

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

Dean Wilhoite, individually and)
for other similarly situated,)
)
Plaintiffs,) No. 25-cv-
)
-vs-) (*jury demand*)
)
)
Sheriff of Cook County and Cook)
County, Illinois,)
)
Defendants.)

COMPLAINT

Plaintiff, by counsel, alleges 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.

2. Plaintiff Dean Wilhoite is a resident of the Northern District of Illinois.

3. Plaintiff brings this case individually and for others similarly situated, as described in greater detail below.

4. Defendant Sheriff of Cook County is sued in his official capacity for the denial of rights secured by the Fourth and Fourteenth Amendments caused by the policies and practices of defendant Sheriff.

5. Defendant Cook County is joined in this action pursuant to
Carver v. Sheriff of LaSalle County, 324 F. 3d 947 (7th Cir. 2003).

6. Plaintiff entered the Cook County Jail as a pre-trial detainee on March 15, 2023, and he remained in custody at the Jail until the early morning hours of May 24, 2025.

7. After entering the jail, plaintiff was charged in five separate indictments with a variety of offenses. Plaintiff was found not guilty in three cases: 23-cr-04110 on April 29, 2024; 23-cr-04112 on December 4, 2024, and 23-cr-04113 on April 9, 2025. The prosecution dismissed the fourth and fifth cases (23-cr-04114 and 23-cr-04115) by *nolle prosequi* on May 19, 2025.

8. Plaintiff returned to the Jail from his final court appearance on May 19, 2025, at about 1:00 p.m. with paperwork prepared by the Clerk of Court showing that plaintiff's remaining two cases had been dismissed by *nolle prosequi*.

9. The Sheriff did not release plaintiff from custody on May 19, 2025, even though all charges against plaintiff had been resolved in plaintiff's favor, plaintiff was not wanted in a warrant, and there was no detainer for plaintiff.

10. As a result of policies and practices of defendant Sheriff, described below with greater specificity, plaintiff remained at the Cook County Jail until 12:54 a.m. on May 24, 2025, more than 131 hours after he had become entitled to release from custody.

11. Plaintiff was thereby deprived of rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States.

12. Since the decision of the United States Court of Appeals for the Seventh Circuit in *Lewis v. O'Grady*, 853 F.2d 1366 (7th Cir. 1988), the Sheriff of Cook County has been aware that, once a criminal prosecution has been resolved in favor of a pre-trial detainee, the Sheriff may continue to detain that person only for such time as reasonably required to process the release.

13. Processing the release of a pre-trial detainee after the criminal prosecution has been resolved in favor of the detainee involves verifying that all cases pending against the detainee have been resolved, that the detainee is not sought in an outstanding warrant, and that a detainer has not been lodged against the detainee.

14. For at least the two years preceding the filing of this action, the Circuit Court of Cook County has permitted the Sheriff to access a computer system used by the court to determine the pendency, status, and disposition of criminal cases. An employee of the Sheriff, by using this system, may verify whether any cases remain pending against a detainee and may determine the validity of the paperwork that accompanies a detainee returning to the jail from court showing the resolution of a pending criminal case.

15. For more than twenty years, the Sheriff has been able to use the “LEADS system” to determine whether a person is sought in an outstanding warrant or whether a detainer had been lodged against that person. A LEADS search will run in less than five minutes.

16. The Sheriff became aware in 2016 when defendant Cook County settled a case known as *Otero v. Dart*, No. 12-cv-3148, that Cook County would be exposed to civil liability if the Sheriff applied procedures that unnecessarily prolonged the time required to process the release of persons who were entitled to release.

17. The Sheriff has turned a blind eye to the need to promptly process persons entitled to release by failing to adopt and apply efficient procedures and/or failing to assign or to employ a sufficient number of persons to process persons entitled to release.

18. In the first half of 2025, more than 55 pre-trial detainees were released from the Cook County Jail after their cases were resolved by acquittal or dismissal. More than half (33) were released after midnight, when public transportation from the Jail is virtually non-existent. On average, more than seven hours elapsed after the favorable resolution of a detainee’s criminal charges before the Sheriff permitted the detainee to leave the Jail.

19. The Sheriff held plaintiff in custody for about 132 hours after the trial judge granted the prosecution's motion to dismiss the remaining charges.

20. Plaintiff brings this action individually and for all persons who, from November 13, 2023, to the date of entry of judgment were held in the Cook County Jail as a pretrial detainee and were released from custody after all pending charges had been resolved in the detainee's favor.

21. This case presents common questions of fact and law about the Sheriff's release procedures. The common questions are:

Factual: Whether the Sheriff has failed (a) to implement efficient release procedures and (b) to adequately staff release processing personnel.

Legal: Whether either or both of these failures constitute deliberate indifference to the Fourth Amendment rights of persons entitled to immediate release following resolution of all pending charges.

22. Plaintiff's claim is typical of that asserted for the class; plaintiff, is represented by competent counsel and will fairly represent the proposed class.

23. Class certification is appropriate under Rule 23(b)(3) of the Federal Rules of Civil Procedure because questions of law or fact common to class members predominate over any questions affecting only individual

members, and because a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

24. Plaintiff demands trial by jury.

WHEREFORE plaintiff requests that the Court allow this case to proceed as a class action, and that the Court grant such monetary relief to plaintiff and each member of the putative class as may be appropriate.

/s/ Kenneth N. Flaxman
Kenneth N. Flaxman
ARDC No. 0830399
Joel A. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
(312) 427-3200
Attorneys for Plaintiff