

Jussie Smollett

19cr03104

DATE

PAPERS FILED

INDICTMENT/INFORMATION FILED IN THE CLERK'S OFFICE

PRES. JUDGE ASSIGNMENT DATE: _____

BAIL PREVIOUSLY SET \$ _____

DATE

JUDGE

ORDERS ENTERED

NO ARRAIGNMENT

ASSIGNED TO JUDGE _____

4-2-19

Watkins

Atty Denton U.S. U.P.
 DNHC Atty for Media in Ct.
 App Waived Natalie Spears
 Jacque Gianni

ASA Cathy McNeil Stein
 Jesse Scheeler Atty for
 D - Brian Watson

By or Ct. Media intervenors
 Emergency Motion for Purpose
 of objections to & Vacating
 the Sealing Order

Ct Enters Written Brepping
 Order BT States Hearings
 - 5-9-19 10:am.

→

DATE

JUDGE

ORDERS ENTERED

DATE	JUDGE	ORDERS ENTERED
5-9-19	Watkins	DAIC DNIC. Atty for State in Court Atty for Media Intervention ER Court Insp. General in How B/A 5-16-19 for Arguments on Media Intervention ER Mtn to Intervene for Purpose of Objecting to and Vacating the Sealing Order and Status on Cook County State Atty Mtn to modify Seal Order B/A 5-16-19 for Arg.

THE PEOPLE OF THE STATE OF ILLINOIS VS.

CASE
NO.

SMOLLETT, JUSSIE

DATE	PAPERS FILED
3-7-19	INDICTMENT/INFORMATION FILED IN THE CLERK'S OFFICE
	PRES. JUDGE ASSIGNMENT DATE: 3-14-19
	BAIL PREVIOUSLY SET \$

DATE	JUDGE	ORDERS ENTERED
		NO ARRAIGNMENT
		ASSIGNED TO JUDGE
3-12-19	Martin	(pp) Atty App allowed # 60128 media coverage is allowed for the date of 3-14-19 only.
3-14-19	Martin	J. Watkins
3-14-19	Watkins	DIC D Atty in Ct. D'Arrigo - WFR - PNG - DATA MDFD - MSFD - SFMD & AD CMO-Ent. See Front. of file GJT. to all parties LT WID Appearance - G Jack B. Prior. MD to travel to CA & NY for Consultation w/ Atty Only - G. B/A 4-17-19 Disc Room 304

DATE

JUDGE

ORDERS ENTERED

3-14-19	Watkins	DIC D. to Notify Pre-trial Officer 48 Hours in Advance & 24 Hours After Return see Ct Order B/A 4-17-19 Room 304 Disc
3-26-19	Watkins	DIC State filed Mtn to Adjourn G. DAIC P. Brown Holmes MS to Adjourn - G Strike 4-2-19 and 4-17-19. MS to Release D Bond D1375600 to City of Chicago Granted. Immediately MD to immediately Seal Criminal Record - Granted Miss 19110327101 Seal.

DATE	PAPERS FILED
	INDICTMENT/INFORMATION FILED IN THE CLERK'S OFFICE
	PRES. JUDGE ASSIGNMENT DATE: _____
	BAIL PREVIOUSLY SET \$ _____

DATE	JUDGE	ORDERS ENTERED
		NO ARRAIGNMENT
		ASSIGNED TO JUDGE _____
5-16-19	Watkins	Arguments on Media Interlocutor Emerg. Mtr to Intervene for purpose of objecting to and vacating Deal Order
		Media's Atty in Court Ds Atty in Ct Cook County State Atty office in Ct.
		B/A 5-23-19 10.am for Ruling
		St. files Order Modifying Sealing Order
5-23-19	Watkins	DNIC DAIC Atty for Intervenor, Atty for State. Medica Intervenor ER Motion to Intervene for

DATE _____

JUDGE

ORDERS ENTERED

5-23-19	Walker	for the purpose of objecting to the vacating the Sealing Order — I granted Dec 10 page Court order State Motion to Medez Sealing is moot.
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Sheet # 0021
Defendant Sheet # 0001 OF 0002

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1735 304
100 CHICAGO POLICE DEPT

CLERK USE ONLY
0020

CASE NUMBER

19CR0310401

DEFENDANT NAME

SMOLLETT, JUSSIE

ATTORNEY

DENTONS US LLP

COURT DATE
05-23-2019

COURT CALL/TIME
2-0930 AM

CB/DCN #

019771648

IR #

2397168

EM

BOND #

1375606

BOND AMOUNT

\$100,000.00

CHARGES

COURT ORDER ENTERED

CODES

C001 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C002 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C003 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C004 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C005 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C006 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C007 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C008 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C009 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C010 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

C011 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

JUDGE:

JUDGE'S No.

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:

VERIFIED BY:

STEVEN G. WATKINS

ADIC

ADIC

Attorney Underverens
Adly for State

Medea Underverens EIR motion
to withdraw for purposes of
objection to vacating the
Seals Order - Granted

See logs Court Order

State Motion To Modify Seals Order
is moot

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Sheet # 0022	Defendant Sheet # 0002 OF 0002	CRIMINAL DISPOSITION SHEET				Branch/Room/Location 1735 304 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0020
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT, JUSSIE		ATTORNEY DENTONS US LLP		COURT DATE 05-23-2019	COURT CALL/TIME 2-0930 AM	
CB/DCN # 019771648	IR # 2397168	EMI		BOND # 1375606	I <input type="checkbox"/>	C <input type="checkbox"/>	D <input checked="" type="checkbox"/>	
CHARGES				COURT ORDER ENTERED				
C012 720-5/26-1 (A) (4) FALSE REPORT OF OFFENSE 03/26/19 NOLLE PROSEQUI				CODES				
C013 720-5/26-1 (A) (4) FALSE REPORT OF OFFENSE 03/26/19 NOLLE PROSEQUI								
C014 720-5/26-1 (A) (4) FALSE REPORT OF OFFENSE 03/26/19 NOLLE PROSEQUI								
C015 720-5/26-1 (A) (4) FALSE REPORT OF OFFENSE 03/26/19 NOLLE PROSEQUI								
C016 720-5/26-1 (A) (4) FALSE REPORT OF OFFENSE 03/26/19 NOLLE PROSEQUI								
JUDGE:				JUDGE'S No.				
				RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:				
				VERIFIED BY:				

STEVEN G. WATKINS

PEOPLE OF THE STATE OF ILLINOIS,

19 CR 03101-01

3104

Len

Hon. Steven G. Watkins
Judge Presiding

¹ See Motion naming media organizations participating in the case.

on all charges in the indictment. "A *nolle prosequi* is the formal entry of a declaration that a case will not be further prosecuted." *People v. Baes*, 94 Ill. App. 3d 741, 746 (1981). The State's Attorney has broad discretion to file a *nolle prosequi* and "the trial court is required to enter the *nolle prosequi* absent a clear abuse of the prosecutor's discretion." *People v. Bradley*, 128 Ill. App. 3d 372, 382 (1984).

In the same hearing, the Defense requested immediate sealing of the records in this case. The State did not object. Defense counsel prepared an order for immediate sealing using a template form for that purpose available from the Clerk of the Circuit Court and presented it to the Court. With nothing offered in opposition, the Court signed the order and entered it on the record.

Immediate Sealing

The Illinois Criminal Identification Act (20 ILCS 2630/1 *et seq.*) provides for the immediate sealing of eligible records related to arrests "resulting in acquittal or dismissal with prejudice" except for minor traffic offenses. 20 ILCS 2630/5.2(g)(2). "Seal" means to physically and electronically maintain the records, but to make the records unavailable without a court order. *Id.* at § 5.2(a)(1)(k). Circuit courts are directed to inform eligible defendants of their right to the procedure for immediate sealing. *Id.* § 5.2(g)(4). A defendant can request immediate sealing the same day and in the same hearing in which their case is disposed. *Id.* § 5.2(g)(2). The trial judge is to rule on and enter an order granting or denying the request in the same hearing. *Id.* § 5.2(g)(5)(E). Records may be sealed immediately after entry of the final disposition in the case. *Id.* § 5.2(g)(3). An order so entered, though, is not final upon entry. *Id.* § 5.2(g)(5)(J). Rather, copies of the order

must first be served upon the Department of State Police, the State's Attorney, the arresting agency, and the chief legal officer of the unit of local government effecting the arrest. *Id.* § 5.2(d)(8). After 30 days from service upon those parties, the order is final and appealable. *Id.* § 5.2(g)(5)(J). However, the petitioner, the State's Attorney, or the Department of State Police may file a motion to vacate, modify, or reconsider the order regarding immediate sealing within 60 days. *Id.* § 5.2(g)(5)(K). A motion granting immediate sealing is not void if the petition failed to comply with the provisions of the statute or any reason set forth in a motion. *Id.* § 5.2(g)(5)(L). Instead, "[t]he circuit court retains jurisdiction to determine whether the order is voidable, and to vacate modify, or reconsider its terms." *Id.*

Public Access to Court Records

Intervenors contend that the sealing order in this case violates the public's right of access to court records and proceedings rooted in the first amendment to the United States' Constitution, the Illinois Constitution, and common law. In their briefs, Intervenors argued the immediate sealing provision of the Criminal Identification Act is facially unconstitutional. At oral argument though, Intervenors stated solely that the sealing order in this case is constitutionally invalid as applied. Courts are cautioned to refrain from ruling on the constitutionality of a statute if a matter can be decided on other grounds. *People v. Jackson*, 2013 IL 113986, ¶ 14. Accordingly, the Court will analyze Intervenors more limited as-applied challenge to the order and reach the constitutionality of the immediate sealing provision only as a last resort.

In their arguments, Intervenors rely on decisions of the United States and Illinois Supreme Courts recognizing the right of public access to court records. See, e.g., *Press-Enterprise Co. v. Superior Court of California for the County of Riverside*, 478 U.S. 1, 9 (1986) (*Press-Enterprise II*); *Skolnick v. Altheimer & Gray*, 191 Ill. 2d 214, 231 (2000). Under that precedent, a presumption of access attaches to court records that meet what are called the experience and logic tests. This analysis asks, first, whether the records at issue have historically been open to the public – the experience test – and, second, whether “public access plays a significant positive role in the functioning of the particular process in question” – the logic test. *Press Enterprise II*, 478 U.S. at 8. “If the presumption applies to a certain type of proceeding or record, the trial court cannot close this type of proceeding or record, unless the court makes specific findings demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve those values.” *People v. Kelly*, 397 Ill. App. 3d. 232, 261 (2009) (citing *Press-Enterprise II*, 478 U.S. at 13-14 and *Press-Enterprise Co. v. Superior Court of California, Riverside County*, 464 U.S. 501, 510 (1984) (*Press-Enterprise I*)).

However, the authority Intervenors cite on this subject generally concerns pending cases. See, e.g., *People v. Zimmerman*, 2018 IL 122261; *Kelly*, 397 Ill. App. 3d 232. The records in this case, by contrast, concern a matter that is, at this time, final. “The United States Supreme Court has yet to address whether the records of criminal cases that have been dismissed or subject to *nolle prosequi* are entitled to First Amendment presumption of access.” *Commonwealth v. Pon*, 469 Mass. 296, 308 (2014) (still true at this time). Neither

has the Illinois Supreme Court. While neither court has spoken on this issue, courts of other jurisdictions have.

The decision of the Supreme Judicial Court of Massachusetts in *Commonwealth v. Pon*, analyzing that state's sealing statute, is guiding. In *Pon*, the court noted that exceptions to public access for some court records have been long recognized. It then concluded, "the records of closed cases resulting in certain nonconvictions have not been open historically in the same sense as other, constitutionally cognizable elements of criminal proceedings." *Id.* at 310. Thus, the experience test did not call for a presumption of access. Likewise, the court observed only a narrow class of cases were at issue — those resulting in dismissal or *nolle prosequi*. So, the court concluded "[t]here is no indication that the availability of records of criminal cases that have been closed after nonconviction enhances the basic fairness of the criminal trial and the appearance of fairness as the openness of criminal trials does." *Id.* at 310-11. (citations omitted). Thus, the logic test did not work in favor of the first amendment presumption either.

Despite finding the first amendment presumption of access did not attach to the records of such cases, the court found that the records are subject to the common-law presumption of public access. *Id.* at 311. The consequence of that distinction is that access may be restricted on a showing of good cause rather than specific findings that restriction is essential to serve a compelling interest and the means are narrowly tailored to achieve that interest. *Id.* at 312. While the burden on a defendant is lower, this standard still ensures that "sealing may occur only where good cause justifies the overriding of the general principle of publicity." *Id.* at 313.

The Supreme Court of Ohio reasoned similarly when a newspaper challenged the constitutionality of that state's statute providing for the sealing of records in criminal cases resulting in acquittal. *State ex rel. Cincinnati Enquirer v. Winkler*, 101 Ohio St.3d 382 (2004). That court found the statute called for the judge to balance the public's right of access and the acquitted defendant's right to privacy before ordering records sealed. *Id.* at 384. Other courts have similarly concluded that sealing criminal records in a closed case involves balancing and the defendant bears the burden to show good cause. See, *Johnson v. State*, 50 P.3d 404 (Alaska Ct. App. 2002); *State v. D.H.W.*, 686 So. 2d 1331 (Fla. 1996); *In re Kollman*, 210 N.J. 557 (2012).

This Court is not persuaded that the first amendment presumption of access attaches to records in a criminal case that was disposed by entry of *nolle prosequi*. Intervenors have made no showing to establish such under the experience and logic tests. Further, the Supreme Judicial Court of Massachusetts' opinion is persuasive that the presumption does not attach. As a result, "specific findings demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve those values" were not required for Defendant's records to be sealed or to remain sealed.

Nonetheless, persuasive authority indicates that the common-law presumption does apply. Illinois recognizes the common-law presumption of public access to court records. *Skolnick*, 191 Ill. 2d at 230. Yet, the common-law right of access to judicial records is not absolute. *Zimmerman*, 2018 IL 122261, 43. "[W]hether court records in a particular case are opened to public scrutiny rests with the trial court's discretion, which must take into consideration all facts and circumstances unique to that case." *Skolnick*, 191 Ill. 2d at

231. This is fitting given that the statute contemplates that records “may be sealed” rather than “shall” be sealed. 20 ILCS 2630/5.2(c)(2), (g)(2). The similarly worded expungement provisions of the Criminal Identification Act, have also been construed as discretionary. *People v. Carroccia*, 352 Ill. App. 3d 1114, 1118 (2004). Accordingly, sound discretion suggests records may be sealed over the common-law presumption of access only for good cause.

As outlined above, granting a request for immediate sealing upon the disposition of a dismissed criminal case is not final at that point. The immediate sealing provisions expressly contemplate that the order can be challenged and reviewed. Thus, when reviewing an order granting immediate sealing, the issue is not whether the sealing order was proper in the first instance, but whether the records in the case should remain sealed.

Intervenors are not a party listed in the statute who may file a motion to vacate, modify, or reconsider a sealing order. However, neither the State nor Defendant have challenged the Intervenors’ standing and the issue can be deemed waived. *Cf. Skolnick*, 191 Ill. 2d at 237. At the same time, the circuit court has the inherent power to modify or vacate an interlocutory order. *Hernandez v. Pritikin*, 2012 IL 113054, ¶ 42. Therefore, it is not inconsistent with the statute nor beyond the Court’s authority to examine anew whether records in a criminal case should be sealed.

Good Cause

Intervenors contend that good cause does not exist for the records to remain sealed. They note that the matter has been widely publicized and the Defendant and his attorneys have appeared on national television discussing the case. In their view, the

purpose of sealing records of a dismissed criminal case is to remove or diminish the impediment to future employment resulting from knowledge of a defendant's arrest. They argue sealing does not serve that purpose here because Defendant's arrest is already well-known. Intervenors further claim that this case implicates issues regarding the functioning of a governmental office and the integrity of the judicial system.

Defendant argues that a defendant whose case is dismissed should not be deprived of the statutory right to have records sealed simply because the news media covered the case. To him, the Intervenors position is self-fulfilling. That is, the case has been the subject of substantial public attention because they made it so. In addition, he notes the news media was present at each court appearance and had opportunity to access the sealed records before March 26, 2019.

Defendant's argument has some appeal. Indeed, there is a certain irony that the Intervenors purport to seek access based on a perception that Defendant was treated differently from other criminal defendants, yet they would have him treated differently from other criminal defendants who, by statute, have the right to request the records of their case be sealed. Criminal defendants whose cases end in acquittal or dismissal have legitimate interests in having their records sealed in addition to the effect the case may have on future employment. These include reputational and privacy interests. Defendant's brief terms his privacy interest as "the right to be let alone."

To be sure, it is easily conceivable that a defendant whose case was dismissed would wish to maintain his sense of privacy, even if, perhaps especially if, the media covered the case. And it would seem inequitable to deny such a defendant simply seeking

to maintain his privacy of his right to have records sealed because the media covered his case—even if that defendant is a public figure. See, *Pon*, 469 Mass. at 318 (“where the crime or the case was newsworthy, the judge should consider whether the defendant maintains any sense of privacy, such that sealing could still have a positive impact”).

However, that isn’t this case. The Defendant voluntarily appeared on national television for an interview speaking about the incident in detail.² After the March 26 dismissal, he voluntarily stood in front of cameras from numerous news organizations in the courthouse lobby and spoke about the case. On several occasions, attorneys for Defendant, presumably with his authorization, appeared on various media outlets speaking about the case. These are not the actions of a person seeking to maintain his privacy or simply be let alone. While the Court appreciates that the Defendant was in the public eye before the events that precipitated this case, it was not necessary for him to address this so publicly and to such an extent. By doing so, the Court cannot credit his privacy interest as good cause to keep the case records sealed. Defendant also posits that some sealed records may contain medical, financial, or other personal information. His privacy concerning those matters, though, is protected by the provisions of the Freedom of Information Act that call for withholding or redacting certain information. When balanced against the value of openness, the Defendant has not shown good cause to rebut the common-law presumption of public access.

² The Court takes judicial notice of the media coverage of this case. These facts are beyond reasonable dispute and both counsel for Intervenor and Defendant remarked “everyone from here to Helsinki knows about this” at oral argument.

Conclusion

Based on the foregoing discussion, the Court finds as follows:

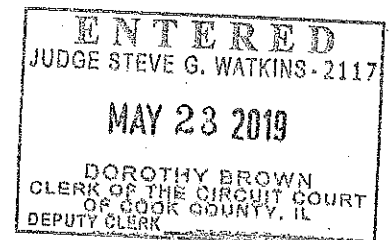
- (1) the common-law presumption of public access applies to the records at issue in this case;
- (2) an order granting immediate sealing pursuant to the Criminal Identification Act is interlocutory and may be vacated or modified;
- (3) whether records should remain sealed is discretionary;
- (4) good cause does not exist to keep the records of this case sealed;
- (5) having decided the matter on other grounds, the Court need not address the constitutional issues raised by Intervenors.

Accordingly, Intervenors motion to Intervene is **Granted** and the Court hereby vacates the sealing order of March 26, 2019.

Entered:

Judge Steven G. Watkins
Cook County Circuit Court
Criminal Division

Date: May 23, 2019



Sheet #
0015

Defendant Sheet #
0001 OF 0002

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1735 304
100 CHICAGO POLICE DEPT

CLERK USE ONLY
0013

CASE NUMBER

19CR0310401

DEFENDANT NAME

SMOLLETT, JUSSIE

ATTORNEY

DENTONS US LLP

COURT DATE

05-16-2019

COURT CALL/TIME

2-0930 AM

CB/DCN #

019771648

IR #

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BOND AMOUNT

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CHARGES

COURT ORDER ENTERED

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03/26/19 NOLLE PROSEQUI

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FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

JUDGE: JUDGE'S No.

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:

VERIFIED BY:

STEVEN G. WATKINS

*Agreement on Media
Interference Emergency Motion
to Intervene for purposes
of objecting to and vacating the
Sealing Order*

*-Media's atty in Ct
-D's atty in Ct.
-Cook County State's Atty Office
in ST 5/23/19 10am for Filing*

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5-23-19

Sheet # 0016		Defendant Sheet # 0002 OF 0002		CRIMINAL DISPOSITION SHEET			Branch/Room/Location 1735 304 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0013								
CASE NUMBER 19CR0310401			DEFENDANT NAME SMOLLETT, JUSSIE			ATTORNEY DENTONS US LLP		COURT DATE 05-16-2019		COURT CALL/TIME 2-0930 AM							
CB/DCN # 019771648		IR # 2397168		EM		BOND # 1375606		<table border="1"> <tr> <td>I</td> <td>C</td> <td>D</td> </tr> <tr> <td></td> <td></td> <td>X</td> </tr> </table>		I	C	D			X	BOND AMOUNT \$100,000.00	
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COURT ORDER ENTERED																	
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JUDGE'S No.				RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:				VERIFIED BY:									

STEVEN G. WATKINS

Sheet #
0030Defendant Sheet #
0001 OF 0002

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1735 304
100 CHICAGO POLICE DEPTCLERK USE ONLY
0028

CASE NUMBER

19CR0310401

DEFENDANT NAME

SMOLLETT, JUSSIE

ATTORNEY

DENTONS US LLP

COURT DATE

05-09-2019

COURT CALL/TIME

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BOND AMOUNT

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03/26/19 NOLLE PROSEQUI

C011 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/26/19 NOLLE PROSEQUI

JUDGE: JUDGE'S No.

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK: VERIFIED BY:

STEVEN G. WATKINS

2117

Attorney for State in Ct.
Attorney for Media Under Vendors in Ct
Jury Box in Ct
BA 5/16/19 for Arguments
in Media Under Vendors ER
Mdn to Lender Vendors for Purpose
of Obj to + vacating the Sealing
Order AND Staff on
took County State Att. Mdn to Sealing
Order

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5-16-19

Sheet # 0031	Defendant Sheet # 0002 OF 0002	CRIMINAL DISPOSITION SHEET			Branch/Room/Location 1735 304 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0028						
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT, JUSSIE		ATTORNEY DENTONS US LLP		COURT DATE 05-09-2019	COURT CALL/TIME 2-0930 AM						
CB/DCN # 019771648	IR # 2397168	EM		BOND # 1375606	<table border="1"> <tr> <td>I</td> <td>C</td> <td>D</td> </tr> <tr> <td></td> <td></td> <td>X</td> </tr> </table>		I	C	D			X	BOND AMOUNT \$100,000.00
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STEVEN G. WATKINS

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)

v.)

JUSSIE SMOLLETT)

No. 19 CR 03104

Judge. Steven G. Watkins

FILED

MAY 16 2019

**DOROTHY BROWN
CLERK OF CIRCUIT COURT**

ORDER MODIFYING SEALING ORDER

This matter coming before the Court on the COOK COUNTY STATE'S ATTORNEY'S UNOPPOSED MOTION TO MODIFY THE SEALING ORDER, the parties having appeared, the Cook County Office of the Independent Inspector General ("OIIG") having appeared, and the Court being fully advised on the premises:

IT IS HEREBY ORDERED THAT:

1. The State's Attorney's motion is granted, and the Order for Immediate Sealing of Criminal Records entered on March 26, 2019 ("Sealing Order") is hereby modified;
2. The OIIG agrees to submit to the jurisdiction of this Court for the limited purpose of implementation and enforcement of this Order;
3. The Clerk of the Circuit Court is directed to allow a representative of the OIIG to review and copy the file in the case titled *People of the State of Illinois v. Jussie Smollett*, case no. 19 CR 03104 ("Smollett Case");
4. The Office of the State's Attorney is granted permission to allow the OIIG to review and copy any documents in its file in the Smollett Case that are subject to the Sealing Order;
5. The OIIG is prohibited from disseminating any of the documents turned over to it pursuant to this Order to anyone outside of the OIIG; and
6. Upon completion of its investigation, the OIIG is ordered to return to the Office of the State's Attorney within sixty (60) days of the completion of its investigation all copies of any documents that were provided to it by the Office of the State's Attorney pursuant to this Order. "Completion of its investigation" is defined as the issuance of a report.

