

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)
4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF ILLINOIS
6 EASTERN DIVISION

7
8 VONDELL WILBOURN,)
9 individually and for)
others similarly)
situation,)
10)
11 Plaintiffs,)
v.) No. 23-cv-1782
12)
13 SHERIFF OF COOK COUNTY)
and COOK COUNTY,)
ILLINOIS,)
14)
Defendants.)

15 The discovery deposition of JOSHUA
16 FLEMING, taken in the above-entitled cause, before
17 SHAWN M. MPISTOLARIDES, a Certified Shorthand
18 Reporter of Cook County, Illinois, on August 13,
19 2024 at the hour of 9:00 o'clock a.m. taken
20 remotely via Zoom videoconference, Chicago,
21 Illinois, pursuant to notice.

22
23 Reported by: Shawn M. Mpistolarides, CSR
24 License No.: 084-004512



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I N D E X

WITNESS

EXAMINATION

JOSHUA FLEMING

By Mr. Flaxman

4

EXHIBITS

NUMBER

MARKED FOR ID

*** No Exhibits Marked ***

THE REPORTER: This is the deposition of Joshua Fleming taken remotely via Zoom videoconference.

will counsel identify yourselves, state who you represent, and your agreement with this remote procedure.

MR. FLAXMAN: I am Kenneth Flaxman for the plaintiff in Evanston, Illinois.

MR. BRANUM: Samuel Branum on behalf of Defendant Sheriff Dart, and I'm also agreeing to the stipulation for remote deposition.

(whereupon, the witness
was duly sworn.)

JOSHUA FLEMING,
called as a witness herein, having been first duly
sworn, was examined and testified as follows:

EXAMINATION

BY MR. FLAXMAN;

Q. Good morning, sir. Could you state your name and spell your last name for us, please?

A. Sure. Investigator Joshua Fleming,
F-1-e-m-i-n-g.

Q. And what's your business or occupation?

A. Investigator for the Cook County Sheriff's Office.



1 Q. For how long have you been employed by the
2 Cook County Sheriff's Office?

3 A. A little over ten years now.

4 Q. What's your present assignment?

5 A. My present assignment is EDSI. I work
6 downtown mainly dealing with carjackings.

7 Q. So do you work in client level law
8 enforcement?

9 A. I'm sorry?

10 Q. When you say you deal with carjacking, are
11 you trying to solve crimes?

12 A. Yes. We mainly deal with data analytics
13 and things of that such.

14 Q. Do you have a background in data
15 analytics?

16 A. No, just with the Sheriff's Office.

17 Q. Back in 2024, were you working in the
18 electronic monitoring unit?

19 A. Yes, sometime in January I was working
20 with the Electronic Monitoring Unit in 2024 before
21 I moved to this new position.

22 Q. So how long did you work in electronic
23 monitoring?

24 A. Just under two years.



1 Q. what if anything have you looked at to
2 prepare for this deposition?

3 A. I met with counsel. we discussed
4 documents.

5 MR. BRANUM: Don't tell him what we discussed,
6 but you can answer what documents you looked at.

7 THE WITNESS: I'm sorry. we reviewed policies,
8 consent forms, and incident reports regarding
9 incarceration.

10 BY MR. FLAXMAN:

11 Q. Did you look at any videos?

12 A. Yes.

13 Q. This case is about something that happened
14 on March 3, 2023. Were you wearing a camera during
15 that incident?

16 A. I was.

17 Q. Did you review your camera?

18 A. Yes.

19 Q. How did you know it was your camera video
20 that you were looking at?

21 A. Counsel told me it was my camera.

22 Q. Okay.

23 A. And I remember the incident, so...

24 Q. Well, where were you assigned before you



1 **worked in electronic monitoring?**

2 A. I was assigned to the Department of
3 Corrections inside the jail, Cook County jail.

4 Q. Did you transfer to the -- well, are you
5 part of the Department of Corrections now?

6 A. Yes, we're still -- it's still under the
7 umbrella, the Department of Corrections, yes.

8 Q. **Is there a difference between the**
9 **Department of Corrections and the Sheriff's Police?**

10 A. Yes.

11 Q. **And have you ever worked as a member of**
12 **the Sheriff's Police?**

13 A. As a member, no, but in unison, yes.

14 Q. **And when you say in unison, do you mean**
15 **together with Sheriff's Police?**

16 A. Yes.

17 Q. **When you work now in data analytics;**
18 **that's with the Sheriff's Police?**

19 A. Not at the moment, no. It's just strictly
20 correctional officers, a mixture of court deputies.

21 Q. **What do you mean, making sure of court**
22 **deputies?**

23 A. I'm sorry?

24 Q. **I might have heard that wrong. I heard**



1 you say, make sure of court deputies. Did you say
2 that?

