

1 STATE OF ILLINOIS )

2 ) SS:

3 COUNTY OF C O O K )

4 IN THE UNITED STATES DISTRICT COURT  
5 FOR THE NORTHERN DISTRICT OF ILLINOIS  
6 EASTERN DIVISION

8 VONDELL WILBOURN,  
9 individually and for  
10 others similarly  
situation,

Plaintiffs,

11 v.

12 SHERIFF OF COOK COUNTY  
13 and COOK COUNTY,  
ILLINOIS,

14 Defendants.

) No. 23-cv-1782

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

E X H I B I T S

NUMBER

MARKED FOR ID

\*\*\* No Exhibits Marked \*\*\*



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

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

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

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

11 (Whereupon, the witness  
12 was duly sworn.)

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

16 EXAMINATION

17 BY MR. FLAXMAN:

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

20 A. Sure. Investigator Joshua Fleming,  
21 F-l-e-m-i-n-g.

22 Q. And what's your business or occupation?

23 A. Investigator for the Cook County Sheriff's  
24 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 Sheriffs 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 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.



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

3 A. No.

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

6 A. No.

7 Q. And you never unholstered the Taser?

8 A. No.

9 MR. FLAXMAN: I have nothing further.

10 MR. BRANUM: I have no questions.

11 MR. FLAXMAN: Signature?

12 MR. BRANUM: Mr. Fleming, thank you very much.  
13 We will reserve signature.

14 MR. FLAXMAN: Okay, thank you.

15 (Whereupon, the deposition  
16 concluded at 9:30 a.m.)  
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