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

Theresa Kennedy and John Plummer, individually and for others similarly situated, *Plaintiffs*, v. City of Chicago, *Defendant*.	Case No. 20-cv-1440 Hon. Thomas M. Durkin

CITY OF CHICAGO'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(c)

Defendant the City of Chicago ("City"), by its undersigned counsel, moves pursuant to Federal Rule of Civil Procedure 12(c) for judgment on the Amended Complaint (Dkt. 56) and Amendment to the Amended Complaint (Dkt. 163) (collectively, "Complaint").

INTRODUCTION

Following this Court's ruling on the City's prior Rule 12(c) motion for judgment on the pleadings (Dkt. 184, Mem. Op.), Plaintiffs Theresa Kennedy and John Plummer's sole remaining claims against the City allege violations of their Fourteenth Amendment rights under Section 1983. (Dkt. 56, Am. Compl. ¶ 12; Dkt. 163, Am. to Am. Compl. ¶ 15a.) Plaintiffs allege they were denied equal protection of the law when they were arrested on weekends pursuant to valid arrest warrants issued by judges within the First Municipal District (*i.e.*, the City of Chicago), but were not allowed to post bond at the police station. (Dkt. 56, Am. Compl. ¶ 12; Dkt. 163, Am. to Am. Compl. ¶ 15a.) Plaintiffs allege they were instead held at police stations overnight, transferred to the custody of the Cook County Sheriff's Department the following morning, and then appeared that same day before a judge in Central Bond Court who allowed Plaintiffs to pay the bond set forth on their

respective warrants. (Dkt. 56, Am. Compl. ¶¶ 43-46; Dkt. 163, Am. to Am. Compl. ¶¶ 93-96.) Plaintiffs claim the City violated their Fourteenth Amendment rights under the Equal Protection Clause.

Plaintiffs assert their alleged constitutional injuries occurred as a result of Chicago Police Department ("CPD") Special Order S06-12-02 ("Special Order"). (Dkt. 56, Am. Compl. ¶¶ 9-11.) Plaintiffs allege the Special Order creates "invidious and irrational discrimination" between individuals like Plaintiffs who were arrested on Chicago warrants during the weekend and not permitted to post bond at the police station, and those persons arrested on Chicago warrants on weekdays whom Plaintiffs allege are allowed to post bond at the police station and forego an appearance at Central Bond Court. (Dkt. 56, Am. Compl. ¶¶ 11-12.) Plaintiffs' Equal Protection claims are insufficient as a matter of law and should be dismissed on the pleadings for two equally compelling reasons.

First, the bond procedures set forth in the Special Order, including the purported "discrimination" Plaintiffs assert, are compelled by a general order issued by the Circuit Court of Cook County. The circuit court's general order requires Chicago warrant arrestees to appear in Central Bond Court when they are arrested on the weekend, just like Plaintiffs here. Under binding Seventh Circuit precedent, the City may not be held liable under Section 1983 for actions taken pursuant to a state law command. *Bethesda Lutheran Homes & Servs., Inc. v. Leean*, 154 F.3d 716, 718 (7th Cir. 1998). The circuit court's general order constitutes a command under state law because a presiding judge promulgated it pursuant to the powers afforded to him under Illinois law. The City thus had no discretion to deviate from the requirements of the general order. Plaintiffs' Equal Protection claims fail as a result. Indeed, Judge Feinerman previously dismissed the claims of other plaintiffs in this action based on the Seventh Circuit's decision in *Bethesda*

Lutheran Homes and a different order issued by the circuit court. (Dkt. 136, Mem. Op. at 5-8.) Judge Feinerman's sound reasoning applies here with equal force. The same outcome should follow.