3 A. No, I said a mixture, a mixture of court
4 deputies and correctional officers.

5 Q. Before you became a correctional officer,
6 did you attend the academy?

7 A. Yes.

8 Q. What did you do before becoming a
9 correctional officer?

10 A. I worked for a trucking company.

11 Q. And have you received on-the-job training
12 since completing the training academy?

13 A. Yes.

14 Q. Have you received any formal training in
15 the duties of someone who's assigned to electronic
16 monitoring?

17 MR. BRANUM: Objection to form, but go ahead,
18 you can answer.

19 THE WITNESS: Yes.

20 BY MR. FLAXMAN:

21 Q. Could you briefly describe for us what
22 that formal training consisted of?

23 A. Sure. Classroom training, also on-the-job
24 training, also we reviewed a bunch of policies and



1 procedures as well.

2 Q. Did any of that training involve the
3 procedure for returning a person on electronic
4 monitoring from their home to the jail?

5 A. Yes.

6 Q. As you sit here now, can you recall any
7 policies or procedures which speak to returning a
8 person on EM to the jail?

9 A. I can't at the moment, but I know there's
10 language in there regarding that.

11 Q. Okay. Do you know if there's language in
12 any of the -- let me rephrase that.

13 As you sit here today, can you recall
14 whether or not there is language in any of those
15 policies or procedures about whether or not you
16 need a warrant to return a person on electronic
17 monitoring to the jail?

18 A. I'm sorry, can you rephrase that?

19 MR. FLAXMAN: Could you re-read it, Madam
20 Reporter?

21 (whereupon, the record was read
22 as requested.)

23 THE WITNESS: We do not. If they violate the
24 terms of the program, we do not need a court order.



1 BY MR. FLAXMAN:

2 Q. And how did you learn that, that a warrant
3 is not -- let me finish the question.

4 How did you learn that a warrant is not
5 required for you as an EM officer to enter a
6 dwelling to return a person to the jail for alleged
7 violations of EM rules?

8 A. On-the-job training, as well as I remember
9 reading the language somewhere in the agreement
10 forms as well.

11 Q. Have you ever returned an EM detainee to
12 the jail from their home where you had a warrant?

13 A. I have not, no.

14 Q. In the two years that you worked in
15 electronic monitoring, how many times were you
16 involved in returning a person, an EM, to the jail?

17 A. I can't recall the number of amount of
18 times, but I know it was a lot.

19 Q. Was it more than 40?

20 A. Maybe under 40.

21 Q. Well, in two years -- well what else would
22 you do as a -- when you were EM besides return
23 detainees to a jail?

24 A. Sure. Just do home checks and make sure,



1 have a face-to-face contacts with these
2 participants that are in the program, ask if they
3 need assistance with anything they might need while
4 they're on the program, inspect their device, make
5 sure their residence is up to living standards,
6 water, electricity and such. That's just some of
7 things we do.

8 Q. When you would enter a home to bring a
9 detainee back to the jail who was -- who had been
10 on electronic monitoring, would you search any of
11 the rooms in the dwelling?

12 A. Some incidents, not all of them, but some
13 incidents, yes, for safety and security.

14 Q. What do you mean by secured?

15 A. For Wilbourn's standard, we wanted to make
16 sure -- we knew it was a reincarceration. We
17 wanted to make sure it was safe and secure, so we
18 wanted to clear the residence.

19 Q. What do you mean by clear the residence?

20 A. Just make sure there's no other
21 individuals that might pose a danger to us or him
22 while we conduct a reincarceration, also make sure
23 there's no children present. We don't want to
24 leave children behind if we are taking the



1 individual back to the jail.

2 Q. What's the policy or procedure that you
3 followed when there were children in the dwelling
4 and no adults other than the one you were returning
5 to the jail?

6 A. I'm not exactly sure the policy and
7 procedure, but we did contact an adult, and I
8 believe an investigator stayed behind with the
9 children until an adult was able to take them in
10 their custody.

