plaintiff's characteristics and those of the person sought by the warrant. As explained more fully below, a jury could find that this decision violated the Fourth Amendment.

IV. All Defendants Knew the Warrant Did Not Describe Plaintiff

Computer name checks are known to produce inaccurate results.[4] Accordingly, the City of Chicago requires its police to verify that a person arrested on a computer "name check" is the person named in a warrant. (Plaintiff's Additional Fact, ¶ 22.) The standard operating procedure of the Chicago Police Department following the arrest of person on a warrant is to "verify that the arrestee and person wanted on the warrant are the same person." (Plaintiff's Additional Fact, ¶ 23.)

The verification process in this case showed that the LEADS record did not correspond to the actual warrant, which described the subject of the warrant as having been born in 1957, 15 years before plaintiff was born. (Plaintiff's Additional Facts, ¶35.) This discrepancy was acknowledged by either Reppen or Vogt: one of the white shirt officers (a supervisor, either Reppen or Vogt) repeatedly asked plaintiff for his age; plaintiff consistently responded that he was 46 years of age and had been born in 1972. (Plaintiff's

[4] Interstate Identification Index Name Check Efficacy: Report of the National Task Force to the U.S. Attorney General (July 1999), 21, available at https://www.bjs.gov/content/pub/pdf/iiince.pdf (visited June 1, 2020).

Additional Fact ¶ 39).) The age discrepancy was so great that more information was needed to determine if the plaintiff was the person sought in the warrant. ((Plaintiff's Additional Facts, ¶32.)

Defendants cannot plausibly maintain that they were confused about plaintiff's date of birth being in 1972 because they accepted the correctness of that 1972 date of birth in the traffic ticket and the arrest report. (Plaintiff's Additional Facts ¶ 31.)

The warrant also contained information about the home address and employment of the person sought, providing a residence address in Skokie, Illinois and employment at "S.A. Auto," also in Skokie. (Plaintiff's Additional Facts ¶ 33.)

Defendants knew that plaintiff was a Chicago taxicab driver and lived in 5000 block of North Harding Avenue in Chicago: defendants included the Chicago home address in the traffic ticket (ECF 79-5 at 2) and in the arrest report. (ECF No. 79-9 at 2.) Defendants also knew that plaintiff was a taxicab driver licensed by the City of Chicago. (Plaintiff's Additional Facts 1, 3.)

V. Personal Involvement of Defendant Reppen

Defendant Reppen was the "watch operations lieutenant" or "watch commander" at the 18th District on April 15, 2018. (Plaintiff's Additional Facts, ¶ 36.) 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. (Plaintiff's Additional Facts, ¶ 37.) Reppen approved the continued detention of plaintiff at 4:14 p.m. on April 15, 2018. 1957. (Plaintiff's Additional Facts,

¶ 38.) This was about one hour after the warrant had arrived at the police station. (Plaintiff's Additional Facts, ¶ 37.)

Defendant Reppen argues that he cannot be liable because he "merely relied on the information contained in the arrest report to determine if there was probable cause to arrest Plaintiff and was not involved in Plaintiff's arrest itself." (ECF No. 67 at 5.) This argument is inconsistent with plaintiff's testimony that he spoke with two white-shirted officers and answered their questions about the discrepancies between himself and the person sought in the warrant. (Plaintiff's Additional Facts, ¶ 39.) Sergeants and lieutenants in the Chicago Police Department, wear white shirts if not working in an undercover position. (Plaintiff's Additional Facts, ¶ 40.)

Reppen, like Vogt, has submitted a post-deposition declaration. (ECF No. 79-16.) Like Vogt, Reppen claims that "his only involvement in Plaintiff Khalid Ali's arrest was administrative in nature." (ECF No. 76-16 at 2, ¶ 2.) Plaintiff would have inquired into what Reppen meant by this phrase had he used it at his deposition. The Court should not permit sandbagging and should decline to consider the post-deposition declaration. *Howell v. Smith*, 853 F.3d 892, 900 (7th Cir. 2017).