Second, the purported distinction between weekday and weekend Chicago warrant arrestees does not violate the Equal Protection Clause. Importantly, Plaintiffs do not allege that they were discriminated against as members of a constitutionally protected class. Their Equal Protection claims are thus subject to rational basis review—a point Plaintiffs previously conceded. (Dkt. 175, Pls.' Resp. at 14-15.) Under rational basis review, the Special Order is presumed lawful and its purported "discrimination" must be upheld if the Court can conceive of any possible basis that is rationally related to a legitimate government interest. The City's decision to comply with the circuit court's general order was rational because, among other reasons, the City should not be placed in the untenable position of having to determine which circuit court orders it follows, and those it does not. This rational basis also defeats Plaintiffs' Equal Protection claims as a matter of law. Plaintiffs cannot credibly allege or argue to the contrary. For the reasons discussed below, Plaintiffs' Equal Protection claims should be dismissed on the pleadings, and this case should be dismissed with prejudice.

FACTUAL BACKGROUND

A. CPD Special Order S06-12-02

The Special Order sets forth CPD's procedures for handling non-traffic arrest warrants. (Dkt. 63, Ans. ¶ 6.) Section IV of the Special Order defines the responsibilities of CPD personnel when an individual is arrested on a warrant. (*Id.*) Relevant here, Section IV(B)(3) provides:

> c. The station supervisor will ensure that: . . .

> 3. the following will be transported to Central Bond Court:[1]
>
> (a) all persons arrested on a warrant outside of the First Municipal District[2] and no local charges,
> (b) all persons arrested on a warrant issued from Criminal Trial Court and no local charges, and
> (c) all persons arrested on all warrants on Saturday, Sunday, and Court Holidays.

(*Id.*; Dkt. 56, Am. Compl. Exs. 1-2.)

The bond procedures set forth in the Special Order comply with the Circuit Court of Cook County's Amended General Order 2004-02 ("Circuit Court General Order"), which governs the processes and procedures regarding "Cook County Warrants."[3] Judge Kenneth E. Wright, then the Presiding Judge of the First Municipal District of the Circuit Court of Cook County, promulgated the Circuit Court General Order on March 15, 2004. (Ex. A, Am. Gen. Order 2004-02.) The Circuit Court General Order provides in relevant part that CPD shall "transfer the individual arrested on the Warrants, as follows: (1) Individuals with Warrants returnable within the First Municipal District are to be transported directly to the Branch Court on regularly-scheduled court date(s); on Saturday, Sunday, [*sic*] Holidays the Warrants are returnable to Central Bond Court." (*Id.*)

Plaintiffs claim their Fourteenth Amendment rights were violated when CPD acted in accordance with the Special Order and allegedly prevented them from posting the cash bonds set forth on their warrants at the police stations where they were detained. (Dkt. 56, Am. Compl. ¶ 12.) Plaintiffs allege that the Special Order violates the Fourteenth Amendment's Equal Protection

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[1] Central Bond Court is located at the George N. Leighton Criminal Court Building, 2600 South California Avenue, Chicago, Illinois. (Dkt. 56, Am. Compl. ¶ 7.)

[2] The "First Municipal District" consists of courts of the Circuit Court of Cook County that are located within the City of Chicago. (Dkt. 56, Am. Compl. ¶ 8.)

[3] The General Order is attached hereto as **Exhibit A**, and available at https://ocj-web-files.s3.us-east-2.amazonaws.com/orders/1M-GO-2004-02.pdf?VersionId=b1Mm6IBp52nmAm0W_5.P0SHmdyBTRIM9. This Court may take judicial notice of the Circuit Court General Order when ruling on a motion for judgment on the pleadings without converting it to a motion for summary judgment. *See Parungao v. Cmty. Health Sys.*, 858 F.3d 425, 457 (7th Cir. 2017).

Clause because it purportedly results in "invidious and irrational discrimination." (*Id.*) Plaintiffs allege they were denied equal protection under the law because similarly situated individuals who were arrested on weekdays pursuant to warrants issued by a court in Chicago are allowed to post bond at the police station. (*Id.* ¶¶ 10-12.) Plaintiffs do not challenge the validity of the arrest warrants, and they do not challenge their detentions while CPD conducted warrant checks. (*See id.* ¶ 17.)

