

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

ADOLFO ROSARIO,

Plaintiff,

v.

REYNALDO GUEVARA, et al.,

Defendants.

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No. 24 CV 11278

Judge Sunil R. Harjani

**DEFENDANTS' OPPOSED MOTION TO STAY
OR ENLARGE TIME TO ANSWER/PLEAD**

NOW COMES defendants, former Assistant State's Attorney Mary Beth Kinnerk, by and through her attorneys, Oberts Galasso Law Group, Steven Gawrys, Frank Vukonich, Clyde Raymond, Anthony Wojcik, Hugh Conwell, Gillian McLaughlin, William Johnston, and Robert Boris, by their attorneys, The Sotos Law Firm, P.C., and the City of Chicago, by its attorneys, Rock Fusco & Connelly, LLC, pursuant to this Court's equitable power, and Fed. Rule Civ. Pro. 6, hereby moves to stay the time for Defendants to answer or otherwise plead or alternatively enlarge the time to answer or otherwise plead. In support thereof, Defendants state as follows:

1. On November 11, 2024, Plaintiff filed his First Amended Complaint ("FAC") against Defendant Kinnerk, twelve Chicago Police Officer¹, the City of Chicago, and the County of Cook. Dkt. # 11.
2. Plaintiff's Complaint stems from the July 9, 1988 murder of Anthony Hawkins near Pulaski School in Chicago, Illinois. Id. ¶ 24. Plaintiff was convicted by a jury of the

¹ Three of the named Defendants (William Rose, Noel Caporusso, and John Leonard) were deceased prior to the filing of this lawsuit.

murder on July 18, 1991. Id. ¶55. Plaintiff's conviction was vacated on November, 2, 2022 and charges were subsequently dismissed. Id. ¶ 58.

3. As of today's date, only Defendant Guevara (who asserted his Fifth Amended Rights to each allegation) and the County of Cook have answered Plaintiff's FAC. Dkt. #62, 65.
4. On March 19, 2025, Defendant Police Officers (except Guevara) filed a Statement of Death relating to Plaintiff Adolfo Rosario's death on March 14, 2025. Dkt. #76. There is currently no Plaintiff based upon the passing of Mr. Rosario.
5. Defendants acknowledge that the claims against them are not extinguished by mere virtue of Mr. Rosario's death. Plaintiff's counsel must move to substitute within 90 days of the filing of the Statement of Death. Fed. Rule Civ. Pro 25(a) or face dismissal.
6. The current deadline to answer or otherwise plead for the remaining defendants (that have been served) is April 8, 2025. Dkt. #74.
7. In the event Plaintiff's next of kin/successor of interest agrees to continue with the present cause and Plaintiff's counsel moves to substitute Plaintiff, Plaintiff's counsel will necessarily need to file an amended complaint.
8. Defendants seek to stay the time for Defendants' to answer or otherwise plead or alternatively enlarge the time to file a responsive pleading to the operative complaint until such time that any motion to substitute Plaintiff is granted and a new complaint is filed. Granting this stay will not prejudice Plaintiff (or his next of kin/successor in interests) and save time and expense for all parties to avoid preparation of multiple responsive pleadings.
9. Counsel for Defendants conferred with Plaintiff counsel's regarding their position on said motion. Plaintiff's counsel indicted they object to the motion to stay.

WHEREFORE, Defendants respectfully request that the Honorable Court stay the time for Defendants Kinnerk, Gawrys, Vukonich, Raymond, Wojcik, Conwell, McLaughlin, Johnston, Boris, and the City of Chicago to answer or otherwise plead or alternatively enlarge the time to answer or otherwise plead until such time that a motion to substitute Plaintiff is granted, and an amended complaint is filed, and for such other relief as this the Court deems appropriate.

Respectfully submitted,

s/ William B. Oberts
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defendant, Caren Armbrust

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