

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

Germin Sims and Robert Lindsey,)
) No. 19-cv-2347
Plaintiffs,)
) (Judge Pallmeyer)
-vs-)
)
City of Chicago, et al.,)
)
Defendants.)

**PLAINTIFFS' RESPONSE TO DEFENDANT OFFICERS'
LOCAL RULE 56.1(a)(2) STATEMENT (ECF No. 121)**

Plaintiff, by counsel and pursuant to Local Rule 56.1(b)(2), submits the following response to the Local Rule 56.1(a)(2) Statement of defendants Brian Bolton, Robert Gonzalez, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols Jr., and Elsworth Smith Jr. (ECF No. 121):

1. Plaintiffs Germin Sims and Robert Lindsey are residents of the Northern District of Illinois. (Complaint, Dkt. No. 1, at ¶¶ 2-3.)

RESPONSE: Admit.

2. Defendants Ronald Watts, Brian Bolton, Robert Gonzalez, Alvin Jones, Manuel Leano, Kallatt Mohammed, Douglas Nichols Jr., and Elsworth Smith Jr. were at all relevant times Chicago police officers. (Dkt. No. 1, at ¶5.)

RESPONSE: Admit.

3. Defendant City of Chicago ("City") is an Illinois municipal corporation. (Dkt. No. 1, ¶4.)

RESPONSE: Admit.

4. This court has original jurisdiction over Plaintiff's federal claims (see 28 U.S.C. §§ 1331, 1343), and supplemental jurisdiction over his state law claims (see 28 U.S.C. § 1337). Venue in this judicial district is proper. See 28 U.S.C. § 1331(b).

RESPONSE: Admit.

5. The arrests that give rise to this action occurred at 4120 S. Prairie in the City of Chicago, Illinois, on October 15, 2009. (Dkt. No. 1, at ¶ 18.)

RESPONSE: Disputed. The cited document, plaintiffs' complaint, alleges that the arrest was in the 4200 Block of South Prairie. (Plaintiffs' Complaint ¶ 18, ECF No. 1.) Plaintiffs both testified that they were arrested at 42nd and Prairie. (Deposition of Germain Sims at 9:17-18, Defendants' Exhibit 13, ECF No. 121-14 at 7; Deposition of Robert Lindsey taken on April 8, 2025 at 12:16-17, Defendants Exhibit 14, ECF No. 121-15 at 12.) The police reports state that the arrest was at 4210 South Prairie. (Arrest Report of Lindsey at 1, Plaintiffs' Exhibit 1; Arrest Report of Sims at 1, 5, Plaintiffs' Exhibit 2; Original Case Incident Report at 1, Plaintiffs' Exhibit 3.)

6. [1] Per the contemporaneous report, Defendants Jones and Mohammed were the arresting officers. (October 15, 2009 Arrest Reports (attached hereto as Ex. 1) at 1, 5; Case Incident Report (attached hereto as Ex. 2) at 3.) [2] Defendants Smith, Gonzalez, Nichols, Bolton and Leano were listed as assisting in the arrest. (Ex. 2 at 3.) [3] The arresting officers observed Plaintiffs seated in a car and apparently conducting hand-to-hand drug transactions with certain pedestrians. (Id.)

Response: [1] Disputed. The Arrest Reports and Original Case Incident Report state that defendants Jones, Mohammed, Smith, Leano, Nichols, Bolton and Gonzalez were arresting officers: defendant Jones is listed as the "First Arresting Officer," defendant Mohammed is listed as the "Second Arresting Officer," and defendants Smith, Leano, Nichols, Bolton and Gonzalez are listed as "Assisting Arresting Officers." (Arrest Report of Lindsey at 3, 5, Plaintiffs' Exhibit 1; Arrest Report of Sims at 3, 5, Plaintiffs' Exhibit 2; Original Case Incident Report at 3, Plaintiffs' Exhibit 3.¹)

[2] Admit.

[3] Disputed. Plaintiffs dispute the officers' claim that Sims conducted hand-to-hand drug transactions. (Defendants' Exhibit 12, Affidavit of Robert Lindsey ¶ 18, ECF No. 121-13 at 4; Plaintiff's Exhibit 4, Affidavit of Germin Sims ¶ 18.)

¹ Plaintiff submits these documents because Defendants' Exhibit 1 is incomplete. Pages 2 and 3 of the exhibit are the first 2 pages of the short version of the arrest report of Sims, but page 3 is a page from the incident report. (ECF No. 121-2 at 2-4.) The last page of the short version of the arrest report of Sims is missing, as are pages from the incident report.

7. Jones authored the arrest reports and the case reports. (Exs. 1, 2; April 7, 2010 Suppression Hearing Transcript (attached hereto as Ex. 3) at 25.) Jones also authored complaints for preliminary examination charging the men with possession of heroin bearing an approximate weight of 6.5 grams. (Complaints for Preliminary Examination for Sims and Lindsey (attached hereto as Exs. 4, 5).)