The City denies Plaintiffs' constitutional rights were violated. (Dkt. 63, Ans. ¶¶ 12, 20, 23, 28, 33, 43, 63.) The City asserts that the Special Order's bond procedures were mandated by Illinois law, Illinois Supreme Court Rules, and orders promulgated by the Circuit Court of Cook County (*id.*, Aff. Def. No. 3.), thus defeating Plaintiffs' claims as a matter of law.

The alleged circumstances of Plaintiffs' arrests are set forth below.

B. Theresa Kennedy

At 9:40 p.m. on Saturday, April 27, 2019, CPD officers stopped Kennedy. (Dkt. 63, Ans. ¶ 42.) The officers determined that she had an outstanding warrant for her arrest, arrested her, and brought her to the police station. (*Id.* ¶¶ 43-44.) On Sunday, April 28, 2019, Kennedy was transferred to the custody of the Sheriff, and taken before a judge at Central Bond Court, where she was permitted to post the cash bond as indicated on her outstanding warrant. (Dkt. 56, Am. Compl. ¶¶ 45-46.) She was released from custody later that same day. (*Id.* ¶ 46.)

C. John Plummer

On Sunday, June 19, 2022, CPD officers determined Plummer was the subject of an outstanding arrest warrant issued by a judge of the First Municipal District (*i.e.*, the City of Chicago) and arrested him at 7:10 p.m. (Dkt. 167, Ans. ¶¶ 92-93.) Plummer was brought to the police station, held there overnight, and was transferred to the Sheriff's custody the next morning.

(*Id.* ¶¶ 94-95.) Plummer was presented to a judge in Central Bond Court on Monday, June 20, 2022. (Dkt. 163, Am. to Am. Compl. ¶ 96.) He posted bond and was released from custody in the late afternoon or early evening on June 20, 2022. (*Id.*)

LEGAL STANDARD

Rule 12(c) provides that "[a]fter the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings." Fed. R. Civ. P. 12(c). The Court reviews a Rule 12(c) motion for judgment on the pleadings under the same standard as a Rule 12(b)(6) motion to dismiss for failure to state a claim. *Great Am. Ins. Co. v. State Fire & Cas. Co.*, No. 22 C 3765, 2023 WL 2745076, at *1 (N.D. Ill. Mar. 31, 2023) (Durkin, J.). A Rule 12(c) motion assumes the truth of the operative complaint's well-pleaded factual allegations, but not its legal conclusions, and considers the facts in the light most favorable to the non-moving party. *Giannopoulos v. Iberia Lìneas Aèreas De España, S.A.*, 17 F. Supp. 3d 743, 746 (N.D. Ill. 2014) (Durkin, J.). A Rule 12(c) motion should be granted where the non-movant cannot prove facts sufficient to support its claims, and the movant is entitled to relief. *Nicaj v. Shoe Carnival, Inc.*, No. 13 C 7793, 2014 WL 184772, at *1 (N.D. Ill. Jan. 16, 2014) (Durkin, J.). Courts may take judicial notice of publicly available documents when deciding a motion for judgment on the pleadings without converting it to a motion for summary judgment. *See Tierney v. Vahle*, 304 F.3d 734, 738 (7th Cir. 2002); *Gen. Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F.3d 1074, 1080-81 (7th Cir. 1997).

ARGUMENT

I. The Court should enter judgment on the pleadings on Plaintiffs' Section 1983 Equal Protection claims.

Plaintiffs' Equal Protection claims fail as a matter of law and should be dismissed on the pleadings because they are both insufficiently alleged and foreclosed by binding Seventh Circuit

precedent. Plaintiffs' alleged constitutional violations, if any, were not caused by the Special Order, but rather the Circuit Court General Order. As such, the City may not be held liable under Section 1983 for enforcing state law. Relatedly, the City's decision to comply with the Circuit Court General Order was rational, as "[i]t is difficult to imagine a municipal policy more innocuous *and constitutionally permissible* … than the 'policy' of enforcing state law." *Surplus Store & Exch., Inc. v. City of Delphi*, 928 F.2d 788, 791 (7th Cir. 1991) (emphasis added). Plaintiffs thus cannot overcome the difficult burden to show that the Special Order's purported "invidious discrimination" is not rationally related to a legitimate government interest. For the reasons discussed below, the Complaint should be dismissed with prejudice.

