

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DENNIS JACKSON,)
Plaintiff,)
v.) No. 1:22-cv-04337
THE CITY OF CHICAGO, PATRICK BOYLE,) Honorable Jorge L. Alonso
JENNIFER BURMISTRZ, EFRAIN CARRENO,)
MATTHEW EVANS, JOHN FOERTSCH,)
EDWARD GARCIA, MICHAEL HIGGINS,)
GERALD LAU, and JEFFREY LAWSON,)
Defendants.)

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
STATEMENT OF ADDITIONAL MATERIAL FACTS**

Defendants, City of Chicago, Patrick Boyle, Jennifer Burmistrz, Efrain Carreno, Matthew Evans, John Foertsch, Edward Garcia, Michael Higgins, Gerald Lau, and Jeffrey Lawson, by and through one of their attorneys, Michael J. Dinard, Assistant Corporation Counsel, submit the following response to plaintiff's Local Rule 56.1(3)(C) statement of additional material facts (ECF No. 76).

1. In the evening of November 6, 2017, plaintiff and James McIntyre were seated in a car parked in the 300 block of East 120th Place in Chicago, Illinois. (Defendants' Exhibit 3, ECF No. 66-3, Plaintiff Deposition 24:14-20, 25:11-24.)

RESPONSE: Defendants admit the facts in this paragraph.

2. Plaintiff was texting with his girlfriend; McIntyre had requested that plaintiff give him a ride home. (Defendants' Exhibit 3, ECF No. 66-3, Plaintiff Deposition 24:14-20. 25:11-19; Plaintiff's Exhibit 1, McIntyre Deposition 9:11-16.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

3. Before plaintiff could drive McIntyre home, police arrived and arrested the two men. (Defendants' Exhibit 3, ECF No. 66-3, Plaintiff Deposition 25:11-19; Plaintiff's Exhibit 1, McIntyre Deposition 9:20-24.)

RESPONSE: Defendants object to this additional statement of fact on grounds that “[b]efore plaintiff could drive McIntyre home” does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit that police arrived and arrested the two men.

4. While plaintiff and McIntyre sat in the car, no one approached the vehicle, and no one handed plaintiff anything through the car window. (Defendants' Exhibit 3, ECF No. 66-3, Plaintiff Deposition 41:11-23, 184:4- 7.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 29.)

5. It would have been impossible for anyone to have handed anything to plaintiff through the window of the vehicle because the window would not roll down. (Defendants' Exhibit 3, ECF No. 66-3, Plaintiff Deposition 184:8-13.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 29.)

6. McIntyre never left the car between the time he entered it and the time he was arrested. (Plaintiff's Exhibit 1, McIntyre Deposition 11:10- 12; 11:19-21.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 29, 43-45.)

7. McIntyre never went behind the building on the night of the arrest. (Plaintiff's Exhibit 1, McIntyre Deposition 11:19-21.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 29, 43-45.)

8. McIntyre was suffering from a recent back injury on the night of the arrest. (Plaintiff's Exhibit 1, McIntyre Deposition 70:16-25.) McIntyre had requested that plaintiff drive him home because he was unable to walk the few blocks to his home. (Plaintiff's Exhibit 1, McIntyre Deposition 70:6- 13, 72:13-19.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 29, 43-45.)

9. Defendant Carreno prepared the Original Case Incident Report, Plaintiff's Exhibit 2. (Defendants' Exhibit 4, ECF No. 66-4, Carreno Deposition 18:2-10.)

RESPONSE: Defendants admit the facts in this paragraph.

10. Defendant Garcia prepared and electronically signed the Arrest Report, Plaintiff's Exhibit 3, swearing that the facts in the report were true. (Defendants' Exhibit 10, ECF No. 66-10, Garcia Deposition 45:19- 46:2, 46:23-47:4.)

RESPONSE: Defendants admit the facts in this paragraph.

11. The Original Case Incident Report and the Arrest Report both state that defendants Carreno and Garcia observed plaintiff and McIntyre engage in multiple drug transactions while the two sat in a car. (Plaintiff's Exhibit 2, Original Case Incident Report; Plaintiff's Exhibit 3, Arrest Report.)

RESPONSE: Defendants admit the facts in this paragraph.

12. The Original Case Incident Report and the Arrest Report both state that buyers approached the vehicle, handed money to plaintiff through the car window, and McIntyre would then hand drugs to the each buyer. (Plaintiff's Exhibit 2, Original Case Incident Report; Plaintiff's Exhibit 3, Arrest Report.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Defendants also object to this additional fact because it is an incomplete recital of facts in the mentioned reports. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 29, 43-45.)