Entered:

Judge

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff,)

vs.)

JUSSIE SMOLLETT)

Defendant.)

No. 19 CR 0310401

Hon. Steven G. Watkins

5-10-19

19 MAY -7 PM 3:44

NOTICE OF FILING

To: SEE ATTACHED LIST

PLEASE TAKE NOTICE that we caused to be filed with the Clerk of the Court on the 7th day of May, 2019, **REPLY MEMORANDUM IN SUPPORT OF MEDIA INTERVENORS' EMERGENCY MOTION TO INTERVENE FOR PURPOSES OF OBJECTING TO AND VACATING THE SEALING ORDER**, a copies of which is hereby served upon you.

Dated: May 7, 2019

Respectfully submitted,

By: 

Natalie J. Spears - natalie.spears@dentons.com

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CERTIFICATE OF SERVICE

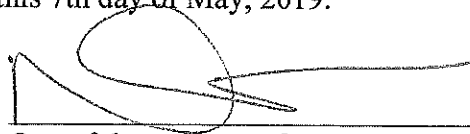
Natalie J. Spears, an attorney, certifies that she caused a copy of the foregoing **NOTICE OF FILING** to be served upon:

Patricia Brown Holmes
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via e-mail to the above e-mail addresses on this 7th day of May, 2019.

A handwritten signature in black ink, appearing to be 'N. Spears', is written over a horizontal line.

One of the attorneys for Intervenors

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS)

vs.)

JUSSIE SMOLLETT)

No. 19 CR 0310401

Hon. Steven G. Watkins

**REPLY MEMORANDUM IN SUPPORT OF MEDIA INTERVENORS'
EMERGENCY MOTION TO INTERVENE FOR PURPOSES OF
OBJECTING TO AND VACATING THE SEALING ORDER**

Media Intervenor¹ respectfully submit this reply memorandum in support of their motion for leave to intervene in this action and to vacate the Court's March 26, 2019 Sealing Order.

As Defendant concedes (Response to Intervenor's Motion ("Resp.") at 11), this is a case of "tremendous" public interest—justifiably so, not only because of the sensational nature of the underlying events and Mr. Smollett's celebrity, but also because of the public outcry surrounding the peremptory dismissal of the felony charges against him, after the City expended significant public resources investigating and prosecuting them. Under these circumstances, Defendant's attempt to seal the entire court file and thwart lawful requests for information about the case to other branches of government is an improper, and indeed unconstitutional, use of the Illinois Criminal Identification Act, and there is simply no good cause to support it in this case.

First, Defendant *concedes* that court files are subject to a presumption of access under the First Amendment and common law (Resp. at 4-5), and *cannot dispute* that the Sealing

¹ The Media Intervenor¹ are: Chicago Tribune Company, LLC, Cable News Network, Inc., ABC News and WLS Television, Inc., NBC News, a division of NBCUniversal Media, LLC, CBS Broadcasting Inc., on behalf of CBS News and WBBM-TV, WGN Continental Broadcasting Company, LLC, The Associated Press, The New York Times Company, Univision Communications Inc., Fox Television Stations, LLC, The Hollywood Reporter, LLC, National Public Radio, Inc. and WBEZ, Sun-Times Media, LLC, Gannett Satellite Information Network, LLC, on behalf of USA Today, and Dow Jones & Company, publisher of The Wall Street Journal. The news media has a right to intervene in order to assert the public's rights of access. (*See* Intervenor's Opening Brief ("Open. Br.") at 5-6.) The State's Attorney does not object to intervention (4/2/19 Tr. 7:12-14), and Defendant says nothing in his Response about, and thereby concedes, Intervenor's right to intervene. Intervention, accordingly, should be granted.

Order did not comply with the strict constitutional requirements that sealing was “essential to preserve higher values and . . . narrowly tailored to serve that interest.” *Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 510 (1984). *For that reason alone, entry of the Sealing Order violated the constitution and must be vacated.*

Second, Defendant does not even attempt to argue that sealing serves the government interest reflected in the Criminal Identification Act, 20 ILCS 2630/1, *et seq.* (“Act”), under which the Sealing Order was entered. He could not. The Act’s purpose is to allow citizens acquitted of a crime to seal *the fact of his or her arrest* from, for example, potential employers. (*See* Open. Br. at 4, 11-13.) The Order’s directive to “seal the arrest” is a non sequitur here: unlike the typical case the Act contemplates, the public at large is already well aware of the charges brought against Mr. Smollett. *Sealing cannot serve the Act’s intended purpose.* To be clear: the relief Intervenor seeks has nothing to do with the Act’s ordinary (and salutary) operation. But Defendant’s improper application of the Act in this case, to effect the sealing of public records in a significant criminal proceeding, with no notice to the press or public and no consideration of the public interest, is unconstitutional. (*See id.* at 14-15.)

Third, the unconstitutionally entered Sealing Order is being misused in these circumstances to bar release of critical information about the case and its dismissal held by other government agencies such as the Chicago Police Department (“CPD”) and State’s Attorney’s Office (“SAO”) that would otherwise be subject to valid requests under the Illinois Freedom of Information Act (“FOIA”). FOIA “promote[s] transparency and accountability of public bodies at all levels of government.” *Fagel v. Dep’t of Transp.*, 2013 IL App. (1st) 121841, ¶ 32. The information held by the SAO and CPD is not just “discovery” material as Defendant suggests, but public records reflecting government decision making that go to the heart of the public’s right to know. State’s

Attorney Foxx has stated that “[i]n the interest of full transparency,” she “would prefer these records be made public” but her Office and the CPD both see themselves as constrained by the Sealing Order.² It could not have been the Court’s intent to gag government agencies and thwart the proper operation of FOIA in an area of paramount public interest.

Finally, unable to show how the Act is a proper basis for the Sealing Order in these circumstances, Defendant now attempts, after the fact, to justify the Order by analogy to protective orders regarding pretrial discovery. But that gambit fails because no “good cause” supports entry of a seal on otherwise public criminal records relating to Defendant’s arrest and prosecution—least of all his purported privacy concerns. He is admittedly a “public figure and there is a tremendous amount of public interest in this case.” (Resp. at 10-11.) Under Illinois law and the constitution, the right of privacy is severely limited in matters of public interest and involving public figures.

Defendant’s appeal to privacy is a sham. He has no legitimate privacy interest in secreting the facts of this case. As discussed in Intervenor’s Motion (Open. Br. at 2-3, 5-6), the dismissal of this case triggered controversy and important public discourse about the criminal justice system, in Chicago and nationwide. The firestorm has not abated. Since Intervenor’s filed their motion:

- On April 10, 2019, the SAO requested that the Cook County Inspector General (“IG”) “conduct a review of the State’s Attorney’s handling of this case”; the SAO moved to modify the Sealing Order to allow the IG to review the criminal file, noting that “ensur[ing] the integrity of the prosecutorial process” is “good cause” for such review.³
- There have been calls for appointment of a special prosecutor to investigate how State’s Attorney Foxx and her office handled this matter. One such petition, filed by a retired Illinois Appellate Court Judge, observes that there is “a perception that justice was not served here, that Mr. Smollett received special treatment” and that “[a] public view of the

² Kim Foxx, Op-Ed, *I welcome an outside review of how we handled the Jussie Smollett case*, CHICAGO TRIBUNE, Mar. 29, 2019 (“Foxx Op-Ed”). The SAO and CPD have both denied FOIA requests, citing the Sealing Order. See Exhibit 1 attached hereto (examples of FOIA denial letters citing Sealing Order).

³ State’s Attorney’s Unopposed Motion to Modify the Sealing Order, filed Apr. 30, 2019, at ¶¶ 4-5, 8.

court file in this case could potentially partially remedy this perception, but the file has been sealed from the public view.”⁴

- The City of Chicago filed suit against Defendant to recoup the overtime costs of investigating his claim that he was the victim of a hate crime; the suit alleges violation of the False Statements Ordinance, based on Defendant’s submission of a “false police report claiming that he was the victim of a racist and homophobic beating by unknown attackers” when “[i]n reality, Defendant knew his attackers and orchestrated the purported attack himself.”⁵
- Defendant’s counsel have been opining volubly that the evidence exonerates their client and attacking the Osundairo brothers, the individuals who allegedly staged the attack at Defendant’s behest. “The actor’s seasoned attorneys believed they had plenty of ammunition to attack” the brothers’ credibility, and “[t]hey also said that much of the evidence, particularly text messages and phone records between Smollett and the brothers, was taken out of context.”⁶
- For their part, the Osundairo brothers have filed a defamation complaint against Mr. Smollett’s lawyers at the Geragos law firm, alleging that they made public statements falsely accusing the brothers of committing “a criminally homophobic, racist, and violent attack against Mr. Smollett” in order “to distract from Mr. Smollett’s farce and to promote themselves”.⁷
- And, contradicting Defendant’s position here, his counsel Mr. Geragos demanded, in response to the City’s civil suit, “*the prompt production of the entire investigation file*” and that “*all records and hearings on this matter be open to the public.*”⁸

In light of these circumstances, and Defendant’s counsel’s expansive public statements about what the evidence shows, and insistence on transparency only if it is advantageous to him, *any argument that there is a basis for keeping the records and evidence in this case under wraps has either been waived or lacks all credibility.* Defendant’s attempt to selectively shroud the facts in secrecy is simply unsustainable. Defendant’s use of this Court and the Sealing Order to effectuate

⁴ Ex. 2 (Petition to Appoint Special Prosecutor in *Matter of People v. Jussie Smollett*, 19 Misc. 00014 (Cir. Ct. Cook Cty., Crim. Div., filed April 5, 2019), at 15).

⁵ Ex. 3 (Complaint, *City of Chicago v. Jussie Smollett*, 19 L 003898 (Cir. Ct. Cook Cty., Law Div., filed April 11, 2019), at ¶ 1).

⁶ Jason Meisner and Megan Crepeau, *Mystery remains over why Kim Foxx's office dismissed hoax charges against Jussie Smollett*, CHICAGO TRIBUNE, Apr. 8, 2019.

⁷ Ex. 4 (Complaint, *Osundairo v. Geragos*, No. 19-cv-02727 (N.D. Ill., filed April 23, 2019), at ¶ 23).

⁸ Ex. 5 (Apr. 4, 2019 Letter from M. Geragos to E. Siskel, at 3).

that secrecy is contrary to law, and threatens to corrode confidence in the criminal justice system. See, e.g., *Richmond Newsp., Inc. v. Virginia*, 448 U.S. 555, 572 (1980). Armed now with the law and argument on behalf of the public's constitutional rights and the lack of good cause—not presented with Defendant's motion to seal—this Court should vacate the Sealing Order.

A. Defendant Does Not Dispute That the Court File is Subject to the Constitutional and Common Law Presumption of Access, and the Sealing Order Did Not Meet the Standards for Overcoming That Presumption.

The Sealing Order, entered pursuant to Defendant's pro forma oral motion under the Criminal Identification Act, violates the First Amendment and common law access rights because, to begin, it sweepingly applies to the entirety of the court file in this matter.

Defendant concedes, as he must, that the "court records" in this case are subject to the First Amendment's "constitutional presumption" of access. (Resp. at 4-5; Open. Br. at 7-9.) That presumption of openness put a heavy burden squarely on Defendant to demonstrate that sealing is "essential to preserve higher values and . . . narrowly tailored to serve that interest" (*Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 510 (1984) ("*Press-Enterprise I*"); see also *Skolnick v. Altheimer & Gray*, 191 Ill. 2d 214, 232 (2000); *People v. Zimmerman*, 2018 IL 122261, ¶ 30)⁹—a burden Defendant did not and does not even attempt to meet. The constitutionally required particularized findings on the record justifying such secrecy were also not made. See *Press-Enter. Co. v. Superior Court*, 478 U.S. 1, 13-14 (1986).

Instead, without making the required showing, Defendant secured a Sealing Order based on no findings, that sealed the entire court file. That was clearly prohibited under both the

⁹ Likewise, under the common law, any sealing order cannot be issued without a "compelling" interest, and must be drafted in the least restrictive manner possible. *Skolnick*, 191 Ill. 2d at 231. It is the burden of the party proposing sealing (or opposing unsealing) to meet this test. *In re Marriage of Johnson*, 232 Ill. App. 3d 1068, 1072-73 (4th Dist. 1992).

constitution and Illinois common law. *See, e.g., A.P. v. M.E.E.*, 354 Ill. App. 3d 989, 995 (1st Dist. 2004) (reversing trial court’s “rubber stamp” of parties’ request to seal that made no specific findings “explain[ing] why secrecy was vital”); *Skolnick*, 191 Ill. 2d at 231.

Attempting to evade that clear constitutional violation, Defendant asserts that Intervenor’s haven’t shown “good cause” for *unsealing* the court file. (Resp. at 8.) But, of course, *that is not the constitutional standard*, and Intervenor’s *do not bear the burden*. Again, it is *Defendant* who had the heavy burden of establishing a *compelling justification* for sealing in the first instance on the facts of this case. He has utterly failed to do so.

B. Defendant Does Not Dispute That Applying the Criminal Identification Act’s Sealing Provisions in These Circumstances Is Absurd If Not Unconstitutional.

Defendant does not dispute that immediate sealing under the Act is permissive, not mandatory (*see* Open. Br. at 10, citing, *e.g.*, 20 ILCS 2630/5.2(g)(2), (3) (“may” not “shall”). The Court’s discretion under the Act must be exercised consistent with constitutional standards. If the Court were to find the Act permitted entry of the Sealing Order here—restricting public access with no notice and based on no valid cause—it would be patently unconstitutional. *See Press-Enterprise I, supra; Globe Newsp. Co. v. Pokaski*, 868 F.2d 497, 500, 507-508 (1st Cir. 1989) (to comply with constitution, acquitted defendant would have to affirmatively move for the sealing of his records and demonstrate the need for the sealing).¹⁰

Notably, while Intervenor’s gave the Attorney General notice of this potential challenge to the constitutionality of the Act as applied here, he declined to appear¹¹—no doubt because the untoward and unconstitutional *application* of the Act in this case that Defendant advocates is

¹⁰ *At minimum*, the Act imports a requirement that good cause for such an order be shown. As discussed *infra*, at 9-11, Defendant did not and cannot make such a showing.

¹¹ Ex. 6 (April 10, 2019 Letter from Office of Ill. Att’y General).

totally indefensible. In any event, the Court need not reach the constitutional issues, because Defendant does not dispute that, regardless of how the Act operates in the run-of-the-mill case, in the circumstances of *this* case, the interest to be protected by the Act cannot be served by sealing.

Defendant does not dispute that the Act's purpose is to give people who have been arrested and not convicted, or convicted and successfully served their sentence, an opportunity to remove their criminal record from public view, giving them a "fresh start" with employers and the like. (*See* Open. Br. at 11-12.) Of course, Mr. Smollett's arrest was the subject of national headline news for weeks; potential future employers and the public at large are already more than aware of the charges brought against him, which have now been summarily dismissed. There is no sense in closing the barn door now. *See In re A Minor, Whose Name is Omitted*, 127 Ill. 2d 247, 269 (1989).

Plainly put, the Act's narrow purpose is to prevent records reflecting the fact of an arrest from becoming public knowledge. That is impossible here. Notwithstanding the Sealing Order's directive to "seal the arrest," *the fact of the arrest in this case is public knowledge and can no longer be "sealed"*—and it is a perversion of the Criminal Identification Act's limited and salutary purpose to do so. There is no valid purpose served by its application here.

Recognizing that his deployment of the Act to shroud the public record information about his case in secrecy is utterly nonsensical (not to mention offensive to the public interest and unconstitutional), Defendant's Response *nowhere discusses the Act that is purportedly the basis for entry of the Sealing Order* (his sole mention is a footnote stating that the Act "authorized the immediate sealing of the records," Resp. at 2 n. 1), much less why the Act's purpose is served by such. It plainly isn't. Again, for this reason alone, the Order should be vacated in its entirety.

C. Defendant's Attempt to Characterize the Records at Issue as "Discovery" Is Unavailing, Since There Could Be No "Good Cause" Under the Act for the Sealing Order.

The Sealing Order was supposed to be about "sealing the arrest" as the Act contemplates—but since that is an impossibility here, Defendant is now talking about "discovery" and protective orders (Resp. at 3-4, 6-8), seeking to align his argument with cases observing that there is "no tradition of access to discovery material not yet admitted at trial." (*Id.* at 6, citing *People v. Zimmerman*, 2018 IL 122261, ¶ 33 (citing *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 (1984)).) This mischaracterization doesn't help Defendant, for a few reasons.

First, describing the records at issue here solely in terms of "discovery" is inaccurate. The Order is not just thwarting access to documents exchanged in "discovery" (which Defendant notes was limited), but a wide variety of internal CPD and SAO documents about Defendant's arrest and prosecution including documents that would not be part of the discovery process—and are of critical importance to the public's understanding of what their government did here. In particular, the Order is being cited by the SAO to deny FOIA requests for information about its actions in this case—even though the SAO has publicly committed itself to "full transparency" in this matter and "would prefer these records be made public".¹² Moreover, merely labeling evidence and otherwise public records as "discovery" does not create good cause for sealing, particularly under the Act.¹³

Second, aside from wrongly attempting to concoct a rationale for the Sealing Order by analogizing to "pretrial discovery", the considerations present in the cases Defendant cites are

¹² Foxx Op-Ed, *supra* n. 2, and Ex. 1.

¹³ The Act does not refer to "discovery" or "evidence" but only contemplates a narrow range of documents that record the fact of an arrest. Section 2.1 of the Act describes the "criminal records"—"certain criminal arrest, charge, and disposition information"—that are collected from local law enforcement and maintained by the Department of State Police under the Act. "Arrest Information," for example, is "fingerprints, charges and descriptions of all persons who are arrested". 20 ILCS 2630/2.1(a). Presumably, those are the "records" that a sealing order would make "unavailable without a court order" (20 ILCS 2630/5.2(a)(K))—not "discovery" or "evidence".

entirely absent here. For example, in *People v. Zimmerman*, access was sought during a criminal trial to “discovery evidence” filed with a motion in limine that was not going to be used at trial and could “taint the jury pool”. 2018 IL 122261, at ¶ 37. (Even in those circumstances, the court struck “a careful balance” between access and fair trial rights: “The court’s order was . . . of a limited duration” and after a jury was empaneled it “agreed to revisit . . . whether it would be proper to allow public access to the motions at that time.” *Id.* at ¶ 46). Here, of course, there are no such fair trial considerations; the case against Defendant has been dismissed. And in contrast to *Zimmerman*, no one is “seeking” access to discovery from the Court file; Intervenor seeks to vacate an invalid Sealing Order that is impermissibly putting sand in the gears of FOIA’s normal operation in an unintended and unjustified manner.¹⁴

Third, no “good cause” exists in all events. Contrary to what Defendant suggests, even in the context of protective orders limiting dissemination of pretrial discovery *Seattle Times* confirmed that such orders “are subject to scrutiny under the First Amendment.” 467 U.S. at 37 (Brennan, J., concurring). While that scrutiny is not the strict variety enunciated in the *Press-Enterprise* cases, it is nevertheless searching. In evaluating whether “good cause” exists for such orders, “it is necessary to consider whether the ‘practice in question [furthers] an important or substantial governmental interest unrelated to the suppression of expression’ and whether ‘the limitation of First Amendment freedoms [is] no greater than is necessary or essential to the protection of the particular governmental interest involved.’” *Id.* at 32 (maj. op.) (quoting *Procurier v. Martinez*, 416 U.S. 396, 413 (1974));

¹⁴ Whether or not documents were “compiled for purposes of discovery” does not affect their status as public records subject to FOIA. See *Kalven v. City of Chicago*, 2014 IL App (1st) 121846, ¶ 28. Public records broadly include all “documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body,” and “are subject to FOIA and must be disclosed unless an exemption applies.” *Id.* at ¶ 29 (quoting 5 ILCS 140/7(2)(c)). Thus, but for the improper Sealing Order here, the usual rules under FOIA would govern and apply to public record requests to CPD and the State’s Attorney’s Office without interference.

Cummings v. Beaton & Assocs., Inc., 192 Ill. App. 3d 792, 797 (1989) (*Seattle Times* good cause requirement “reiterated the general rule that speech shall not be restricted unless such restraints are no greater than is necessary to the protection of an important or substantial governmental interest”).¹⁵

Under the “good cause” standard, the party desiring secrecy “must show that disclosure will result in a ‘clearly defined and serious injury,’ by pointing to ‘specific demonstrations of fact,’” not “broad allegations of potential harm.” *Global Material Technologies, Inc. v. Dazheng Metal Fibre Co., Ltd.*, 133 F.Supp.3d 1079, 1084 (N.D. Ill. 2015) (citations omitted). “*If there is any doubt as to whether the material should be sealed, it is resolved in favor of disclosure.*” *Id.* (emphasis added).

Particularly here, where the Sealing Order is having the unintended effect of restricting the release of public records under FOIA, Defendant’s burden is heavier, and rightly so. For example, in *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3d Cir. 1994), newspapers moved to modify or vacate a confidentiality order so they could obtain, pursuant to a state FOIA statute, access to city’s agreement settling a civil rights action. The court held that where, as here, “it is likely that information is accessible under a relevant freedom of information law, *a strong presumption exists against granting or maintaining an order of confidentiality whose scope would prevent disclosure of that information pursuant to the relevant freedom of information law.*” *Id.* at 791 (emphasis added).

Defendant cannot overcome that presumption. No good cause exists here for all the reasons noted earlier, and certainly not for issuing a sweeping secrecy dictate to other branches of government. Certainly the Criminal Identification Act does not require that unintended result. As

¹⁵ Recognizing a “presumption of public access to discovery materials,” *Citizens First Nat’l Bank v. Cincinnati Ins. Co.*, 178 F.3d 943, 946 (7th Cir. 1999), the federal courts have strictly enforced the requirement of a “good cause” finding to support any protective order. *Jepson, Inc. v. Makita Elec. Works*, 30 F.3d 854, 858 (7th Cir. 1994) (“if good cause is not shown, the discovery materials in question should not receive judicial protection”). Illinois courts are in accord. *See, e.g., Hall v. Sprint Spectrum L.P.*, 368 Ill. App. 3d 820, 826 (2006) (“reiterat[ing] the proposition that discovery should take place in public”; citing *Jepson* with approval); *United Conveyor Corp. v. Allstate Ins. Co.*, 2017 IL App (1st) 162314, ¶18 (protective order covered “virtually everything produced in discovery”; “[t]his wholesale effort to keep vast amounts of information out of the public record is unwarranted”).

noted, the Act does not mandate sealing, and it is unwarranted under these circumstances. Indeed, Defendant makes no attempt to justify the Sealing Order as effectuating the governmental interest reflected in the Criminal Identification Act—much less that the Order’s limitation on Intervenor’s First Amendment rights is “no greater than is necessary or essential to the protection of” that absent governmental interest. *Seattle Times*, 467 U.S. at 32. *See Cummings*, 192 Ill. App. 3d at 797 (“defendants have not demonstrated what important or substantial governmental interest is at stake in need of protection by the gag order,” where “[t]he matters suppressed are matters that have already received press coverage,” including a “scurrilous” rumor about a murder plot).

Nor does Defendant’s *post hoc* appeal to a generalized right to “privacy” even remotely supply the “specific demonstration” of harm required to establish good cause. *Global Material Technologies*, 133 F.Supp.3d at 1084. Indeed, as Intervenor next show, Defendant’s public figure status, the undeniable (and undenied) public interest in this case, his appearance on national television to discuss the case, and his counsel’s statements and actions, all preclude any reliance on “privacy” interests to sustain the Sealing Order.