Reppen also avers that he did not do anything that prevented plaintiff from being released on bail. (ECF No. 76-16 at 2, ¶ 4.) This is incorrect. When Reppen made his finding of probable cause to hold plaintiff on the warrant at 4:14 p.m., the warrant had been at the police station for more than an hour, providing notice that bond of $150 had been set on the warrant. It is undisputed that plaintiff had the cash to post bond

(Defendants' Rule 56.1 Statement ¶ 49), but Reppen did not do anything to permit plaintiff to post bond.

VI. Constitutional Claims Arising from Defendants' Conduct After the Warrant Arrived

Plaintiff raises two Fourth Amendment claims arising from his detention after the warrant arrived at the police station:

1. Defendants acted unreasonably in holding plaintiff on the warrant.
2. Defendants acted unreasonably in refusing to permit plaintiff to post bond and be released.

A. It Was Unreasonable to Hold Plaintiff on the Warrant

Plaintiff contends that defendant officers acted unreasonably in holding him on the warrant. At one time, the Seventh Circuit evaluated this type of claim by the "shocks the conscience" standard of substantive due process. The decision of the Supreme Court in *Manuel v. City of Joliet*, 137 S. Ct. 911 (2017) requires that plaintiff's claim be evaluated by the objective reasonableness standard of the Fourth Amendment.

In *Armstrong v. Squadrito*, 152 F.3d 564, 570 (7th Cir. 1998), the Seventh Circuit applied the "shocks the conscience" standard to a claim that a police officer had acted unreasonably in holding an arrestee on a warrant. The Court reached this result by applying its pre-*Manuel* rule that the Fourth Amendment drops out of the case once there has been a judicial determination of probable cause, *Hernandez v. Sheahan*, 455 F.3d 772, 775 (7th Cir. 2006), which occurred when the judge signed the arrest warrant. *Armstrong*, 152 F.3d at 569-70 ("Because Armstrong's arrest took place pursuant to a bench warrant, this case concerns detention following a judicial determination of sufficient cause.")

Manuel rejected this view of the Fourth Amendment, describing as "untenable" the Seventh Circuit's rule "that a person arrested pursuant to a warrant could not bring a Fourth Amendment claim challenging the reasonableness of even his arrest, let alone any subsequent detention" *Manuel v. City of Joliet*, 137 S. Ct. 911, 919 n. 6 (2017). *Manuel* leaves no doubt that the Court must apply an objective reasonableness standard to the decision of the defendant officers to hold plaintiff on the warrant.

Plaintiff's claim should therefore be measured by cases involving police officers who "close their eyes," *Guzell v. Hiller*, 223 F.3d 518, 520 (7th Cir. 2000), to information relevant to probable cause. *See also Love v. City of Chicago*, No. 09 C 03631, 2015 WL 2193712, at *8 (N.D. Ill. May 7, 2015) (collecting cases).

This case is similar to *Phelan v. Village of Lyons*, 531 F.3d 484 (7th Cir. 2008), where the officer relied on the first two lines of a LEADS printout to conclude that there was probable cause to believe that the plaintiff was driving a stolen car. Had the officer read the third line of the printout, however, he would have learned that the stolen vehicle was a motorcycle:

> Although the first two lines of the LEADS report standing alone might have provided a basis for the stop, we cannot ignore the information contained in the third line, which appeared on the initial screen returned in response to Officer Dyas's query. In that line, the stolen vehicle is described as a black Honda motorcycle. If Officer Dyas had read this line, he would have realized, at the very least, that further investigation was warranted before initiating a felony traffic stop.

Phelan, 531 F.3d at 488. The Court must follow *Phelan* and reject defendants' claim that they were free to rely only on information from LEADS and ignore the different

information contained in the warrant itself. A jury could find that the defendants "closed their eyes" to the evidence showing that plaintiff was not the man sought by the warrant.