13. The Original Case Incident Report and the Arrest Report both state that defendants Carreno and Garcia observed McIntyre walk from the street to a back alley to retrieve

drugs from another car during each transaction. (Plaintiff's Exhibit 2, Original Case Incident Report; Plaintiff's Exhibit 3, Arrest Report.)

RESPONSE: Defendants admit the facts in this paragraph.

14. The Original Case Incident Report and the Arrest Report both state that defendants Carreno and Garcia gave other officers a description of an alleged buyer who was arrested. (Plaintiff's Exhibit 2, Original Case Incident Report; Plaintiff's Exhibit 3, Arrest Report.)

RESPONSE: Defendants admit the facts in this paragraph.

15. The alleged buyer was Nathaniel Johnson. (Defendants' Exhibit 7, ECF No. 66-7, Evans Deposition 14:5-15.)

RESPONSE: Defendants admit the facts in this paragraph.

16. Nathaniel Johnson did not buy drugs from plaintiff. (Defendants' Exhibit 11, ECF No. 66-11, Johnson Deposition 22:20-23; 57:18- 25.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants deny the facts in this paragraph. (SOF, ¶ 35-39.)

17. Defendants Carreno and Garcia claim that plaintiff sold crack cocaine to Johnson on November 6, 2017. (Defendants' Exhibit 4, ECF No. 66-4, Carreno Deposition 69:5-13; Defendants' Exhibit 10, ECF No. 66-10, Garcia Deposition 38:10-15.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

18. Nathaniel Johnson was arrested when officers found heroin on his person on November 6, 2017. (Defendants' Exhibit 4, ECF No. 66-4, Carreno Deposition 67:19-22; Defendants' Exhibit 10, ECF No. 66-10, Garcia Deposition 38:-39:4; Defendants' Exhibit 11, ECF No. 66-11, Johnson Deposition 6:25-7:4.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

19. Police officers prepared an inventory sheet listing personal property taken from James McIntyre as part of the arrest, Plaintiff's Exhibit 4. One of the items listed was a back brace. (Defendants' Exhibit 4, ECF No. 66-4, Carreno Deposition 59:6-14; Plaintiff's Exhibit 4, Inventory Sheet.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

20. Defendant Garcia completed and signed the Complaint for Preliminary Examination, Plaintiff's Exhibit 5, swearing that it was accurate. (Defendants' Exhibit 10, ECF No. 66-10, Garcia Deposition 50:16- 51:6.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

21. Completing the criminal complaint started the prosecution of plaintiff. (Defendants' Exhibit 4, ECF No. 66-4, Carreno Deposition 64:23- 65:2; Defendants' Exhibit 10, ECF No. 66-10, Garcia Deposition 52:3-6.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it calls for a legal conclusion. Subject to and without waiving this objection, defendants deny the allegations in this paragraph. (SOF, ¶ 64.)

22. Carreno and Garcia were not required to and did not request a prosecutor to review a drug case such as the case against plaintiff before charging. (Defendants' Exhibit 4, ECF No. 66-4, Carreno Deposition 64:23- 65:2.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

23. Plaintiff spent the night in the lockup at the police station following his arrest on November 6, 2017. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 3.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

24. Plaintiff was transported to the courthouse at 26th and California in the early morning hours on November 7, 2017. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 4.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

25. Plaintiff remained in custody while he waited in a lockup at the courthouse for several hours before his bond hearing. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 5.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the facts in this paragraph.

26. Plaintiff saw the judge in the afternoon of November 7, 2017 and received an I-Bond; the Bond Order states that it was entered at 3:10 p.m. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 5; Plaintiff's Exhibit 7, Bond Order.)

RESPONSE: Defendants admit the facts in this paragraph.

27. Plaintiff remained in custody until he was released at about 9:00 p.m. on November 7, 2017. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 7.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit the allegations in this paragraph.

(Plaintiff's Dep. 78:8-14; 84:5-12.)

28. Plaintiff was falsely arrested for possession of a stolen vehicle on April 14, 2018. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 12.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it is an opinion and calls for a legal conclusion. Defendants admit only that the plaintiff was arrested for possession of a stolen motor vehicle on April 14, 2018. Defendants deny the remaining allegations in this paragraph. (Plaintiff's Dep. 89:9-90:16 (admitting that the vehicle was reported stolen after someone stole it from a parking lot).)