D. Defendant Has No Legitimate Right to Privacy in the Facts of His Case And Its Dismissal, And If He Did, He Waived It.

Defendant argues that his “right to privacy” justifies the Sealing Order and the effect it is having, to bar disclosure of records bearing on his case and the SAO’s decision to dismiss it. (*See* Resp. at 9-11.) Defendant’s position is meritless.

Defendant’s purported privacy concerns ignore the reality of this case. He is quite clearly *not* “just like any other citizen” (Resp. at 10); he is admittedly a “public figure and there is a tremendous amount of public interest in this case” (*id.* at 11), an understatement to be sure. He is a celebrity at the center of one of the most explosive controversies this City has witnessed in recent years. Under Illinois law, the right of privacy is severely limited in matters of public interest or

involving public figures. See, e.g., *Buzinski v. DoAll Co.*, 31 Ill. App. 2d 191, 194-95 (1961); *Adreani v. Hansen*, 80 Ill. App. 3d 726, 730 (1980) (individual “in the midst of [a] public controversy” with city could not claim privacy right).

In terms equally applicable here, the Illinois Supreme Court held “the plaintiff *did not have a legally protected right of privacy*,” in view of “the liberty of expression constitutionally assured in a matter of public interest, as the one here; the enduring public attention to the plaintiff’s crime and prosecution, which remain an American *cause celebre*; and the plaintiff’s consequent and continuing status as a public figure.” *Leopold v. Levin*, 45 Ill. 2d 434, 441 (1970) (emphasis added); see also Restatement (Second) of Torts, § 652D, com. (d) (under common law and constitution, “[w]hen the subject-matter of the publicity is of legitimate public concern, *there is no invasion of privacy*”) (emphasis added).¹⁶

Likewise, in a good cause analysis, “privacy interests are diminished when the party seeking protection is a public person subject to legitimate public scrutiny.” *Pansy*, 23 F.3d at 787. “If a settlement agreement”—or, as here, a decision not to prosecute—“involves issues or parties of a public nature, and involves matters of legitimate public concern, that should be a factor weighing against entering or maintaining an order of confidentiality.” *Id.* at 788.

Assertions of privacy ring particularly hollow where, as here, the subject matter of the controversy also bears on the performance of public officials’ duties. “Since the ultimate sovereign in this country is an informed citizenry, we must have information available of and about public issues and about public figures upon which to make judgments as to public officials and

¹⁶ The absurdity of Defendant’s position is reflected in his attempt to analogize to cases involving privacy interests in medical treatment and financial records (Resp. at 12); of course, any such specific *legitimate* privacy concerns are easily and routinely addressed by agencies responding to FOIA requests. As Defendant himself points out (*id.* at 9-10), agencies can redact information that would be a truly unwarranted invasion of privacy, *i.e.*, social security numbers, medical records, bank account information, etc.

public programs.” *Krauss v. Champaign News Gazette, Inc.*, 59 Ill. App. 3d 745, 747 (1978). “The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.” 5 ILCS 140/7(1)(c).¹⁷

Additionally, as noted, Defendant’s team of attorneys has been making extensive comments in the press about what the evidence purportedly shows—yet here Defendant seeks to keep the public from actually seeing and understanding it. If Defendant is innocent, as he maintains, he has nothing to fear from transparency. And indeed, in response to City’s claim for recovery of its expenses incurred in investigating Defendant’s claims, his lawyer, Mr. Geragos, threatened that if “you file a civil action against Mr. Smollett . . . we will demand the prompt *production of the entire investigation file in this matter*, including the full discovery from the criminal action” and “will seek to have *all records and hearings on this matter be open to the public*.”¹⁸

In essence then, Defendant and his counsel argue that the record should be sealed—unless disclosure is tactically advantageous to them. Defendant cannot claim “transparency for me but not for thee”; by his counsel’s public statements about the evidence relating to his arrest, he has waived privacy or any other purported basis for preventing the public from seeing what the facts actually are—and how they were evaluated by government officials.

So too, Defendant’s extended complaint in his opposition that he is the true victim and was poorly served by the City and CPD (Resp. at 10-11) may or may not be true or good PR spin in the court of public opinion, but it is legally irrelevant. Even if Defendant was in fact only a victim in

¹⁷ See also 5 ILCS 140/1 (“Pursuant to the fundamental philosophy of the American constitutional form of government,” it is the “public policy of the State of Illinois that all persons are entitled to full and complete information” regarding “the official acts and policies of those who represent them as public officials and public employees”).

¹⁸ Ex. 5 (Apr. 4, 2019 Letter from M. Geragos to E. Siskel, at 3).


all this, it is not “necessary for an individual to actively seek publicity in order to be found to be in the ‘public eye.’” *Beresky v. Teschner*, 64 Ill. App. 3d 848, 855 (1978). “People who do not desire the limelight and do not deliberately choose a way of life or course of conduct calculated to thrust them into it nevertheless have no legal right to extinguish it if the experiences that have befallen them are newsworthy, even if they would prefer that those experiences be kept private.” *Haynes v. Alfred A. Knopf, Inc.*, 8 F.3d 1222, 1232 (7th Cir. 1993). It can scarcely be said that Defendant has sought to avoid the limelight¹⁹ and no question that he has “become a legitimate subject of public interest . . . in other words, become ‘news.’” Restatement, § 652D, cmt. (f).

CONCLUSION

For all of these reasons, Media Intervenors respectfully request that the Sealing Order be vacated entirely; it simply has no valid, let alone constitutionally permissible, basis.

Dated: May 7, 2019

Respectfully submitted,

By: 
Natalie J. Spears - natalie.spears@dentons.com
Samuel Fifer - samuel.fifer@dentons.com
Gregory R. Naron - gregory.naron@dentons.com
Jacqueline A. Giannini - jacqui.giannini@dentons.com
Dentons US LLP, Firm No. 56309
233 S. Wacker Drive, Suite 5900
Chicago, Illinois 60606
Attorneys for Media Intervenors

¹⁹ See, e.g., “Jussie Smollett tells ABC News’ Robin Roberts he’s ‘pissed off’ after vicious attack,” ABC NEWS, Feb. 13, 2019, <https://www.goodmorningamerica.com/culture/story/jussie-smollett-tells-abc-news-robin-roberts-pissed-61047347>

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
)
vs.) No. 19 CR 0310401
)
) Hon. Steven G. Watkins
JUSSIE SMOLLETT)

NOTICE OF MOTION

To: Patricia Holmes (pholmes@rshc-law.com)
Brian O'Connor Watson (bwatson@rshc-law.com)
Raley Safer Holmes & Cancila, LLP.
70 West Madison Street, Suite 2900
Chicago, Illinois 60602

Natalie J. Spears (natalie.spears@dentons.com)
Samuel Fifer (samuel.fifer@dentons.com)
Gregory Naron (gregory.naron@dentons.com)
Jacqueline A. Giannini (jacqui.giannini@dentons.com)
Dentons US LLP
233 S. Wacker Drive, Suite 5900
Chicago, IL 60606

PLEASE TAKE NOTICE that on Thursday, May 9, 2019, at 10:00 a.m., I will appear
before The Honorable Steven G. Watkins in Courtroom 304, at the Circuit Court of Cook
County, Criminal Division, and present the attached Motion which is hereby served upon you.

KIMBERLY M. FOXX

State's Attorney of Cook County

By: /s/ Cathy McNeil Stein
Cathy McNeil Stein
Assistant State's Attorney
Chief, Civil Actions Bureau
500 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5365

CERTIFICATE OF SERVICE

I, Cathy McNeil Stein, Assistant State's Attorney, hereby certify that I caused an exact copy of the above notice, together with the document referenced herein, to be sent via email to counsel of record on April 30, 2019 before 5:00 p.m.

/s/ Cathy McNeil Stein
Cathy McNeil Stein, ASA

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)

vs.)

JUSSIE SMOLLETT)

No. 19 CR 03104

Hon. Steven G. Watkins

**COOK COUNTY STATE'S ATTORNEY'S
UNOPPOSED MOTION TO MODIFY THE SEALING ORDER**

The Cook County State's Attorney, KIMBERLY M. FOXX (the "State's Attorney"), respectfully moves this Court, pursuant to Section 2-1203 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1203) and Section 5.2(g)(5)(K) of the Criminal Identification Act (20 ILCS 2630/5.2(g)(5)(K)) ("Sealing Statute"), to modify the Order for Immediate Sealing of Criminal Records entered on March 26, 2019 ("Sealing Order"),¹ for the limited purpose of allowing the Cook County Office of the Independent Inspector General ("OIIG") to review certain sealed records in the possession of the State's Attorney's Office and the Clerk of the Circuit Court of Cook County. The Defendant, Jussie Smollett, has no objection to this motion. In support of this motion, the State's Attorney states as follows:

1. On March 26, 2019, upon the dismissal of charges in this case, Defendant moved, pursuant to 20 ILCS 2630/5.2(g), for an immediate seal in this case. The Court granted Defendant's motion and entered the Sealing Order.
2. Criminal records relating to the Defendant that are maintained by the State's Attorney's Office and the Clerk of the Circuit Court are sealed pursuant to the Sealing Order.
3. Under 20 ILCS 2630/5.2(a)(1)(K), "seal" means "to physically and electronically maintain the records, unless the records would otherwise be destroyed due to age, but to make

¹ A copy of the Sealing Order is attached hereto as Ex. A.

the records unavailable *without a court order*, subject to the exceptions in Sections 12 and 13 of this Act.” (Emphasis added.) Thus, implicit in the Sealing Statute is the notion that a court may enter an order modifying the Sealing Order.

4. On April 10, 2019, the State’s Attorney requested that the OIIG conduct a review of the State’s Attorney’s handling of this case. (4/11/19 letter from Patrick M. Blanchard, Inspector General, attached hereto as Ex. B).

5. The OIIG subsequently requested access to the State’s Attorney’s records and files in relation to this case in order to properly conduct its investigation. In order to ensure that the file is complete, the State’s Attorney requests that the OIIG also be given access to the file of the Clerk of the Circuit Court.

6. The State’s Attorney is not requesting the unsealing of any documents related to any grand jury convened in connection with this matter.

7. Throughout the Criminal Identification Act (20 ILCS 2630/, *et seq.*), it is evident that “good cause” is the standard for lifting or modifying a sealing order. *See* 20 ILCS 2630/5.2(b)(4), (b)(5), (d)(9)(A)(ii), (d)(9)(B)(ii), (d)(9)(B-5)(ii), (e), (e-5), (e-6).

8. Here, good cause exists to allow the OIIG to review the criminal file in this case. The ability to examine the files maintained by the State’s Attorney’s Office and the Clerk of the Circuit Court is fundamental to the OIIG’s ability to review the handling of this matter so as to ensure the integrity of the prosecutorial process.

9. Further, all sealed records are “subject to inspection and use by the court and inspection and use by law enforcement agencies and State’s Attorneys or other prosecutors in carrying out the duties of their offices.” 20 ILCS 2630/13(b). Under this section, the State’s

Attorney's Office may continue to access to its own files that may be subject to the Sealing Order in order to carry out the duties of the office.

10. Modifying the sealing order for this limited purpose is consistent with the exception to sealing in 20 ILCS 2630/13(b) for the State's Attorney and "law enforcement agencies." Thus, allowing the OIIG to inspect the State's Attorney's files and records in relation to this case, including those records subject to the Sealing Order, is consistent with both the text and the spirit of the statute.

WHEREFORE, the Cook County State's Attorney, KIMBERLY M. FOXX, respectfully requests that this Court modify the Sealing Order, pursuant to 20 ILCS 2630/5.2(g)(5)(K), for the limited purpose of granting the Cook County Office of the Independent Inspector General access to any and all records and files that are subject to said Sealing Order belonging to or originating with:

- (a) The Cook County State's Attorney's Office, except any records related to any grand jury convened in this matter; and
- (b) The Clerk of the Circuit Court of Cook County.

Date: April 30, 2019

Respectfully submitted,

KIMBERLY M. FOXX
State's Attorney of Cook County

By: _____
Cathy McNeil Stein
Assistant State's Attorney
Chief, Civil Actions Bureau
500 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5365
cathymcneil.stein@cookcountyil.gov

EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

or

A Municipal Corporation,

v.

JESSIE SMOLLETT

Defendant/Petitioner

Case

19 CR 3104

and/or

(MUNICIPAL 19-110327101)

Ticket

Numbers

Date of Birth: 6/21/1982

Gender: ☒ Male ☐ Female

Race: BLACK

ORDER FOR IMMEDIATE SEALING OF CRIMINAL RECORDS

This Court, having considered all pleadings and any objections thereto, and after an evidentiary hearing,
ORDERS THAT:

1. Defendant/Petitioner's Petition for Immediate Sealing of Criminal Records is GRANTED.
2. The Illinois State Police, the above Arresting Agency, _____, the Chicago Police Department, and the Clerk of the Circuit Court shall seal the arrest from its records, if any, within sixty (60) days of the date of service of this order. It is further directed that the Arresting Agency shall request the return of all identification materials from any other repositories and custodians of statistics that were previously notified of this arrest(s) by the Arresting Agency.
3. In accordance with the law, orders of protection, civil no contact orders, and civil no contact stalking orders shall not be sealed.

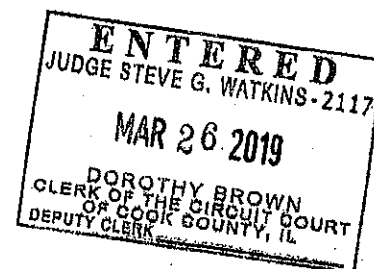
Prepared by: PATRICIA BROWN HOLMES
Cook County Attorney Code: 60122
Name: RILEY SAFER HOLMES & CANOLA LLP
Address: 70 W MADISON STE 2900
City/State/Zip: CHICAGO, IL 60602
Telephone: (312) 471-8700 FAX: (312) 471-8700
Primary Email: PHOLMES@RSHC-LAW.COM

ENTERED:

Dated: _____

Judge: _____

Judge No. _____



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

EXHIBIT B

THE BOARD OF COMMISSIONERS

TONI PRECKWINKLE
PRESIDENT

BRANDON JOHNSON	1 st Dist.	PETER N. SILVESTRI	9 th Dist.
DENNIS DEER	2 nd Dist.	BRIDGET GAINER	10 th Dist.
BILL LOWRY	3 rd Dist.	JOHN P. DALEY	11 th Dist.
STANLEY MOORE	4 th Dist.	BRIDGET DEGENEN	12 th Dist.
DEBORAH SIMS	5 th Dist.	LARRY SUFFREDIN	13 th Dist.
DONNA MILLER	6 th Dist.	SCOTT R. BRITTON	14 th Dist.
ALMA E. ANAYA	7 th Dist.	KEVIN B. MORRISON	15 th Dist.
LUIS ARROYO JR.	8 th Dist.	JEFFREY R. TODULSKI	16 th Dist.
		SEAN M. MORRISON	17 th Dist.



OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

PATRICK M. BLANCHARD
INSPECTOR GENERAL

69 West Washington Street
Suite 1160
Chicago, Illinois 60602
PHONE (312) 603-0350
FAX (312) 603-9948

April 11, 2019

Confidential Via Electronic Mail

Honorable Toni Preckwinkle
and Honorable Members of the Cook County
Board of Commissioners
118 North Clark Street
Chicago, Illinois 60602

Re: OIIG SAO Review

Dear President Preckwinkle and Members of the Board of Commissioners:

This letter is written to inform you that this office has received a request by State's Attorney Kim Foxx to conduct an Office of the Independent Inspector General (OIIG) review of the circumstances surrounding the resolution of criminal charges formerly pending against Jussie Smollett. As you may recall, the Office of the Cook County State's Attorney (SAO) has previously objected to the exercise of jurisdiction by this office over the SAO in relation to other unrelated issues. State's Attorney Foxx has stated that her office will cooperate during the course of this review notwithstanding prior objections to OIIG jurisdiction. Accordingly, this office will proceed with this review in accordance with the terms of the Independent Inspector General Ordinance, Cook County, Ill., Ordinances 07-O-52 (2007).

Thank you for your time and attention to these issues. Should you have any questions or wish to discuss this letter further, please do not hesitate to contact me.

Very truly yours,

Patrick M. Blanchard
Independent Inspector General

cc: Honorable Kim Foxx
Ms. Lanetta Haynes Turner, Chief of Staff, Office of the President
Ms. Laura Lechowicz Felicione, Special Legal Counsel to the President

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEC)	
	)	No. 19 CR 0310401
vs.)	
	)	Hon. Steven G. Watkins
JUSSIE SMOLLETT)	

NOTICE OF MOTION

To: Patricia Holmes (pholmes@rshc-law.com)
Brian O'Connor Watson (bwatson@rshc-law.com)
Raley Safer Holmes & Cancila, LLP.
70 West Madison Street, Suite 2900
Chicago, Illinois 60602

Natalie J. Spears (natalie.spears@dentons.com)
Samuel Fifer (samuel.fifer@dentons.com)
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Jacqueline A. Giannini (jacqui.giannini@dentons.com)
Dentons US LLP
233 S. Wacker Drive, Suite 5900
Chicago, IL 60606

PLEASE TAKE NOTICE that on Thursday, May 9, 2019, at 10:00 a.m., I will appear
before The Honorable Steven G. Watkins in Courtroom 304, at the Circuit Court of Cook
County, Criminal Division, and present the attached Motion which is hereby served upon you.

KIMBERLY M. FOXX

State's Attorney of Cook County

By: /s/ Cathy McNeil Stein
Cathy McNeil Stein
Assistant State's Attorney
Chief, Civil Actions Bureau
500 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5365

CERTIFICATE OF SERVICE

I, Cathy McNeil Stein, Assistant State's Attorney, hereby certify that I caused an exact copy of the above notice, together with the document referenced herein, to be sent via email to counsel of record on April 30, 2019 before 5:00 p.m.

/s/ Cathy McNeil Stein
Cathy McNeil Stein, ASA

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)	
	)	No. 19 CR 03104
vs.)	
	)	Hon. Steven G. Watkins
JUSSIE SMOLLETT)	

**COOK COUNTY STATE'S ATTORNEY'S
UNOPPOSED MOTION TO MODIFY THE SEALING ORDER**

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- (b) The Clerk of the Circuit Court of Cook County.

Date: April 30, 2019

Respectfully submitted,

KIMBERLY M. FOXX
State's Attorney of Cook County

By: _____

Cathy McNeil Stein
Assistant State's Attorney
Chief, Civil Actions Bureau
500 Richard J. Daley Center
Chicago, Illinois 60602
(312) 603-5365
cathymcneil.stein@cookcountyil.gov

EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

or

A Municipal Corporation,

v.

JESSIE SMOLLETT

Defendant/Petitioner

Case

19 CR 3104

and/or

(MUNICIPAL 19-110327101)

Ticket

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Date of Birth: 6/21/1982

Gender: ☒ Male ☐ Female

Race: BLACK

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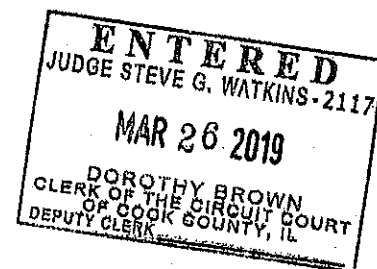
Prepared by: PATRICIA BROWN HOLMES
Cook County Attorney Code: 60128
Name: BILEY SAFER HOLMES & CANOLA LLP
Address: 70 W MADISON STE 2900
City/State/Zip: CHICAGO, IL 60602
Telephone: (312) 471-8700 FAX: (312) 471-8705
Primary Email: PHOLMES@BSHC-LAW.COM

ENTERED:

Dated: _____

Judge: _____

Judge's No. _____



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

EXHIBIT B

THE BOARD OF COMMISSIONERS

TONI PRECKWINKLE
PRESIDENT

BRANDON JOHNSON
DENNIS DEER
BILL LOWRY
STANLEY MOORE
DEBORAH SIMS
DONNA MILLER
ALMAE ANAYA
LUIS ARROYO JR.

1st Dist.
2nd Dist.
3rd Dist.
4th Dist.
5th Dist.
6th Dist.
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PETER N. SILVESTRI
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JEFFREY R. TOBOLSKI
SEAN M. MORRISON

9th Dist.
10th Dist.
11th Dist.
12th Dist.
13th Dist.
14th Dist.
15th Dist.
16th Dist.
17th Dist.



OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

PATRICK M. BLANCHARD
INSPECTOR GENERAL

69 West Washington Street
Suite 1160
Chicago, Illinois 60602
PHONE (312) 603-0350
FAX (312) 603-9948

April 11, 2019

Confidential Via Electronic Mail

Honorable Toni Preckwinkle
and Honorable Members of the Cook County
Board of Commissioners
118 North Clark Street
Chicago, Illinois 60602

Re: OIIG SAO Review

Dear President Preckwinkle and Members of the Board of Commissioners:

This letter is written to inform you that this office has received a request by State's Attorney Kim Foxx to conduct an Office of the Independent Inspector General (OIIG) review of the circumstances surrounding the resolution of criminal charges formerly pending against Jussie Smollet. As you may recall, the Office of the Cook County State's Attorney (SAO) has previously objected to the exercise of jurisdiction by this office over the SAO in relation to other unrelated issues. State's Attorney Foxx has stated that her office will cooperate during the course of this review notwithstanding prior objections to OIIG jurisdiction. Accordingly, this office will proceed with this review in accordance with the terms of the Independent Inspector General Ordinance, Cook County, Ill., Ordinances 07-O-52 (2007).

Thank you for your time and attention to these issues. Should you have any questions or wish to discuss this letter further, please do not hesitate to contact me.

Very truly yours,

Patrick M. Blanchard
Independent Inspector General

cc: Honorable Kim Foxx
Ms. Lanetta Haynes Turner, Chief of Staff, Office of the President
Ms. Laura Lechowicz Felicione, Special Legal Counsel to the President

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,	)	No. 19 CR 3104
)	
vs.	)	Hon. Steven G. Watkins
)	
JUSSIE SMOLLETT)	

19 APR 24 AM 8:56

**MEMORANDUM OF LAW IN RESPONSE TO MEDIA INTERVENORS'
EMERGENCY MOTION TO INTERVENE FOR PURPOSES OF
OBJECTING TO AND VACATING THE SEALING ORDER**

Jussie Smollett, by his attorneys, Geragos & Geragos, APC, specially appears to oppose the Media Intervenors' Emergency Motion to Intervene for Purposes of Objecting to and Vacating the Sealing Order.

Factual Background

1. On March 7, 2019, a felony indictment was filed against Mr. Smollett in the Circuit Court of Cook County, case number 19 CR 3104, alleging 16 counts of disorderly conduct, namely filing a false police report in violation of Chapter 720, Act 5, Section 26-1(a)(4) of the Illinois Compiled Statutes Act of 1992 as amended.

2. On March 12, 2019, the parties appeared in Court for a hearing on the media's request for extended media coverage. In light of the substantial misinformation in the case, the defense stated that it had no objection to the media's request and would welcome cameras into the courtroom so the media and the public could see the actual evidence, and lack thereof, against Mr. Smollett.

3. On March 26, 2019, the State Attorney's Office moved to *nolle pros* all 16 counts in the Indictment. The Court granted the motion and dismissed the case against Mr. Smollett. The Court also ordered the records in this matter be immediately sealed.¹

4. On March 27, 2019, Media Intervenors Chicago Tribune Company, LLC, Cable News Network, Inc., ABC News and WLS Television, Inc., NBC News, a division of NBCUniversal Media, LLC, CBS Broadcasting, Inc., on behalf of CBS News and WBBM-TV, The Associated Press, and Univision Communications Inc., representatives of the local and national news media, filed an Emergency Motion of News Organizations to Intervene for Purposes of Objecting to Expedited Destruction of Public Records Pursuant to Expungement Order.