Response: Admit.

8. [1] On November 4, 2009, Jones testified under oath at a preliminary hearing. (Preliminary Hearing Transcript (attached hereto as Ex. 6).) [2] He testified that Mohammed was performing surveillance a distance from the point of the arrest and observed Sims in the passenger seat apparently conducting narcotics transactions with passers-by. [3] Upon receiving this report, Jones headed to the location and approached the car. (Id. at 7, 18.) [4] As Jones approached the vehicle, he saw that Sims was trying to place suspected narcotics under the car seat. (Id. at 8.) [5] Jones then opened the car door, took Sims out, and placed him into custody. [6] Jones then recovered narcotics from the floor, under the seat. (Id. at 11.)

Response: [1] Admit.

[2] Admit that defendant Jones gave this testimony at 3-4 of Defendant's Exhibit 6.

[3] Admit that defendant Jones gave this testimony at 4 of Defendant's Exhibit 6. The testimony does not appear at page 7, and Exhibit 6 does not contain a page 18.

[4] Admit that defendant Jones gave this testimony at page 4 of Defendant's Exhibit 6. The testimony is disputed; plaintiff Sims testified that police did not find drugs under his seat or anywhere else in the car. (Deposition of Germain Sims at 34:13-16, 134:14-21, Defendants' Exhibit 13, ECF No. 121-14 at 13, 38.)

[5] Disputed. Jones testified at page 4 of Defendant's Exhibit 6 that he had Sims exit the vehicle.

[6] Admit that defendant Jones testified that he recovered narcotics at page 4 of Defendant's Exhibit 6. Exhibit 6 does not contain a page 11. The testimony is disputed; both plaintiffs testified that the police did not find drugs in the car. (Deposition of Germain Sims at 34:13-16, Defendants' Exhibit 13, ECF No. 121-14 at 13; Deposition of Robert Lindsey taken on April 8, 2025 at 38:8-15, Defendants Exhibit 14, ECF No. 121-15 at 12.)

9. [1] Jones testified that Officers Bolton and Gonzalez approached Lindsey in the driver's seat. [2] As he exited the

vehicle, Jones saw Lindsey drop bags of suspect heroin on the floor of his car. (Id. at 5.)

Response: [1] Admit that Jones gave this testimony at page 15 of Exhibit 3.

[2] Disputed. Lindsey did not have any drugs in his possession or control. (Affidavit of Robert Lindsey ¶ 17, Defendants' Exhibit 12, ECF No. 121-13 at 4.) Both plaintiffs testified that the police did not find drugs in the car. (Deposition of Germain Sims at 34:13-16, Defendants' Exhibit 13, ECF No. 121-14 at 13; Deposition of Robert Lindsey taken on April 8, 2025 at 38:8-15, Defendants Exhibit 14, ECF No. 121-15 at 12.)

10. At the conclusion of the preliminary hearing, Cook County Circuit Judge Jim Ryan found probable cause and ordered Sims and Lindsey to be arraigned before the presiding judge on November 25, 2009. (Id. at 9.)

Response: Admit.

11. Plaintiffs, through their respective counsel, moved on April 7, 2010 to suppress evidence of the recovered narcotics. (Ex. 3 at 31, 32.) Jones testified consistent with his prior testimony at the preliminary hearing. Cook County Circuit Judge Lawrence E. Flood denied the motions to suppress. (Id. at 36.)

Response: Admit.

12. On July 12, 2010, Sims entered into a plea agreement with the State's Attorney's Office by which he withdrew his plea of not guilty and entered a guilty plea to possession of a controlled substance, a class 1 felony. In return, he was sentenced to four years' incarceration in IDOC, the minimum sentence. (Sims Report of Proceedings (attached hereto as Ex. 7) at 2.)

Response: Admit.

13. Prior to his plea, the court properly admonished him. (Id. at 2-7.) He was also advised of his right to appeal. (Id. at 7,8.)

Response: Admit.

14. [1] There is no evidence that Sims was coerced, under duress, or suffering from mental illness at the time he pled guilty to the drug crimes for which he was convicted. [2] In fact, Sims, while represented by counsel, affirmed to the court that his plea of guilty was freely given. (Id. at 4.) [3] In addition, the court on that same day made a finding that Sims's plea was voluntary. (Id. at 6.)

Response: [1] Objection, this assertion is unsupported by any evidence. A jury could find that the defendants' fabrications of evidence "coerced" Sims to plead guilty.

[2] Admit.

[3] Admit.

15. Sims was admitted to prison on July 16, 2010, paroled out on September 8, 2011 and discharged on September 8, 2013. See Illinois Department of Corrections Offender Custody History (attached hereto as Ex. 8).