A. The City may not be held liable under Section 1983 where the purported distinction in the Special Order was compelled by the Circuit Court General Order.

The City may be held liable under Section 1983 only if it caused a deprivation of Plaintiffs' constitutional rights. *Monell v. Dep't of Social Servs.*, 436 U.S. 658, 691-92 (1978). Municipal liability under Section 1983 cannot be based on vicarious liability. *Id.* at 692. Rather, a plaintiff seeking to establish Section 1983 liability under *Monell* must first show that a municipal policy or custom was the "moving force" that caused the constitutional injury. *J.K.J. v. Polk Cnty.*, 960 F.3d 367, 377 (7th Cir. 2020) (*en banc*); *Bd. of Comm'rs v. Brown*, 520 U.S. 397, 404 (1997).

However, when a municipality acts pursuant to state or federal law, "it is the policy contained in that state or federal law, rather than anything devised or adopted by the municipality, that is responsible for the injury." *Bethesda Lutheran Homes*, 154 F.3d at 718. To this end, the Seventh Circuit has repeatedly held that a municipality "cannot be held liable under section 1983 for acts that it did under the command of state or federal law." *Id.* (citing *Surplus Store*, 928 F.2d at 791-92); *see Snyder v. King*, 745 F.3d 242, 247 (7th Cir. 2014) ("To say that [a] . . . direct causal

link exists when the only local government 'policy' at issue is general compliance with the dictates of state law is a bridge too far; under those circumstances, the state law is the proximate cause of the plaintiff's injury.").

The Seventh Circuit's decision in *Bethesda Lutheran Homes* is instructive. There, the plaintiffs filed a Section 1983 action against state and local government officials, including a local county government. 154 F.3d at 717. The plaintiffs alleged in relevant part that the county violated their constitutional right to travel by enforcing certain state laws and federal regulations. *Id.* In a prior appeal, the Seventh Circuit held that the challenged laws and regulations were unconstitutional and remanded the case. *Id.* at 718. Back before the district court, the plaintiffs sought monetary damages from the county. *Id.* But the district court denied the plaintiffs' request because under established Seventh Circuit precedent the county could not be held liable under Section 1983 for "acts that it did under the command of state or federal law." *Id.*

The Seventh Circuit affirmed and in so doing reiterated that when a municipality "is acting under the compulsion of state or federal law, it is the policy contained in that state or federal law, rather than anything devised or adopted by the municipality, that is responsible for the injury." *Id.* The Seventh Circuit found that the relevant laws provided the county with no discretion that it could exercise under the circumstances, thus undermining the plaintiffs' Section 1983 claims because municipal liability "attaches where—and only where—a deliberate choice to follow a course of action is made from among various alternatives." *Id.* at 718-19. The Seventh Circuit also rejected the plaintiffs' argument that the county "acted of its own volition," rather than simply enforcing state and federal law, because the plaintiffs' injuries would have occurred unless the county decided to disobey what was required of it under the law. *Id*. Applying the Seventh Circuit's reasoning in *Bethesda Lutheran Homes* and its progeny, Plaintiffs' Equal Protection claims must

fail.

In this case, the Special Order implements criminal pretrial procedures dictated by a presiding judge of the Circuit Court of Cook County who promulgated the Circuit Court General Order. That order requires CPD officers to transport arrestees who are arrested on Chicago warrants to Central Bond Court for a bond hearing when they are arrested on a Saturday, Sunday, or Court Holiday. (*See* Ex. A, Am. Gen. Order 2004-02 at 1.) The City's policy in the Special Order was thus compelled by this court-ordered directive, mandating that Plaintiffs be brought before a judge at the next regularly scheduled bond court hearing. Thus, the City's policy, which mirrors the Circuit Court General Order, does not violate the Constitution. *Bethesda Lutheran Homes*, 154 F.3d at 718; *see Whitesel v. Sengenberger*, 222 F.3d 861, 872 (10th Cir. 2000) (municipality "cannot be liable for merely implementing a policy created by the state judiciary."); *Sampson v. City of Xenia*, 108 F. Supp. 2d 821, 839-40 (S.D. Ohio 1999) (municipal defendant could not be liable under Section 1983 "as a matter of law, for any allegedly unconstitutional policy or custom of the" municipal court).

