



NO. 22-cv-4337

DENNIS JACKSON

V.

CITY OF CHICAGO, ET AL.

DEPONENT:

JOHN FOERTSCH

DATE:

December 20, 2023

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 JUDGE ALONSO
5 NO. 22-cv-4337

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8 DENNIS JACKSON,
9 Plaintiff

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11 V.

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13 CITY OF CHICAGO, ET AL.,
14 Defendants

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23 DEPONENT: JOHN FOERTSCH
24 DATE: DECEMBER 20, 2023
25 REPORTER: ESTHER HEATH

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	APPEARANCES ON BEHALF OF THE PLAINTIFF, DENNIS JACKSON: Joel A. Flaxman, Esquire Kenneth N. Flaxman, PC 200 South Michigan Avenue Suite 201 Chicago, Illinois 60604 Telephone No.: (312) 427-3200 E-mail: jaf@kenlaw.com (Appeared via videoconference) ON BEHALF OF THE DEFENDANTS, CITY OF CHICAGO AND JOHN FOERTSCH: Alexander Michelini, Esquire Jordan Yurchich, Esquire City of Chicago, Department of Law 30 North LaSalle Street Suite 700 Chicago, Illinois 60602 Telephone No.: (312) 744-7684 E-mail: alexander.michelini2@cityofchicago.org E-mail: jordan.yurchich2@cityofchicago.org (Appeared via videoconference)	Page 2	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	STIPULATION The deposition of JOHN FOERTSCH was taken at CHURCHILL REPORTING, 110 NORTH WACKER DRIVE, SUITE 2500, CHICAGO, ILLINOIS 60606, via videoconference in which all participants attended remotely, on WEDNESDAY the 20th day of DECEMBER 2023 at 1:04 p.m. (CT); said deposition was taken pursuant to the FEDERAL Rules of Civil Procedure. The oath in the matter was sworn remotely pursuant to FRCP 30. It is agreed that ESTHER HEATH, being a Notary Public and Digital Reporter for the State of ILLINOIS, may swear the witness.	Page 4
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	INDEX PROCEEDINGS DIRECT EXAMINATION BY MR. FLAXMAN	Page 3 Page 5 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	PROCEEDINGS THE REPORTER: We're on the record. Will all parties, except for the witness, please state your appearance and how you're attending? MR. FLAXMAN: This is Joel Flaxman, attending virtually from Chicago, Illinois. MR. MICHELINI: Alex Michelini, attending virtually from Chicago on behalf of the defendant. MR. YURCHICH: Jordan Yurchich on behalf of the defendants. THE REPORTER: Thank you. And, sir, would you please state your full name for the record, Mr. Foertsch? Sorry if I mispronounced that. THE WITNESS: Yeah. It's fine. John, last name is spelled F-O-E-R-T-S-C-H. THE REPORTER: And do all parties agree that the witness is, in fact, John Foertsch? MR. FLAXMAN: Yes. MR. MICHELINI: Yes. THE REPORTER: Sir, would you raise your right hand? Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth? THE WITNESS: Yes.	Page 5

