

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

Jevarreo Kelley-Lomax, individually and for
a class,

Plaintiff,

v.

City of Chicago,

Defendant.

Case No.: 20-cv-4638

Judge John Z. Lee

Magistrate Judge Jeffrey Cole

**CITY OF CHICAGO'S MOTION TO DISMISS
PLAINTIFF'S AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant, the City of Chicago (the “City”) hereby moves to dismiss Plaintiff, Jevarreo Kelley-Lomax’s (“Plaintiff”), Amended Complaint. (Dkt. 6). The Court should dismiss the Amended Complaint because it fails to allege that the City violated Plaintiff’s Fourth, Fifth, and Fourteenth Amendment rights.

Plaintiff cannot establish that the destruction of his personal property amounts to an unreasonable search and seizure in violation of the Fourth Amendment. Plaintiff has not alleged that his personal property was seized for some “public use,” and therefore, he cannot establish a Fifth Amendment Takings claim. Additionally, Plaintiff cannot establish a Fifth Amendment Takings claim because his personal property was lawfully taken pursuant to the Chicago Police Department’s police powers. Finally, Plaintiff cannot establish either a substantive due process or a procedural due process claim.

WHEREFORE, Defendant, the City of Chicago, respectfully requests that the Court dismiss Plaintiff, Jevarreo Kelley-Lomax’s, Amended Complaint with prejudice, and award the costs of this action to the City upon dismissal. The basis for this relief is set forth in the

accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss Plaintiff's Amended Complaint, which is incorporated herein by reference.

Dated: October 13, 2020

Respectfully submitted,

By: **MARK A. FLESSNER**
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/s/ Allan T. Slagel
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