Plaintiffs have not adequately alleged a violation of their constitutional rights. But even if they had, the "moving force" behind any alleged constitutional injury is not the Special Order, but rather the Circuit Court General Order. *See Surplus Store*, 928 F.2d at 791-92; *Bethesda Lutheran*, 154 F.3d at 718-19; *Snyder*, 745 F.3d at 249 ("It is the statutory directive, not the follow-through, which causes the harm of which the plaintiff complains."). Merely enforcing the Circuit Court General Order is insufficient to impose Section 1983 liability on the City because under *Monell*, a policy that enforces state law "simply cannot be sufficient to ground liability against a municipality." *Surplus Store*, 928 F.2d at 791-92; *see also N.N. ex rel. S.S. v. Madison Metro. Sch. Dist.*, 670 F. Supp. 2d 927, 941 (W.D. Wis. 2009) (holding "a municipality cannot be held liable

under § 1983 for efforts to implement a state mandate when the plaintiff cannot point to a separate policy choice made by the municipality."). Therefore, Plaintiffs cannot establish that the Special Order is unconstitutional or caused their alleged injuries.

What is more, Judge Feinerman previously applied the *Bethesda Lutheran Homes* decision and relied on another order of the circuit court when dismissing the claims of plaintiffs who were formerly parties in this action. (Dkt. 136, Mem. Op.) Namely, Judge Feinerman dismissed the Fourth and Fourteenth Amendment Section 1983 claims of four plaintiffs who were arrested on out-of-county warrants, held at police stations overnight, and brought to Central Bond Court the following morning. (*Id.* at 8.) In so holding, Judge Feinerman relied on Circuit Court of Cook County General Administrative Order 2015-06, which dictated arrestees' appearances in bond court when they were arrested on a warrant issued by an Illinois state court outside of Cook County. (*Id.* at 5.) Judge Feinerman held that for persons arrested on out-of-county warrants, like the four prior plaintiffs, it was the general administrative order, "not the City's compliance with the Order by enforcing [the Special Order], 'that is responsible for the[ir] injury.'" (*Id.* at 6 (quoting *Bethesda Lutheran Homes*, 154 F.3d at 718-19).) This defeated those plaintiffs' Section 1983 claims as a matter of law.

Judge Feinerman's ruling is on all fours with the issue presented to this Court and the same outcome is warranted here. Plaintiffs' Equal Protection claims should be dismissed as a result.

B. The General Order constitutes a "state law command" under *Bethesda Lutheran Homes*.

The Circuit Court General Order qualifies as state law for purposes of the Seventh Circuit's decision in *Bethesda Lutheran Homes*. In Illinois, it is well-established that judicial power includes the administration of the courts. *People v. Felella*, 131 Ill. 2d 525, 538 (1989). The judiciary thus possesses the constitutional authority to promulgate procedural rules to facilitate the discharge of

its duties. *Davidson v. Davidson*, 243 Ill. App. 3d 537, 538 (1st Dist. 1993). Administering court dockets is an inherent right of the court and, as provided by Illinois Supreme Court Rules, circuit courts may make rules regulating their dockets, calendars, and "business." *Blair v. Macoff*, 284 Ill. App. 3d 836 (1st Dist. 1996) (citing 735 ILCS 5/1-104).

