

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

Samuel Gonzalez,)
)
 Plaintiff,)
) No. 24-cv-11448
 -vs-)
) (Judge Kendall)
 Village of Summit, Illinois,)
 Summit Police Officers Donato)
 #155 and Pasquel, #310,)
)
 Defendants.)

**PLAINTIFF'S RESPONSE TO DEFENDANTS'
RULE 56.1(b)(2) STATEMENT**

Pursuant to Local Rule 56.1(b)(2), plaintiff submits the following response to defendants' Local Rule 56.1(a)(2) Statement:

1. Jurisdiction is proper in the United States District Court pursuant to 28 U.S.C. § 1333 and 28 U.S.C. § 1337 as Plaintiff's claims arise under 42 U.S.C. § 1983. (Dkt. 11, ¶ 1.)

RESPONSE: Admit.

2. 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. (Dkt. 11, ¶ 3.)

RESPONSE: Admit.

3. Defendant Village of Summit, Illinois is an Illinois municipal corporation. (Dkt.11, ¶ 4.)

RESPONSE: Admit.

4. On June 23, 2023, Plaintiff knocked on over 200 residents' doors prior to coming into contact with Officers Donato and Pasquel. (Exhibit A: Deposition Transcript of Plaintiff, Samuel Gonzalez, 22:4-10.)

OBJECTION: Not material. The arresting officers were not aware of this information when they arrested plaintiff. (ECF No. 26-2 at 3, Donato Dep. 9:8-9 ("we

received two calls in regards to this").) This contention is therefore not relevant to probable cause to arrest. *Mock v. City of Chicago*, 151 F.4th 887, 895 (7th Cir. 2025).

5. On June 23, 2023, Plaintiff knocked on doors to see if anyone would hire him to do yard work, clean out their gutters, or landscaping. (Id., 21:16-23.)

OBJECTION: Not material. Plaintiff's reason for knocking on doors is unrelated to any fact at issue in this case and is therefore not relevant.

6. At this time, there were a lot of burglaries in the area, so we weren't sure if the subject knocking on all these random doors was possibly related to that. (Exhibit B: Deposition Transcript of Officer Jason Donato, 8:18-23).

OBJECTION: Not material. Defendants' subjective beliefs have nothing to do with probable cause to arrest. *D.C. v. Wesby*, 583 U.S. 48, 55 n.2 (2018) ("[P]robable cause is an objective standard.")

7. On June 23, 2023, Defendants were dispatched to the area where Plaintiff was located based on calls to 911 from residents in the area reporting that a male in a red baseball cap that fit Plaintiff's description was knocking on residents' doors. (Ex. A, 25:10-19; Ex. B, 7:24- 8:2).

RESPONSE: Admit.

8. [1] When Defendant Pasquel arrived on the scene, Plaintiff walked aggressively towards Pasquel's squad car as Pasquel exited his vehicle, [2] while shouting "motherfuckers" and other threatening obscenities. (Ex. A, 30:12-15; Exhibit C: Deposition Transcript of Officer Richard Pasquel, 7:4-14, 8:1-8; Ex. B, 6:22-7:5).

RESPONSE: [1] Admit.

[2] Disputed. Plaintiff did not say anything as he walked towards defendant Pasquel. (ECF No. 26-1 at 8, Gonzalez Dep. 28:15-17.) Plaintiff did not curse at the officers until after the officers had "put their hands on me." (ECF No. 26-1 at 9, Gonzalez Dep. 30:16-21.)

9. Plaintiff came towards Pasquel's squad car shouting "I knew you motherfuckers were going to do this" and "I'm going to fuck you up." (Ex. C, 7:4-14).

RESPONSE: Disputed. Plaintiff did not speak as he walked to Pasquel's squad car. (ECF No. 26-1 at 8, Gonzalez Dep. 28:1-6, 15-18.)

10. As Defendant Donato arrived on the scene, he observed Plaintiff walking aggressively towards Pasquel and swearing at him. (Ex. B, 10:7-11; 12:4-11; Ex. C, 8:5-8).