<p>1 THE REPORTER: You may begin.</p> <p>2 DIRECT EXAMINATION</p> <p>3 BY MR. FLAXMAN:</p> <p>4 Q. Good afternoon. My name is Joel Flaxman. Do you understand I'm going to be asking you questions about an arrest of Dennis Jackson on November 6, 2017?</p> <p>5 A. Yeah.</p> <p>6 Q. Okay. And are you prepared to answer those questions?</p> <p>7 A. Yeah. To the best of my ability, yeah.</p> <p>8 Q. Okay. Is there some reason that you wouldn't be able to answer the questions?</p> <p>9 A. Just being able to recall everything.</p> <p>10 Q. Okay. But other than the time that's passed since 2017, is there any reason you could not give me truthful and accurate answers?</p> <p>11 A. No.</p> <p>12 Q. Okay. And since we're appearing over Zoom, it's important to please let me know if you have any trouble hearing me or understanding what I'm saying; is that okay?</p> <p>13 A. Uh-huh.</p> <p>14 Q. And is that a yes?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Please be sure you give verbal yeses or</p>	<p>Page 6</p> <p>1 Area -- well, they changed unit names. I really don't remember what the last unit name was, but it was the Area 2 Gun Team, Area South Gun Team. They had different names for it. I don't know. The -- the last four or five months of my career, there -- there were -- the last four or five months working, it had changed a few times.</p> <p>2 Q. Okay. Before that time, what was it called?</p> <p>3 A. Area South Gun Team or Area 2 Gun Team.</p> <p>4 Q. And how long were you assigned to the gun team?</p> <p>5 A. 17 years, approximately.</p> <p>6 Q. Okay. All right. So I said I wanted to ask you about this arrest on November 6th of 2017. Were you involved in the arrest of Dennis Jackson?</p> <p>7 A. I was unfamiliar with it, but I see the reports now, yes.</p> <p>8 Q. Okay. And which reports did you look at?</p> <p>9 A. The inventory.</p> <p>10 Q. Okay. What was that an inventory for?</p> <p>11 A. Inventory was the knotted bag of tan powder, suspect heroin, or --</p> <p>12 Q. Okay.</p> <p>13 A. -- I think that's what it was.</p> <p>14 Q. Do you have that paper? Do you have that on</p>
<p>1 noes; is that okay?</p> <p>2 A. Yes.</p> <p>3 Q. Thank you. And you can hear me and see me fine?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Are you currently employed?</p> <p>6 A. No, I am not.</p> <p>7 Q. Okay. Are you retired?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Where did you retire from?</p> <p>10 A. Chicago Police Department.</p> <p>11 Q. Okay. When did you retire?</p> <p>12 A. September of '21.</p> <p>13 Q. Okay. Why did you retire?</p> <p>14 A. I was old, and I basically had enough.</p> <p>15 Q. Okay. And you receive a pension now?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And am I correct that you do not live in Illinois anymore?</p> <p>18 A. Correct.</p> <p>19 Q. Am I right that you live in Wisconsin?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. What was your assignment when you retired from the police department?</p> <p>22 A. My last time, I was -- I was assigned to the</p>	<p>Page 9</p> <p>1 paper, or did you look at it on the computer?</p> <p>2 A. Yes. It's on the screen, but Zoom is covering it. I -- if I --</p> <p>3 Q. Oh, okay.</p> <p>4 A. -- look, I'm going to lose you and --</p> <p>5 Q. Sure. Well, let me -- I think I can make it come up in Zoom. Give me a minute.</p> <p>6 A. I guess I can try to -- yeah.</p> <p>7 Q. Well, don't -- don't -- don't lose anything, all right? All right. Do you see that inventory sheet now?</p> <p>8 A. Yeah.</p> <p>9 Q. And I don't know if I'm changing the way it looks. Is this the inventory sheet that you looked at?</p> <p>10 A. Yeah. Yeah, it looks like it. I mean, it's -- well, that's why I can't enlarge it.</p> <p>11 Q. Okay. Well, I'll zoom in just so we have on the record -- do you see at the bottom corner --</p> <p>12 A. It would be the other corner. It would be my PC number.</p> <p>13 Q. Okay. And before we get to that, can you read at the bottom that it says FCRL 000162?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. And then if I go over, you said on the other side, does that list your PC number next to</p>