5. On April 1, 2019, Media Intervenors Chicago Tribune Company, LLC, Cable News Network, Inc., ABC News and WLS Television, Inc., NBC News, a division of NBCUniversal Media, LLC, CBS Broadcasting, Inc., on behalf of CBS News and WBBM-TV, WGN Continental Broadcasting Company, LLC, The Associated Press, The New York Times Company, Univision Communications Inc., Fox Television Stations, LLC, The Hollywood Reporter, LLC, National Public Radio, Inc. and WBEZ, Sun-Times Media,

¹ The Criminal Identification Act authorized the immediate sealing of the records in this case. See 20 ILCS 2630/5.2(g). The Court, State's Attorney, and Mr. Smollett complied fully with the law, and neither the State's Attorney, the Department of State Police, the arresting agency, nor the chief legal officer of the City of Chicago (the unit of local government effecting the arrest) has objected to the sealing order or moved to vacate, modify, or reconsider the sealing order. See 20 ILCS 2630/5.2(g)(5)(K); 20 ILCS 2630/5.2(b)(d)(5). Furthermore, an order granting an immediate sealing petition shall not be considered void because it fails to comply with the provisions of 20 ILCS 2630/5 or because of an error asserted in a motion to vacate, modify, or reconsider. See 20 ILCS 2630/5.2(g)(5)(L).

LLC, Gannett Satellite Information Network, LLC, on behalf of USA Today, and Dow Jones & Company, publisher of The Wall Street Journal (hereafter "Media Intervenors") filed an Emergency Motion to Intervene for Purposes of Objecting to and Vacating the Sealing Order, in which they seek leave to intervene in this action and move the Court to reconsider and vacate its March 26, 2019 sealing order (hereafter ("Motion")).

6. On March 28 and April 2, 2019, the parties appeared before the Court to address the motions which had been filed. The Court found that the motion filed on March 27, 2019 was moot, since no petition for an expungement had been filed by Mr. Smollett. As to the motion filed on April 1, 2019, the Court found there was no emergency necessitating a decision that day and set a briefing schedule on the Motion.

7. Pursuant to the Court's briefing schedule, Mr. Smollett, through his attorneys, hereby submits his Memorandum of Law in opposition to the Media Intervenors' Motion. As explained below, the media does not have a presumptive right of access to the records it seeks, namely pretrial documents and discovery which have not been admitted into evidence and which will not be admitted at trial or at another proceeding in this matter, since the case against Mr. Smollett has been dismissed. As for the court file, the Media Intervenors have failed to establish good cause, let alone a compelling reason, to unseal records which were open to the public for inspection and copying since the inception of this case.

8. Furthermore, since the defense only received a small portion of the discovery prior to the dismissal of the charges and sealing of the records, Mr. Smollett does not even know the universe of documents which constitutes the discovery in this case, which likely

includes confidential medical and financial information, and other private communications unrelated to the incident, obtained by the Chicago Police Department, the Cook County State Attorney's Office, and/or other agencies. Thus, even if the media had a presumptive right of access to the discovery in this case, such right is outweighed by Mr. Smollett's right to privacy.

Argument

A. The Media Does Not Have a Presumptive Right of Access to the Records It Seeks.

The Supreme Court of Illinois has recognized that the first amendment to the United States Constitution embodies a public right of access to court records.² See *Skolnick v. Altheimer & Gray*, 191 Ill.2d 214, 231–32, 246 Ill.Dec. 324, 730 N.E.2d 4, 16 (2000); see also *LaGrone*, 361 Ill.App.3d at 535, 297 Ill.Dec. 655, 838 N.E.2d at 145 (recognizing a right of access to criminal proceedings in general). The constitutional presumption applies to court proceedings and records (1) which have been historically open to the public; and (2) which have a purpose and function that would be furthered by disclosure. *Skolnick*, 191 Ill.2d at 232, 246 Ill.Dec. 324, 730 N.E.2d 4; *Pelo*, 384 Ill.App.3d at 780, 323 Ill.Dec. 648,

² In addition to the constitutional right of access, the Supreme Court of Illinois recognizes a “parallel common-law right of access.” *Pelo*, 384 Ill.App.3d at 780, 323 Ill.Dec. 648, 894 N.E.2d at 418-19 (citing *Skolnick*, 191 Ill.2d at 230, 246 Ill.Dec. 324, 730 N.E.2d at 15). The state legislature has also created a statutory right of access as part of the Clerks of Courts Act. See 705 ILCS 105/16(6). Like the first amendment right of access, the common-law and statutory rights of access to judicial records are not absolute. See *Skolnick*, 191 Ill.2d at 231, 246 Ill.Dec. 324, 730 N.E.2d 4. And while the common-law and statutory rights have different sources, the Supreme Court of Illinois has held they are “parallel” to the first amendment presumption and it has analyzed the three presumptions together. See *Skolnick*, 191 Ill.2d at 231–33, 246 Ill.Dec. 324, 730 N.E.2d at 16-17. We will do the same here.

894 N.E.2d 415; *Press-Enterprise Co. v. Superior Court of California*, 478 U.S. 1, 8, 106 S.Ct. 2735, 2740, 92 L.Ed.2d 1, 10 (1986) (*Press-Enterprise II*).

The determination of whether a first amendment right of access attaches to a particular record requires a two-step process under what is typically known as the “experience and logic test.” *Press-Enterprise II*, 478 U.S. at 9-10, 106 S.Ct. 2735 (1986); see also *Skolnick*, 191 Ill.2d at 232, 246 Ill.Dec. 324, 730 N.E.2d 4. First, under the “experience” prong, the court must consider whether the document is one that has historically been open to the press and general public. *Press-Enterprise II*, 478 U.S. at 8, 106 S.Ct. 2735. Second, under the “logic” prong, the court must consider whether public access to the document plays a significant positive role in the functioning of the particular judicial process in question. *Id.*

In *People v. Pelo*, 384 Ill. App. 3d 776, 894 N.E.2d 415 (2008), a newspaper and reporter filed a petition to intervene and gain access to an evidence deposition in a criminal case. In holding that the media did not have a presumptive constitutional, common-law, or statutory right of access, the court explained:

the evidence deposition at issue here is a “judicial record” or part of the “criminal proceeding itself” to which the public has a constitutional, common-law, or statutory right of access. As stated by the trial court, the unedited evidence deposition at issue here has not been submitted into evidence and has not been played in open court.

Id. at 781.

In *People v. Kelly*, 397 Ill. App. 3d 232, 259, 921 N.E.2d 333, 358 (2009), members of the media petitioned to intervene in high-profile child pornography prosecution and moved to obtain access to certain closed pretrial proceedings and records. After the court

denied the motion for access, the media members appealed. The appellate court held that the trial court did not abuse its discretion in denying access to closed proceedings and records, explaining that

the presumption did not attach to the hearings, to the State's motion concerning potential evidence, to the State's discovery, or to the parties' witness lists. As in *Pelo*, the media intervenors did not have a right to a potential exhibit that had not yet been introduced into evidence; similarly, in the case at bar, the media intervenors did not have a right to discovery, other crimes' evidence, or a list of witnesses, because none of it had been introduced into evidence.

Id. at 259 (citing *Pelo*, 384 Ill. App. 3d at 782-83).

More recently, in *People v. Zimmerman*, 2018 IL 122261, ¶ 32, media intervenors filed a request to open for public inspection defendant's motions *in limine* filed under seal in a murder prosecution. In reversing the appellate court's order that the trial court erred in finding that the "presumption of access" did not attach to the motions, the Supreme Court of Illinois held that both the "experience" and "logic" prongs weighed against a first amendment right of access. The court began by noting that "there is no tradition of access to discovery material not yet admitted at trial" and recognizing that "[i]nformation that surfaces during pretrial discovery may be unrelated, or only tangentially related, to the underlying cause." *Id.* ¶ 33 (citing *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33, 104 S.Ct. 2199, 81 L.Ed.2d 17 (1984)). The court further noted that "[w]hether in a civil or criminal case, discovery is 'essentially a private process because the litigants and the courts assume that the sole purpose of discovery is to assist in trial preparation.'" *Id.* (quoting *Courier-Journal, Inc. v. McDonald-Burkman*, 298 S.W.3d 846, 848 (Ky. 2009)). The court explained that because documents themselves do contain any evidentiary value until

admitted into evidence at trial or other proceedings, "[p]ublic access to such material would therefore not play a significant role in the administration of justice in the case." *Id.* (quoting *Courier-Journal*, *supra*, 298 W. 3d at 849). Therefore, as to the "experience" prong, the court held that "restraints placed on discovered, but not yet admitted, information are not a restriction on a traditionally public source of information." *Id.* (quoting *Seattle Times*, *supra*, 467 U.S. at 33) (internal quotation marks omitted).

The court also found that the "logic" prong weighed against a first amendment right of access. The court stated that the intervenors had not provided any authority to support a finding that public access to the type of pretrial discovery at issue in *Zimmerman* would play a significant positive role in the judicial process. *Id.*, ¶ 36. The court explained that "[t]he discovery process often generates a significant amount of irrelevant and unreliable material that plays no role in the criminal proceeding" and that such material "generally does not become public because there is no intention of offering it into evidence." *Id.* Thus, the court concluded that the constitutional, common-law, or statutory presumption of access did not attach to defendant's motions in this case. *Id.*, ¶ 38. *See also In re Gee*, 2010 IL App (4th) 100275, 956 N.E.2d 460 (holding that presumption of public access did not attach to sealed search warrant affidavit and inventory in prosecution for murder of a family where the warrant application process had not been historically open to the public).

As explained in the cases above, there is no presumptive right of access to pretrial discovery, including documents and records which have not been introduced into evidence or otherwise shown in open court. And here, like in *Zimmerman*, *supra*, both the "experience" and "logic" prongs weigh against a right of access to the records in question.

Since the case against Mr. Smollett has been dismissed, the information contained in the discovery will not be admitted at trial or at another proceeding in this matter. Thus, it is not subject to a tradition of access.

To the extent the Media Intervenors are seeking access to the court records, they have failed to establish good cause to unseal such records. Indeed, the court file was open to the public for copying and inspection from the inception of this case until the record was sealed on March 26, 2019. And the media has access to the only documents filed in relation to the dismissal of the case, which are the sealing order and the transcript of the March 26, 2019 hearing, both of which the Media Intervenors possess and attach as exhibits to their Motion.

Furthermore, the Media Intervenors have not provided any authority to support a finding that public access to the records in question would play a significant positive role in the judicial process, since the case against Mr. Smollett has been dismissed.

Because the media does not have a presumptive right of access to the records it seeks, the inquiry should end here without a balancing of competing interests. *See, e.g., In re Gee*, 2010 IL App (4th) 100275, ¶ 26, 956 N.E.2d 460, 464 ("If the presumption [of access applied to the court proceedings and records] did not apply, our analysis ends there.").

B. Even if There Was a Presumptive Right of Access, It Is Outweighed in this Case by Mr. Smollett's Interest in Privacy.

Even where the media has a presumptive right of access, the right is not absolute, and the court has the supervisory power to deny access at its discretion where the court

files may become a vehicle for improper purposes. *Skolnick*, 191 Ill.2d at 231, 246 Ill.Dec. 324, 730 N.E.2d at 16. Specifically, the presumptive right of access can be rebutted by demonstrating that suppression of the public record is necessary to protect a higher value and is narrowly tailored to serve that interest. *Skolnick*, 191 Ill.2d at 232, 246 Ill.Dec. 324, 730 N.E.2d at 16. Here, even if the media had a presumptive right of access, which it does not, that right would be outweighed by Mr. Smollett's right to privacy.

The Supreme Court of Illinois has recognized a "right of privacy, a right many years ago described in a limited fashion by Judge Cooley with utter simplicity as the right 'to be let alone.'" *See Leopold v. Levin*, 45 Ill.2d 434, 440-41, 259 N.E.2d 250 (1970). As the court has explained, "[p]rivacy is one of the sensitive and necessary human values and undeniably there are circumstances under which it should enjoy the protection of law." *Id.* Article I, section 6, of the Illinois Constitution of 1970 also recognizes privacy rights, and Article I, section 12, expressly recognizes a right to a remedy against all injuries to privacy or reputation. *See Ill. Const. 1970*, art. I., §§ 6 & 12.

The right to privacy is also recognized and embodied in the Freedom of Information Act ("FOIA"). Indeed, FOIA expressly exempts from disclosure investigatory records compiled for law-enforcement purposes to the extent that production of such records would, among other things, constitute an unwarranted invasion of privacy. *See* 5 ILCS 140/7(1)(c). The Act defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." *See id.* If requested information falls within a *per se* exemption to FOIA,

the court shall conduct no further inquiry and must uphold the body's decision not to disclose the information. *See Chicago Tribune Co. v. Board of Educ. of City of Chicago*, App. 1 Dist.2002, 265 Ill.Dec. 910, 332 Ill.App.3d 60, 773 N.E.2d 674, *appeal denied* 271 Ill.Dec. 923, 201 Ill.2d 562, 786 N.E.2d 181; *see, e.g., McGee v. Kelley*, 2017 IL App (3d) 160324, 95 N.E.3d 1179 (where requester filed a complaint for injunctive or declaratory relief against sheriff seeking disclosure of records related to his indictment and conviction pursuant to FOIA, the court held that the release of unredacted police reports were exempt from FOIA disclosure because they would constitute an unwarranted invasion of personal privacy).

On January 29, 2019, Mr. Smollett was the victim of a crime. Although he was later charged as a defendant in this case, all 16 counts against him were dismissed only two and a half weeks after the indictment was filed. Since Mr. Smollett has not been convicted of any crimes and is no longer charged with any crimes, he is entitled to the right of privacy just like any other citizen.

While there have been allegations of "celebrity justice" or preferential treatment in this case, in fact, Mr. Smollett has been treated far worse, not better, than your ordinary citizen. If he had been treated as an ordinary citizen, Mr. Smollett would likely never have been charged with any crimes.³ If he had been treated as an ordinary citizen, the Police Superintendent and lead prosecutor would not have held press conferences detailing the

³ *See, e.g.,* <https://chicago.suntimes.com/news/woman-23-stabbed-by-robber-in-grant-park/> (23-year old Columbia College student who police say falsely reported a robbery and stabbing in Grant Park has not been criminally charged).

alleged evidence against Mr. Smollett before he ever stepped foot in a courtroom. If he had been treated as an ordinary citizen, 16 separate counts would not have been alleged against him for the same incident. If he had been treated as an ordinary citizen, the Mayor and Police Superintendent would not have publicly adjudged him guilty, after all charges against him were dismissed by the State Attorney's Office. If he had been treated as an ordinary citizen, the City of Chicago would not have promptly filed a civil lawsuit against Mr. Smollett to try to recoup its investigative costs, when it was never proven that Mr. Smollett filed a false police report or planned a hoax attack, as had been alleged. Finally, if Mr. Smollett was being treated as an ordinary citizen, like the more than 3,000 other citizens who had their records sealed or expunged under the law last year by this Court, the media would not be attempting to intervene in this matter now and unseal his arrest and other records, which were properly sealed upon the dismissal of all charges against him.

While we are cognizant that Mr. Smollett is a public figure and there is a tremendous amount of public interest in this case, that does not change the fact that Mr. Smollett is a crime victim who has always wanted to and still wants to maintain his privacy. Mr. Smollett did not want to call the police following the January 29, 2019 nor did he want to even go to the hospital. He specifically asked police officers who responded to the incident to turn off their body cameras in an effort to maintain some degree of privacy. And now that the charges against him have been fully dismissed, he would like to try to resume a normal life without details about his private life being disclosed to the entire world, particularly at a time when his physical safety is already in grave danger.

Significantly, the defense only received a small portion of the discovery prior to the dismissal of the charges and sealing of the records. Thus, Mr. Smollett does not even know the universe of documents which constitute the record in this case, which likely include confidential medical and financial information, as well as many other private communications unrelated to the incident, obtained by the Chicago Police Department, the Cook County State Attorney's Office, and/or other agencies. Thus, even if the media had a presumptive right of access to the discovery in this case, such right is outweighed by Mr. Smollett's right to privacy. *See, e.g., Coy v. Washington Cty. Hosp. Dist.*, 372 Ill. App. 3d 1077, 1084, 866 N.E.2d 651, 658 (2007) ("[T]he circuit court properly determined that the public's right of access . . . did not outweigh the compelling interest, as reflected in our public policy, of the privacy rights of those individuals regarding their medical treatment by Dr. Coy."); *Lopez v. Fitzgerald*, 76 Ill. 2d 107, 117, 390 N.E.2d 835, 838 (1979) ("Financial records are available only at certain times, in certain places, and as expressly limited by the right to privacy."). Furthermore, contrary to the Media Intervenors' position, disclosure in this case would actually be contrary to the public interest, as it will discourage crime victims from filing reports and/or giving information to police.

Thus, even if a balancing of competing interests was required in this case, there are compelling reasons not to unseal the records, which trump any public right of access to

such information. Since the Media Intervenors have failed to establish that the records in this case should be unsealed, their Motion should be denied.⁴

WHEREFORE, Jussie Smollett, by his attorneys, Geragos & Geragos, requests that this Court deny the Media Intervenors' Emergency Motion to Intervene for Purposes of Objecting to and Vacating the Sealing Order, and adopt the arguments of the State as to the constitutionality of the Criminal Identification Act.

Dated: April 23, 2019

Respectfully submitted,

/s/ Mark J. Geragos

Mark J. Geragos, Rule 707 Admitted

Tina Glandian, Rule 707 Admitted

Geragos & Geragos, APC

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&

Geragos & Geragos, APC

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mark@geragos.com

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CERTIFICATE OF SERVICE

The undersigned attorney certifies on April 23, 2019, these papers were served to the attorneys of record.

Risa Lanier
Cook County State's Attorney's Office

⁴ In the event the Court is inclined to grant the Motion, in whole or in part, Mr. Smollett respectfully requests that the Court first review *in camera* any records it intends to unseal to determine whether any redactions are necessary to protect Mr. Smollett's safety and privacy.

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Jacqueline A. Giannini
Gregory Naron
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Chicago, Illinois 60606
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gregory.naron@dentons.com

/s/ Brian O. Watson

Brian O. Watson

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,	)	No. 19 CR 3104
)	
vs.	)	Hon. Steven G. Watkins
)	
JUSSIE SMOLLETT)	

ORDER

This cause coming before the Court on the Media Intervenors' Emergency Motion to Intervene for Purposes of Objecting to and Vacating the Sealing Order, in which they seek leave to intervene in this action and move the Court to reconsider and vacate its March 26, 2019 sealing order ("Motion"), due notice having been given and the Court being fully advised in the premises, IT IS HEREBY ORDERED that the Motion is denied.

IT IS SO ORDERED.

ENTERED:

Circuit Court of Cook County
Criminal Division

Sheet # 0020 Defendant Sheet # 0001 OF 0002

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1735 304 STEVEN G. WATKINS
100 CHICAGO POLICE DEPT

CLERK USE ONLY
0020

CASE NUMBER
19CR0310401

DEFENDANT NAME
SMOLLETT JUSSIE

ATTORNEY
RILEY SAFER HOLMES CANCEL
COURT DATE
04-02-2019
COURT CALL/TIME
2-0930 AM

CB/DCN #
019771648

IR #
2397168

EM

BOND #
1375606

I C D
X

BOND AMOUNT
\$100,000.00

CHARGES

COURT ORDER ENTERED

CODES

C001 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
03/26/19 NOILE PROSEQUI

C002 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
03/26/19 NOILE PROSEQUI

C003 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
03/26/19 NOILE PROSEQUI

C004 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
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C005 720-5/26-1(A)(4)
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C006 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
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C007 720-5/26-1(A)(4)
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C008 720-5/26-1(A)(4)
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C009 720-5/26-1(A)(4)
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C010 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
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C011 720-5/26-1(A)(4)
FALSE REPORT OF OFFENSE
03/26/19 NOILE PROSEQUI

JUDGE: JUDGE'S No. 449

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:

VERIFIED BY:

DNIC
App waived
App for medical in Ct.
Maddie Spears
Jacqueline Biamini

914

ASTs: Cathy McNeil Stein
Jessica Scheller

Att for D - Smollett;
Brian Whitson

Before Ct - Medical Emergencies!
Emergency Medication purposes of directing
for vacating the hearing order
It enters written Binding Order
B.A. Statute Hearing - 5/19/19 10pm

Sheet # 0020		Defendant Sheet # 0002 OF 0002		CRIMINAL DISPOSITION SHEET				Branch/Room/Location 1735 304 STEVEN G. WATKINS 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0020			
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT JUSSIE		ATTORNEY RILEY SAFER HOLMES CANCEL		COURT DATE 04-02-2019		COURT CALL/TIME 2-0930 AM					
CB/DCN # 019771648	IR # 2397168	EM		BOND # 1375606	<input type="checkbox"/> I	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D	BOND AMOUNT \$100,000.00					
CHARGES				COURT ORDER ENTERED						CODES			
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C013 720-5/26-1(A)(4) FALSE REPORT OF OFFENSE 03/26/19 NOLE PROSEQUI													
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C017 720-5/26-1(A)(4) FALSE REPORT OF OFFENSE 03/26/19 NOLE PROSEQUI													
JUDGE:				JUDGE'S No.				RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:				VERIFIED BY:	

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of Illinois ,

Plaintiff,

v.

Jussie Smollett ,

Defendant.

No. 19 CR 0310401

ORDER SETTING BRIEFING SCHEDULE AND HEARING DATE

This matter coming before the Court on motion of MEDIA INTERVENORS' EMERGENCY MOTION FOR PURPOSES OF OBJECTING TO AND VACATING THE SEALING ORDER,

and the Court being fully advised on the premises:

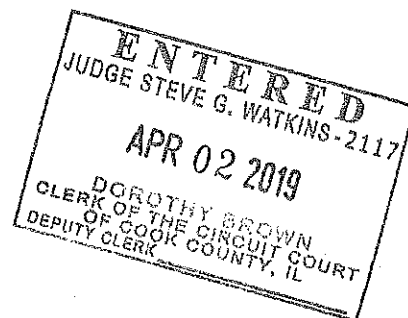
IT IS HEREBY ORDERED:

1. Response to the motion shall be filed on or before April 23, 2019.
2. Reply to the Response shall be filed on or before May 7, 2019.
3. Each party shall provide the Court a copy of its respective filing no later than the date of filing.
4. Status Hearing is set for May 9, 2019 at 10:00 a.m. in Courtroom 304, at which time the Court will set a date for oral arguments.

Dated: _____

Entered: _____

Judge



Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19 CR 0310401

Charge

v.

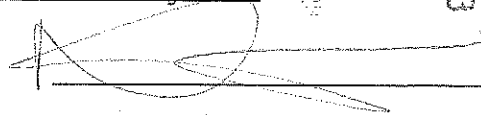
Jussie Smollett

Defendant.

APPEARANCE

The undersigned, as attorney, enter the appearance of

Intervenors Fox Television Stations, LLC, The Hollywood Reporter, LLC, National Public Radio, Inc. and WBEZ, Sun Times Media, LLC, Gannett Satellite Information Network, LLC, on behalf of USA Today, and Dow Jones & Company, publisher of The Wall Street Journal



Attorney

Atty. No.: 56309

Atty. Name: Natalie J. Spears

Atty. for: Intervenors

Address: 233 S. Wacker Drive, Suite 5900

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Telephone: 312-876-2556

Primary Email: natalie.spears@dentons.com

Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19 CR 0310401

Charge

v.

