

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

Vondell Wilbourn,	)	
	)	
<i>Plaintiff</i>	)	1:19-cv-00132
	)	
-vs-	)	(Judge John F. Kness)
	)	
City of Chicago, et al.,	)	
	)	
<i>Defendants</i>	)	

**JOINT STATUS REPORT IN REASSIGNED CASE**

**I. Nature of Case**

**A. Counsel of Record (Lead Counsel in Bold):**

Plaintiff: **Joel Flaxman**, Kenneth N. Flaxman (All from Kenneth N. Flaxman P.C.)

City of Chicago, Philip Cline, Debra Kirby: **Terrence M. Burns**, Paul A. Michalik, Daniel M. Noland, Elizabeth A. Ekl, Katherine C. Morrison (All from Reiter Burns LLP)

Ronald Watts: **Brian P. Gainer**, Monica Gutowski, Ahmed Kosoko (Johnson & Bell, Ltd.)

Kallatt Mohammed: **Gary Ravitz**, **Eric S. Palles**, Sean M. Sullivan, Daley Mohan Groble PC

Brian Bolton, Darryl Edwards, Robert Gonzalez, Alvin Jones, Manuel Leano, Douglas Nichols Jr., Calvin Ridgell, John Rodriguez, Elsworth Smith Jr., Gerome Summers Jr., and Kenneth Young Jr.: **Andrew M. Hale**, William E. Bazarek, Anthony E. Zecchin, Brian J. Stefanich, Allyson West (Hale & Monico LLC)

**B. Federal Jurisdiction:** This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of plaintiff's rights as secured by the United States Constitution. This Court has jurisdiction over federal claims pursuant to 28 U.S.C. § 1331 and state law claims pursuant to 28 U.S.C. § 1367.

**C. Nature of Claims Asserted:** This case is part of the Watts Coordinated Pretrial Proceedings, 19 CV 1717, a group of approximately 65 cases that are coordinated for pretrial proceedings before Judge Wood and Magistrate Judge Finnegan. The parties are also filing a joint status report on today's date in the Master Docket for the coordinated proceedings, 19 CV 1717.

In this matter, Plaintiff alleges that Individual Defendant Police Officers ("Defendant Officers") fabricated the recovery of illegal drugs. Plaintiff further alleges that the Defendant Officers conspired to create false and fabricated police reports related to the recovery of drugs, leading to Plaintiff's wrongful arrest, prosecution, and incarceration on two separate occasions. Plaintiff's convictions were overturned and he was certified innocent by the State of Illinois.

Finally, Plaintiff alleges that the Defendant City of Chicago is liable in this case because its policies were the moving force behind the alleged constitutional violations, including its policies of failing to adequately investigate and discipline officers who were accused of fabricating evidence.

Defendants deny Plaintiff's allegations.

**D. Relief Sought by Plaintiff:** Plaintiff seeks appropriate compensatory and punitive damages, as well as reasonable fees and costs. Plaintiff was in custody for more than one year; using the benchmark of *Parish v. Elkhart*, 702 F.3d 997, 998 (7th Cir. 2012) ("average jury award [of] nearly \$950,000 per year of wrongful imprisonment"), plaintiff expects to ask a jury to award more than one million dollars in damages.

Defendants deny Plaintiff was wrongfully jailed for the more than one year he was held in custody or that Plaintiff is entitled to any damages or fees and costs in this case, *See e.g., Cartwright v Watts*

*et al.*, No. 09 C 4298 (N.D. Ill.) (Chang, J.)(defense verdict after *pro se* jury trial on plaintiff who claimed to be framed by Chicago Police Department tactical team for possessing drugs); *Goodman v. Babicz*, 2013 WL 146377 (N.D. Ill. 2013)(Finnegan, J.) (defense verdict after jury trial on plaintiff's claim that he was falsely arrested and maliciously prosecuted for possession of cocaine and heroin with intent to deliver).

