

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

LAMONT TRENT,)	
)	Case No. 20 C 06217
Plaintiff,)	
)	Honorable Judge Charles P. Kocoras
v.)	
)	Magistrate Judge Sunil R. Harjani
CITY OF CHICAGO, RYAN GALIARDO,)	
AND KHALED HASAN,)	
)	Jury Demanded
Defendants.)	

**DEFENDANT CITY OF CHICAGO’S ANSWER TO PLAINTIFF’S COMPLAINT,
AFFIRMATIVE DEFENSES, 12(b)(6) DEFENSE, AND JURY DEMAND**

Defendant City of Chicago, by and through its attorney, Celia Meza, Acting Corporation Counsel for the City of Chicago, for its Answer to Plaintiff’s Complaint, Affirmative Defenses, 12(b)(6) Defense, and Jury Demand, state as follows:

COMPLAINT

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343 and §1367.

ANSWER: The City admits plaintiff purports to bring this action under 42 U.S.C. § 1983 and that jurisdiction is proper.

2. Plaintiff Lamont Trent is a resident of the Northern District of Illinois.

ANSWER: The City lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

3. Defendants Ryan Galiardo and Khaled Hasan (“officer defendants”) were, at all relevant times, acting under color of their offices at Chicago police officers; each is sued in his individual capacity only.

ANSWER: The City admits the allegations contained in this paragraph.

4. Defendant City of Chicago is an Illinois municipal corporation.

ANSWER: The City admits the allegation contained in this paragraph.

5. On February 4, 2019, the officer defendants stopped a motor vehicle in which plaintiff was a passenger in the vicinity of South Karlov Avenue and West Wilcox Street in Chicago.

ANSWER: The City admits the allegations contained in this paragraph.

6. The officer defendants had not observed the driver of the vehicle commit any criminal or traffic offense and the officer defendants did not possess any information that could have provided a lawful justification for stopping the vehicle.

ANSWER: The City denies the allegations contained in this paragraph.

7. After stopping the vehicle, defendant Galiardo told the driver that the officers stopped him for failing to properly use his turn signal.

ANSWER: The City admits the allegations contained in this paragraph.

8. Video recorded inside the officer defendants' police car shows that the driver properly and lawfully used his turn signal.

ANSWER: The City denies that the allegations contained in this paragraph truly and accurately characterize the events as they were known to the City at the time, but admit the video recorded inside of Defendant Officers' police car shows that the driver used a turn signal.

9. The officer defendants later claimed in official police reports that they had stopped the vehicle because of a stop sign violation.

ANSWER: The City denies that the allegations contained in this paragraph truly and accurately characterize the events, but admits the Defendant Officers documented plaintiff's stop sign violation.

10. Video recorded of inside the officer defendants' police car shows that the driver made a full and complete stop and did not commit any stop sign violations.

ANSWER: The City denies the allegations contained in this paragraph.

11. The officer defendants arrested plaintiff after their illegal stop of the vehicle.

ANSWER: The City admits that Defendant Officers arrested plaintiff, but denies the remainder of the allegations contained in this paragraph.

12. At the time of plaintiff's arrest:

- a. None of the officer defendants had a warrant authorizing the arrest of plaintiff;
- b. None of the officer defendants believed that a warrant had been issued authorizing the arrest of the plaintiff;
- c. None of the officer defendants has observed plaintiff commit any offense; and
- d. None of the officer defendants had received information from any source that plaintiff had committed an offense or was otherwise subject to arrest.

ANSWER: The City admits the allegations contained in subsections a. and b., admits none of Defendants had received information from any source other than themselves that plaintiff had committed an offense or was otherwise subject to arrest, and denies the allegations contained in subsection c.

13. As a result of the above-described misconduct, plaintiff was wrongfully detained and prosecuted.

ANSWER: The City denies the allegations contained in this paragraph.

14. After arresting plaintiff:

- a. One or more of the officer defendants prepared official police reports falsely asserting that the officers stopped the vehicle because of a stop sign violation and that plaintiff had been in unlawful possession of a firearm;
- b. One or more of the officer defendants attested to the false official police reports, and each of the other individual officer defendants failed to intervene to prevent the violation of plaintiff's rights; and
- c. One or more of the officer defendants communicated the false charge to prosecutors, and each of the other individual officer defendants failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: The City denies the allegations contained in this paragraph and each subparagraph contained herein.