<p style="text-align: right;">Page 10</p> <p>1 "created by"?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And what was your PC number?</p> <p>4 A. PCU082 -- or 929.</p> <p>5 Q. PCU0929?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Is that a yes?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So then what we're looking at on this report is your PC number, right?</p> <p>10 A. Yes.</p> <p>12 Q. And does that mean that you created this inventory sheet?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. Do you have any recollection of creating this inventory sheet?</p> <p>17 A. No. I -- no.</p> <p>18 Q. Okay. And the owner's name listed on the inventory sheet is Johnson, Nathaniel. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Do you have any recollection of the arrest of Nathaniel Johnson?</p> <p>23 A. No.</p> <p>24 Q. Underneath Mr. Johnson's name, it's -- there's a box that says, "Found by." Do you see that?</p>	<p style="text-align: right;">Page 12</p> <p>1 person, I guess, to finalize an arrest.</p> <p>2 Q. Okay. So based on your reading of the incident report, you can tell that you took Mr. Johnson back to the station; is that right?</p> <p>5 A. Yeah. According to the paperwork, yeah, but I -- I don't recall. But --</p> <p>7 Q. Yeah. And to be clear, you're answering according to the paperwork. You don't have a memory of this incident, right?</p> <p>10 A. Correct.</p> <p>11 Q. And if Officer Lau stayed in the field and was involved in something else, you wouldn't have been present for that, right?</p> <p>14 A. No. I would not. I -- no.</p> <p>15 Q. And just in general, was it the practice of your team to work together to complete police reports and inventory sheets?</p> <p>18 A. Depends on what was on the agenda. I mean, you know, we wrote search warrants. We, you know, did other investigations. There's times that, you know, we would ask others for help. There's times that we did stuff together. It --</p> <p>23 Q. Okay.</p> <p>24 A. There was no norm.</p> <p>25 Q. Okay. But there was nothing unusual about you</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Yes.</p> <p>2 Q. And it lists Officer Gerald Lau, L-A-U. Do you see that?</p> <p>4 A. Correct. Yes.</p> <p>5 Q. Was Officer Lau also on the same gun team as you?</p> <p>7 A. Yes.</p> <p>8 Q. And what's your understanding of what it means for his name to be in the "found by" box on the inventory sheet?</p> <p>11 A. During a search of the person or the area around the person, this was located, narcotics was located.</p> <p>14 Q. Okay. Does Officer Lau's name in the "found by" box mean that Officer Lau is the one who found the narcotics?</p> <p>17 A. Yeah. That's what it means, yes.</p> <p>18 Q. Okay. Do you know why Officer Lau didn't prepare the inventory sheet?</p> <p>20 A. No, I -- I -- no, I do not know. I mean, we all go in and we help each other out. I don't have recollection of it, but during the case report, it looks like Officer Lau stayed out in the field.</p> <p>24 Q. Okay.</p> <p>25 A. Officer Higgins and I went in with this</p>	<p style="text-align: right;">Page 13</p> <p>1 creating the inventory sheet when it was another officer who found the narcotics on the sheet, right?</p> <p>3 A. No. Because sometimes the person who found the one is the arresting officer, and they're the one handling the case report and the arrest report. And other people in the -- on the team would be doing the inventories, the other paperwork, you know, complaints, so and on.</p> <p>9 Q. Okay. And if -- I'm going to just go up to the top of the inventory sheet. You did already mention this, that the -- under description of property, it says, "Narcotic drug", and then it says, "Knotted bag of a tan powder substance, suspect heroin." Do you see that?</p> <p>15 A. Correct.</p> <p>16 Q. And based on your PC number, you can tell that you're the one who put that information into the inventory sheet; is that right?</p> <p>19 A. Correct.</p> <p>20 Q. But you don't actually remember doing it, right?</p> <p>22 A. No.</p> <p>23 Q. Was it your practice to create a description like that based on looking at the item, or would you have relied on another officer describing it to you?</p>