Response: Admit.

16. At his deposition, Sims testified that he and Lindsey were double parked, sitting in Lindsey's car, when police pulled up, ordered him out of the car, searched him and searched the car. ([Defendants' Exhibit 13] at 129:18-130:13; 131:14-16; 132:8- 13; 134:4-6; 135:11-16; 163:20-23.) Sims testified that he does not know which officer searched the car and that Defendant Officer Jones was the officer who searched his person. (Id. 134:14-21; 162:20-23.)

Response: Admit.

17. Sims testified that at the police station, Watts, Mohammed and Jones went into a room with another arrestee and came out with a bag that Sims believed contained drugs which they claimed belong to him and Lindsey. Germin Sims Deposition, April 25, 2025 (attached hereto as Ex. 13 at 41:3-42:3, 13-19; 69:22-70:1; 141:10-22; 145:13-146:12; 157:16-158:9; 163:15-20.) Sims could not see what was in the bag. (Id. at 203:10-22.)

Response: Admit.

18. Sims also testified that he pleaded guilty because he was facing 30 years due to his criminal record and under the plea deal he would get only 4 years. (Id. at 80:16-1991:6-92:3.) Sims testified that he thought he would lose a credibility contest with the police and receive a harsher sentence. (Id. at 91:6-13; 183:5-184:8.)

Response: Admit.

19. [1] On September 22, 2010, Lindsey entered into a plea agreement with the State's Attorney's Office by which he withdrew his plea of not guilty and entered a guilty plea to possession of a controlled substance, a class 4 felony. In return, he was sentenced to two years incarceration in IDOC, the minimum sentence. (Lindsey Report of Proceedings (attached hereto as Ex 9) at 2.) [2] At the time of his sentence, he was incarcerated in IDOC as a result of a parole violation on a prior drug charge and received 342 days credit on the subject sentence. (Id.)

Response: [1] Admit.

[2] Disputed. The cause of plaintiff's Lindsey's parole violation was his wrongful arrest on October 15, 2009. (Illinois Department of Corrections Parole Violation Report at 1, Plaintiffs' Exhibit 14; Prisoner Review Board Order, Plaintiffs' Exhibit 15; Declaration of Robert Lindsey ¶ 3, Plaintiffs' Exhibit 7.)

20. Prior to his plea, the court properly admonished him. (Id. at 2-5.) He was also advised of his right to appeal. (Id. at 10.)

Response: Admit.

21. There is no evidence that Lindsey was coerced, under duress, or suffering from mental illness at the time he pled guilty to the drug crimes for which he was convicted. In fact, Lindsey, while represented by counsel, affirmed to the court that his plea of guilty was freely given. (Id. at 5.) In addition, the court on that same day made a finding that Lindsey's plea was voluntary. (Id. at 6.)

Response: [1] Objection, this assertion is unsupported by any evidence. A jury could find that the defendants' fabrications of evidence "coerced" Lindsey to plead guilty.

[2] Admit.

[3] Admit.

22. Lindsey testified at his deposition that his public defender told him he should plead guilty because of his criminal record and because he would be released from prison the next morning without parole because his time in prison for violation of parole in a prior case was credited to the subject sentence. (Transcript of Lindsey Deposition on May 5, 2025 (attached hereto as Ex 11) at 53:18-55:3; see also Ex. 10 (Illinois Department of Corrections Offender Custody History).)

Response: Disputed. While Lindsey gave this testimony at his deposition, he testified at his guilty plea hearing that he understood that he would not be released immediately. (Defendants' Exhibit 9 at 9:19-10:4.)

23. Lindsey also testified that the 2 months he served after he pleaded guilty was time he was serving for the parole violation in the prior case. (Ex. 11 at 49:13-16.)

Response: Disputed. The cited questioning at Lindsey's deposition is incomprehensible and is contradicted by Lindsey's declaration that he served time for a parole violation while he was in custody for the charges related to his arrest on October 15, 2009. (Declaration of Robert Lindsey ¶ 2, Plaintiff's Exhibit 7.) The cause of plaintiff Lindsey's parole violation was his wrongful arrest on October 15, 2009. (Illinois Department of

Corrections Parole Violation Report at 1, Plaintiffs' Exhibit 14; Prisoner Review Board Order, Plaintiffs' Exhibit 15; Declaration of Robert Lindsey ¶ 3, Plaintiffs' Exhibit 7.)

24. Lindsey decided to seek post-conviction relief from his sentence after his conviction after seeing on TV that Watts and Mohammed had been arrested on various charges. (Id. at 57:10 - 57:21.)

Response: Admit.