11 Q. Am I correct that back in March 3 of 2023,
12 you were involved in returning a man named Vondell
13 Wilbourn to the jail?

14 A. Yes.

15 Q. Did you make any decisions that day about
16 whether or not Mr. Wilbourn should be returned to
17 the jail?

18 A. No.

19 Q. Do you recall what exactly your assignment
20 was that day?

21 A. Yes.

22 Q. Could you tell us?

23 A. Sure. I was assigned as a backup officer
24 to assist with the reincarceration of Wilbourn. I



1 believe it was a desk assignment, so we got that
2 straight when we went to work.

3 Q. Can you tell us what you mean by a desk
4 assignment?

5 A. Sure. Usually when we get to work, they
6 have assignments that are already -- that a desk
7 assignment is pretty much an assignment that has
8 been vetted and approved by the supervisor already.

9 Q. Do you know who the supervisor was who vetted
10 and approved that assignment?

11 A. I'm not exactly sure who exactly vetted
12 that assignment.

13 Q. Was the assignment to return Mr. Wilbourn
14 from his home to the jail?

15 A. Yes.

16 Q. And did you go into Mr. Wilbourn's house
17 that day?

18 A. I did.

19 Q. Were you working with a partner?

20 A. Yes.

21 Q. Who was the partner?

22 A. I believe my partner was Investigator
23 Cole.

24 Q. Could you spell that for us?



1 A. Sure. It's going to be c-o-l-e.

2 Q. Did you enter Mr. Wilbourn's dwelling?

3 A. Yes.

4 Q. Did you have a warrant?

5 A. NO.

6 Q. Did you see Mr. Wilbourn inside?

7 A. Yes.

8 Q. When you first saw him, was he handcuffed?

9 A. Yes.

10 Q. Do you know who handcuffed him?

11 A. NO.

12 Q. What did you do after you came into

13 that -- the dwelling and saw Mr. Wilbourn?

14 A. I conducted a home check. I cleared the
15 residence pretty much to see if there was any
16 individuals in the residence.

17 Q. Could you explain to us what a home check
18 is?

19 A. Yeah, just like I said, clearing the
20 residence, scanning inside the room just to make
21 sure there's no other individuals. It's a routine
22 precaution just to ensure safety and security.

23 Q. Do you recall seeing any rooms that had a
24 closed door?



1 A. I don't recall.

2 Q. Do you remember a closed door on a
3 bathroom?

4 A. No, I don't.

5 Q. What did you do after you did the house
6 checks and cleared the residence?

7 A. I returned back to the living room where
8 Wilbourn was at with the other investigators.

9 Q. Did you exchange any words with

10 Mr. Wilbourn?

11 A. I can't recall.

12 Q. Do you remember if there was a television
13 in the room where Mr. Wilbourn was?

14 A. No.

15 Q. No, you don't remember or, no, there
16 wasn't?

17 A. I don't remember. I don't remember.

18 Q. Were you involved in the removal, the
19 physical removal of Mr. Wilbourn from the living
20 room to a car outside?

21 A. No.

22 Q. Where were you when Mr. Wilbourn was being
23 taken outside?

24 A. I was initially inside the residence, and



1 then I was walking in front when they were gonna
2 take him outside.

3 Q. Take him out --

4 A. Or take him to the squad car, from inside
5 the residence to the squad car outside. I started
6 walking ahead of the group.

7 Q. Did you see Mr. Wilbourn fall as he was
8 walking down the steps?

9 A. I did not.

10 Q. Do you remember hearing Mr. Wilbourn say
11 anything at all that day?

12 A. Yes.

13 Q. And where was Mr. Wilbourn when he spoke
14 the words that you heard?

15 A. Do you have a specific incident on when or
16 which words?

17 Q. Okay. The first time you heard
18 Mr. Wilbourn say words that you can recall, where
19 was he?

20 A. In the live being room.

21 Q. Could you tell us as best you can what you
22 recall him saying?

23 A. I just remember him saying that he wasn't
24 gonna go back, referring to the jail.



1 Q. Did you say anything in response to him?

2 A. No.

3 Q. Was he handcuffed when he said that?

4 A. Yes.

5 Q. What's the next thing you recall

6 Mr. Wilbourn saying?

7 A. I don't remember at this time.

8 Q. Well, do you remember him saying anything
9 outside of the house?

10 A. Oh, yes.

11 Q. Okay.

12 A. He kind of yelled.

13 Q. And what did you hear him say when he
14 yelled?

15 A. He just made a noise, like a groaning
16 noise.

17 Q. Did you see him strike anyone?

18 A. No.

19 Q. Did you see him kick anyone?

20 A. No.

21 Q. Where his legs shackled, if you recall?

22 A. Yes.

23 Q. Do you know why his legs were shackled?

24 A. Yeah, he became irate. He became a little



1 bit aggressive, you know, stating he wasn't going
2 to go to jail. He started raising his voice. He
3 stood up from a seated position while he was
4 handcuffed and lunged towards the officers.