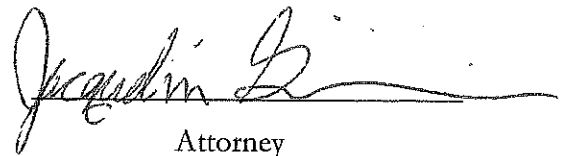
Jussie Smollett

Defendant.

APPEARANCE

The undersigned, as attorney, enter the appearance of

Intervenors Chicago Tribune Company, LLC, Cable News Network, Inc., ABC News and WLS Television, Inc., NBC News, a division of NBCUniversal Media, LLC, CBS Broadcasting Inc., on behalf of CBS News and WBBM-TV, WGN Continental Broadcasting Company, LLC, The Associated Press, The New York Times Company, Univision Communications Inc., Fox Television Stations, LLC, The Hollywood Reporter, LLC, National Public Radio, Inc. and WBEZ, Sun Times Media, LLC, Gannett Satellite Information Network, LLC, on behalf of USA Today, and Dow Jones & Company, publisher of The Wall Street Journal


Attorney

Atty. No.: 56309

Atty. Name: Jacqueline A. Giannini

Atty. for: Intervenors

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IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiff,)

vs.)

JUSSIE SMOLLETT)

Defendant.)

No. 19 CR 0310401

Hon. Steven G. Watkins

NOTICE OF EMERGENCY MOTION

To: SEE ATTACHED LIST

PLEASE TAKE NOTICE THAT on April 2, 2019 at 9:00 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Judge Steven Watkins or any Judge sitting in his stead, in the courtroom usually occupied by him, Room 304 of the George N. Leighton Criminal Court Building, 2600 South California Avenue, Room 304, Chicago, Illinois 60608, and there and then present **MEDIA INTERVENORS' EMERGENCY MOTION TO INTERVENE FOR PURPOSES OF OBJECTING TO AND VACATING THE SEALING ORDER**, a copy of which is hereby served upon you.

Dated: April 1, 2019

Respectfully submitted,

By: 

Natalie J. Spears - natalie.spears@dentons.com

Samuel Fifer - samuel.fifer@dentons.com

Gregory Naron - gregory.naron@dentons.com

Jacqueline A. Giannini - jacqui.giannini@dentons.com

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Chicago, Illinois 60606

Attorneys for Intervenors

Chicago Tribune Company, LLC; Cable News Network, Inc.; ABC News and WLS Television, Inc.; NBC News, a division of NBCUniversal Media, LLC; CBS Broadcasting Inc., on behalf of CBS News and WBBM-TV; WGN Continental Broadcasting Company, LLC; The Associated Press; The New York Times Company; Univision Communications Inc.; Fox Television Stations, LLC; The Hollywood Reporter, LLC; National Public Radio, Inc. and WBEZ; Sun-Times Media, LLC; Gannett Satellite Information Network, LLC, on behalf of USA Today; and Dow Jones & Company, publisher of The Wall Street Journal

CERTIFICATE OF SERVICE

Natalie J. Spears, an attorney, certifies that she caused a copy of the foregoing **NOTICE OF EMERGENCY MOTION AND MOTION** to be served upon:

Patricia Brown Holmes
pholmes@rshc-law.com

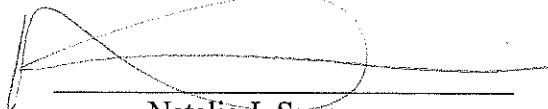
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Jessica Scheller
jessica.scheller@cookcountyil.gov

Risa Lanier
statesattorney@cookcountyil.gov
risa.lanier@cookcountyil.gov

via e-mail to the above e-mail addresses on this 1st day of April, 2019.



Natalie J. Spears

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)

vs.)

JUSSIE SMOLLETT)

No. 19 CR 0310401

Hon. Steven G. Watkins

**MEDIA INTERVENORS' EMERGENCY MOTION TO INTERVENE
FOR PURPOSES OF OBJECTING TO AND VACATING THE SEALING ORDER**

Media Intervenors Chicago Tribune Company, LLC, Cable News Network, Inc., ABC News and WLS Television, Inc., NBC News, a division of NBCUniversal Media, LLC, CBS Broadcasting Inc., on behalf of CBS News and WBBM-TV, WGN Continental Broadcasting Company, LLC, The Associated Press, The New York Times Company, Univision Communications Inc., Fox Television Stations, LLC, The Hollywood Reporter, LLC, National Public Radio, Inc. and WBEZ, Sun-Times Media, LLC, Gannett Satellite Information Network, LLC, on behalf of USA Today, and Dow Jones & Company, publisher of The Wall Street Journal (hereinafter, "Media Intervenors"), respectfully request leave to intervene in this action and hereby move the Court to reconsider and vacate its March 26, 2019 sealing order entered in this case in violation of the Criminal Identification Act, 20 ILCS 2630/1, *et seq.*, the United States Constitution, including the First Amendment, the Illinois Constitution, and common law rights of access to judicial proceedings and public records. In support of this Motion, Media Intervenors submit herewith a memorandum of law.

WHEREFORE, Media Intervenors respectfully request that the Court grant their motion for intervention and vacate the March 26, 2019 Order sealing the file in this matter, or at a minimum order briefing on this Motion.

Dated: April 1, 2019

Respectfully submitted,

By: 

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MEMORANDUM IN SUPPORT OF MEDIA INTERVENORS'
EMERGENCY MOTION TO INTERVENE FOR PURPOSES OF
OBJECTING TO AND VACATING THE SEALING ORDER

This is a case of extraordinary public interest and concern. Earlier this year, Mr. Smollett, a famous actor, reported to Chicago Police that two men attacked him on January 29, 2019, shouting racist and homophobic slurs while striking him, placed a noose around his neck and poured a substance on him. Chicago police investigated the case as a possible hate crime, then later said they believed the attack was staged by Mr. Smollett to bolster his profile and career. A grand jury indicted Mr. Smollett in early March 2019 on 16 felony counts. The criminal court proceedings and file were open to the public and widely disseminated.

On Tuesday, March 26, 2019, suddenly and unexpectedly, without any advance notice to the public, the State advanced the case on an emergency basis and made an oral motion to dismiss all 16 felony charges against Mr. Smollett.¹ On oral motion of the Defendant, also on March 26, the Court issued a sealing order from the bench, which has had the effect of sealing *the entire court file* from the public ("Sealing Order"). The Sealing Order *itself* was (and is) officially sealed and unavailable in the Court file, which is now entirely under seal. The Cook County Court Clerk's Office stated, that same day March 26, that Mr. Smollett's case was no longer visible in the publicly available database; thus, as far as public access is concerned, the court record of the

¹ *The People of the State of Illinois v. Jussie Smollett*, No. 19 CR 03104-01 (Cir. Ct. Cook County, Ill.), Transcript of March 26, 2019 Hearing ("March 26 Transcript") at 2-3 (Exhibit 1, hereto).

Smollett case has been wiped off the Cook County Court's database as if it never existed. Meanwhile, the State's Attorney, Kim Foxx, publicly stated on March 27 that only certain parts of Mr. Smollett's "arrest" records were intended to be sealed and "the court file was not supposed to be sealed".²

The Sealing Order itself was only made public when the Chicago Police Department ("CPD"), which somehow obtained a copy of the Order, "tweeted" a copy of it late in the evening of March 27. (Order, attached as Exh. 2 hereto). That Tweet stated that "Earlier today, CPD began responding to document requests in reference to the closed case of Mr. Smollett. We were then advised of a court order prohibiting such release & this afternoon, we received the formal directive which stipulates that no further records can be released." Anthony Guglielmi (@AJGuglielmi), Twitter, Mar. 27, 2019, 9:09 p.m., <https://twitter.com/AJGuglielmi/status/1111087816073711618>. Thus, the Court's Order is presently also having the impact of preventing other public agencies, like CPD, from releasing public files, records and evidence related to this case in its possession in response to valid requests, for example, under the Illinois Freedom of Information Act ("FOIA"). As State's Attorney Foxx has noted, in view of the "considerable evidence, uncovered in large part due to the investigative work of the Chicago Police Department" in this case and "[i]n the interest of full transparency," she "would prefer these records be made public" but perceives constraints based on Mr. Smollett's requested sealing which led to the Sealing Order.³

Undeniably, and justifiably, there is substantial public interest in this case. The charges against Mr. Smollett received widespread, nationwide attention—as did the circumstances of their

² Craig Wall ABC 7 Chicago (@craigwall), Twitter, Mar. 27, 2019, 1:09 p.m., <https://twitter.com/craigwall/status/1110997231551873024>.

³ Kim Foxx, I welcome an outside review of how we handled the Jussie Smollett case, Op-Ed, *Chicago Tribune*, Mar. 29, 2019, <https://www.chicagotribune.com/news/opinion/commentary/ct-perspec-kim-foxx-jussie-smollett-20190329-story.html>.

abrupt dismissal. Significant public resources were expended investigating and prosecuting those charges. There is no just cause, nor any constitutionally permissible basis, to seal public and court records related to this case.

Any sealing order impacting this case, let alone a *sealed*, sealing order, is an affront to the public's fundamental right of access to public records and court proceedings. Keeping records of criminal proceedings under seal denies the press and the public an opportunity to fully understand what the trial court is deciding at the time it makes and announces its substantive rulings. The result threatens to have a corrosive effect on trust in the judicial system. *Richmond Newsp., Inc. v. Virginia*, 448 U.S. 555, 572 (1980) ("People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing").

Intervenors recognize that the Sealing Order was hurriedly issued, *at the parties' behest and without the benefit of briefing and argument on behalf of the press and public*. Intervenors respectfully submit that under controlling law, entry of the Order, without notice and an opportunity for the news media to object, is a plain violation of the First Amendment and the common law right of public access. Apart from the notice infirmity, the Order is substantively invalid. While it is the public's right to be heard on these issues, the Court as well deserves the opportunity to hear and consider the full scope of interests at stake and the counter-arguments to entering and maintaining the Sealing Order. Upon such reconsideration, the Order should be vacated as invalid, under both constitutional and common law, for several reasons.

To begin, the Order's seal on the entire court file did not comply with the basic constitutional requirement that the Court make specific findings demonstrating that the denial of access is "essential to preserve higher values and . . . narrowly tailored to serve that interest." *Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 510 (1984). Indeed, even though the form Order that Defendant apparently tendered recites that the Court conducted an "evidentiary hearing," it

does not appear that any hearing was conducted, evidence taken, or findings made as to the basis and necessity for such an order—or that there was even a written motion setting forth the purported justification for secrecy. Intervenor's submit no such justification or findings could be validly made in this case.

Second, and in any event, it would be a misuse of the Criminal Identification Act, 20 ILCS 2630/1, *et seq.* (“Act”) to deploy it under these circumstances. The recently-added section of the Act relied upon by Defendant, allows, *but does not require*, the Court to seal records upon the final disposition of a case. Apart from the failure to comply with constitutional standards, sealing here is not even supported by a showing of good cause. The Act’s purpose is to allow citizens acquitted of a crime to seal the fact of his or her arrest from, for example, potential employers. Mr. Smollett’s arrest, however, was already the subject of national headline news for weeks. Sealing records cannot serve its intended purpose here, since, unlike the typical case contemplated by the Act, the public at large is already well aware of the charges brought against Mr. Smollett. In light of the substantial public resources spent on this matter and the public interest in the circumstances surrounding the abrupt dismissal of the charges, attempting to use the Act to cloak the entirety of the criminal court file and other public records in secrecy is offensive to the public interest.

Third, to the extent that the Order’s vague directive to “seal the arrest” could be read to sweepingly bar CPD and other agencies from responding to any valid requests for information about this case under FOIA, such is not contemplated by the Act—nor can we imagine that was the Court’s intent. Further, and again, it is not possible for the fact of Mr. Smollett’s “arrest” in this case to be “sealed”—it is in the public domain. Moreover, the Act *excludes* immediate sealing orders entered pursuant to section 5.2(g) from those that the Act specifically exempts from FOIA.

Finally, the Act, particularly if interpreted to apply to this case, violates the Media Intervenor’s First Amendment and Fourteenth Amendment Due Process clause rights. If read as

broadly as Mr. Smollett appears to believe—to permit the wholesale sealing of the records in a significant criminal proceeding, with no notice to the press or public and no consideration of the public interest (much less compliance with the strict First Amendment standards for denial of access)—the Act would be patently unconstitutional.

A. Media Intervenors Have A Right to Intervene in These Proceedings.

Under well-established U.S. Supreme Court and Illinois law, the media has a right to intervene in this case for the limited but important purposes of asserting the public's right of access and objecting to the Sealing Order. In seeking to assert the right of public access, the news media act as "surrogates for the public," *Richmond Newsp., Inc.*, 448 U.S. at 573, and "must be given an opportunity to be heard". *Globe Newsp. Co. v. Super. Ct.*, 457 U.S. 596, 609 n.25 (1982). The Illinois Supreme Court has recognized that intervention is the correct vehicle for the purpose of allowing news organizations, like Intervenors, with an interest in obtaining access to court files, public records and closed court hearings, to be heard and obtain such access. *People v. Zimmerman*, 2018 IL 122261, ¶¶ 7, 20; *see also A.P. v. M.E.E.*, 354 Ill. App. 3d 989, 993 (1st Dist. 2004); *In re Marriage of Johnson*, 232 Ill. App. 3d 1068, 1070 (4th Dist. 1992). Adequate notice of any limitation of public access, and an adequate opportunity for concerned parties to state to the court the reasons why the material should remain subject to public scrutiny, is required. *In re Associated Press*, 162 F.3d 503, 507 (7th Cir. 1998).

As noted above, the news media and public have an obvious and significant interest in this case, which has attracted national and international attention, in view of Mr. Smollett's notoriety and the controversial nature of the underlying allegations. Both the filing and the abrupt dismissal of this case have triggered important public discourse in Chicago and nationwide concerning race, celebrity, the criminal justice system, and the rule of law. Mayor Emanuel immediately blasted the dismissal of the charges against Defendant as a "whitewash of justice" and "not on the level";

and Police Superintendent Johnson commented that Defendant “chose to hide behind secrecy and broker a deal to circumvent the judicial system.”⁴ Public concern has continued to grow—and has put Chicago’s government and our criminal justice system squarely in the spotlight.⁵

It is precisely at these moments when sunlight and access are most important to the public. News coverage of the records and proceedings in this case provides the public with a window into the workings of its criminal justice system and helps assure the public that justice is being properly served. “Public scrutiny over the court system promotes community respect for the rule of law, provides a check on the activities of judges and litigants, and fosters more accurate fact finding.” *A.P.*, 354 Ill. App. 3d at 999 (citing *Grove Fresh Distrib. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994)). Intervenors’ motion to intervene and assert the public’s rights should be granted.

⁴ See Megan Crepeau, Madeline Buckley and Jason Meisner, In latest plot twist, Cook County prosecutors abruptly drop all charges against Jussie Smollett, , *Chicago Tribune*, Mar. 26, 2019, <https://www.chicagotribune.com/news/local/breaking/ct-met-jussie-smollett-charges-dropped-20190326-story.html>; Faith Karimi and Melissa Alonso, The prosecutor who dropped Jussie Smollett’s charges says he believes the actor lied to the police, CNN, March 27, 2019, <https://www.cnn.com/2019/03/27/entertainment/jussie-smollett-wednesday/index.html>; ABC7 Team Coverage, Mayor Emanuel on Jussie Smollett charges being dropped: ‘This is a whitewash of justice’, ABC 7, March 26, 2019, <https://abc7chicago.com/mayor-emanuel-on-jussie-smollett-charges-being-dropped-this-is-a-whitewash-of-justice/5218433/>; CBS News, Jussie Smollett case “an example of justice for the rich and powerful,” legal analyst says, March 27, 2019, <https://www.cbsnews.com/news/jussie-smollett-dropped-charges-an-example-of-justice-for-the-rich-and-powerful-rikki-klieman/>; Sandra Garcia, Jussie Smollett Charges Were Dropped Because Conviction Was Uncertain, Prosecutor Says, *The New York Times*, Mar. 29, 2019, <https://www.nytimes.com/2019/03/30/us/kim-foxx-chicago-smollett.html>.

⁵ On March 28, the City sent Mr. Smollett a letter noting that the CPD’s “investigation revealed that you knowingly filed a false police report and had in fact orchestrated your own attack,” and demanding “immediate payment of the \$130,106.15 expended on overtime hours in the investigation of this matter.” See also Nat’l Dist. Attorneys Ass’n Statement on Prosecutorial Best Practices in High Profile Cases, Mar. 27, 2019 (“expunging Mr. Smollett’s record at this immediate stage is counter to transparency” and would diminish “the public’s confidence in the criminal justice system”; idea that “the rich are treated differently, the politically connected receive favorable treatment, and Lady Justice sometimes peeks under her blindfold to see who stands before her” is “antithetical to our founding principles of justice: that no one is above the law”).

B. The Sealing Order's Wholesale Sealing of Judicial Records and the Court File in This Case Does Not Pass Constitutional Scrutiny.

Media Intervenors, as members and representatives of the public, have a *presumptive constitutional right of access* to judicial documents and proceedings under the First Amendment. *Press-Enter. Co. v. Superior Court*, 478 U.S. 1, 11-12 (1986) (“*Press-Enterprise II*”); *Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 508-10 (1984) (“*Press-Enterprise I*”); *Skolnick v. Altheimer & Gray*, 191 Ill. 2d 214, 232 (2000).⁶

In addition to the constitutional right of access, Illinois and federal courts also recognize a common-law right of access. *See Skolnick*, 191 Ill. 2d at 230 (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978) (“[i]t is clear that the courts of this country recognize a general right to inspect and copy public records and documents”)); *Zimmerman*, 2018 IL 122261, ¶¶ 40-41; *In re Cont. Ill. Sec. Litig.*, 732 F.2d 1302, 1308 (7th Cir. 1984) (“long-recognized” presumption of public access to judicial records “has been characterized as fundamental to a democratic state”).

Under the First Amendment presumption of access, a trial court may not deny access to judicial records or proceedings unless the court makes specific findings demonstrating that the denial of access is “essential to preserve higher values and . . . narrowly tailored to serve that interest.” *Press-Enterprise I*, 464 U.S. at 510; *accord Skolnick*, 191 Ill. 2d at 232; *Zimmerman*, 2018 IL 122261, ¶ 30. Thus, *the Court may not seal records without providing notice to the public and an opportunity to be heard, and making specific, particularized findings on the record justifying such secrecy. Press-Enterprise II*, 478 U.S. at 13-14.

⁶ Illinois courts also recognize a right of access grounded in the Illinois Constitution, Ill. Const. art. I, § 4 (1970). This constitutional, presumptive right of access applies to court records or proceedings of the kind that have been historically open to the public. *Skolnick*, 191 Ill. 2d at 232; *Zimmerman*, 2018 IL 122261, ¶¶ 27-28.

Likewise, under the common law, any sealing or protective order cannot be issued without a “compelling” interest, and must be drafted in the least restrictive manner possible. *Skolnick*, 191 Ill. 2d at 231. It is the burden of the party proposing sealing (or opposing unsealing) to meet this test. *In re Marriage of Johnson*, 232 Ill. App. 3d at 1072-73.

As far as the Media Intervenors are aware and based on the transcript of the proceedings, no judicial findings—let alone ones finding a “compelling” reason for sealing—have been made justifying *any* sealing in this case.⁷ For that reason alone, the Sealing Order should be vacated.

The First District’s decision in *A.P.*, *supra*, is both illustrative and dispositive. The parties there agreed to file everything under seal; the trial court “merely acquiesced” with the parties’ requests and made no specific findings supporting any sealing. 354 Ill. App. 3d at 995. As the Appellate Court stated: “The trial judge himself did not conclude that legitimate interests in confidentiality required every part of the file to be confidential – at least he did not explain why secrecy was vital.” *Id.* The Appellate Court continued: “*The judge, as the primary representative of the public interest in the judicial process, should not rubber stamp a stipulation to seal a record.*” *Id.* (emphasis added).

Similarly, in *In re Marriage of Johnson*, the parties in a dissolution of marriage case agreed—as part of their settlement—that the file should be sealed and impounded. 232 Ill. App. 3d at 1070. The Circuit Court acquiesced. The Appellate Court again reversed, finding that the First Amendment, the common law, and the Clerks of the Court Act protect the rights of the media and the public to access to court documents. *Id.* at 1075. The Court found it unnecessary to discuss

⁷ If any findings or orders exist relating to the sealing of the files in this matter, those materials should be made public immediately and subject to review. Further, if the Court considers entering any such findings, Media Intervenors are entitled to the opportunity to participate in that process, to review any proposed findings by the parties and challenge them.

what would be sufficient to overcome the right to access “because it is enough for this case to note the desire of litigants to restrict public access to judicial records is not sufficient to override this presumption. Courts cannot honor such requests without seriously undermining the tradition of an open judicial system.” *Id.*

These and other Illinois Appellate Court and Supreme Court opinions make it clear that, while the right of public access is not absolute, wholesale sealing of the entire file in this matter was clearly prohibited under both the constitution and Illinois common law. *See A.P.*, 354 Ill. App. 3d at 994; *Skolnick*, 191 Ill 2d at 231; *In re Marriage of Johnson*, 232 Ill. App. 3d at 1074. Judges are required to consider valid, competing interests, but there is no evidence that was done in this case. *In re Marriage of Johnson*, 232 Ill. App. 3d at 1072; *Zimmerman*, 2018 IL 122261, ¶ 46.⁸ *See also Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 507–08 (1st Cir. 1989) (holding statute unconstitutional where it provided for automatic sealing of records without a demonstration of compelling need and without providing notice to the press).

There is no basis for sealing the entire—and previously open—court file in this case, or to purport to seal the entire universe of public records in the possession of other public bodies related to this case, such as CPD. It is far from clear that was the Court’s intent, and certainly, no findings have been made—or could be made—that such a sealing order passes constitutional muster or common law commands given the facts and nature of this case, which is a matter of intense public interest.

⁸ Consistent with these principles, the Illinois Supreme Court issued a rare supervisory order in the recent case of *People v. Van Dyke*, 15CR20622, 17CR4286 (Cir. Ct. Cook County), ordering the Circuit Court to vacate its order directing that all documents and pleadings be filed in chambers rather than with the Clerk. *See Chicago Public Media v. Gaughan*, No. 123569 (Ill. S. Ct. May 23, 2018).

C. The Criminal Identification Act Should Not Be Applied Here and Cannot Constitutionally Support a Sweeping Bar on Disclosure of Judicial and Public Records in This Case.

In this unusual case, Mr. Smollett, a celebrity television actor, was accused of staging an attack in Chicago and falsely claiming he was the victim of a hate crime; after significant public funds were expended to investigate the matter and prosecute extensive felony charges, the State unceremoniously dropped all charges. To say that this matter has attracted public interest—and deep concern about how the rule of law was applied here—is an understatement. The facts of the arrest in this case can no longer be “sealed”—and the Criminal Identification Act cannot be enlisted to do so. If it could, the Act would be unconstitutional.

At the outset, it should be noted that immediate sealing under the Criminal Identification Act is permissive, not mandatory—and is certainly not warranted in this case. Section 5.2(g) of the Act states that eligible records “*may* be sealed immediately if the petition is filed with the circuit court clerk on the same day and during the same hearing in which the case is disposed.” 20 ILCS 2630/5.2(g)(2) (emphasis added); *see also id.* § 5.2(g)(3) (eligible records “*may* be sealed immediately after enter of the final disposition of a case”) (emphasis added). Importantly, while the petition for immediate sealing “shall be ruled on in the same hearing in which the final disposition of the case is entered,” the trial judge “shall enter an order granting *or denying* the petition for immediate sealing during the hearing in which it is filed.” *Id.* § 5.2(g)(5)(E) (emphasis added).