B. Refusal to Permit Plaintiff to Post Bail

Before the decision of the Supreme Court in *Manuel v. City of Joliet*, 137 S.Ct. 911 (2017), three circuits agreed there was a "constitutionally protected liberty interest" in being released on bail and "that substantive due process protection of this liberty interest attaches once arrestees are deemed eligible for release on bail." *Steele v. Cicchi*, 855 F.3d 494, 502 (3d Cir. 2017), citing *Dodds v. Richardson*, 614 F.3d 1185 (10th Circuit, 2010) and *Campbell v. Johnson*, 586 F.3d 835, 940 (11th Cir. 2009). The decision of the Supreme Court in in *Manuel v. Joliet*, *supra*, 137 S. Ct. 911 (2017) suggests that the question should be analyzed under the Fourth Amendment because it is unreasonable to detain a person on a warrant who is ready, willing, and able to post the cash bond that had been set on the warrant. This approach was adopted by the district court in *Alcorn v. City of Chicago*, No. 17 C 5859, 2018 WL 3614010 (N.D. Ill. July 27, 2018):

> Plaintiff's case is distinguishable from *Manuel* in that the Officers had probable cause to make the initial arrest of Lumar based on the facially valid out-of-county warrant. However, that warrant did not provide probable cause to *continue* detaining Lumar after the Officers learned that the warrant was for a bondable offense and Lumar could secure his release by paying $50. While an officer may end her investigation once she has established probable cause and the Fourth Amendment imposes no duty to investigate whether a defense is valid, an officer "may not ignore conclusively established evidence of an affirmative defense." [*McBride v. Grice*, 576 F.3d 703, 707 (7th Cir. 2009).] Here, the Officers did not end their investigation and instead inquired further with Lee County, learning that the arrest warrant had been issued for a bondable offense. Despite conclusive evidence to the contrary, according to the facts alleged [in the] Complaint which the Court accepts as true, the Officers falsified the arrest report to show that Lumar's bond information was not available and continued to detain him for a non-bondable offense. Therefore, Plaintiff has sufficiently alleged the Officers

> detained Lumar without probable cause in violation of the Fourth Amendment.

Alcorn v. City of Chicago, No. 17 C 5859, 2018 WL 3614010, at *7 (N.D. Ill. July 27, 2018).

Under this standard, defendants' decision to refuse to permit plaintiff to post bail violated the Fourth Amendment: the "warrant did not provide probable cause to *continue* detaining [plaintiff] after the Officers learned that the warrant was for a bondable offense and [plaintiff] could secure his release by paying $150." *Alcorn*, 2018 WL 3614010, at *7.

Defendants contend that they were not permitted to allow plaintiff to post bail by General Administrative Order of the Circuit Court of Cook County of Illinois. (ECF No. 67 at 3-4.) General Administrative Order No. 2015-06 of the Circuit Court of Cook County (ECF No. 79-18) "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).

Even assuming that General Administrative Order No. 2015-06 has the force of law, its concluding sentence makes plain that the Order does not prohibit the posting of bail by persons, like plaintiff, arrested on warrants from outside of Cook County; the final sentence states as follows:

> Further, when the defendant is able to post the bail set on the warrant issued by the demanding authority, the defendant shall be admitted to bail and scheduled for a court appearance in the county of the demanding authority.

(ECF No. 79-18.)

VII. The Cases Cited by Defendants Are Inapposite

Defendants confuse this case with those that involve the reasonableness of a police officer's "split-second judgments," *Graham v. Connor*, 490 U.S. 386, 397 (1989), to arrest a person on learning of an arrest warrant.

The cases cited by defendants (ECF No. 67 at 6-7), such as *Tibbs v. City of Chicago*, 469 F.3d 661 (7th Cir. 2006), *Johnson v. Miller*, 680 F.2d 39, 40–41 (7th Cir. 1982), *Brown v. Patterson*, 823 F.2d 167, 169 (7th Cir. 1987), *Patton v. Przybylski*, 822 F.2d 697, 699-700 (7th Cir. 1987), and *White v. Olig*, 56 F.3d 817, 818 (7th Cir. 1995), turn on the reasonableness of an officer's reliance on a warrant in making an initial arrest. These cases establish that officers may detain an arrestee on a warrant "at least long enough to figure out definitely whether he was the right person or not." *Muhammad v. Pearson*, 900 F.3d 898, 909 (7th Cir. 2018). Nothing in these cases speaks to the issue in this case, where a reasonable police officer would have "figured out" that plaintiff was not the person sought in the warrant.