25. In support of his petition for post-conviction relief, Lindsey signed a September 18, 2018 affidavit. (Lindsey Affidavit (attached hereto as Ex. 12).) Lindsey stated that he and Sims were at 42nd and Prairie, talking to a man about fixing Lindsey's car when he was surrounded by police cars and ordered out of his vehicle. He claims that a search of his person and of his car revealed nothing illegal but that an officer named "Brown" told him that he and Sims would be taken to the station and strip-searched. (Id. at 2, ¶8.)

Response: Admit.

26. At the station, Lindsey states that he saw some police officers bring Willie Martin into the station and take him into a back room. About 15 or 20 minutes later, some of the officers came out of the room and showed Plaintiffs bags of drugs that Lindsey believed they found on Martin's person and told Plaintiffs that they were going to be charged for possessing those drugs. His deposition testimony and that of Sims are to the same effect. (See Ex.11; see also Ex. 13 at 41:17- 42:4.)

Response: Disputed that the cited testimony was about "Willie Martin." The reference to "Willie Martin" was an error; the man's name was "Willie Brownlee." (Plaintiff Robert Lindsey's Answers to Interrogatories ¶ 15, Defendant's Exhibit 17, ECF No. 121-18 at 4.)

27. Plaintiffs subsequently learned that the individual they identified as Willie Martin was, in fact, Willie Brownlee. (Id.) Brownlee has since died. (Ex. 11 at 34:17 -23.)

Response: Admit.

28. Lindsey has become aware that "Brown" is Alvin Jones. (Ex. 12 at 2, ¶9.)

Response: Admit.

29. Robert Lindsey agrees that his rap sheet shows 50 arrests, 25 of which are misdemeanors (Ex. 11 at 73:2 - 74:12), and that he has been convicted five times. (Id.) Lindsey admitted to selling crack cocaine, heroin and cannabis at the Ida B. Wells housing complex. (Id. at 67:8-15; see also Lindsey Deposition of April 8, 2025 (attached hereto as Ex. 14) at 116:9-118:13.)

Response: Objection, not material. Defendants' attempt to rely on plaintiff's criminal background is an improper attack on plaintiff's character and an improper request for the Court to make a credibility determination at summary judgment. The Court should strike this paragraph.

30. [1] At his deposition, Sims stated that he did not know Brian Bolton. (Ex. 13 at 76:10-11.) [2] Neither did Lindsey, unless Bolton is a "bald-headed black guy." [3] Brian Bolton is Caucasian. (Ex. 14 at 75:4-9.)

Response: [1] Admit.

[2] Admit

[3] Objection, the cited material does not establish that Bolton is Caucasian.

31. At his deposition, Sims stated that he did not know Douglas Nichols. (Ex. 13 at 76:22.) Neither did Lindsey, adding, "I ain't got nothing to talk about that one." (Ex. 14 at 76:4-5.)

Response: Admit.

32. Similarly, Sims stated that he did not know Manuel Leano. (Ex. 13 at 76:17.) Lindsey wasn't sure, adding, "I think I do know him but I'm just after Watts and Brown and Mohammed. I don't want nobody else." (Ex. 14 at 75:20-23.)

Response: Admit.

33. Nor did Sims know Elsworth Smith. (Ex. 13 at 76: 20.) And Lindsey had "nothing to talk about that one." (Ex. 14 at 76: 7-9.)

Response: Admit.

34. Lindsey testified that Kallatt Mohammed never "hit him up" for money or threatened or harassed him." (Ex. 14 at 82:14-22.)

Response: Admit.

35. During his May 7, 2025 deposition, Defendant Alvin Jones testified that an "assisting officer" is one who assisted the arrest in "some way." (Ex. 15 at 27:3.)

Response: Admit.

36. In the Coordinated Proceedings, Lt. Michael Fitzgerald testified that tactical team officers listed in a vice case report should have played some role in the arrest or participated in the process, whether it was being at the scene, assisting in some other fashion, processing the arrestee, bringing the person to the station, performing a search of the suspect, or preparing inventory forms. (Deposition of Michael Fitzgerald, March 6, 2024, (Ex. 16) at 215:12-217:13.)

Response: Admit.

37. In their answers to interrogatories, Plaintiffs responded with identical answers to Interrogatory No. 17.

17. With respect to Defendants Bolton, Gonzalez, Leano, Nichols, Jr. and Smith, Jr., please state with specificity what wrongful action each defendant took in relation to your October 15, 2009 arrest and the facts upon which you assert the wrongful actions.

ANSWER: Those officers are on the reports of my arrest. They helped write the reports or they knew the reports were false and didn't do anything about it. (See, e.g., Robert Lindsey's June 23, 2022 Answers to Interrogatories, (Ex. 17) at ¶ 17.)

Response: Admit that plaintiff Lindsey gave this interrogatory answer. Objection as to plaintiff Sims because defendants have not attached his interrogatory answers.

/s/ Joel A. Flaxman
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