Thus, the Court is vested with discretion to deny the petition. That discretion must be exercised consistent with the standards of the U.S. Constitution and common law access right, and inherently imports, at minimum, a requirement that there be a showing of good cause for such an

order. Given the extraordinary circumstances of this case, no such showing could be made here.⁹

Indeed, the Criminal Identification Act, on its face, simply was not intended to, and cannot, be deployed in these circumstances. The Act's purpose was to provide a means for those who have been arrested and not convicted, or convicted and successfully served their sentence, to remove their criminal record from public view; the Act's remedies were meant, for example, "to provide individuals who served their sentences greater employment opportunities. Section 5.2(a)(1)(K) and sections 12 and 13 show sealed records are unavailable to employers, except when a law or regulation mandates an inquiry into one's criminal records." *People v. Splittstoesser*, 2013 IL App (4th) 120829-U, ¶ 21. To that end, the Act (in the provision Mr. Smollett invoked) provides that "Arrests . . . may be sealed. . . ." 20 ILCS 2630/5.2(g)(2) (emphasis added). In this case, however, the very notion of "sealing the arrest" is a chimera. Again, the fact of Mr. Smollett's "arrest" is public knowledge and can no longer be effectively "sealed".¹⁰

In re A Minor, Whose Name is Omitted, 127 Ill. 2d 247 (1989), is instructive; there, a reporter obtained the name of a minor arrested in connection with a shooting and published a report using the name. Subsequently, the trial judge—purporting to act under authority of the Juvenile Court Act—ordered the reporter not to disclose the minor's name. *Id.* at 252-53. The Illinois Supreme Court reversed, holding "[t]he legitimate entry of the minor's name into the public domain thus robs the State of any argument that the court's order was 'necessary' to protect the State's interest. . . . *It serves no purpose to shut the barn door when the horse has already fled.*" *Id.* at 269 (emphasis added). Exactly the same is true here. There simply is no good cause to

⁹ It is Intervenor's understanding that no petition was actually filed with the Circuit Court clerk as required by 5.2(g)(5)(A). If a petition for immediate sealing was filed, Intervenor requests that such petition be immediately unsealed and made available for public inspection.

¹⁰ As noted, prior to receiving a copy of the Court's Order, CPD has already produced, pursuant to valid requests under the Illinois FOIA, a substantial number of records related to this case.

continue to seal even the “fact of the arrest” in this case, where the information that the parties and Court are trying to keep secret already have become a matter of public knowledge. *See also Globe Newspaper*, 457 U.S. at 608 (statute requiring closure even if minor victims of sex crime “would not suffer injury” because, “for example, the[ir] names . . . were already in the public record,” was unconstitutional).

The Criminal Identification Act is aimed at providing a “fresh start” for acquitted defendants whose encounter with the criminal justice system is unknown to potential employers and others. Mr. Smollett’s use of the Act to shroud the public record information about his case in secrecy is as nonsensical as it is offensive to the public interest. His arrest was the subject of national headlines for weeks; the public at large is already more than aware of the charges brought against him, which have now been summarily and suspiciously dismissed. No employer or any other sentient being would be unaware of Mr. Smollett’s encounter with the criminal justice system. Where, as here, the Defendant has no tenable claim to privacy in discussion of the criminal charges against him, the Act cannot be used to wholesale seal judicial records. Nor can it be used to thwart the operation of FOIA to related public records in this case in an area of paramount public interest.¹¹ The Sealing Order was simply unwarranted in these circumstances and should be vacated in its entirety.

Furthermore, and in all events, the Sealing Order (consistent with section 5.2(g) of the Act) is limited and states only that the Clerk and CPD “seal the arrest” from their records and seek return of “identifying information”. The Act’s narrow purpose is to prevent records reflecting the fact of an arrest from becoming public knowledge (impossible here). It simply cannot be extended to put a

¹¹ *See* 5 ILCS 140/1 (“Pursuant to the fundamental philosophy of the American constitutional form of government,” it is the “public policy of the State of Illinois that all persons are entitled to full and complete information” regarding “the official acts and policies of those who represent them as public officials and public employees”).

seal on anything (evidence, internal communications) leading up to an arrest or relating to a case that is *already public knowledge*.

Yet, as a result of confusion surrounding the Sealing Order, CPD, for example, has apparently treated the Order as a “formal directive which stipulates that no further records can be released” in the “closed case of Mr. Smollett.” Anthony Guglielmi (@AJGuglielmi), Twitter, Mar. 27, 2019, 9:09 p.m. The Order’s statement that the CPD and Clerk “shall seal the arrest from its records” cannot—and was not intended to—operate to sweepingly bar CPD, the State’s Attorney’s Office or other agencies from responding to any valid requests for information related to this case under FOIA; as shown, that would be completely inconsistent with the Act’s purpose and in no way how it was meant to operate here. Nonetheless, the lack of clarity in the Order is causing unintended consequences in restricting public documents from being released under FOIA.¹²

For all of these reasons, the Sealing Order should be vacated entirely; it simply has no valid, let alone constitutionally permissible, basis to remain in place. But, at the very least, the Order should be clarified to indicate that it is limited in scope and does not purport to bar all FOIA requests for other public records or evidence related to this case, on which this Court could not have intended to opine.

¹² Importantly, the Criminal Identification Act *by its terms* provides that the Sealing Order does not affect compliance with FOIA. The March 26 Order was entered under authority of section 5.2(g) of the Act. Section 13 of the Act specifies that a certain subset of records sealed or impounded under the Act are “exempt from disclosure” under the FOIA. 20 ILCS 2630/13(c). Specifically, section 13(c) exempts from FOIA only those “sealed or impounded records” identified in section 13(a)—*i.e.*, “records sealed under subsection (c) or (e-5) of Section 5.2 or impounded under subparagraph (B) or (B-5) of paragraph (9) of subsection (d) of Section 5.2”. 20 ILCS 2630/13(a). *However*, records immediately sealed under section 5.2(g) are *not* among those exempted from FOIA under section 13. Thus, as a matter of law, the Sealing Order does not automatically bar a FOIA request to CPD or other agencies relating to this matter.

D. Alternatively, if the Criminal Identification Act Applies to Permit the Sealing Order Here, the Act Is Unconstitutional.

If the Court were to find the Criminal Identification Act permitted entry of the Sealing Order here—restricting public access with no notice based on no valid cause—it would be patently unconstitutional under the First Amendment. Courts have found similar sealing statutes in other jurisdictions to violate the First Amendment for precisely those reasons.

For example, in *Globe Newspaper Co. v. Pokaski*, the court struck down a statute providing for automatic sealing of records when a defendant is found not guilty, the grand jury failed to indict, or the court made a finding of no probable cause, holding it was not the least restrictive means of achieving the state's interest. 868 F.2d 497, 500, 507 (1st Cir. 1989). Instead, the defendant would have to affirmatively move for the sealing of his records and demonstrate the need for the sealing—and if the defendant could not, the request must be denied and records remain open. Further, if the defendant was able to make a *prima facie* case for sealing, then a hearing with the press present would be necessary. *Id.* at 507-508. And of course, the court stated, the procedure must include “means of ensuring that the press is adequately informed.” *Id.* at 508.

Section 5.2(g) of the Criminal Identification Act fails to pass constitutional muster for the same reasons as the statute at issue in *Pokaski*. While sealing is not “automatic” under Section 5.2(g), to the extent the provision improperly allows the court to seal records without requiring a showing of good cause on behalf of defendant, it is unconstitutional. Further, the Illinois statute, like the Massachusetts statute, fails to allow an opportunity for the press to be notified and heard.

The *Pokaski* Court also struck down the second provision the Massachusetts statute, which allowed for sealing upon a finding that “substantial justice would best be served” by sealing in cases where no prosecution occurred or the court entered a dismissal. 868 F.2d at 500. The court held that in order for this provision to be constitutional, “trial courts must make ‘specific, on the record findings’

showing that closure is necessary to achieve a compelling interest.” *Id.* at 510. Here, in order for Section 5.2(g) to be found constitutional, the same compelling interest requirement must be observed.

Furthermore, Section 5.2(g) of the Act is unconstitutionally vague in violation of due process, insofar as it does not set forth standards for granting or denying a petition for immediate sealing. The statute merely provides that “[t]he presiding trial judge shall enter an order granting or denying the petition for immediate sealing during the hearing in which it is filed.” 20 ILCS 2630/5.2(g)(5)(E). “[A] statute may be declared unconstitutionally vague if it fails to provide explicit standards for those who apply it, thus authorizing or even encouraging arbitrary and discriminatory enforcement.” *People v. Law*, 202 Ill. 2d 578, 582–83 (2002); *see also People v. Maness*, 191 Ill. 2d 478, 486–87 (2000) (“To satisfy the vagueness doctrine, a criminal statute must provide both fair warning of the prohibited conduct and explicit guidelines for those who must apply the law”). Here, the decision whether to grant or deny the sealing order was within the trial court’s sole discretion and the statute “did not include any guidelines, criteria, rules, or regulations to guide the [Court’s] discretion.” *PBM Stone, Inc. v. Palzer*, 251 Ill. App. 3d 390, 396 (3rd Dist. 1993). *Cf. Hynes v. Mayor and Council of Oradell*, 425 U.S. 610, 620 (1976) (“The general test of vagueness applies with particular force in review of laws dealing with speech”); *Wisconsin Right To Life, Inc. v. Barland*, 751 F.3d 804, 835 (7th Cir. 2014) (First Amendment requires “a higher standard of clarity and precision”).

E. Access Delayed Is Access Denied.

Courts have long recognized that when the right of access applies, as it does here, access must be “immediate and contemporaneous.” *In re Associated Press*, 162 F.3d at 506–07 (quoting *Grove Fresh*, 24 F.3d at 897); *see also Associated Press v. Dist. Court*, 705 F.2d 1143, 1147 (9th Cir. 1983) (48-hour delay in unsealing judicial records is improper; effect of the delay acts as a “total restraint on the public’s first amendment right of access” during that time).

As the First District has recognized, “even a temporary denial of access to court proceedings . . . raises important first amendment concerns.” *People v. Kelly*, 397 Ill. App. 3d 232, 247 (1st Dist. 2009). Courts must therefore act “expeditiously” in adjudicating motions to unseal. *Lugosch v. Pyramid Co.*, 435 F.3d 110, 126-27 (2d Cir. 2006) (finding that district court erred in delaying ruling on motion to intervene and unseal court records). A loss of First Amendment rights, “for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Indeed, “each passing day may constitute a separate and cognizable infringement of the First Amendment.” *Neb. Press Ass’n v. Stuart*, 423 U.S. 1327, 1329 (1975) (Blackmun, Circuit Justice).

“To delay or postpone disclosure undermines the benefit of public scrutiny and may have the same result as complete suppression.” *Grove Fresh*, 24 F.3d at 897. Contemporaneous access ensures that the public learns about cases while they are newsworthy. It also promotes accuracy in reporting and leads to more informed, meaningful public debate and discussion. Delaying access stifles the flow of information to the public and chills public debate at the moment that information is most newsworthy.

CONCLUSION

Media Intervenors respectfully request that the Court grant their motion for intervention and vacate the March 26, 2019 Order, or at a minimum order briefing on this Motion.

Dated: April 1, 2019

Respectfully submitted,

By: 

Natalie J. Spears - natalie.spears@dentons.com

Samuel Fifer - samuel.fifer@dentons.com

Gregory R. Naron - gregory.naron@dentons.com

Jacqueline A. Giannini - jacqui.giannini@dentons.com

DENTONS US LLP, Firm No. 56309

233 S. Wacker Drive, Suite 5900

Chicago, Illinois 60606

Attorneys for Media Intervenors

CERTIFICATE OF SERVICE

Natalie J. Spears, an attorney, certifies that she caused a copy of the foregoing **MEDIA INTERVENORS' EMERGENCY MOTION TO INTERVENE FOR PURPOSES OF OBJECTING TO AND VACATING THE SEALING ORDER** to be served upon:

Patricia Brown Holmes
pholmes@rshc-law.com

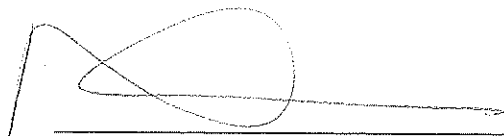
Brian O'Connor Watson
bwatson@rshc-law.com

Risa Lanier
statesattorney@cookcountyil.gov
risa.lanier@cookcountyil.gov

Cathy McNeil Stein
cathymcneil.stein@cookcountyil.gov

Jessica Scheller
jessica.scheller@cookcountyil.gov

by causing a copy to be delivered via e-mail to the above e-mail addresses on this 1st day of April, 2019.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

Natalie J. Spears



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

KIMBERLY M. FOXX
STATE'S ATTORNEY

CHLOE K. RASMAS
FOIA OFFICER

69 W WASHINGTON
CHICAGO, ILLINOIS 60602

WRITER'S E-MAIL ADDRESS:
CHLOE.RASMAS@COOKCOUNTYIL.GOV

WRITER'S DIRECT LINE:
(312) 603-2296

April 16, 2019

VIA EMAIL

Ross E. Weidner
Ross.E.Weidner@abc.com

Re: FOIA Requests dated 3/26/19 and 3/27/19

Dear Mr. Weidner:

I am responding to the requests for documents under the Illinois Freedom of Information Act ("FOIA") statute that were received by the Cook County State's Attorney's Office (the "SAO") on March 26 and March 27, 2019 via e-mail. On April 2 and April 3, 2019, the SAO sent the statutory request for a five-day extension and is herewith responding to your FOIAs.

You have asked for:

On March 26

Any and all communication records involving or produced by Joe Magats related to the Jussie Smollett investigation including but not limited to messages on county and personal phones (text, iMessage, any other kind of digital message), emails, memos, and letters.

Any and all records related to the Jussie Smollett investigation including but not limited to video and audio recordings, police reports, correspondence with the Chicago Police Department or any federal agencies, investigative notes and any other related materials.

On March 27

Any and all communication records involving or produced by Kim Foxx related to the Jussie Smollett investigation including but not limited to messages on county and personal phones (text, iMessage, any other kind of digital message), emails, memos, and letters.

In order to accommodate the approximately forty FOIA requests the Cook County State's Attorney's Office (SAO) received following the resolution of the Jussie Smollett matter, we conducted a universal search of any and all electronic or paper records, including emails, texts, memoranda, notes, and case files, from key SAO staffers involved in the criminal proceedings.

The custodians whose records searched were: Kim Foxx, Joe Magats, Risa Lanier, Diann Sheridan, April Perry, Kiera Ellis, Tandra Simonton, Liam Reardon, Nick Trutenko, Guy Lisuzzo, Jennifer Ballard Croft, Alyson Miller, Kim Ward, Marny Zimmer, Matthew Sanie, and Robert Foley. The search encompassed the time period from January 29, 2019 to March 28, 2019.

This search included a keyword search of these custodians' email records using the following search terms:

"Jussie Smollett" OR "Jussie" OR "Smollett" OR "Smolett" OR "Smollet" OR "Empire" OR "Olabinjo" OR "Abimbola" OR "Osundairo" OR "19CR0310401" OR "19CR03104" OR "19CR3104" OR "19CR-3104" OR "Mark Geragos" OR "Gregaros" OR "Patricia Brown Holmes" OR "Patricia Holmes" OR "Brian Watson" OR "Watson" OR "Tina Tchen" OR "Tchen" OR ["@chicagopolice.org" AND "Smollett"] OR ["@chicagopolice.org" AND "Smolett"] OR ["@chicagopolice.org" AND "Smollet"] OR ["@cityofchicago.org" AND "smollet"] OR ["@cityofchicago.org" AND "smolett"] OR ["@cityofchicago.org" AND "smollet"] OR "Ronald Safer" OR "Safer" OR "Todd Pugh" OR "Pugh" OR "Tom Breen" OR "Breen" OR "Gladian" OR "Steven G. Watkins" OR "Watkins" OR ["mayor's office" AND "smollett"] OR ["mayor's office" AND "smollet"] OR ["mayor's office" AND "smolett"] OR "Jorge Rodriguez" OR "Gloria Rodriguez" OR "The Gloria Law Group" OR "recuse" OR "recusal."

The SAO then reviewed for public dissemination all responsive material, produced herewith, along with an exemption log delineating our redactions, at:

<https://www.dropbox.com/sh/7owz02atbcfeqwc/AABymM7qQahNggV7u9a3eQlia?dl=0>.

If you believe the material we have reviewed for production, as reflected in the material accessible and downloadable for review at the aforementioned link, does not satisfy your request, please submit a clarified request to SAO.FOIA@cookcountyil.gov.

The SAO's trial file, and certain other responsive records, are exempt from disclosure at this time pursuant to section 7(1)(a) of FOIA. Section 7(1)(a) exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Pursuant to the March 26, 2019 Order in Case No. 19 CR 0310401 which sealed the file and the files of various law enforcement agencies, the SAO is prohibited from releasing materials which would otherwise be responsive to this request. We acknowledge that the March 26, 2019 Order is the subject of litigation, and we will supplement our production consistent with our FOIA obligations to the extent the Order is vacated.

Due to the fluid nature of text correspondence, some responsive text messages included side conversations on matters unrelated to the SAO's role in the Smollett matter. To avoid confusion about the context of the correspondence, the SAO has redacted any such non-responsive correspondence in blue, while any redactions in black are of Smollett-related conversations determined to be exempt for the reasons listed in the exemption log.

In addition to the records exemptions reflected in the log, the SAO has withheld in their entirety handwritten attorney notes created during the prosecution of the case pursuant to Section 7(1)(a) of FOIA which exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Supreme Court Rule 201(b)(2) states:

All matters that are privileged against disclosure on the trial, including privileged communications between a party or his agent and the attorney for the party, are privileged against disclosure through any discovery procedure. Material prepared by or for a party in preparation for trial is subject to discovery only if it does not contain or disclose the theories, mental impressions, or litigation plans of the party's attorney.

To review all other exemptions made by the SAO in this production, please refer to the produced exemption log. For ease of reading, the SAO did not include responsive Google Alerts, newsclips, or other automated messages in which no communication amongst SAO staff followed. If you would like these records, please let us know, and we can produce them to you.

Finally, we thank you for your patience as we have worked to process your FOIA request(s).

You have a right to appeal this decision to Sarah Pratt, Public Access Counselor, Office of the Illinois Attorney General, 500 S. 2nd Street, Springfield, Illinois 62706, (phone number 1-877-299-FOIA) or to seek judicial review under Section 11 of FOIA, 5 ILCS 140/11 (2017).

Sincerely,

s/Chloe K. Rasmus

Chloe K. Rasmus
FOIA Officer/Policy Analyst
69 W Washington
Chicago, Illinois 60602
(312) 603-2296

Order for Immediate Sealing of Criminal Records

(11/13/17) CCCR N341

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**PEOPLE OF THE STATE OF ILLINOIS**

or

A Municipal Corporation,

v.

TAMMIE S. McLETT

Defendant/Petitioner

Case

and/or

Ticket

Numbers

19 CR 3124(MUNICIPAL 17-11632710)Date of Birth: 6/21/1982Gender: ☒ Male ☐ FemaleRace: BLACK**ORDER FOR IMMEDIATE SEALING OF CRIMINAL RECORDS**

This Court, having considered all pleadings and any objections thereto, and after an evidentiary hearing, **ORDERS THAT:**

1. Defendant/Petitioner's Petition for Immediate Sealing of Criminal Records is GRANTED.
2. The Illinois State Police, the above Arresting Agency, _____, the Chicago Police Department, and the Clerk of the Circuit Court shall seal the arrest from its records, if any, within sixty (60) days of the date of service of this order. It is further directed that the Arresting Agency shall request the return of all identification materials from any other repositories and custodians of statistics that were previously notified of this arrest(s) by the Arresting Agency.
3. In accordance with the law, orders of protection, civil no contact orders, and civil no contact stalking orders shall not be sealed.

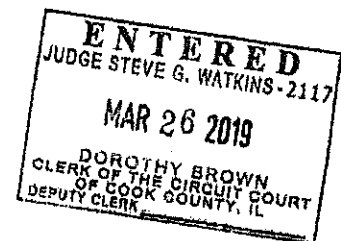
Prepared by: PHYLLIS BROWN HOLMES
 Cook County Attorney Code: 60128
 Name: EILEEN SAFER HOLMES & CANOLA LLP
 Address: 75 W. MADISON STE 2100
 City/State/Zip: CHICAGO, IL 60602
 Telephone: (312) 471-8700 FAX: (312) 471-0200
 Primary Email: PHHOLMES@ESHC-LAW.COM

ENTERED:

Dated: _____

Judge: _____

Judge's No. _____

**DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**

Page 1 of 1



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

KIMBERLY M. FOXX
STATE'S ATTORNEY

CHLOE K. RASMAS
FOIA OFFICER

69 W WASHINGTON
CHICAGO, ILLINOIS 60602

WRITER'S E-MAIL ADDRESS:
CHLOE.RASMAS@COOKCOUNTYIL.GOV

WRITER'S DIRECT LINE:
(312) 603-2296

April 16, 2019

VIA EMAIL

Andrew Grimm
agrimm@suntimes.com

Re: FOIA Request dated 3/26/19

Dear Mr. Grimm:

I am responding to the request for documents under the Illinois Freedom of Information Act ("FOIA") statute that was received by the Cook County State's Attorney's Office (the "SAO") on March 26, 2019 via e-mail. On April 2, 2019 the SAO sent the statutory request for a five-day extension and is herewith responding to your FOIA.

You have asked for:

- 1) *Emails, memoranda or letters, text messages exchanged between lawyers for Jussie Smollett and staff of the Cook County State's Attorney, including emails and texts sent to personal accounts or phone numbers of State's Attorney's employees or elected officials. If the SAO determines that this request results in an overly burdensome number of messages for the office to review, I request a log of messages including the date, time, subject line (where applicable), sender and recipient.*
- 2) *Any records related to the State's prosecution of Smollett, including drafts of plea agreements, pre-trial diversion agreements.*
- 3) *Emails, memoranda or letters, text messages exchanged between lawyers for Abimbola and Olatinjo Osundairo and staff of the Cook County State's Attorney, including emails and texts sent to personal accounts or phone numbers of State's Attorney's employees or elected officials. If the SAO determines that this request results in an overly burdensome number of records for the office to review, I request a log of messages including the date, time, subject line (where applicable), sender and recipient.*
- 4) *Emails, memoranda or letters, text messages regarding the Smollett prosecution exchanged between staff of the Cook County State's Attorney, including emails and texts sent to personal accounts or phone numbers of State's Attorney's employees or elected officials. If the SAO determines that this request results in an overly burdensome number of messages for the office to review, I request a log of messages including the date, time, subject line (where applicable), sender and recipient.*
- 5) *Emails, memoranda or letters, text messages regarding the Smollett prosecution, specifically related to videotape evidence and victim cooperation, exchanged between staff of the Cook County State's Attorney, and Michael Avenatti, including responsive communications made using public employees' personal devices and accounts. If the SAO determines that this request results in an overly burdensome number of messages for the office to review, I request a log of messages including the date, time, subject line (where applicable), sender and recipient.*

In order to accommodate the approximately forty FOIA requests the Cook County State's Attorney's Office (SAO) received following the resolution of the Jussie Smollett matter, we conducted a universal search of any and all electronic or paper records, including emails, texts, memoranda, notes, and case files, from key SAO staffers involved in the criminal proceedings.

The custodians whose records searched were: Kim Foxx, Joe Magats, Risa Lanier, Diann Sheridan, April Perry, Kiera Ellis, Tandra Simonton, Liam Reardon, Nick Trutenko, Guy Lisuzzo, Jennifer Ballard Croft, Alyson Miller, Kim Ward, Marny Zimmer, Matthew Saniie, and Robert Foley. The search encompassed the time period from January 29, 2019 to March 28, 2019.

