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

DENNIS JACKSON,)	
)	
Plaintiff,)	
)	
v.)	No. 1:22-cv-04337
)	
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 MOTION TO SUPPLEMENT

Plaintiff asserts in his motion to supplement, that the decision in *Chiaverini v. City of Napoleon* stands for the assertion that legal process begins when police file a criminal complaint. Pl.'s Mot. to Supp. ¶ 5, ECF No. 82.) For the following reasons, plaintiff's assertion is in error.

An Arrest and Detention is not a Seizure Pursuant to Legal Process

1. Plaintiff claims that because the police filed criminal complaints in *Chiaverini*, those complaints satisfy the seizure pursuant to legal process requirement for federal malicious prosecution claims. (ECF No. 82 at 5.)
2. What plaintiff misses is that, in *Chiaverini*, the police officers applied for (and obtained) an arrest warrant. *Id.* at 1749. An arrest warrant leading to an eventual arrest is the precise type of seizure pursuant to legal process a federal malicious prosecution claim requires. See *Manuel v. City of Joliet*, 580 U.S. 357, 367 (2017) (an arrest warrant is a way of

initiating legal process, in which a magistrate finds probable cause that a person committed a crime).

3. *Chiaverini* is easily distinguishable from this matter because plaintiff in this case was not arrested pursuant to an arrest warrant—*i.e.*, he was not seized (arrested) pursuant to legal process on November 6, 2017 when the officers viewed him committing a crime. Rather, the legal process in this case occurred when plaintiff appeared in bond court on November 7, 2017. The plaintiff in *Chiaverini*, in contrast, was arrested pursuant to a warrant, which qualifies as the requisite legal process for a federal malicious prosecution claim.

The Filing of a Criminal Complaint is not Legal Process

4. Plaintiff also alleges that the decision in *Chiaverini* shows that, for purposes of a seizure pursuant to legal process, the filing of a criminal complaint by police officers constitutes said legal process. (ECF No. 82 at 5.)
5. However, the Supreme Court in *Chiaverini* addressed only one issue: “whether a Fourth Amendment malicious-prosecution claim may succeed when a baseless charge is accompanied by a valid charge.” *Chiaverini v. City of Napoleon*, 144 S. Ct. 1745, 1750 (2024).
6. In fact, Justice Kagan explicitly leaves for another day the question of whether the baseless charge caused the requisite seizure. *Id.* at 1748 (stating “We leave for another day the follow-on question of how to determine in those circumstances whether the baseless charge caused the requisite seizure.”).
7. The Court in *Chiaverini* did not hold a complaint initiates legal process. It addressed only one issue. Any other statement by the court is *obiter dicta* and not binding. *Stolfo v. KinderCare Learning Centers, LLC*, 17 C 854, 2017 WL 2692123, at *4 (N.D. Ill. June

21, 2017) (“Obiter dicta are comments by a court uttered as an aside and are generally not binding or precedential.”). As noted in our motion for summary judgment, the Supreme Court has made perfectly clear that legal process begins at the “first appearance” in court. *Manuel*, 580 U.S. at 374 (citing 725 ILCS §§ 5/109-1(a), 1(e) (West Supp. 2015)).

Conclusion

8. Distilled to its essence, plaintiff’s argument improperly conflates two causes of action as if they were a single claim. It is well settled, however, that claims for false arrest (pre-legal process) and malicious prosecution (post-legal process) are separate and distinct claims that accrue at different times. Because plaintiff was not seized pursuant to legal process, he failed to establish a genuine issue of material fact on an essential element of his malicious prosecution claim and defendants are entitled to summary judgment as a matter of law.

DATED: July 17, 2024

Respectfully submitted,

BY: /s/ Michael J. Dinard
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CERTIFICATE OF SERVICE

I hereby certify that, on **July 17, 2024**, I submitted with the Clerk for the Northern District of Illinois using the Court's electronic filing system or CM/ECF **Defendants' Response to Plaintiff's Motion to Supplement**, which served a copy to all counsel of record.

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