29. Because of the pending drug charge that is the subject of this lawsuit, plaintiff was not allowed to bond out on the stolen vehicle charge, and plaintiff entered the Cook County Jail on April 15, 2018. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 13.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it does not set forth a material fact requiring denial of defendants' motion for summary judgment. Subject to and without waiving this objection, defendants admit plaintiff entered the Cook County jail on April 15, 2018, but deny the remaining allegations in this paragraph. (Plaintiff's Dep. 164:1-4 (stating that his I-bond was eventually reinstated).)

30. Plaintiff's bond in the criminal case that is the subject of this lawsuit was revoked on April 16, 2018, because he had been falsely arrested for possession of a stolen vehicle. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 14.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it is an opinion, it is argumentative, and calls for a legal conclusion. Defendants admit that plaintiff was arrested for possession of a stolen motor vehicle, admit that his I-bond was revoked, but deny the remainder of the allegations in this paragraph. (Plaintiff's Dep. 89:9-24; 90:1-16 (admitting that the vehicle was reported stolen after someone stole it from a parking lot).)

31. Because plaintiff's bond was revoked, he remained in custody at the Cook County Jail. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 15.)

RESPONSE: Defendants deny the allegations in this paragraph. It is only because the plaintiff was arrested on separate felony charges that he was placed into custody. (Plaintiff's Ex. 8; Defendant's Ex. 14 at pg. 8.)

32. The charges for possession of a stolen vehicle were dismissed on April 20, 2018, on a finding of no probable cause. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 16; Plaintiff's Exhibit 8, Orders in People v. Jackson, 18110885001, April 20, 2018.)

RESPONSE: Defendants admit the facts in this paragraph.

33. After the court hearing at which the stolen vehicle charges were dismissed, plaintiff was held at the Cook County Jail until April 23, 2018, when he appeared before the judge presiding in the criminal case that is the subject of this lawsuit. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 17.)

RESPONSE: Defendants admit the facts in this paragraph.

34. The judge reinstated plaintiff's bond and he was released from the Jail later that day. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 17; Plaintiff's Exhibit 9, Orders in People v. Jackson, 17-CR-17475, April 23, 2018.)

RESPONSE: Defendants admit the facts in this paragraph.

35. The drug charge that is the subject of this lawsuit was the only charge holding plaintiff in the Cook County Jail from April 20, 2018 and April 23, 2018. (Plaintiff's Exhibit 6, Declaration of Dennis Jackson ¶ 18.)

RESPONSE: Defendants deny the allegations in this paragraph. An entirely separate finding of probable cause was the basis for plaintiff's subsequent incarceration. (Defendants' Ex. 14, pg. 8.)

36. While he was on bond, plaintiff was required to report to pretrial services, he was not allowed to leave the State, he was required to make regular court appearances, and he was subject to incarceration if he violated any of the conditions of his bond. (Defendants' Exhibit 13, ECF No. 66-13, Order for Special Conditions of Bail; Defendants' Exhibit 3, ECF No. 66-3, Plaintiff Deposition 113:13-114:1.)

RESPONSE: Defendants admit the facts in this paragraph.

37. At plaintiff's trial on September 2, 2021, defendant Carreno testified to the false police story. (Plaintiff's Exhibit 10, Report of Proceedings in People v. Jackson, 17-CR-17475, September 2, 2021, at 6-40.)

RESPONSE: Defendants object to this additional statement of fact on grounds that it is an opinion and calls for a legal conclusion. Defendants admit only that Carreno testified at plaintiff's trial on September 2, 2021, and deny the remaining allegations in this paragraph. (Carreno's Dep. 86:17-24.)

38. After the state rested its case, Judge Adrienne E. Davis granted plaintiff's motion for a directed finding of not guilty. (Plaintiff's Exhibit 10, Report of Proceedings in People v. Jackson, 17-CR-17475, September 2, 2021, at 48.)

RESPONSE: Defendants admit the facts in this paragraph.

DATED: May 20, 2024

Respectfully submitted,

BY: /s/ Michael J. Dinard
MICHAEL J. DINARD
Assistant Corporation Counsel
Attorney No. 6308886

Jordan F. Yurchich, Assistant Corporation Counsel Supervisor
Michael J. Dinard, Assistant Corporation Counsel
City of Chicago, Department of Law
2 North LaSalle Street, Suite 420
Chicago, Illinois 60602
312.744.1975 (Phone)
michael.dinard@cityofchicago.org

CERTIFICATE OF SERVICE

I certify that on May 20, 2024, I electronically filed the foregoing document(s) and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Michael J. Dinard
Michael J. Dinard
Assistant Corporation Counsel