

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

Plaintiffs, by counsel, submit the following pursuant to Local Rule 56.1(b)(3) in response to the Defendant Officers' Motions for Summary Judgment (ECF Nos. 128, 129, 134):¹

1. Plaintiff Germin Sims has never sold drugs. (Deposition of Germain Sims at 93:17-22, Defendants' Exhibit 13, ECF No. 121-14 at 28.)
2. On October 15, 2009, plaintiff Sims did not make any hand-to-hand drug transactions, he did not do anything that would look like a hand-to-hand drug transaction, and he did not have any drugs in his possession of

¹ Plaintiffs file the exhibits cited below, as well as those cited in other summary judgment submissions, as attachments to a separate document titled "Plaintiffs' Consolidated Summary Judgment Exhibits."

control. (Affidavit of Germin Sim ¶ 18, Plaintiffs' Exhibit 4; Affidavit of Robert Lindsey ¶ 18, Defendants' Exhibit 12, ECF No. 121-13 at 4.)

3. On October 15, 2009, plaintiff Robert Lindsey did not drop a bag of drugs in a car, he did not do anything that looked like dropping a bag of drugs in a car, and he did not have any drugs in his possession or control. (Affidavit of Robert Lindsey ¶ 17, Defendants' Exhibit 12, ECF No. 121-13 at 4.)

4. The police did not find any drugs when they searched the car in which plaintiffs had been sitting. (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.)

5. Defendant Jones arrested plaintiffs Sims and Lindsey and wrote arrest reports and the original case incident report. (Deposition of Alvin Jones at 29:12-19, 30:20-31:6, 33:25-34:11, Plaintiffs' Exhibit 5.)

6. The police reports state that officers saw plaintiff Sims selling drugs from the passenger seat of a car. (Arrest Report of Sims at 2, Plaintiffs' Exhibit 2; Original Case Incident Report at 3, Plaintiffs' Exhibit 3.)

7. The police reports also state that the officers saw Sims try to hide drugs under the passenger seat and that the officers saw Lindsey drop

drugs on the floor of the car as he emerged from the vehicle. (Arrest Report of Lindsey at 3, Plaintiffs' Exhibit 1; Arrest Report of Sims at 3, Plaintiffs' Exhibit 2; Original Case Incident Report at 3, Plaintiffs' Exhibit 3.)

8. Each of the officers listed on the last page of the Original Case Incident Report were involved in the arrest. (Deposition of Alvin Jones at 34:25-35:2, Plaintiffs' Exhibit 5.)

9. The officers listed on the last page of the Original Case Incident Report are defendants Jones, Mohammed, Smith, Leano, Nichols, Bolton, Gonzalez, and Watts. (Original Case Incident Report at 3, Plaintiffs' Exhibit 3.) Defendant Jones is listed as the "First Arresting Officer," defendant Mohammed is listed as the "Second Arresting Officer," defendant Watts is listed as "Supervisor on Scene," and defendants Smith, Leano, Nichols, Bolton and Gonzalez are listed as "Assisting Arresting Officers." (*Id.*)

10. Defendant Mohammed was the surveillance officer during the investigation; he claims to have seen plaintiff Sims conduct hand-to-hand drug transactions from the passenger seat of a car. (Preliminary Hearing Testimony of Jones at 3:12-4:3, November 4, 2009, Defendants' Exhibit 6, ECF 121-7 at 4-5.)

11. Defendant Jones claims that he approached the car with defendant Gonzalez and Defendant Bolton. (Preliminary Hearing Testimony

of Jones at 4:8-10, November 4, 2009, Defendants' Exhibit 6, ECF No. 121-7 at 5; Suppression Hearing Testimony of Jones at 15:18-22, April 7, 2010, Defendants' Exhibit 3, ECF No. 121-4 at 16.)

12. Plaintiff Linsdey made a complaint of misconduct about his arrest; the Chicago Police Department did not sustain the complaint. (Plaintiffs' Exhibit 6 at PL JOINT F 02742, Chicago Police Department, Office of Professional Standards, File for C.R. # 1044999.)

13. As part of the investigation, on June 1, 2011, plaintiff Lindsey swore to the correctness of the following summary of his allegations:

The complainant alleges that during a street stop at the above location on the stated date in time, that the arresting officers planted drugs on him which led to his incarceration. The complainant stated that Officer "Brown" along with about 5 other officers took the drugs from another individual. The complainant stated the officers let that other person go and planted the drugs on him under the orders of Watts.

(Plaintiffs' Exhibit 6 at PL JOINT F 02747, Chicago Police Department, Office of Professional Standards, File for C.R. # 1044999.)

14. Plaintiff Lindsey later learned that the officer he knew as "Brown" is defendant Jones. (Affidavit of Robert Lindsey ¶ 9, Defendants' Exhibit 12, ECF No. 121-13 at 3.)