RESPONSE: Disputed. First, plaintiff did not curse at the officers until they “put their hands on me.” (ECF No. 26-1 at 9, Gonzalez Dep. 30:16-21.) Second, Donato did not describe plaintiff as “walking aggressively,” but stated that plaintiff was walking “assertively towards [me].” (ECF No. 26-2 at 3, Donato Dep. 12:6-11.) Third, as explained below, defendant Donato’s recollection of the incident is inconsistent with the video from Officer Correa’s dash cam. Fourth, Donato’s credibility is suspect because of his prior inconsistent statements and the contradiction between his claims and the dash cam video.

The video from Officer Correa’s dash cam shows defendant Donato exit his police vehicle (Plaintiff’s Exhibit 3¹ at 1) and walk towards defendant Pasquel, who was emerging from his vehicle to speak with plaintiff. (Plaintiff’s Exhibit 3 at 193.) Plaintiff was facing defendant Pasquel (Exhibit 3 at 217), with his back towards defendant Donato. (*Id.*) This portion of the video is also inconsistent with Donato’s deposition testimony that plaintiff was “walking away from me.” (ECF No. 26-2 at 3, Donato Dep. 11:24-12:5.)

Donato testified at the criminal trial that plaintiff had been “running towards Pasquel.” (Plaintiff’s Exhibit 9, Trial Transcript 19:7-12.) Donato testified differently at his deposition, stating that plaintiff was not running, but was “in a normal walking position.” (ECF No. 26-2 at 3, Donato Dep. 12:12-17.)

11. As Defendant Donato walked towards Plaintiff and Pasquel, Donato repeatedly told Plaintiff to come over and speak with him and Plaintiff repeatedly replied to Donato by shouting fuck off or something of that nature. (Ex. B, 6:22-7:1; 13:8-11, 17-19).

RESPONSE: Disputed. Donato’s deposition testimony is inconsistent with Officer Correa’s dash cam the video. (Plaintiff’s Exhibits 1 and 2.) The frames excerpted from that video shows plaintiff was engaged in a conversation with Pasquel as Donato approached. (Plaintiff’s Exhibit 3 at 193-217.) Moreover, plaintiff did not curse at the officers until they “put their hands on me.” (ECF No. 26-1 at 9, Gonzalez Dep. 30:16-21.)

12. Plaintiff continued walking assertively towards Pasquel and ignoring Donato’s directions to Plaintiff to come speak with him, and Plaintiff was fixated on Pasquel. (Ex. B, 12:1- 12; Ex. C, 17:5-12).

RESPONSE: Disputed. The testimony is inconsistent with the video evidence. (Plaintiff’s Exhibit 2; Plaintiff’s Exhibit 3 at 185-235.)

¹ A portion of the interaction between plaintiff and defendants Pasquel and Donato was captured on a dash camera installed in Office Correa’s police vehicle, produced by defendants in this litigation. (Plaintiff’s Exhibit 1, uploaded as CorreaDashCam.mp4.) Plaintiff has extracted two video clips from the dash camera (Plaintiff’s Exhibit 2 and 4) and split each video into still frames, which are filed in pdf format as Plaintiff’s Exhibits 3 and 5-7.

13. Defendant Donato observed Plaintiff closing the distance between Plaintiff and Pasquel while screaming all sorts of obscenities, one of them being "I'm going to fuck you up." (Ex. B, 7:2-5).

RESPONSE: Disputed. Plaintiff did not speak as he walked to Pasquel's squad car, (ECF No. 26-1 at 8, Gonzalez Dep. 28:15-18), and plaintiff did not curse at the officers until they "put their hands on me." (ECF No. 26-1 at 9, Gonzalez Dep. 30:16-21.)

14. Plaintiff's actions of [a] ignoring Donato's directions and [b] Plaintiff's use of obscenities towards Pasquel [c] caused Donato to believe Plaintiff was going to harm Pasquel. (Ex. B, 15:19- 16:3; 16:9-15; Ex. C, 9:17-24).

RESPONSE: [a] Disputed. The video evidence shows that plaintiff was engaged in a conversation with Pasquel while Donato approached the two men. (Plaintiff's Exhibit 2; Plaintiff's Exhibit 3 at 185-235.)

[b] Disputed. Plaintiff did not speak as he walked to Pasquel's squad car. (ECF No. 26-1 at 8, Gonzalez Dep. 28:15-18.)

[c] Disputed. The video evidence contradicts Donato's claims. (Plaintiff's Exhibit 3 at 108-227.)