**E. Service:** All of the Defendants have been served or have waived service of process.

## **II. Discovery and Pending Motions**

Discovery in this matter is assigned to Judge Wood and Magistrate Judge Finnegan as part of the *Watts Coordinated Pretrial Proceedings*, 19 CV 1717.

**A. Pending Motions:** There are no currently pending motions in this particular case.

As set forth below, there are two pending motions in the Coordinated Proceedings or individual cases that are a part of the Coordinated Proceedings. Pursuant to paragraph 5(f) of the Third Amended General Order 20-0012, the parties submit that the one fully briefed motion may be resolved without a hearing. Judge Finnegan has indicated that she will decide whether the final motion requires a hearing once briefing is completed.

Plaintiffs' September 9, 2019 motion to compel the production of grand jury and Title III materials from the criminal proceedings brought against Ronald Watts and Kallatt Mohammed is fully briefed and remains pending in the Watts Coordinated Proceedings. (Coordinated Dkt. 46). The portion of the motion pertaining to grand jury materials is pending in front of Chief Judge Pallmeyer. The matters pertaining to Title III materials is pending in front of Judge Wood.

Plaintiffs filed a Motion for a Protective Order in the Coordinated Proceedings seeking to prohibit the Defendants from asking about uncharged alleged criminal activity at Plaintiffs' depositions. The Defendants' response was filed on May 8, 2020. Plaintiffs' reply is

due May 15, 2020. (Coordinated Dkt. 136). The matter is in front of Magistrate Judge Finnegan.

**B. Mandatory Initial Discovery Pilot:** This case is not a part of the Mandatory Initial Discovery Pilot. It is governed by the Orders in the *Watts Coordinated Pretrial Proceedings*, 19 CV 1717.

**C. Current Discovery Schedule:** Fact discovery was scheduled to conclude on June 9, 2020 in certain coordinated cases before the automatic extensions set by the Court's General Orders regarding COVID-19. The parties understand that the COVID-19 General Orders have extended that deadline to August 25, 2020. The Court has not yet set an expert discovery or dispositive motion deadline. In light of the pandemic, the need to resolve pending motions, and the additional written and oral discovery that needs to be conducted in the cases, the parties intend to request that the Court vacate the current fact discovery deadline. The parties intend to ask Judge Finnegan to set a status hearing for a date 60-90 days in the future to discuss a new fact discovery closure date. The parties are not requesting that this Court set expert discovery or dispositive motion deadlines at this time. The parties do not believe a hearing is necessary on this request, or any other issue, unless requested by the court.

**D. Conducted Discovery:** The parties have continued to engage in written discovery and have continued to engage in the Rule 37.2 meet and confer process on various issues. The parties have conducted approximately 52 depositions, including two remote videoconference depositions since the stay-at-home order has been put in place. By agreement, the Plaintiffs also plan to depose a Defendant via videoconference on May 18 and May 21, 2020. The parties have and will continue to confer regarding other depositions that may be appropriate to conduct via video.

**E. Anticipated Motions:** The parties do not anticipate filing any additional motions at this time.

### III. Trial

**A. Jury Trial Demands:** Plaintiff has demanded a jury trial.

**B. Trial Date:** There is no trial date currently scheduled. The parties anticipate that the case will be ready for trial following fact discovery, expert discovery, and dispositive motion briefing.

**C. Final Pretrial Order:** The parties have not filed a final pretrial order.

**D. Estimated Length of Trial:** Plaintiff anticipates that the trial will last 5-10 trial days.

#### **IV. Settlement, Referrals, and Consent**

**A. Settlement Discussions:** No settlement discussions have taken place.

**B. Magistrate Referral:** All pretrial matters in this case are assigned to Judge Wood and Magistrate Judge Finnegan.

**C. Settlement Conference:** The parties do not request a settlement conference at this time.

**D. Consent to Magistrate:** The parties have informed their clients of the right to consent to a Magistrate Judge. The parties do not unanimously consent to that procedure.

#### **V. Other Matters**

**A. Plaintiff:** Nothing

**B. Defendants:** Nothing

Respectfully submitted,

/s/ Joel A. Flaxman

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