15. As part of the investigation into plaintiff Lindsey's misconduct complaint, defendant Watts wrote a memo stating that he supervised the

investigation in which plaintiffs were arrested on October 15, 2009, and that he had personal knowledge of plaintiffs' arrests. (Plaintiffs' Exhibit 6 at PL JOINT F 02789, Chicago Police Department, Office of Professional Standards, File for C.R. # 1044999.)

16. As part of the investigation into plaintiff Lindsey's misconduct complaint, defendant Smith wrote a memo stating that he arrested plaintiff Lindsey on October 15, 2009, and that he had personal knowledge of plaintiffs' arrests. (*Id.* at PL JOINT F 02805.) Smith referred to himself using the abbreviation "R/O," which means "Reporting Officer." (Plaintiffs' Exhibit 13 at 340:5-14, Deposition of Elsworth Smith, March 5, 2020.)

17. As part of the investigation into plaintiff Lindsey's misconduct complaint, defendant Nichols wrote a memo stating that he assisted in the arrest of plaintiffs on October 15, 2009, and that he had personal knowledge of plaintiffs' arrests. (*Id.* at PL JOINT F 02797.) Nichols referred to himself using the abbreviation "R/O," which means "Reporting Officer." (Plaintiffs' Exhibit 13 at 340:5-14, Deposition of Elsworth Smith, March 5, 2020.)

18. As part of the investigation into plaintiff Lindsey's misconduct complaint, defendant Mohammed wrote a memo stating that he placed plaintiff Lindsey under arrest on October 15, 2009, and that he had personal knowledge of plaintiffs' arrests. (*Id.* at PL JOINT F 02801.) Mohammed

referred to himself using the abbreviation “R/O,” which means “Reporting Officer.” (Plaintiffs’ Exhibit 13 at 340:5-14, Deposition of Elsworth Smith, March 5, 2020.)

19. As part of the investigation into plaintiff Lindsey’s misconduct complaint, defendant Leano wrote a memo stating that he assisted in the arrest of plaintiff Lindsey on October 15, 2009, and that he had personal knowledge of plaintiffs’ arrests. (*Id.* at PL JOINT F 02813.) Leano referred to himself using the abbreviation “R/O,” which means “Reporting Officer.” (Plaintiffs’ Exhibit 13 at 340:5-14, Deposition of Elsworth Smith, March 5, 2020.)

20. As part of the investigation into plaintiff Lindsey’s misconduct complaint, defendant Bolton wrote a memo stating that he assisted in the arrest of plaintiff Lindsey on October 15, 2009, and that he had personal knowledge of plaintiffs’ arrests. (*Id.* at PL JOINT F 02817.) Bolton referred to himself using the abbreviation “R/O,” which means “Reporting Officer.” (Plaintiffs’ Exhibit 13 at 340:5-14, Deposition of Elsworth Smith, March 5, 2020.)

21. On November 4, 2009, defendant Jones testified at a preliminary hearing that ended with a finding of probable cause to prosecute

plaintiffs. (Transcript, November 4, 2009, Defendants' Exhibit 6, ECF No. 121-7.)

22. Jones testified at the preliminary hearing that Mohammed observed plaintiff Sims engage in hand-to-hand drug transactions while seated in the passenger seat of a car (*id.* at 3-4), that as Jones approached the car, Mohammed saw Sims trying to place drugs under the passenger seat and he found drugs under the seat (*id.* at 4), and that as Lindsey was getting out of the driver's seat, Jones saw him drop drugs on the floor of the car and officers found drugs on the floor of the car. (*Id.* at 5.)

23. Jones's testimony was false; Sims did not engage in hand-to-hand transactions (Affidavit of Robert Lindsey ¶ 18, Defendants' Exhibit 12, ECF No. 121-13 at 4; Affidavit of Germin Sims ¶ 18, Plaintiffs' Exhibit 4), neither plaintiff possessed drugs (Affidavit of Robert Lindsey ¶ 17, Defendants' Exhibit 12, ECF No. 121-13 at 4; Affidavit of Germin Sims ¶ 18, Plaintiffs' Exhibit 4), and the officers did not find any drugs when they searched the car. (Deposition of Germain Sims at 34:13-16, Defendants' Exhibit 13, ECF No. 121-14 at 13; Deposition of Robert Lindsey, April 8, 2025 at 38:8-15, Defendants' Exhibit 14, ECF No. 121-15 at 12.).

24. At the police station, the officers took drugs from another man and charged plaintiffs with possession of those drugs. (Affidavit of Robert

Lindsey ¶¶ 10-14, Defendants' Exhibit 12, ECF No. 121-13 at 4; Affidavit of Germin Sims ¶¶ 12-16, Plaintiffs' Exhibit 4),

25. Plaintiff Sims pleaded guilty on July 12, 2010 because, among other reasons, he feared that the factfinder would believe the false police story and that he would receive a lengthy sentence. (Deposition of Germain Sims at 91:6-13; 183:5-184:8, Defendants' Exhibit 13, ECF No. 121-14 at 27, 50; Sims Guilty Plea Transcript, July 12, 2010, Defendants' Exhibit 7, ECF No. 121-8.)