15. Defendant Donato told Plaintiff to walk towards him because Donato didn't know if Pasquel saw Plaintiff walking up on him as Pasquel was getting out of his squad car. (Ex. B, 37:2-11).

RESPONSE: Disputed. The video evidence shows that plaintiff was engaged in a peaceful conversation with Pasquel when Donato approached the two men. (Plaintiff's Exhibit 3 at 108-227.)

16. Donato was concerned that Plaintiff was going to harm Pasquel because Plaintiff kept walking towards Pasquel's squad car. (Ex. B, 37:11-14).

OBJECTION: Donato's subjective feelings are not relevant to probable cause to arrest. Without waiving this objection: DISPUTED. The video evidence shows that plaintiff was engaged in a peaceful conversation with Pasquel when Donato approached the two men, (Plaintiff's Exhibit 3 at 184-235), and that plaintiff complied with defendants when they pushed him to the rear of Pasquel's police vehicle. (Plaintiff's Exhibit 5 at 1-62.)

17. Based on officer safety, Donato continued to tell Plaintiff to come towards him. (Ex. B, 37:14-15; 14:10-14.)

RESPONSE: Disputed. The video evidence shows that plaintiff was engaged in a peaceful conversation with Pasquel while Donato approached the two men. (Plaintiff's Exhibit 2 at 108-227.)

18. Donato put Plaintiff against Pasquel's squad car because Plaintiff refused commands, made threatening statements, and was very hostile so he wanted to secure Plaintiff in handcuffs. (Ex. B, 38:16-20; 39:23-40:4; 42:8-11; 14:23-15:6).

RESPONSE: Disputed. Plaintiff did not speak as he walked to Pasquel's squad car. (ECF No. 26-1 at 8, Gonzalez Dep. 28:15-18.) Donato's claims that plaintiff was "very hostile" are contrary to the video evidence, which shows that plaintiff was engaged in a peaceful conversation with Pasquel while Donato approached the two men, grabbed plaintiff, and forcibly placed him against the side of Pasquel's vehicle. (Plaintiff's Exhibit 5 at 1-67.)

19. Donato believed that Plaintiff assaulted Pasquel because he placed Pasquel in fear of receiving a battery when Plaintiff walked towards Pasquel while swearing at him and telling him he was going to kick his ass. (Ex. B, 45:9-15; Ex. C, 9:17-24; 13:12-14).

OBJECTION: What Donato believed is not material to probable cause to arrest. Without waiving this objection: DISPUTED. The video evidence, (Plaintiff's Exhibit 3 at 201-235), shows plaintiff standing in the same position, with his arms at his side, while speaking with Pasquel. Nothing depicted in the video could have caused a reasonable police officer to believe that plaintiff was threatening Pasquel.

20. [a] Plaintiff was handcuffed [b] for his safety and Defendant's safety because Plaintiff was very combative, threatened Pasquel, and put Pasquel in fear of receiving a battery. (Ex. C, 19:7- 13).

RESPONSE: [a] Admit.

[b] Disputed. The video evidence, (Plaintiff's Exhibit 3 at 203-235), shows that a reasonable police officer could not have believed that it was necessary to handcuff plaintiff for officer safety.

21. Plaintiff pulled his arm away from Donato as he tried to cuff him while continually yelling at Defendants. (Ex. C, 15:18-16:5).

RESPONSE: Disputed. The video evidence, (Plaintiff's Exhibit 5 at 1-93), shows that plaintiff was fully compliant and did not interfere with the officers when they were handcuffing him.

22. Defendants asked Plaintiff for his name and identification multiple times and Plaintiff refused to give them his information. (Ex. C, 21:14-17).

RESPONSE: Disputed. Exhibit C does not include page 21 of Pasquel's deposition, which plaintiff attaches in its entirety as Plaintiff's Exhibit 10. The deposition contains the following, starting at line 14 on page 21:

Question: Did you or Officer Donato at any time ask Gonzalez for his name or identification?

Pasquel: At which time we did on scene (sic) and he refused to give that information.

Q: And at some point, did you ever learn who Gonzalez was?

A: I don't recall how we did learn who he was, but yes, we did learn who he was.

