

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

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

PLAINTIFF'S STATEMENT OF ADDITIONAL FACTS

Plaintiff submits the following statement of additional facts pursuant to Local Rule 56.1(b)(3):

1. At about 5:50 p.m. on June 23, 2023 (Arrest Booking Form, Exhibit 11), plaintiff was on the public way (ECF No. 26-1 at 8, Gonzalez Dep. 28:1-6) in the vicinity of 74th Avenue and 57th Place in the Village of Summit. (*Id.* at 6, Gonzalez Dep. 20:2-6.)

2. Plaintiff was walking to his home on Archer Avenue in Summit (ECF No. 26-1 at 8, Gonzalez Dep. 20:2-6) when he saw four Summit police cars blocking an intersection. (*Id.* at 8, Gonzalez Dep. 28:23-29:2.)

3. 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.¹ (Plaintiff's Exhibit 1, uploaded as CorreaDashCam.mp4.)

4. Plaintiff extracted 13 seconds from the dash cam video (starting three minutes and 55 second from the beginning of the video), split that video into still frames, filed as Plaintiff's Exhibits 3 and 5-7.

5. The video from Officer Correa's dash cam shows defendant Donato exit his police vehicle (Plaintiff's Exhibit 3 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.)

6. Plaintiff walked towards defendant Pasquel. (ECF No. 26-1 at 8, Gonzalez Dep. 28-11:14; ECF No. 26-2 at 6, Donato Dep. 21:13-23.)

7. Plaintiff did not speak as he approached Pasquel. (ECF No. 26-1 at 8, Gonzalez Dep. 28:15-15.)

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.

8. Defendant Pasquel emerged from his police vehicle as plaintiff reached the car. (Plaintiff's Exhibit 3 at 130-159.)

9. Plaintiff did not interfere while Pasquel exited his vehicle. (ECF No. Plaintiff's Exhibit 3 at 130-210; ECF No. 26-3 at 2, Pasquel Dep. 7:20-22.)

10. Plaintiff stood about three feet away from Pasquel (ECF No. 26-3 at 3, Pasquel Dep. 9:8-11) and neither raised (ECF No. 26-3 at 3, Pasquel Dep. 15-16) nor moved his arms as Pasquel exited his vehicle. (Plaintiff's Exhibit 2 at 130-210; Plaintiff's Exhibit 3 at 211-222.)

11. The only threatening conduct that Pasquel could identify were verbal threats. (ECF No. 26-3 at 3, Pasquel Dep. 9:17-24; ECF No. 26-3 at 4, Pasquel Dep. 14:10-15.)

12. 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.)

13. Defendant Donato approached plaintiff from the rear while plaintiff was standing, facing Pasquel. (Exhibit 2 at 183-207.)

14. Plaintiff showed Pasquel his empty left hand (Exhibit 2 at 207), while defendant Donato grabbed plaintiff by his arms (Exhibit 3 at 219) and pushed plaintiff onto the rear of Pasquel's vehicle. (Exhibit 3 at 219-274.)

15. Neither defendant Pasquel nor defendant Donato told plaintiff why he was being restrained and handcuffed. (ECF No. 26-1 at 9, Gonzalez Dep. 30:6-10.)

16. Defendants did not know, when the arrested plaintiff, whether or not he had been violating the Summit no-soliciting ordinance. (ECF No. 26-2 at 3, Donato Dep. 9:8-9.)

17. Pasquel transported plaintiff to the police station after the arrest. (Defendants' Exhibit D, Pasquel's in-car camera.)

18. While being transported to the police station, plaintiff proclaimed his innocence, called Pasquel a variety of names, threatened to cause Pasquel to lose his badge, freely used obscenities, and told Pasquel that he would be sued. The following is a rough transcription of the words spoken by plaintiff on Defendants' Exhibit D:

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.

19. Plaintiff was in police custody until 6:35 p.m. on June 25, 2023 when he signed a personal recognizance bond. (Bond Slip, Plaintiff's Exhibit 8.

/s/ Kenneth N. Flaxman
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