15. As a result of the above-described wrongful acts, plaintiff was deprived of his liberty from the time of his arrest until the prosecutor learned of the defendant officers' falsehood and dismissed the criminal charges on December 19, 2019 in a manner indicative of plaintiff's innocence.

ANSWER: The City denies the allegations contained in this paragraph.

16. At all relevant times, the City of Chicago has known and has encouraged a “code of silence” among its police officers.

ANSWER: The City denies the allegations contained in this paragraph.

17. As summarized by the United States Department of Justice in its official report entitled “Investigation of the Chicago Police Department,” January 13, 2017, at 75:

- a. “One way to cover up police misconduct is when officers affirmatively lie about it or intentionally omit material facts.”
- b. “The Mayor has acknowledged that a ‘code of silence’ exists within CPD, and his opinion is shared by current officers and former high-level CPD officials interviewed during our investigation.”
- c. “Indeed, in an interview made public in December 2016, the President of the police officer’s union admitted to such code of silence within CPD, saying ‘there’s a code of silence everywhere, everybody has it ... so why would the [Chicago Police] be any different.’”

ANSWER: The City admits that the United States Department of Justice January 13, 2017 report entitled “Investigation of the Chicago Police Department” includes on page 75 the following: “One way to cover up police misconduct is when officers affirmatively lie about it or intentionally omit material facts. The Mayor has acknowledged that a ‘code of silence’ exists within CPD, and his opinion is shared by current officers and former high-level CPD officials interviewed during our investigation. Indeed, in an interview made public in December 2016, the President of the police officer’s union admitted to such a code of silence within CPD, saying ‘there’s a code of silence everywhere, everybody has it ... so why would the [Chicago Police] be any different.’” The City denies any remaining allegations or inferences alleged herein.

18. The United States Department of Justice concluded that “a code of silence exists, and officers and community members know it.” Report at 75.

ANSWER: The City admits that the DOJ report states on p. 75, “We cannot determine the exact contours of this culture of covering up misconduct, nor do we know its precise impact on specific cases. What is clear from our investigation, however, is that a code of silence exists, and officers and community members know it.” The City denies any remaining allegations or inferences alleged herein.

19. Defendant Chicago’s Chief of Police acknowledged in public comments he made in October 2020 that the “code of silence” continues to exist.

ANSWER: The City denies that a "code of silence" exists the in the Chicago Police Department, and denies that Plaintiff has fully and accurately characterized public comments made by the Superintendent of the Chicago Police Department. Defendant City lacks knowledge or information sufficient to form a belief as to the truth of the remaining

allegations contained in this paragraph as they are vague and ambiguous as to what "public comments" they are referring.

20. The City's above-described "code of silence" was a proximate cause for the actions of the officer defendants to concoct a false story and fabricate evidence that was used to deprive plaintiff of his liberty.

ANSWER: The City denies the allegations contained in this paragraph.

21. The facts of this case provide a striking example of the City's "code of silence" in that the defendant officers have not face any consequence for preparing official police reports that are blatantly contradicted by video evidence.

ANSWER: The City denies the allegations contained in this paragraph.

22. As a result of the foregoing, plaintiff was deprived of rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States.

ANSWER: The City denies the allegations contained in this paragraph.

23. As a supplemental state law claim against defendant City of Chicago only: as a result of the foregoing, plaintiff was subjected to a malicious prosecution under Illinois law.

ANSWER: The City denies the allegations contained in this paragraph.

REQUEST FOR RELIEF

WHEREFORE, the City respectfully requests that this Court enter judgment in its favor and against plaintiff, including for costs for defending this suit, and enter any other relief that this Court deems just and proper.

AFFIRMATIVE DEFENSES

1. The City is not liable to plaintiff for any federal claim for which its employees or agents are not liable to plaintiff. *See City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986).