The Illinois Constitution and Supreme Court Rules[4] also provide that the chief judge of each circuit shall have general administrative authority over their court, which includes the "authority to provide for divisions, general or specialized, and for appropriate times and places of holding court." Ill. Const. 1970, art. VI, § 7(c); Ill. S. Ct. R. 21. The Illinois Appellate Court has likewise held that Supreme Court Rule 21(c) allows "the chief judge to delegate his or her Rule 21(c) authority, including his or her authority to issue general orders, to the presiding judges in the divisions of the circuit court, including, as here, his or her authority to issue general administrative orders." *OneWest Bank, FSB v. Markowicz*, 2012 IL App (1st) 111187, ¶ 15. And in the event a person or agency fails to comply with the court's administrative order, an action "shall be commenced by filing a complaint and summons and shall be tried without a jury by a judge from a circuit other than the circuit in which the complaint was filed. The proceedings shall be conducted as in other civil cases." Ill. S. Ct. R. 21(f).

Here, the Circuit Court General Order is a valid general order regarding court procedures for handling Cook County arrest warrants. Then Presiding Judge Wright issued the Circuit Court General Order in accordance with the powers delegated to him by the chief judge pursuant to the Illinois Constitution and Illinois Supreme Court Rule 21. *See* Ill. Const. 1970, art. VI, § 7(c); Ill. S. Ct. R. 21; *OneWest Bank, FSB*, 2012 IL App (1st) 111187, ¶ 15. In relevant part, the Circuit Court General Order provides that CPD officers "shall" transfer individuals arrested on Cook

[4] Illinois Supreme Court Rules have the force and effect of law. *In re Denzel W.*, 237 Ill. 2d 285, 294 (2010) (citing *People v. Houston*, 226 Ill. 2d 135, 152 (2007)).

County warrants to Central Bond Court when they are arrested on Saturdays, Sundays, and Court Holidays. (Ex. A, Am. Gen. Order 2004-02.) The City and CPD therefore had no discretion when they presented Plaintiffs to a judge in bond court the day following their arrests. They acted in accordance with what Circuit Court General Order required.

Moreover, ignoring the Circuit Court General Order subjects the City and its police officers to state-court enforcement proceedings under Illinois Supreme Court Rule 21. *See* Ill. S. Ct. R. 21(f). However, the City should not be found to have committed constitutional violations for complying with a presiding judge's general order. *See Hernandez v. Sheahan*, 455 F.3d 772, 778 (7th Cir. 2006) ("There is no basis for an award of damages against executive officials whose policy is to carry out the judge's orders."). Accordingly, the Circuit Court General Order is valid and mandated Plaintiffs' presentation to bond court.

Judge Feinerman's prior ruling is instructive in this respect too. Relying on the same principles discussed above, Judge Feinerman found that the circuit court's general administrative order qualified as a "'command' of state law" for purposes of the *Bethesda Lutheran Homes* decision. (Dkt. 136, Mem. Op. at 5-6.) Judge Feinerman found that the City "cannot pick and choose which circuit court general orders it will follow and which it will disobey." (*Id.* at 6.) Judge Feinerman also rejected the previously dismissed plaintiffs' argument that the general administrative order conflicted with Illinois law, because doing so "would require the City to measure the validity of Circuit Court of Cook County general orders under Illinois law before complying with them, 'put[ting] local government at war with state government.'" (*Id.* at 6 (quoting *Bethesda Lutheran Homes*, 154 F.3d at 718)); *see also Alcorn v. City of Chicago*, 631 F. Supp. 3d 534, 545 (N.D. Ill. 2022) (Kendall, J.) (finding that Circuit Court General Administrative

Order 2015-06 "was a valid, nondiscretionary promulgation of instructions for court procedures of arrests on out-of-county warrants.").

As Judge Feinerman previously ruled, the Circuit Court General Order is a state law command under *Bethesda Lutheran Homes*. The City thus cannot be required to decide whether it will comply with the Circuit Court General Order—especially when doing so may subject it to state-court enforcement proceedings. Plaintiffs' Equal Protection claims should therefore be dismissed on the pleadings.

C. The City and CPD's decision to comply with the Circuit Court General Order provides a rational basis for the alleged discrimination contained in the Special Order.

As discussed above, the City may not be held liable under Section 1983 as a matter of law for simply following the Circuit Court General Order, which is a valid state law command. The Court need not even consider whether the Special Order's purported distinction between weekday and weekend Chicago warrant arrestees satisfies rational-basis review. However, the City would prevail under this analysis, too.