In *Tibbs v. City of Chicago*, *supra*, 469 F.3d 661 (7th Cir. 2006), the officers learned about an outstanding warrant for a "Ronald L. Tibbs" with a date of birth of January 9, 1949. *Id.* at 662. The officers arrested a "Ronald A. Tibbs," whose date of birth was in 1955, and whose responses to the questions from the officers "suggested he knew about the warrant." *Id.* at 663. Tibbs did not claim that the officers obtained any additional information following the arrest indicating that he was not the person sought in the warrant and the Seventh Circuit held that the officers had acted reasonably in making the arrest. *Id.* at 666.

Johnson v. Miller, 680 F.2d 39 (7th Cir. 1982) was limited to the need for split-second action, explaining that "many a criminal will slip away while the officer anxiously compares the description in the warrant with the appearance of the person named in it and radios back any discrepancies to his headquarters for instructions." *Id.* at 41. Nothing in *Johnson* speaks to an officer who secures additional information after making an arrest.[5]

The relevant question in *Brown v. Patterson*, 823 F.2d 167 (7th Cir. 1987) was whether an officer had "acted reasonably in executing the warrant, even though the address and birthdate on it did not match the address and birthdate on [the plaintiff's] license." *Id.* at 169. Again, there was no additional information that the officer learned after the initial arrest that, as in this case, showed that they had arrested the wrong person.

Similarly, the claim in *Patton v. Przybylski*, 822 F.2d 697 (7th Cir. 1987) was that the officer had "violated [the plaintiff's] constitutional rights by arresting him and taking him to the Schaumburg police station." *Id.* at 699. In resolving this claim in favor of the officer, the Seventh Circuit relied on the need for prompt action when making a traffic stop. *Id.* at 700. Plaintiff in this case does not challenge the traffic stop, the extended detention at the scene of the stop, or the continued detention in bringing him to the police

[5] *Johnson* also relied on a subjective standard of reasonableness, which does not survive *Graham v. Conner*, 490 U.S. 386, 398 (1986) and *Whren v. United States*, 522 U.S. 1119 (1998). The officers in *Johnson* claimed to have relied on the warrant to arrest a white woman named "Sharon Johnson" who, like the arrestee, was born in 1951, albeit on a different date. *Johnson*, 680 F.2d at 40. The Seventh Circuit upheld dismissal of the complaint because of the absence of wrongful motive, stating "there is no allegation that Miller intentionally or even negligently, or otherwise wrongfully, deprived Miss Johnson of her liberty or property, and we will not infer wrongfulness from a mere discrepancy in the description." *Id.* at 41.

station to sort out the "possible hit" on the warrant. This case, unlike *Patton*, turns on the decision of the officers to hold plaintiff in custody after they learned that plaintiff was not the person sought in the warrant.

White v. Olig, 56 F.3d 817 (7th Cir. 1995), like this case, arose from a traffic stop and a computer name check that reported an outstanding civil body attachment. *Id.* at 818. The name check showed that the person sought in the warrant had the same date of birth as the plaintiff; although the offender's correct (and different) date of birth appeared on the warrant, none of the officers saw the warrant. *Id.* The Court of Appeals held that it had been reasonable to arrest the plaintiff on the warrant because a contrary action "would have been imprudent." *Id.* at 820. The Court did not have any occasion to consider the situation presented in this case, where the officers saw the warrant, knew that it did not describe plaintiff, and nonetheless continued to hold plaintiff on that warrant.

VIII. Defendants Are Not Entitled to Qualified Immunity

Defendants assert that they are entitled to qualified immunity, but state only that this defense applies because they "relied on the LEADS report when detaining and arresting Plaintiff." (ECF No. 67 at 14.) The Court should reject this undeveloped argument based on the cases cited above, which clearly establish that the LEADS report did not justify detaining plaintiff and refusing to permit him to post bond, when the officers have and review the actual warrant, which shows that plaintiff is not the person sought and when plaintiff can pay the bond listed on the warrant. Conclusion

The Court should therefore deny the motion for summary judgment.

Respectfully submitted,
/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