2. To the extent plaintiff failed to mitigate any of his claimed injuries or damages, any verdict or judgment obtained by plaintiff must be reduced by application of the principle that plaintiff had a duty to mitigate his claimed injuries and damages, commensurate with the degree of failure to mitigate attributed to plaintiff by the jury in this case.

3. Plaintiff is not entitled to attorney's fees for his state law claims. *See Pennsylvania Truck Lines, Inc. v. Solar Equity Corp.*, 882 F.2d 221, 227 (7th Cir. 1989); *Kerns v. Engelke*, 76 Ill.2d 154, 166; 390 N.E.2d 859, 865 (1979); *Miller v. Pollution Control Bd.*, 267 Ill. App. 3d 160, 171; 642 N.E.2d 475, 485 (4th Dist. 1994).

4. The City is immune from the imposition of punitive damages under both state and federal law. Moreover, under Illinois law, the City cannot be required to indemnify any employee for punitive damages, nor may it pay a judgment for punitive damages. 745 ILCS 10/2-102 (2014).

5. As to any state law claim made by Plaintiff, the City is not liable because the decision as to what action to take with regard to Plaintiff was a discretionary decision for which the City and its employees are immune from liability. 745 ILCS 10/2-201.

6. To the extent any employee or agent of the City was acting within the scope of his or her employment, that employee or agent is not liable for his or her acts or omissions in the execution or enforcement of the law, unless such act or omission constitutes willful and wanton conduct. 745 ILCS 10/2-202.

7. The City is not liable to plaintiff for any state law claim for which its employees or agents are not liable to plaintiff. 745 ILCS 10/2-109.

8. To the extent any injuries or damages claimed by plaintiff as proximately caused, in whole or in part, by the negligent, willful and wanton and/or other wrongful conduct on the part of the plaintiff, any verdict or judgment obtained by Plaintiff must be reduced by application of the principles of comparative fault, by an amount commensurate with the degree of fault attributed to Plaintiff by the jury in this cause. At the time of the actions alleged in plaintiff's complaint, 735 ILCS 5/2-1116 (West 2018) was in effect and reduces plaintiff's recovery according to his contributory negligence and bars his recovery entirely when the plaintiff is more than fifty percent (50%) of the proximate cause of the injury or damage for which recovery is sought.

9. As to Plaintiff's state law claims, the City is not liable for failing to provide adequate police protection or service. 745 ILCS 10/4-102.

10. Defendant City is not liable for any injury caused by the act or omission of another person. 745 ILCS 10/2-204 (2010).

11. Defendants are absolutely immune from civil liability for their testimony given in judicial proceedings in Plaintiff's underlying criminal case. *See Briscoe v. LaHue*, 460 U.S. 325, 330-31 (1983); *see also Jurgensen v. Haslinger*, 295 Ill. App. 3d 139, 141-42 (3d Dist. 1998).

12. To the extent plaintiff asserts a federal malicious prosecution claim, such a claim may not be cognizable. *Saunders-El v. Rohde*, 778 F.3d 556, 560 (7th Cir. 2015); *Newsome v. McCabe*, 256 F.3d 747, 750 (7th Cir. 2001).

12(b)(6) DEFENSE

1. To the extent Plaintiff intends to state a *Monell* claim against the City, Plaintiff has failed to state such a claim under the pleading standards laid out in *Ashcroft v. Iqbal*, 556 U.S. 662, (2009), and its progeny.

JURY DEMAND

The City hereby demands a trial by jury on all issues deemed so triable.

DATED: January 19, 2021

Respectfully submitted,

CELIA MEZA
ACTING CORPORATION COUNSEL

BY: /s/ Raoul Vertick Mowatt
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CERTIFICATE OF SERVICE

I, Raoul Vertick Mowatt, an attorney, hereby certify that I have served a copy of **DEFENDANT CITY OF CHICAGO'S ANSWER TO PLAINTIFF'S COMPLAINT, AFFIRMATIVE DEFENSES, 12(b)(6) DEFENSE, AND JURY DEMAND** upon all counsel of record using the District Court's Electronic Filing System on this day of January 19, 2021.

/s/ Raoul Vertick Mowatt
Raoul Vertick Mowatt
Assistant Corporation Counsel