

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

SAMUEL GONZALEZ,)	
Plaintiff,)	
)	
v.)	Case No. 24 CV 11448
)	
VILLAGE OF SUMMIT, SUMMIT POLICE)	Honorable Judge Virginia Kendall
OFFICERS DONATO AND PASQUEL,)	
Defendants.)	

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

NOW COME the Defendants VILLAGE OF SUMMIT, SUMMIT POLICE OFFICERS DONATO AND PASQUEL (hereinafter "Defendants"), by and through their attorneys Odelson, Murphey, Frazier & McGrath, Ltd., and for their answer to Plaintiff's Complaint state as follows:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is conferred by 28 U.S.C. § 1343 and 28 U.S.C. § 1367.

ANSWER: Defendants admit the allegations contained in Paragraph 1.

2. Plaintiff Samuel Gonzalez is a resident of the Northern District of Illinois.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 and therefore deny same.

3. Defendants Donato, #155, and Pasquel, #310, were at all times relevant acting under color of their authority as police officers of the Village of Summit, Illinois.

ANSWER: Defendants admit the allegations contained in Paragraph 3.

4. Defendant Village of Summit, Illinois is an Illinois municipal corporation.

ANSWER: Defendants admit the allegations contained in Paragraph 4.

5. On June 23, 2023, defendants Donato and Pasquel arrested plaintiff and caused him to be charged with assault (against defendant Pasquel), and two counts of obstruction (against defendant Donato).

ANSWER: Defendants admit the allegations contained in Paragraph 5.

6. At all times relevant, defendants Donato and Pasquel knew that plaintiff had not committed an offense and was not otherwise subject to arrest.

ANSWER: Defendants deny the allegations contained in Paragraph 6.

7. At the time they arrested plaintiff, neither defendant Donato nor defendant Pasquel had a warrant authorizing the arrest of plaintiff.

ANSWER: Defendants admit the allegations contained in Paragraph 7.

8. At the time they arrested plaintiff, neither defendant Donato nor defendant Pasquel believed that a warrant had been issued authorizing the arrest of plaintiff.

ANSWER: Defendants admit the allegations contained in Paragraph 8.

9. At the time they arrested plaintiff, neither defendant Donato nor defendant Pasquel had observed plaintiff commit any offense.

ANSWER: Defendants deny the allegations contained in Paragraph 9.

10. At the time they arrested plaintiff, neither defendant Donato nor defendant Pasquel had received information from any source that plaintiff had committed an offense or was otherwise subject to arrest.

ANSWER: Defendants deny the allegations contained in Paragraph 10.

11. Neither defendant Donato nor defendant Pasquel had probable cause to arrest plaintiff for any offense.

ANSWER: Defendants deny the allegations contained in Paragraph 11.

12. As a result of the foregoing, defendants Donato and Pasquel subjected plaintiff to a false arrest and thereby deprived him of rights secured by the Fourth Amendment to the Constitution of the United States.

ANSWER: Defendants deny the allegations contained in Paragraph 12.

13. After arresting plaintiff, defendants Donato and Pasquel transported plaintiff to a police station, where they each signed under oath complaints setting out criminal acts they alleged that plaintiff had committed.

ANSWER: Defendants deny Donato transported plaintiff to a police station and admit the remaining allegations contained in Paragraph 13.

14. Defendant Pasquel averred in his complaint that plaintiff had been “rushing towards [Pasquel]” while “screaming ‘I’m gonna fuck you up!’”

ANSWER: Defendants admit the allegations contained in Paragraph 14.

15. Plaintiff did not “rush towards” Pasquel and did not scream “I’m gonna fuck you up” or any other words threatening harm.

ANSWER: Defendants deny the allegations contained in Paragraph 15.

16. Defendant Donato averred in his first obstructing complaint that plaintiff had interfered with Donato’s investigation of a “suspicious” person “by walking away and not following commands.”

ANSWER: Defendants admit the allegations contained in Paragraph 16.

17. Plaintiff did not walk away from Donato nor otherwise fail to follow lawful and audible commands.

ANSWER: Defendants deny the allegations contained in Paragraph 17.

18. Defendant Donato averred in his second obstructing complaint that plaintiff had interfered with Donato’s investigation of a “suspicious” person “by pulling away in attempt to defeat arrest.”

ANSWER: Defendants admit the allegations contained in Paragraph 18.

19. Plaintiff did not “pull away” from Donato. Nor did plaintiff attempt to “defeat arrest.”

ANSWER: Defendants deny the allegations contained in Paragraph 19.

20. Plaintiff was found not guilty of the false criminal charges initiated by defendants Donato and Pasqual on August 2, 2024.

ANSWER: Defendants admit Plaintiff was found not guilty of the criminal charges initiated by Defendants Donato and Pasqual on August 2, 2024 and deny the criminal charges were “false”.

21. As a result of the foregoing, defendants Donato and Pasquel caused plaintiff to be maliciously prosecuted and thereby deprived of rights secured by the Fourth Amendment.

ANSWER: Defendants deny the allegations contained in Paragraph 21.

22. The acts described above constitute the Illinois tort of malicious prosecution for which defendant Village of Summit is liable under the doctrine of respondeat superior.

ANSWER: Defendants deny the allegations contained in Paragraph 22.

23. Plaintiff hereby demands trial by jury.

ANSWER: Defendants hereby demand trial by jury.

AFFIRMATIVE DEFENSES

1. Plaintiff was issued a \$100.00 Individual Recognizance Bond (I-Bond) with standard conditions and released from the custody of Summit Police.
2. Plaintiff remained out of custody on an I-Bond for the pendency of the criminal prosecution.
3. Plaintiff was not seized for purposes of the Fourth Amendment and therefore cannot set forth a Fourth Amendment malicious prosecution claim.
4. Defendants did not violate a clearly established constitutional right of Plaintiff and are therefore protected by qualified immunity.
5. Defendants did not act willfully or wantonly.
6. Defendants had probable cause to believe Plaintiff committed an offense.
7. Defendants are not liable for an act or omission in the execution or enforcement of any law pursuant to 745 ILCS 10/2-202 and 2-109.
8. Defendants are not liable for instituting or prosecuting any judicial proceeding within the scope of their employment pursuant to 745 ILCS 10/2-208 and 2-109.

Respectfully submitted,

**VILLAGE OF SUMMIT, JASON
DONATO, AND RICHARD PASQUEL**

By: /s/ Lauren M. DaValle
One of their Attorneys

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