As this Court previously noted, and as Plaintiffs previously conceded, Plaintiffs' Equal Protection claims are subject to rational basis review because Plaintiffs do not allege the Special Order infringes on a fundamental right or discriminates against individuals based on suspect classification. (Dkt. 184, Mem. Op. at 4 (citing *Armour v. City of Indianapolis*, 566 U.S. 673, 680 (2012)); Dkt. 175, Pls.' Resp. at 14-15.) Rational basis review is "highly deferential to the government," and the Court merely determines whether "there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *Hope v. Comm'r of Ind. Dep't of Corr.*, 66 F.4th 647, 650 (7th Cir. 2023). If the Court "can hypothesize a sound reason for the classification, the law survives." *Id.* (citing *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313

(1993)). This level of scrutiny permits courts to engage in "rational speculation unsupported by evidence or empirical data." *Beach Commc'ns, Inc.*, 508 U.S. at 315. As the party challenging the Special Order, Plaintiffs must "eliminate any reasonably conceivable state of facts that could provide a rational basis for the classification." *Srail v. Vill. of Lisle*, 588 F.3d 940, 946-47 (7th Cir. 2009) (cleaned up); *accord Bd. of Trs. of the Univ. of Ala. v. Garrett*, 531 U.S. 356, 367 (2001) (explaining that "the burden is upon the challenging party to negative any reasonably conceivable state of facts that could provide a rational basis for the classification").

The Seventh Circuit has previously found that "[i]t is difficult to imagine a municipal policy more innocuous and constitutionally permissible … than the policy of enforcing state law." *Surplus Store*, 928 F.2d at 791. That rule is sound, and "has the virtue of minimizing the occasions on which federal constitutional law, enforced through section 1983, puts local government at war with state government." *Bethesda Lutheran Homes*, 154 F.3d at 718. Courts have thus held that relying on state law, including court orders, provides a rational basis for challenged government "discrimination" under the Equal Protection Clause. *See, e.g., Texas v. Ysleta del Sur Pueblo*, 367 F. Supp. 3d 596, 613 (W.D. Tex. 2019) (holding the government actor possessed a rational basis for the challenged act because he "endeavor[ed] to follow the Restoration Act, which is federal law."); *Santiago v. Clarke*, No. 11-cv-1024, 2013 WL 501423, at *3, 8 (E.D. Wis. Feb. 11, 2013) (dismissing the plaintiff's Equal Protection claim where the challenged government action was performed to achieve "compliance with the court order"); *King v. Twp. of E. Lampeter*, 17 F. Supp. 2d 394, 421 (E.D. Pa. 1998) (dismissing Equal Protection claim where the defendant's challenged actions "were taken in accordance with a valid court order," satisfying rational basis review).

In this case, it was rational for the City and CPD to treat Cook County warrant arrestees differently because that is what the Circuit Court General Order required. Plaintiffs may not agree

with the circuit court's decision to require those arrested on Cook County warrants on weekends and Court Holidays to appear in bond court. But the City's decision to comply with the Circuit Court General Order was rational nonetheless, thus avoiding the "obviously untenable" result of requiring the City "to act as appellate courts, reviewing the validity of" court orders before proceeding to comply with them. *Henry v. Farmer City State Bank*, 808 F.2d 1228, 1279 (7th Cir. 1986).

Although it is not the City's burden to demonstrate a rational relationship to a legitimate state interest, *Smith v. City of Chicago*, 457 F.3d 643, 652 (7th Cir. 2006), the City has done so here. Plaintiffs cannot demonstrate otherwise. Accordingly, Plaintiffs have not, and cannot, allege that they were denied equal protection under the Fourteenth Amendment. Their Equal Protection claims should be dismissed with prejudice.

CONCLUSION

For these reasons, the City respectfully requests that the Court dismiss Plaintiffs' Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(c), and grant such other and further relief as the Court deems necessary and just.

Dated: May 31, 2024

Respectfully submitted,

CITY OF CHICAGO

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