26. At plaintiff Sims's guilty plea hearing, Sims's attorney stipulated to a factual presentation made by the prosecutor and the judge found those facts sufficient for the plea. (Sims Guilty Plea Transcript at 4:23-6:13, July 12, 2010, Defendants' Exhibit 7, ECF No. 121-8 at 5-7.)

27. The alleged factual basis provided by the prosecutor mirrored the arrest report: Officers observed plaintiff Sims conduct hand-to-hand drug transactions, officers observed plaintiff Sims hiding drugs under the passenger seat, and officers recovered drugs under the passenger seat. (Sims Guilty Plea Transcript at 4:23-6:6, July 12, 2010, Defendants' Exhibit 7, ECF No. 121-8 at 5-7; Arrest Report of Sims at 3, Plaintiffs' Exhibit 2.)

28. The state court judge told Sims that his possible sentence was 4 to 30 years and then sentenced Sims to 4 years, with credit for 271 days of

pretrial incarceration. (Sims Guilty Plea Transcript at 4:3-11, 7:10-14, July 12, 2010, Defendants' Exhibit 7, ECF No. 121-8 at 5, 8.)

29. Plaintiff Sims was in the custody of the Illinois Department of Corrections from July 16, 2010 until September 8, 2011. (Illinois Department of Corrections Offender Custody History, Germain Sims, Defendants' Exhibit 8, ECF No. 121-9 at 2.)

30. Plaintiff Lindsey pleaded guilty on September 22, 2010 because, among other reasons, he feared he would receive a lengthy sentence if he went to trial. (Deposition of Robert Lindsey, May 5, 2025, at 42:7-43:2, Defendants Exhibit 11, ECF No. 121-12 at 15.)

31. At plaintiff Lindsey's guilty plea hearing, Lindsey's attorney stipulated to a factual presentation by the prosecutor and the judge found those facts sufficient for the plea. (Lindsey Guilty Plea Transcript at 5:8-6:7, September 22, 2010, Defendants' Exhibit 9, ECF No. 121-10 at 6-7.)

32. The alleged factual basis provided by the prosecutor mirrored the arrest report: Officers observed Lindsey drop a bag to the driver's side floor of the vehicle, officers recovered the bag, and the bag contained drugs. (Lindsey Guilty Plea Transcript at 5:8-6:7, September 22, 2010, Defendants' Exhibit 9, ECF No. 121-10 at 6-7; Arrest Report of Lindsey at 3, Plaintiffs' Exhibit 1.)

33. The state court judge told Lindsey that his possible sentence was 1 to 7 years and then sentenced Lindsey to 2 years, with credit for 342 days of pretrial incarceration. (Lindsey Guilty Plea Transcript at 4:13-19, 10:13-21, September 22, 2010, Defendants' Exhibit 9, ECF No. 121-10 at 5, 11.)

34. Plaintiff Lindsey was in the custody of the Illinois Department of Corrections from October 19, 2009 until November 12, 2010. (Illinois Department of Corrections Offender Custody History, Germain Sims, Defendants' Exhibit 8, ECF No. 121-9 at 2.)

35. Plaintiff Lindsey served time for a parole violation at the same time he was in custody for the charges related to his arrest on October 15, 2009. (Declaration of Robert Lindsey ¶ 2, Plaintiffs' Exhibit 7.)

36. An Illinois Department of Corrections Parole Violation Report states that a parole violation warrant was issued for plaintiff Lindsey on October 15, 2009, because of Lindsey's arrest on October 15, 2009. (Illinois Department of Corrections Parole Violation Report at 1, Plaintiffs' Exhibit 14.)

37. A Parole Review Board Order of November 4, 2010, states that plaintiff Lindey's parole was violated as of October 15, 2009, because of his

conviction for the drug offense arising out of his wrongful arrest on October 15, 2009. (Prisoner Review Board Order, Plaintiffs' Exhibit 15.)

38. 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.)

39. On February 13, 2019, the Cook County Circuit Court entered orders vacating plaintiffs' convictions. (Order in *People v. Sims*, 09-CR-20361-01, Plaintiffs' Exhibit 8; Order in *People v. Lindsey*, 09-CR-20361-02, Plaintiffs' Exhibit 9.)

40. On March 18, 2019, the Cook County Circuit Court entered orders granting a certificate of innocence to each plaintiff. (Order Granting Certificate of Innocence in *People v. Sims*, 09-CR-20361-01, Plaintiffs' Exhibit 10; Order Granting Certificate of Innocence in *People v. Lindsey*, 09-CR-20361-02, Plaintiffs' Exhibit 11.)

41. On February 6, 2012, defendant Watts and defendant Mohammed were charged in federal court with theft of Government funds for stealing money they believed to be drug proceeds from a person whom they believed to be associated with a drug dealer. (Criminal Complaint and

Affidavit in *United States v. Watts & Mohammed*, 12-CR-87, Plaintiffs' Exhibit 12.)

/s/ Joel A. Flaxman
Joel A. Flaxman
ARDC No. 6292818
Kenneth N. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
Attorneys for Plaintiff