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The SAO then reviewed for public dissemination all responsive material, produced herewith, along with an exemption log delineating our redactions, at:

<https://www.dropbox.com/sh/7owz02atbcfeqwc/AABymM7qQahNggV7u9a3eQlia?dl=0>.

If you believe the material we have reviewed for production, as reflected in the material accessible and downloadable for review at the aforementioned link, does not satisfy your request, please submit a clarified request to SAO.FOIA@cookcountyil.gov.

The SAO's trial file, and certain other responsive records, are exempt from disclosure at this time pursuant to section 7(1)(a) of FOIA. Section 7(1)(a) exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Pursuant to the March 26, 2019 Order in Case No. 19 CR 0310401 which sealed the file and the files of various law enforcement agencies, the SAO is prohibited from releasing materials which would otherwise be responsive to this request. We acknowledge that the March 26, 2019 Order is the subject of litigation, and we will supplement our production consistent with our FOIA obligations to the extent the Order is vacated.

Due to the fluid nature of text correspondence, some responsive text messages included side conversations on matters unrelated to the SAO's role in the Smollett matter. To avoid confusion about the context of the correspondence, the SAO has redacted any such non-responsive correspondence in blue, while any redactions in black are of Smollett-related conversations determined to be exempt for the reasons listed in the exemption log.

In addition to the records exemptions reflected in the log, the SAO has withheld in their entirety handwritten attorney notes created during the prosecution of the case pursuant to Section 7(1)(a) of FOIA which exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Supreme Court Rule 201(b)(2) states:

All matters that are privileged against disclosure on the trial, including privileged communications between a party or his agent and the attorney for the party, are privileged against disclosure through any discovery procedure. Material prepared by or for a party in preparation for trial is subject to discovery only if it does not contain or disclose the theories, mental impressions, or litigation plans of the party's attorney.

To review all other exemptions made by the SAO in this production, please refer to the produced exemption log. For ease of reading, the SAO did not include responsive Google Alerts, newsclips, or other automated messages in which no communication amongst SAO staff followed. If you would like these records, please let us know, and we can produce them to you.

Finally, we thank you for your patience as we have worked to process your FOIA request(s).

Additionally, on April 8, 2019 the SAO sent you an email stating:

Hi – I meant to ask you on the phone re: #5 below. I wanted to confirm you meant Smollett, and not R. Kelly?

On April 11, 2019 you responded:

I will take anything you've got from Avenatti re: either R. Kelly or Smollett.

Records responsive to part five of your request, not included in the Smollett search, are available for review and download at: <https://www.dropbox.com/sh/fs1n7v7bupx9sic/AAActAEhWTtzPDHP1YzmVSxLa?dl=0>.

Personal phone numbers were redacted pursuant to Section 7(1)(b) of FOIA. 5 ILCS 140/7(1)(b) exempts from disclosure, "private information." Private information is defined in Section 2(c-5) as, "...unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal emails addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/2(c-5). Therefore, personal phone numbers are exempt pursuant to Section 7(1)(b) and were properly redacted.

The SAO has withheld pursuant to Section 7(1)(c) victim names and the names of any relatives mentioned that could be used to identify the victims, on the basis that an invasion of privacy brought by release of the information, which may lead to undue embarrassment, harassment, or unwanted attention, outweighs any legitimate public interest in obtaining the information. We have further redacted information shared amongst correspondents about their children pursuant to this exemption.

Certain records gathered, produced, and maintained in the process of investigating this case encompass extensive grand jury material, including that which can identify grand jury witnesses. These records have been fully withheld pursuant to Section 7(1)(a) of FOIA which exempts "information specifically prohibited from disclosure by federal or State law." Under the Illinois Code of Criminal Procedure, the Cook County State's Attorney's office cannot disclose information concerning grand jury proceedings to the public. See, e.g., 725 ILCS 5/112-6 (2017). As a result, the grand jury materials contained in the responsive records are exempt from inspection and copying under the FOIA statute. The purpose of grand jury secrecy is to assure the freedom of deliberation of future grand juries, and the participation of future witnesses, as well as to provide these assurances to those who previously appeared before the grand jury. See *In re Extended March 1975 Grand Jury v. Carey*, 84 Ill. App. 3d 847, 851 (1st Dist. 1980).

Finally, the SAO has withheld mentions of ongoing investigation tactics pursuant to Section 7(1)(d)(v) as disclosure of this information would:

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

You have a right to appeal this decision to Sarah Pratt, Public Access Counselor, Office of the Illinois Attorney General, 500 S. 2nd Street, Springfield, Illinois 62706, (phone number 1-877-299-FOIA) or to seek judicial review under Section 11 of FOIA, 5 ILCS 140/11 (2017).

Sincerely,

s/Chloe K. Rasmus

Chloe K. Rasmus
FOIA Officer/Policy Analyst
69 W Washington
Chicago, Illinois 60602
(312) 603-2296



Rahm Emanuel
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

April 5, 2019

Via Email:

Samira Puskar
NBC Network News
Samira.Puskar@nbcuni.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P480314

Dear Samira Puskar:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received April 1, 2019 for the following:

*"I am requesting the following materials under the Illinois Freedom of Information Act related to the CPD RD# JC125614/event # 1902208730 **AND** CPD RD# JC133190/event # 1902900959:*

- All detective supplemental reports for these cases."

Your request was reviewed by the undersigned in conjunction with the Department's Office of Legal Affairs. Upon review, it was determined that the requested records must be denied in their entirety as information that is protected and exempt from disclosure under the following provision of the Illinois Freedom of Information Act;

5 ILCS 140/7(1)(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law;

The requested records are exempt from disclosure pursuant to the Order for Immediate Sealing of Criminal Records entered on March 26, 2019, and still in effect on the date of this letter, by Judge Steve Watkins in the case of *People of the State of Illinois v. Jussie Smollett*, 19 CR 3104. This Order prohibits the release of records in reference to the criminal case of Jussie Smollett. (See Order, attached hereto). The Illinois Supreme Court has recently affirmed the Appellate Court's decision in *In re APPOINTMENT OF SPECIAL PROSECUTOR*, and held that a lawful Court Order takes precedence over the disclosure requirements of FOIA. *In re APPOINTMENT OF SPECIAL PROSECUTOR*, 2019 IL 122949 at ¶66.

If I can be of further assistance, please contact me at the following address:

Chicago Police Department

Emergency and TTY: 9-1-1 · Non Emergency and TTY: (within city limits) 3-1-1 · Non Emergency and TTY: (outside city limits) (312) 746-6000

E-mail: police@cityofchicago.org · Website: www.cityofchicago.org/police

Attention: Freedom of Information
Office of Legal Affairs, Unit 114
3510 S. Michigan Avenue
Chicago, IL 60653
foia@chicagopolice.org

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706 or by telephone at 877-299-3642. You may also seek judicial review under 5 ILCS 140/11.

Sincerely,

A. Marlan
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653



City of Chicago
Rahm Emanuel, Mayor

Department of Law
Edward N. Siskel
Corporation Counsel

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2580
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(312) 742-0277 (FAX)
(312) 744-2693 (TTY)
www.cityofchicago.org

April 10, 2019

Ross Weidner
ABC 7
Via email at Ross.E.Weidner@abc.com

Dear Mr. Weidner,

On behalf of the City of Chicago Department of Law, I am responding to your Freedom of Information Act ("FOIA") request which was dated March 27, 2019 and received in our offices on the same day. The Law Department took a 5-day extension on April 3, 2019. You requested:

Requesting access to and a copy of any and all records related to the Jussie Smollett investigation including but not limited to video and audio recordings, police reports, correspondence with the Cook County State's Attorney's Office, Chicago Police Department or any federal agencies, investigative notes and any other related materials. I'm also seeking any orders to seal if they exist or are in the city's possession.

Please find attached the sealing order in the Smollett criminal case.

Your request seeks records covered under the sealing order in the Smollett criminal case, and the Law Department has to withhold these records. Under 5 ILCS 140/7(1)(a), a public body may withhold "information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." The Illinois Supreme Court recently held that it is proper under the Illinois FOIA for a public body to withhold records that are subject to a judicial protective order. *In Re Appointment of Special Prosecutor*, 2019 IL 122949, ¶ 66 (citing *GTE Sylvania Inc. v. Consumer Union of the United States, Inc.*, 445 U.S. 375(1980)). Thus, the Law Department has properly withheld these records.

To the extent your request seeks emails, your request is unduly burdensome. Section 3(g) of FOIA provides that "requests for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information."

In order to effectively run an email search, the Law Departments needs the following search parameters: (1) the e-mail address(es) or employee name(s) of the account(s) you wish searched; (2) key words you wish to search for; and (3) the timeframe to be searched. Without search parameters, the Law Department would need to review all department emails to determine whether any are responsive to your request. Such an undertaking would pose an immense burden on the department.

It is necessary that your FOIA request be narrowed and clarified. If you would like assistance in narrowing your request, please contact me, and I will assist you. Otherwise, for the reasons provided above, the Law Department is unable to respond to your FOIA request as currently drafted.

If you agree to narrow your request, you must submit a revised written request to my attention. The Law Department will take no further action or send you any further correspondence unless and until your current request is narrowed in writing. If we do not receive your narrowed request within fourteen calendar days of the date of this letter, your current request will be denied.

In the event that we do not receive a narrowed request and your current FOIA request is therefore denied, you have the right to have a denial reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General, 500 S. 2nd Street, Springfield, Illinois 62706, (877) 299-3642. You also have the right to seek judicial review of your denial by filing a lawsuit in Cook County Circuit Court.

Sincerely,

Tom Skelton
FOIA Officer – Department of Law

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CRIMINAL DIVISION

IN RE: APPOINTMENT OF A SPECIAL PROSECUTOR

No. 2019 Misc. 00014

The Hon. Leroy Martin, Jr.

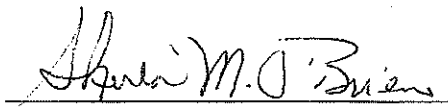
NOTICE OF MOTION

TO: Kim Foxx, Cook County State's Attorney
50 W Washington St., Suite 500
Chicago, Illinois 60602

2650 S. California
Chicago, Illinois 60608

Patricia Holmes, Attorney for Jussie Smollett
70 West Madison Street, Suite 2900
Chicago, Illinois 60602

PLEASE TAKE NOTICE that on *Thurs May 2* 2019 at 9:00 a.m. I will appear before The Honorable LeRoy Martin, Jr. in courtroom 101, at the Circuit Court of Cook County, Criminal Division, and will present the attached *Petition to Appoint a Special Prosecutor in the matter of the People of the State of Illinois v. Jussie Smollett*


Sheila M. O'Brien, Pro se

Sheila M. O'Brien
Pro Se
360 E. Randolph #1801
Chicago, Illinois 60601
224.766.1904

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CRIMINAL DIVISION

IN RE: APPOINTMENT OF A SPECIAL PROSECUTOR

No. 2019 Misc. 00014

Hon. LeRoy Martin, Jr.

PETITION TO APPOINT A SPECIAL PROSECUTOR
In the Matter of
PEOPLE OF THE STATE OF ILLINOIS v. JUSSIE SMOLLETT

INTRODUCTION

This petition asks for the instant application of 55 ILCS 5/3-9008 (attached as Exhibit 1) to the investigation and prosecution of the People of the State of Illinois v. Jussie Smollett, filed in the Circuit Court of Cook County. The statute is clear on its face, not subject to interpretation and requires the Court to appoint a special prosecutor, where as here, the State's Attorney is unable to fulfill her duties, has an actual conflict of interest or has recused herself.

State's Attorney Kim Foxx has explicitly stated that she welcomes "an outside, nonpolitical review of how we handled this matter" and thus, has waived any objection to this petition.

THE PETITIONER

1. Sheila M. O'Brien, is a citizen of the United States, a resident of the State of Illinois, the County of Cook and the City of Chicago and is a taxpayer in each jurisdiction. Her bio (Exhibit 3) is attached to this pleading.
2. Petitioner is an "interested person" pursuant to 55 ILCS 5/3-9008.

Petitioner has been associated with the Illinois justice system for her entire career and her personal reputation as a member of that system is being harmed and questioned based upon the facts pled in this petition.

Petitioner served in the judiciary of the State of Illinois from 1985-2011.
3. Petitioner has been questioned by people across the country about the "Illinois Justice system" with derogatory labels about the Illinois courts, judges, prosecutors and personnel.
4. Petitioner has been harmed by these words and her ability to live peacefully has been diminished.
5. Petitioner is an active member of her community and has witnessed this case and its handling as a consistent and upsetting topic of concern for the people of Cook County.
6. Petitioner is concerned that without a special prosecutor that the public perception of Cook County and Chicago will be harmed, bringing harm to all the residents of Cook County.
7. Petitioner and all residents of Chicago and Cook County and our justice system, have been subject to ridicule and disparaging comments in the

media and have been the subject of comedy routines on national television, all to our detriment.

8. Petitioner is not seeking any public office and has no intention to seek another public office during her lifetime.
9. Petitioner has no agenda in this proceeding - other than seeking the truth and restoring public confidence in the Cook County State's Attorney's Office and the Circuit Court of Cook County.
10. Petitioner was licensed to practice law in the State of Illinois in 1980 and in the State of Missouri in 1981. Upon her retirement in 2011, petitioner moved those licenses to the status of "retired". Petitioner has done some sporadic consulting during retirement.
11. Petitioner has drafted, typed, filed, copied and will serve this petition herself and is not represented by any law firm, nor has she been assisted by any group. Petitioner apologizes for any typos or errors in formatting.
12. Petitioner will not speak outside the courtrooms of Cook County about this petition while this case is pending. Everything petitioner will do concerning this petition will be in open court, for all to see, hear and witness.
13. Petitioner does not know Kim Foxx, the State's Attorney of Cook County and has no vendetta against her or the State's Attorney's Office. Petitioner does not know Jussie Smollett, had never heard of him or his television show until this case was reported in the news media and has no vendetta against Jussie Smollett. Petitioner knows Patricia Holmes as an attorney

and has worked with her in the past, has no vendetta against Patricia Holmes and respects her ability as an attorney. Petitioner has not consulted with any of these people concerning this case or this petition.

**FACT TIMELINE IN THE
PEOPLE *of the* STATE of ILLINOIS v. JUSSIE SMOLLETT
INVESTIGATION AND PROSECUTION**

Jan. 22, 2019

-- Jussie Smollett is an actor appearing in a television series named "Empire". Jussie Smollett reports receiving an envelope addressed to him at his production studios on Chicago's West Side. The envelope is postmarked in southwest suburban Bedford Park four days earlier, on Jan. 18. The letters "MAGA" are written, in red ink, in the return address section of the envelope. Smollett tells police that he and the show's executive producer used gloves to open the envelope. Inside was a threat in cut-out letters: "You will die black (expletive)." There was white powder in the envelope, but it was determined to be crushed pain reliever, according to police.

Jan. 29, 2019

— Smollett reports he was attacked by two men while outside getting food from a Subway sandwich shop around 2 a.m. Smollett, African-American and openly gay, said he was walking back to his apartment in the 300 block of East North Water Street when two men walked up, yelled racial and homophobic slurs, declared "This is MAGA country," hit him and wrapped a noose around his neck. The men also poured an "unknown substance" on him.

Jan. 30, 2019

— The Chicago Police Department reports it has at least a dozen detectives reviewing hundreds of hours of surveillance camera footage, including of Smollett walking downtown,

but none of the videos show the attack. Police release images of two people in the area at the time. The two people were captured by a surveillance camera on New Street near Illinois Street between 1:30 and 1:45 a.m. Smollett said he was attacked about 15 to 30 minutes later around the corner. The images are dark and the faces indistinguishable.

—Members of the United States Congress, television talk show hosts and public figures express outrage by social media over Smollett's attack.

Jan. 31, 2019

—The President of the United States tells reporters that he saw a story the evening before about Smollett and that, "It doesn't get worse, as far as I'm concerned."

—Smollett's family issues a statement calling the attack a racial and homophobic hate crime. The family says he "has told the police everything" and "his story has never changed," disputing assertions on social media that he has been less than cooperative and has changed his story.

Feb. 1, 2019

— Smollett issues a statement telling people that he is OK and thanking them for their support. He says he is working with authorities and has been "100 percent factual and consistent on every level."

--Foxy receives and responds to texts from a private attorney requesting that Foxy refer the case to the federal authorities and communicate with Smollett's family. Foxy begins communications with Smollett's family.

Feb. 12, 2019

— The Chicago Police Department says Smollett turned over some, but not all, of the phone records that the detectives requested as part of their investigation. Smollett said his music manager was on the phone with him at the time of the attack and can corroborate this story. Police say the heavily redacted files aren't sufficient. Smollett says the information was redacted to protect the privacy of contacts and people not relevant to the attack.

Feb. 14, 2019

— Smollett says on a national television interview, “You do such a disservice when you lie about things like this.” He says he is convinced that the men in the surveillance images were his attackers. “I don’t have any doubt in my mind that that’s them. Never did.”

— The Chicago Police Department announce hours later that detectives are interviewing the two "persons of interest" captured on video. A law enforcement source said the two men, brothers in their 20s, were brought in for questioning Wednesday night from O’Hare International Airport after arriving from Nigeria. One of them worked as an extra on Smollett’s television show “Empire”, according to the media report.

— The Chicago Police Department later says that local media reports that the attack against Smollett was a hoax are unconfirmed.

Feb. 15, 2019

—The Chicago Police Department spokesman Anthony Guglielmi says the two "persons of interest" are now considered potential suspects. He says the men are brothers, are in custody but have not been charged with a crime.

— Twelve hours later, the Chicago Police Department releases the brothers, saying the brothers are no longer were considered suspects. “Due to new evidence as a result of today’s interrogations, the individuals questioned by police in the Empire case have now been released without charging and detectives have additional investigative work to complete,” Guglielmi said in a tweet.

Feb. 16, 2019

— Chicago newspapers report that a law enforcement source says the Chicago Police Department is investigating whether Smollett paid the two brothers to stage an attack, following up on information provided by the two brothers while they were in custody

— The attorney for the brothers, Gloria Schmidt, is asked whether Smollett set up the attack.

"There's still a lot of moving parts to this. ... I'm not part of Jussie's defense," she said. "I'm not part of what's going on with him. I can just tell you that my guys (are) innocent of the charge and they're going home."

—Smollett issues a statement saying, "Jussie Smollett is angered and devastated by recent reports that the perpetrators are individuals he is familiar with. He has been further victimized by claims attributed to these alleged perpetrators that Jussie played a role in his own attack. Nothing is further from the truth." The statement said one of the brothers was Smollett's personal trainer. Media reports say that the brothers worked with Smollett on his television show.

Feb. 19, 2019

— Foxx says recuses herself from the case. Foxx says she made the decision "out of an abundance of caution" because of her "familiarity with potential witnesses in the case."

(Exhibit 2 attached)

Feb. 20, 2019

—Smollett is charged with disorderly conduct for allegedly filing a false police report about the attack. The Chicago Police Department announces that Smollett is officially classified as a suspect in a criminal investigation for filing a false police report, which is a felony.

--One of Foxx's aides says that Foxx "had conversations with a family member of Jussie Smollett about the incident" after the initial report of the attack and "facilitated a connection to the Chicago Police Department who were investigating the incident."

— Former Cook County State's Attorney Anita Alvarez writes on a website, "Maybe I should have just recused myself from the difficult cases that came across my desk when I was state's attorney. I was under the impression that when the voters elected me and I took my oath of office it meant I had to do my job."

Feb. 21, 2019

— Smollett surrenders to Chicago police and is arrested in the early morning hours. He is booked and his mug shot is taken.

— Chicago police Superintendent Eddie Johnson says Smollett faked both the threatening

letter and the attack because “he was dissatisfied with his salary” on the television show. Johnson calls the alleged hoax “despicable” and says Smollett “dragged Chicago’s reputation through the mud.”

— Smollett appears in court, has his bond set at \$100,000. Smollett will have to post \$10,000 cash and surrender his passport as a condition of his bond. Smollett posts his bond and is released.

—Smollett’s legal team releases a statement maintaining Smollett’s innocence: “The presumption of innocence, a bedrock in the search for justice, was trampled upon at the expense of Mr. Smollett and notably, on the eve of a mayoral election. Mr. Smollett is a young man of impeccable character and integrity who fiercely and solemnly maintains his innocence and feels betrayed by a system that apparently wants to skip due process and proceed directly to sentencing.”

Feb. 25, 2019

— In an interview on a national morning television show,” Chicago Police Superintendent Eddie Johnson says that Smollett paid the two brothers money by check to stage the attack. Johnson disputes media reports that Smollett paid the two brothers for personal training and nutrition. Johnson said there is more evidence against Smollett that hasn’t been disclosed yet.

March 8, 2019

— A Cook County grand jury indicts Smollett on 16 counts of disorderly conduct for allegedly lying to police about being the victim of a racist and homophobic attack. Smollett’s attorney said the new charges, which came a little more than two weeks after Smollett was charged with a single felony count, are overkill.

March 13, 2019

—Text and emails provided to the media show that State’s Attorney Foxx had asked Chicago Police Superintendent Johnson to turn over the investigation of Smollett’s reported attack to the FBI at the urging of a politically connected lawyer. The exchanges began Feb. 1, three days after Smollett claimed he was attacked near his Streeterville apartment building. The

released texts stopped on Feb. 13, the same day a memo was sent out by Foxx's office saying that she "is recused" from the Smollett investigation.

March 14, 2019

— Smollett pleads not guilty to the 16 counts of disorderly conduct.

March 24, 2019

-- Foxx says on a radio station, "Every day... there are people who get similar arrangements ... people who get sentences that are probably not what some people would want. Every single day."

March 26, 2019

—The Cook County State's Attorney's Office drops all charges against Smollett in court. The case is not on the Court Clerk's regular calendar. No notice was given to the Chicago Police Department nor the media. The Court file is sealed. The Clerk's file is erased.

--The Cook County State's Attorney's Office issues a statement, "After reviewing all of the facts and circumstances of the case, including Mr. Smollett's volunteer service in the community and agreement to forfeit his bond to the City of Chicago, we believe this outcome is a just disposition and appropriate resolution to this case."

--Smollett's attorneys issued a statement after the announcement, saying their client had been "vilified." Smollett says he is thankful for the support from friends and family, and that he was glad the state was "attempting to do what's right." "I have been truthful and consistent from day one."

--The Mayor of the City of Chicago publicly calls the dismissal a "whitewash of justice".

--Intense national media coverage continues.

March 27, 2019

—The Chicago Police Department releases a redacted file containing some of their investigative materials. The Cook County State's Attorney's Office informs the police not to release any additional information.

--Foxy tells the Chicago Sun-Times, "I believe based on the information that was presented before the grand jury, based on what I've seen, the office had a strong case ... that would have convinced a trier of fact."

--The Office of the State's Attorney says that Foxy's recusal was only informal.

--Foxy says the court file should remain public.

--By the afternoon, the Clerk of the Circuit Court has no record of the case. The file has been moved to the Clerk's storage. The file is not accessible to the public.

--The National District Attorneys Association, which bills itself as the country's biggest organization of prosecutors, releases a statement saying that Foxy's entire office should have been recused. The group also condemned the case as being resolved without a finding of guilt or innocence, and said it illustrated that "the rich are treated differently [and] the politically connected receive favorable treatment."

March 28, 2019

—The President of the United States sends a tweet saying the FBI and Department of Justice would review the handling of the Jussie Smollett case in Chicago, calling it "outrageous" and "an embarrassment to our Nation!"

— Smollett's attorney appears on national televisions and suggests that the African-American brothers in the case wore white make-up around their eyes, under ski masks, to disguise themselves while attacking her client, which would explain why Smollett identified his attackers as white or pale-skinned.