23. While Plaintiff was being transported to the Summit Police Department, he repeatedly told the transport officer that, "I did this on purpose," "you know I'm on parole," "you're going to lose your badge," "\$250,000 payday for me," "I walked right up to you," and "wait until I get out of these cuffs and into a lawyer's office." (Exhibit D: Pasquel Dashcam Video of June 23, 2023).

OBJECTION: Not material. The video shows that recording was made after plaintiff was arrested and was being transported to the police station. Plaintiff's statements are therefore immaterial to whether there was probable cause to arrest.

Plaintiff submits the audio found on Exhibit D as Plaintiff's Exhibit 12. A rough transcription of the audio on Exhibit D yields the following:

Yeah. Like say what the fuck I want out of my mouth. Ain't shit you can do about it 'cause I'm fucking constitutionally protected and you're fucking violating every one of my rights. Therefore, you're gonna lose your badge buddy. Promise you that. You're gonna learn just like the other ones. Yeah. Include \$250,000 payday ...

They have back up. Come to a check out some shit for me. I did this on purpose. Stupid motherfucker. Yeah. I didn't run from you. Everything's on camera. Everything's on camera. I walked right up to you. Yeah, you can say whatever you want.

[message from dispatcher omitted]

You taxpayer's money for right? Huh? What you taxpayer's money for? You know, I'm on parole for nothing, right? I'm about to be done so. You're stupid as shit. If you thought I was gonna do anything to forfeit that, you're a dumb motherfucker. I hope you know that. You know that, right?

Get me 2.2 until I get out these cuffs and I get into a lawyer's office.

24. Defendants charged Plaintiff with (3) misdemeanors: obstruction, resisting arrest, and aggravated assault of a peace officer. (Exhibit F: Misdemeanor Charging Documents SUMMIT 0018-0020.)

RESPONSE: Admit

25. At some point, Officers Donato and Pasquel learned that Plaintiff was on parole. (Ex. C, 22:4-6; 22:18-23:4; Ex. A, 45:13-16.)

OBJECTION: Admit.

26. On June 23, 2023, after Plaintiff's arrest, IDOC issued a no bond warrant for Plaintiff. (Exhibit E: IDOC Warrant SUMMIT 0021-0024; Ex. B, 19:11-13; Ex. A, 47:18-20; 48:5- 7.)

RESPONSE: Admit.

27. While Plaintiff was in a holding cell, he told officers he was going to kill himself. (Ex. A, 35:13-18.)

RESPONSE: Admit.

28. After Plaintiff made suicidal threats, he was transported to LaGrange Hospital and arrived there at approximately 8:00 p.m., where he was cuffed to the hospital bed and officers were present. (Ex. A, 35:21-36:3, 36:14-18, 37:6-11.)

RESPONSE: Admit

29. While Plaintiff was at LaGrange Hospital, he agreed to voluntarily admit himself for seven-day inpatient treatment. (Ex. A, 38:15-24.)

RESPONSE: Admit.

30. Plaintiff was then transferred to Chicago Behavioral Health to complete his seven-day inpatient treatment and was admitted at approximately 10:00am on June 24, 2023. (Ex. A, 36:1-9.)

RESPONSE: Admit.

31. While Plaintiff was at Chicago Behavioral Health, there were no officers present nor was he cuffed to the bed at any time. (Ex. A, 39:10-15).

OBJECTION: Admit.

32. After Plaintiff's transfer to Chicago Behavioral Health, Defendants received notice from Plaintiff's IDOC parole agent that they were not going to pursue the warrant they issued for Plaintiff. (Ex. B, 19:7-10.)

RESPONSE: Admit

33. Upon receiving this notice from Plaintiff's IDOC parole agent, Donato went to Chicago Behavioral Health and provided Plaintiff with an I-Bond. (Ex. B, 19:1-10).

RESPONSE: Admit.

34. Plaintiff was released from Chicago Behavioral Health on July 1, 2023 after his seven-day voluntary inpatient admission. (Ex. A, 39:19-24.)

RESPONSE: Admit.

35. On August 4, 2024, after a bench trial, Plaintiff was found not guilty of the (3) misdemeanor counts. (Ex. B, 30:1-10; Exhibit G: Criminal Case Summary SGONZALEZ 0023- 0026.)

RESPONSE: Admit.

Respectfully submitted,

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