<p style="text-align: right;">Page 14</p> <p>1 MR. MICHELINI: Objection to speculation. 2 Hypothetical. You can answer the question. 3 THE WITNESS: I'm sorry. I -- there was some 4 breakup. 5 MR. FLAXMAN: Yeah. 6 THE WITNESS: You want me to answer the 7 question, or is there an objection? 8 MR. FLAXMAN: Yes. So basically, his 9 objection's on the record, and then we'd ask you to 10 ask -- answer the question. 11 THE WITNESS: Okay. Yeah. Somebody probably 12 would have told me what they thought it was. I 13 wouldn't -- I'm just putting in there what they, you 14 know, have suspected it to be. 15 BY MR. FLAXMAN: 16 Q. Okay. And can you tell by looking at the 17 inventory sheet which officer it was who gave you that 18 information? 19 A. No. I mean, it might have been Officer 20 Carreno because it was basically his investigation. It 21 might have been Officer Lau. No, I have no recollection 22 of who thought that was that. I mean, it did look like 23 whatever it was they said, and I had no problem putting 24 it in there. 25 Q. All right. And how did you know that it was</p>	<p style="text-align: right;">Page 16</p> <p>1 of anybody else besides Mr. Johnson? 2 A. No. 3 Q. Okay. And for Mr. Johnson, what you do know 4 is just based on what's in the reports, right? 5 A. Correct. Yeah. I don't have any recollection 6 of Mr. Johnson per se. 7 Q. Sure. Besides the inventory sheet and the 8 arrest report, did you look at any other documents? 9 A. There were -- I'm sorry. What? 10 Q. Oh, I -- that was the end of my question. I'm 11 sorry. 12 A. Oh. There were five things that I got. I 13 think there was an arrest report, a case report, the 14 inventory, the state inventory, and there might have -- 15 I don't know what the fifth one was. 16 Q. Okay. 17 A. It might have been the other guy's arrest 18 report. I'm -- I'm not sure. 19 Q. And so looking at all of those documents did 20 not help you recall the arrest of Mr. Johnson or anybody 21 else on the same night? 22 A. No. I mean, I've -- no. I've had -- I had 23 thousands of arrests. I'm not going to be able to 24 remember this one, no. 25 Q. Okay. And are you aware of anything else, any</p>
<p style="text-align: right;">Page 15</p> <p>1 Officer Carreno's investigation? 2 A. Through that report. 3 Q. Which -- this report or a different one? 4 A. A different -- the arrest report, I think. 5 Q. Okay. And was the arrest report for -- 6 A. I -- I -- I don't know if you're saying 7 something. I don't hear you. 8 Q. Oh, okay. I'm sorry. You said you knew it 9 was Officer Carreno's investigation because you looked 10 at an arrest report; is that right? 11 A. Yeah. I think he was in the first box, 12 arresting officer. 13 Q. Okay. 14 A. Yeah. 15 Q. Okay. And this inventory sheet is about a man 16 named Nathaniel Johnson, right? 17 A. Yeah, and that's what it says. Yeah. 18 Q. Okay. Do you know that officers on your team 19 arrested two other men on the same night? 20 A. I don't recall it. 21 Q. Okay. 22 A. I mean, you know, on that case report, I think 23 it had somebody else. I don't know if it was one or 24 two. 25 Q. Okay. Do you know anything about the arrests</p>	<p style="text-align: right;">Page 17</p> <p>1 other documents or recordings that would help you 2 remember this incident? 3 A. With the one little bag here, no. I mean, if 4 it was a couple of pounds or something that, you know -- 5 but this little bit of narcotic, no. I would not be 6 able to comment clearly on it. 7 Q. Okay. And I just want to make sure you 8 understood my question. Besides the documents that you 9 looked at -- I'm sorry? Oh, I'm sorry. I thought you 10 were saying something. Besides the documents that you 11 looked at, are you aware of anything else that would 12 help you remember the arrest of Mr. Johnson or anybody 13 else on that same night? 14 A. No. I mean, prior to receiving this 15 inventory, I -- I had no knowledge of -- because I guess 16 they couldn't find my name anywhere on the -- my name 17 was in the report as an assisting officer, but there was 18 no -- there was nothing that showed that I did anything. 19 Like, Higgins might have did the arrest report. Somebody 20 else did this. Until this came up, I had no knowledge 21 of this -- no recollection, I should say, of this case. 22 Q. Okay. And if you had some kind of significant 23 participation in this incident, would you expect you 24 were to be -- that to be listed on one of the reports? 25 A. Correct.</p>

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