5 Q. Were you one of the officers that he
6 lunged at?

7 A. I'm sorry.

8 Q. Were you one of the officers at whom he
9 lunged?

10 A. No.

11 Hold on one second.

12 MR. BRANUM: Do you want to just take a break,
13 Mr. Fleming?

14 THE WITNESS: I'm ready.

15 MR. BRANUM: No problem.

16 THE WITNESS: I apologize. Sorry about that.

17 MR. BRANUM: Not a problem at all.

18 BY MR. FLAXMAN:

19 Q. Do you recall who it was that shackled
20 Mr. Wilbourn?

21 A. Yes.

22 Q. Who shackled Mr. Wilbourn?

23 A. I did.

24 Q. Oh, were you ordered to shackle him?



1 A. Yes.

2 Q. Who ordered you to shackle him?

3 A. Sergeant Price.

4 Q. Do you remember the words -- Sergeant
5 Price?

6 A. Do I remember the words Sergeant Price?

7 Q. I'm sorry. Do you remember the words
8 Sergeant Price used when he told you to shackle
9 Mr. Wilbourn?

10 A. Not word for word. I believe he said
11 something, get the shackles.

12 Q. Did he use any profanity when he said get
13 the shackles?

14 A. No.

15 Q. And did you have shackles with you?

16 A. They were in somebody else's vehicle.

17 Q. So did you go outside to get the shackles
18 and come back?

19 A. Yes.

20 Q. And when you came back, did you shackle
21 Mr. Wilbourn?

22 A. Yes.

23 Q. Did he resist being shackled?

24 A. No.



1 Q. Did you exchange any words with
2 Mr. Wilbourn when you were shackling him?

3 A. No.

4 Q. Did you see any children in the house?

5 A. Yes.

6 Q. How many children do you recall seeing?

7 A. Two.

8 Q. Did you hear them say anything?

9 A. No.

10 Q. Did you hear Mr. Wilbourn say anything to
11 his children?

12 A. I remember him saying, Don't touch my
13 children.

14 Q. Okay. Did you see anybody touch his
15 children?

16 A. No.

17 Q. Did you hear the children crying?

18 A. No.

19 Q. Did you hear the children asking what are
20 you doing to my daddy?

21 A. No.

22 Q. About how old was your understanding of
23 those children? Let me rephrase that.

24 About how old do you believe those



1 children were when you saw them?

2 A. Maybe four or five, around the ages of
3 four or five or so.

4 Q. Did you see Mrs. Wilbourn that day?

5 A. I know there was a lady outside when we
6 began to escort him outside, and I'm not sure if
7 that was Mrs. Wilbourn or not.

8 Q. Did you see that woman go into the house?

9 A. No.

10 Q. Did you hear her say anything?

11 A. No.

12 Q. Did you drive back to the jail after you
13 left Mr. Wilbourn's house?

14 A. Yes.

15 Q. Did you use lights and/or siren when you
16 drove back to the jail?

17 A. I can't recall.

18 Q. Did you turn your body camera off after
19 you left Mr. Wilbourn's house?

20 A. I did, yes.

21 Q. Do you recall when it was you did?

22 A. When I no longer had contact with him.

23 Q. Was that in accordance with the rules,
24 regulations, and procedures of the Sheriff of Cook



1 County?

2 A. Yes.

3 Q. When you had a chance to review the
4 reports before this deposition, did you realize
5 that there were any other reports that you had seen
6 that relate to this incident that were not included
7 with the materials made available to you?

8 A. I'm sorry, can you repeat that, please?

9 Q. Okay. Before this deposition, you looked
10 at reports; is that right?

11 A. Yes.

12 Q. And did you prepare any reports about this
13 incident?

14 A. Did I, no.

15 Q. Okay. When you looked at the reports to
16 prepare for the deposition, was anything -- any
17 reports that you had previously seen not in the
18 collection of reports you looked at?

19 A. No.

20 Q. So other than talking to counsel, have you
21 talked to anyone else about taking Mr. Wilbourn
22 back to the jail on March 3 of 2023?

23 A. No.

24 Q. Could you tell us what a home compliance



1 check is?

2 A. Yeah, sure.

3 MR. BRANUM: Objection to form, but go ahead.

4 THE WITNESS: Okay. A home compliance check
5 is, you know, we're just making sure they're
6 complying with the terms of the program. Like I
7 said, I was checking water, electricity, make sure
8 that the house is livable, that they're not being
9 involved in any criminal activity.

10 BY MR. FLAXMAN:

11 Q. So did you conduct home compliance checks
12 in the course of your work in electronic
13 monitoring?

14 MR. BRANUM: Objection to form. Go ahead.

15 THE WITNESS: I wouldn't say a full compliance
16 check because we were just there for the
17 reincarceration.

18 BY MR. FLAXMAN:

19 Q. In other cases, other days, had you
20 performed home compliance checks?

21 MR. BRANUM: Objection to form.

22 THE WITNESS: Yes.

23 BY MR. FLAXMAN:

24 Q. And how would you determine whether or not



1 a house was livable?

2 A. Like I said, checking water, electricity,
3 things of that nature.

4 Q. Would you --

5 A. Making sure there's heat.

6 Q. In the course of doing a home compliance
7 check, would you walk through the dwelling?

8 MR. BRANUM: And I'm just gonna place a
9 standing objection on the record so I don't have to
10 object every time. Your use of home compliance
11 check is incorrect and not in accordance with
12 policy, so that's just going to be my standing
13 objection every time you use the word home
14 compliance check during this deposition.

15 BY MR. FLAXMAN:

16 Q. Is there another phrase that's used by the
17 Sheriff of Cook County to refer to what I've been
18 referring to as home compliance check?

19 A. we have what's called the home check and
20 then we have what's called a safety compliance
21 check.

22 Q. Yeah, well, we were just talking about
23 safety -- when you described complying with terms
24 of the program, the house is livable, and that the



1 guy was there, was that a home check?

2 A. Yeah, it could be. It could be considered
3 a home check.

4 Q. Okay, could you explain to us what a
5 safety compliance check is?

6 A. Sure. A safety compliance check is just a
7 little bit more in detail. If we receive a tip or
8 something that they might be involved in criminal
9 activity, you know, selling drugs from their
10 residence, there will be a more thorough search,
11 not just looking in the room, clearing the
12 residence.

13 Q. When you say clearing the residence, what
14 does that mean?

15 A. I mean walking -- opening a door, walking
16 in a room, making sure there is no threats.

17 Q. And would you walk through every room in
18 the house?

19 A. Yes.

20 Q. When you would conduct a home check, would
21 the person on electronic monitoring be handcuffed?

22 A. Yes.

23 Q. Would anybody else in the home be
24 handcuffed?



1 A. No.

2 Q. Would other people, if any in the home, be
3 asked to leave when you conducted the check?

4 A. Be asked to leave, no.

5 Q. Okay. And why would -- do you know why it
6 is that you would handcuff the person on electronic
7 monitoring while you were conducting a home check?

8 A. Yeah, that's our protocol. Anytime we
9 make contact with them, even if it's not a home
10 check, these participants of the program are
11 handcuffed.

12 Q. Did you have any firearms when you entered
13 Mr. Wilbourn's home that day?

14 A. Yes.

15 Q. Could you tell us what you had?

16 A. I had my own duty firearm.

17 Q. Did you have a Taser?

18 A. Yes.

19 Q. Did you have any other weapons?

20 A. I had a baton.

21 Q. Is that an expandable baton?

22 A. Yes.

23 Q. Anything else?

24 A. No.



Q. Did you use any of those items that day with Mr. Wilbourn?

A. No.

Q. So am I correct that you never unholstered your firearm?

A. No.

Q. And you never unholstered the Taser?

A. No.

MR. FLAXMAN: I have nothing further.

MR. BRANUM: I have no questions.

MR. FLAXMAN: Signature?

MR. BRANUM: Mr. Fleming, thank you very much.

We will reserve signature.

MR. FLAXMAN: Okay, thank you.

(whereupon, the deposition concluded at 9:30 a.m.)