— Attorneys for the Chicago Tribune and other news organizations go to Cook County court to block records from being destroyed if Jussie Smollett's legal team seeks to expunge his criminal case.

--The Illinois Prosecutors Bar Association issues a critique of how Cook County prosecutors went about dropping all the charges against Mr. Smollett. A statement says that Foxy and her representatives "have fundamentally misled the public on the law and circumstances surrounding the dismissal." It says the approach was "abnormal and unfamiliar" to those in criminal law in Illinois. The Association points to the secrecy around the hearing where the charges were dropped, saying that it added to an "appearance of impropriety."

March 29, 2019

— Foxx writes in the *Chicago Tribune* that she welcomes an “an outside, nonpolitical review of how we handled this matter” and says that the evidence against the TV star turned out to be weaker than was initially presented when the state sought charges.

April 4, 2019

The North Suburban Chiefs of Police issue a no-confidence statement in Kim Foxx as the Cook County State’s Attorney.

DISCUSSION

Section 3-9008 of the Counties Code (55 ILCS 5/3-9008 (West 2018)) is clear on its face, not subject to interpretation and requires the Court to appoint a special prosecutor where, as here, the State's Attorney is unable to fulfill her duties, has an actual conflict of interest or has recused herself.

The Court can and must appoint a special prosecutor without an evidentiary hearing where, as here, the facts as known warrant it.

First, this Court must appoint a special prosecutor pursuant to section 3-9008 (a-5) because **Kim Foxx was unable to fulfill her duties in the Jussie Smollett case**. Section 3-9008(a-5) states:

"The court on its own motion, or an interested person in a cause or proceeding, civil or criminal, may file a petition alleging that the State's Attorney is sick, absent, or unable to fulfill his or her duties. The court shall consider the petition, any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney is sick, absent, or otherwise unable to fulfill his or her duties. If the court finds that the State's Attorney is sick, absent, or otherwise unable to fulfill his or her duties, the court may appoint some competent attorney to prosecute or defend the cause or proceeding."

By her own admission, Foxx was unable to fulfill her duties in the Jussie Smollett case. On Feb. 19, 2019, Foxx says she decided to recuse herself from the Jussie Smollett case "out of an abundance of caution" because of her "familiarity with potential witnesses in the case." This statement alone indicates her acknowledgment of a potential conflict of interest such that she could not fulfill her duties in this case, whether she filed a formal recusal or not. Thus, the Court could have appointed a special prosecutor if it had been brought to the Court's attention and should appoint a special prosecutor now.

Second, this Court must appoint a special prosecutor pursuant to section 3-9008 (a-15) (55 ILCS 5/3-9008(a-15)(West 2018)) because Kim Foxx recused herself in the Jussie Smollett case. Section 3-9008(a-15) states:

“Notwithstanding subsections (a-5) and (a-10) of this Section, the State’s Attorney may file a petition to recuse himself or herself from a cause or proceeding for any other reason he or she deems appropriate and the court *shall* appoint a special prosecutor as provided in this Section.”

On February 19, Foxx *said* she recused herself; she used the word “recuse” and issued statements to the public indicating that she recused herself. On March 27, after the charges against Mr. Smollett had been dropped and she faced withering criticism of her handling of the case, Foxx’s office said she did not formally recuse herself “in a legal sense” but only in a “colloquial” sense. However, an internal memo sent on February 13 by Foxx’s chief ethics officer, did not describe the move as colloquial at all. Instead, Foxx’s chief ethics officer sent a two-sentence email informing staff that Foxx “is recused” from the Smollett investigation. We are unable to see if she filed a formal recusal because the file has been sealed.

The public should be able to rely upon Foxx’s use of the word “recuse” as indicia of a recusal although there are no cases dealing with this issue. She is our lawyer. We are her clients. We should be able to rely upon our lawyer’s word. To find that Foxx’s clear statement of recusal was something other than a recusal would indicate that she was being less than truthful in her handling of the Smollett case and in her statements to the public. Because she recused

herself, the Court *shall* appoint a special prosecutor as provided in this Section.

In the alternative, Foxx's use of the word "recuse" indicates her subjective belief that she had a conflict with prosecuting Jussie Smollett and thus, was unable to fulfill her duties as defined.

Third, this Court can appoint a special prosecutor because State's Attorney Kim Foxx has publicly stated on March 29, 2019 that she welcomes "an outside, nonpolitical review of how we handled this matter" and thus, the State's Attorney has publicly waived any objection to this petition. *See Gallagher v. Lenart*, 226 Ill. 2d 208 (2007) (*waiver is the intentional relinquishment of a known right*).

Fourth, this Court must appoint a special prosecutor because justice demands it. The State's Attorney's actions in this case, recounted above, create an appearance of impropriety, a perception that justice was not served here, that Mr. Smollett received special treatment due to his fame and privilege and political connections. A public view of the court file in this case could potentially partially remedy this perception, but the file has been sealed from the public view. The public has no remedy other than to petition this Court for the appointment of an independent special prosecutor to investigate how this case was handled by the Office of the State's Attorney and whether the actions were consistent with the handling of similar cases. An independent special prosecutor is necessary to renew public confidence in our system of justice. The rule of law, fair and impartial justice, and fundamental fairness are threatened by the actions described in this petition.

The people deserve the truth. The whole truth. Help us get the truth.

This petition is not about personalities. This petition is about equal justice under the law for all - the bedrock of our nation.

Fifth, this Court must appoint a special prosecutor if only for procedural reasons. The evidence for this petition is what is reported in the press, not traditional evidence under oath. A special prosecutor needs to be appointed to gather a complete record of the facts under oath. Those facts could then be presented to this Court on a further hearing on this motion to determine whether further consideration of the People of the State of Illinois v. Jussie Smollett is warranted.

PRAYER FOR RELIEF

For the foregoing reasons, Petitioner requests that this Court grant Petitioner's Motion instanter or that this Court, on its own motion, appoint a special prosecutor instanter to:

1. investigate and prosecute the People of the State of Illinois v. Jussie Smollett, filed in the Circuit Court of Cook County and dismissed on March 26, 2019.
2. investigate the actions of any person and/or office involved in

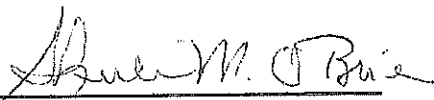
the investigation, prosecution and dismissal of People of the State of Illinois v. Jussie Smollett

3. investigate the recusal procedures of the Office of the State's Attorney of Cook County, whether and when those procedures were changed and whether those procedures were applied in People of the State of Illinois v. Jussie Smollett
4. investigate the deferred prosecution procedures of the Office of the State's Attorney of Cook County, whether and when those procedures were changed and whether those procedures were applied in People of the State of Illinois v. Jussie Smollett
5. investigate the non-violent offenders procedures of the Office of the State's Attorney of Cook County, whether and when those procedures were changed and whether those procedures were applied in People of the State of Illinois v. Jussie Smollett
6. investigate the charging procedures of the Office of the State's Attorney of Cook County, whether and when those procedures were changed and whether those procedures were applied in People of the State of Illinois v. Jussie Smollett
7. investigate the pre-trial/bond procedures of the Office of the State's Attorney of Cook County, whether and when those procedures were changed and whether those procedures were applied in People of the State of Illinois v. Jussie Smollett.

8. investigate whether criminal charges should be brought against any person in connection with the investigation, prosecution and dismissal of the People of the State of Illinois v. Jussie Smollett and to file and prosecute those criminal charges.
9. hold regularly scheduled press conferences, open to the public, to inform the public of the progress of these investigations.
10. comply with the laws of the State of Illinois in People of the State of Illinois v. Jussie Smollett filed in the Circuit Court of Cook County. And, further that this Court, pursuant to 55 ILCS 5/3-9008:
11. contact the State Agencies named in 55 ILCS 5/3-9008 to find the appropriate person to act as a special prosecutor and in addition/alternative,
12. that this Court consider receiving written proposals – to be filed in this file and open to the public - from any and all attorneys licensed in the State of Illinois who believe they are qualified to serve as a special prosecutor, that such proposals contain the qualifications of the attorney, the expected time needed by the attorney to investigate adequately, the fee to be paid to the attorney and his/her staff and that such proposals not exceed three pages single spaced and that such proposals be filed within ten (10) business days from a date set by this court, all for this

court's consideration of the best person to be appointed as the
special prosecutor in this matter.

Respectfully submitted,


Sheila M. O'Brien, pro se

Sheila M. O'Brien
Pro Se
360 E. Randolph #1801
Chicago, Illinois 60601
224.766.1904

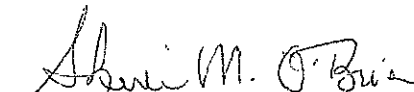
CERTIFICATE OF SERVICE

Sheila M. O'Brien, the undersigned, *pro se*, certifies that she served the foregoing Notice of Motion and Petition to Appoint a Special Prosecutor in the Matter of the People of the State of Illinois v. Jussie Smollett, by hand delivery before the hour of 5:00 p.m. on Friday, April 5, 2019:

Kim Foxx
Cook County State's Attorney
2650 S. California
Chicago, Illinois 60608

50 W. Washington St., Suite 500
Chicago, Illinois 60602

Patricia Holmes
Attorney for Jussie Smollett
70 West Madison Street, Suite 2900
Chicago, Illinois 60602


Sheila M. O'Brien, *Pro se*

Sheila M. O'Brien
Pro Se
360 E. Randolph #1801
Chicago, Illinois 60601
224.766.1904

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

CITY OF CHICAGO, a municipal corporation,)	
)	
Plaintiff,	)	No. 2019L003898
v.)	
)	
JUSSIE SMOLLETT, an individual)	
)	
Defendant.)	

COMPLAINT

Plaintiff the City of Chicago ("City"), by its Corporation Counsel, Edward N. Siskel, brings this Complaint under the City's False Statements Ordinance ("FSO"), § 1-21-010, *et seq.* of the Municipal Code of Chicago ("MCC"), and the City's Cost Recovery Ordinance ("CRO"), MCC § 1-20-010, *et seq.* against Defendant Jussie Smollett ("Defendant"), seeking relief against Defendant for false statements he made to the City, and seeking recovery of the costs of necessary services provided by the City due to Defendant's violations of the MCC, and in support alleges as follows:

NATURE OF THE CASE

1. This action is brought by the City to recover civil penalties, statutory treble damages, and attorney's fees and costs arising from Defendant's false statements to the City. On January 29, 2019, Defendant submitted a false police report claiming that he was the victim of a racist and homophobic beating by unknown attackers. In reality, Defendant knew his attackers and orchestrated the purported attack himself. Later, when police confronted him with evidence about his attackers, he still refused to disclose his involvement in planning the attack. In investigating Defendant's false statements and false police report, the City incurred significant costs in order to provide services reasonably related to Defendant's conduct.

PARTIES

1. The City is a municipal corporation organized and existing under the laws of the State of Illinois.

2. Defendant is an actor on the television show "Empire," which is primarily filmed in Chicago. While working on "Empire," and at all times relevant to this Complaint, Defendant resided in the Streeterville neighborhood in Chicago, Illinois.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to the Illinois Constitution art. VI, § 9.

4. This Court has jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 because Defendant violated the MCC by making false statements in Chicago, Illinois, and the City incurred significant costs in order to provide services reasonably related to Defendant's false statements.

5. Venue in Cook County is proper because this cause of action arose in Cook County, Illinois.

FACTUAL ALLEGATIONS

A. Defendant orchestrates and plans a fake attack.

6. In the fall of 2017, Defendant became friends with an individual named Abimbola Osundairo ("Abel"), who is 25 years old and has worked with Defendant on Empire. During the course of their friendship, Defendant and Abel socialized and exercised together, and Defendant occasionally asked for Abel's assistance in obtaining recreational drugs.

7. On the morning of January 25, 2019, Defendant texted Abel asking when Abel would be leaving on his upcoming trip to Nigeria with his 27-year-old brother, Olabinjo Osundairo ("Ola").

8. Abel responded to Defendant via text message that he and Ola were scheduled to depart the evening of January 29, 2019.

9. After Abel confirmed the date and time of his trip, Defendant texted Abel, "Might need your help on the low. You around to meet up and talk face to face?"

10. That same day, January 25, 2019, GPS records and video evidence indicate that Defendant drove Abel from Empire's Cinespace Studio to Abel's apartment. During the ride, Defendant stated that he was unhappy with the way his employers handled a racist and homophobic letter he had allegedly received three days earlier, and, as a result, he wanted to stage an attack where Abel would appear to batter him.

11. Video evidence shows that Defendant and Abel reached Abel's apartment at approximately 5:00 P.M. on January 25th. When they arrived, Ola, who was then living with Abel, came out of the apartment and sat with Defendant and Abel in Defendant's vehicle. Once inside, Defendant asked Ola if he could trust him and Ola assented.

12. After Ola attested to his trustworthiness, Defendant and Abel and Ola (the "Osundairo Brothers") discussed their plan to stage a fake racist and homophobic attack on Defendant. Defendant directed the Osundairo Brothers to stage the fake attack on the evening of January 28, 2019, near his apartment building in Streeterville. Defendant and the Osundairo Brothers agreed that the Osundairo Brothers would catch Defendant's attention, and the fake attack would begin when the Osundairo Brothers called Defendant an "Empire F----- Empire N-- --."

13. On January 27, 2019, video, GPS, and text message evidence indicates that Defendant again met with the Osundairo Brothers to finalize the details of the staged attack. On that day, Defendant drove the Osundairo Brothers to the location where he wanted the staged attack to take place, which was the corner of New Street and North Water Street in Chicago, Illinois.

14. While at that location, Defendant directed the Osundairo Brothers' attention to a surveillance camera, which Defendant believed would capture the incident.

15. Defendant and the Osundairo Brothers coordinated the details of the fake attack. They agreed that Abel would attack Defendant, but would not hurt him too badly and would give Defendant a chance to appear to fight back.

16. They also discussed having the Osundairo Brothers place a rope around Defendant's neck and pour liquid on him.

17. Defendant told the Osundairo Brothers that he wanted the attack to take place the following night at 10:00 P.M., and instructed them not to bring their cell phones with them.

18. Defendant provided Abel with a \$100 bill to purchase the clothing and materials needed for the staged attack.

19. During the same conversation in which Defendant and the Osundairo Brothers planned the fake attack, Defendant also gave Abel a three thousand five hundred dollar (\$3,500) personal check made payable to Abel. The memo line of the check contained the words, "5 week nutrition/ workout program (don't go)."

20. Video evidence confirms that on January 28, 2019, the Osundairo Brothers purchased a rope at a hardware store and clothing items at a beauty supply store.

21. Abel deposited the check Defendant gave him into Abel's bank account on January 28, 2019. The following day, Abel transferred half of that amount (\$1,750) to Ola's bank account.

B. Defendant and the Osundairo Brothers execute the staged attack.

22. After the "run-through" of the staged attack, Defendant traveled to New York, and was scheduled to return on January 28, 2019.

23. On the evening of January 28, 2019, Defendant's flight into Chicago was delayed, and he called Abel telling him he needed to delay the staged attack, and Abel agreed.

24. Defendant's plane landed at Chicago O'Hare International Airport ("O'Hare") at 12:30 A.M., on January 29, 2019.

25. Cell phone records indicate that at 12:49 A.M., Defendant and Abel spoke by telephone. During this call, Defendant told Abel the attack should take place at 2:00 A.M. at the agreed-upon location. Minutes later, Ola ordered an Uber to pick the Osundairo Brothers up at their home.

26. The Osundairo Brothers took an Uber to the 1400 block of North Wells, where they flagged down a taxi that took them to within three blocks of the agreed-upon location of the staged attack. The taxi's in-car video captures the Osundairo Brothers flagging the car and riding in the back seat.

27. From approximately 1:22 A.M. until approximately 2:03 A.M., video evidence shows the Osundairo Brothers on foot in an area bordered by Lake Shore Drive, Columbus Drive, Illinois Street, and the Chicago River.

28. Video evidence also shows Defendant returning to his Streeterville apartment at approximately 1:30 A.M.

29. At 1:45 A.M., Defendant left his building to walk to a nearby Subway restaurant at Illinois Street and McClurg Court.

30. At 2:00 A.M., surveillance video evidence shows the Osundairo Brothers waiting near New Street and North Water Street.

31. During an interview Defendant gave on ABC's Good Morning America, which aired on February 14, 2019, he positively identified the people shown in a still of this surveillance video (the "Still Photo") as his attackers.

32. The two men in this Still Photo are the Osundairo Brothers.

33. Shortly after 2:00 A.M., the Osundairo Brothers staged their attack on Defendant.

34. After the staged attack, the Osundairo Brothers ran from the location, flagged a taxi, and were dropped off near their home at approximately 2:25 A.M.

C. Defendant makes a false police report to the City.

35. At 2:27 A.M., after Defendant told his manager, Frank Gatson, that he had been attacked, Gatson called the Chicago Police Department ("CPD") to report the incident as a *bona fide* attack on Defendant.

36. At 2:42 A.M., CPD officers arrived at Defendant's apartment and found Defendant with a rope draped around his neck.

37. Defendant proceeded to make a false police report.

38. Defendant told CPD officers that he was the victim of a racist and homophobic physical attack.

39. Defendant made this report to the CPD officers despite knowing that the purported attack was not for racist or homophobic motives, that his purported attackers were, in

fact, his acquaintances, and that he had asked his purported attackers, the Osundairo Brothers, to stage the attack.

40. Defendant told the CPD officers that, during the attack, his purported attackers had placed a rope around his neck, poured a liquid chemical on him, and told him this is "MAGA Country."

41. Defendant did not tell the CPD officers that his attack was staged at his direction and with the cooperation of the Osundairo Brothers.

42. Defendant told the CPD officers that the incident happened near a camera that should have captured the attack. That is the same camera Defendant pointed out to the Osundairo Brothers on January 27, 2019.

43. At no point did Defendant inform police that he knew his attackers or recognized their appearance or voices.

44. Instead, Defendant misled the CPD officers when he described his attackers.

45. Defendant told the CPD officers that his primary attacker (now known to be Abel) was wearing a ski mask that covered his entire face, with the exception of the area around his eyes, by which Defendant could tell the attacker was white-skinned. Defendant made this statement despite knowing that the Osundairo Brothers are not white-skinned.

46. By providing this false description, Defendant purposely misled the CPD officers to believe that his attackers were white, when, in fact, Defendant knew that his attackers were the Osundairo Brothers.

47. Defendant and the Osundairo Brothers continued to be in contact after the staged attack, including on January 29, 2019 at 7:45 P.M. and on January 30, 2019 at 10:46 A.M.

D. CPD investigates Defendant's false report at significant expense to the City.

48. For the next two weeks, the CPD expended significant resources investigating Defendant's false report of a high-profile hate crime and physical assault. Over two dozen CPD officers and detectives participated in the investigation, ultimately spending weeks investigating Defendant's false statements. During the course of CPD's investigation into Defendant's false statements, CPD has incurred 1,836 overtime hours, which resulted in the City paying \$130,106.15 in overtime pay as result of Defendant's false statements.

49. Eventually, after an extensive investigation using interviews, surveillance videos, Office of Emergency Management pod videos, in-car taxi camera videos, rideshare records, bank records, and a store receipt, CPD identified the Osundairo Brothers as the perpetrators of the alleged attack.

50. On February 13, 2019, the Osundairo Brothers returned from Nigeria. They were immediately and separately detained upon their arrival at O'Hare. CPD investigators thereafter obtained testimony and corroborating evidence from the Osundairo Brothers that showed Defendant had orchestrated and staged the attack with the cooperation of the Osundairo Brothers, and that Defendant's police report was false.

51. On February 14, 2019, CPD officers interviewed Defendant again about the Still Photo that he had said on Good Morning America showed his attackers. Defendant again stated that he was certain that the Still Photo depicted the men who had attacked him.

52. CPD officers then told Defendant that the men in the Still Photo had been identified as the Osundairo Brothers.

53. Defendant made further false statements by claiming that his only relationship with the Osundairo Brothers was as trainers and social acquaintances, claiming that they could not have been his attackers.

54. During the February 14, 2019 interview, Defendant again failed to inform the CPD officers that he knew that the Osundairo Brothers were his attackers and that he had orchestrated the attack with the Osundairo Brothers' assistance.

COUNT 1: Violation of the FSO

55. The City incorporates all preceding allegations as if they were set forth herein.

56. Subsection 1-21-010(a) of the FSO provides that:

[a]ny person who knowingly makes a false statement of material fact to the city in violation of any statute, ordinance or regulation, or who knowingly makes a false statement of material fact to the city in connection with any application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than \$500.00 and not more than \$1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorneys' fees.

MCC § 1-21-010(a).

57. Subsection 1-21-010(d) of the FSO provides that:

[f]or the purposes of Chapter 1-21 of this Code, a person knowingly makes a false statement of material fact when that person (i) makes a statement of material fact with actual knowledge that the statement was false, or (ii) makes a statement of material fact with knowledge of facts or information that would cause a reasonable person to be aware that the statement was false when it was made, or (iii) signs, certifies, attests, submits or otherwise provides assurances, or causes any other person to sign, certify, attest, submit or otherwise provide assurances, that a statement of material fact is true or accurate in deliberate ignorance or reckless disregard of the truth or falsity of the statement. For purposes of this section, a person who fails to make a reasonable investigation to determine the accuracy, truthfulness or completeness of any material fact acts in deliberate ignorance or reckless disregard of the truth or falsity of the material fact.

MCC § 1-21-010(d).

58. Defendant knowingly made numerous false statements of material fact in violation of the FSO.

59. Defendant knowingly made numerous false statements of material fact to CPD officers, including when he made a police report alleging that he was the victim of a racist and homophobic attack, when he knew that he had staged the attack with the assistance of the Osundairo Brothers.

60. In addition, when presented with evidence that his statements were false, Defendant again refused to inform CPD officers that he knew the Osundairo Brothers were his attackers, and that he had orchestrated his staged attack with them.

61. Because of Defendant's false statements, the City expended significant resources and manpower, including, but not limited to, \$130,106.15 in CPD overtime pay that the City paid solely due to Defendant's false statements.

62. Defendant is liable to the City for a \$1,000 civil penalty for each false statement he made to the City, in addition to three times the amount of the damages that the City sustained, as well as litigation and collection costs, and attorneys' fees.

WHEREFORE, the City respectfully requests that the Court:

- A. Find Defendant liable for violating the FSO;
- B. Fine Defendant a civil penalty of \$1,000 for each false statement he made to the City;
- C. Enter judgment against Defendant and in favor of the City for the civil penalties assessed, and trebled damages in an amount to be proven at trial (which includes,

but is not limited to, overtime compensation paid by the City) incurred by the City because of Defendant's false statements;

- D. Order Defendant to pay the City's reasonable attorneys' fees and costs; and
- E. Award such further relief as this Court deems just and equitable.

COUNT 2: Violation of the CRO

63. The City incorporates all preceding allegations as if they were set forth herein.

64. The CRO provides that "[a]ny person who causes the city or its agents to incur costs in order to provide services reasonably related to such person's violation of any federal, state or local law, or such person's failure to correct conditions which violate any federal, state or local law when such person was under a legal duty to do so, shall be liable to the city for those costs." MCC § 1-20-020.

65. Under the CRO, "'costs' includes all costs of the city incurred in relation to the provision of services by the city or its agents, regardless of whether the city would have otherwise incurred those costs, including but not limited to wages and benefits of personnel involved in providing such services, reasonable costs of equipment used in the provision of such services, costs of materials expended in providing such services, costs of storing hazardous or any other materials recovered during the course of providing such services, or any other costs allocable to the provision of services." MCC § 1-20-010.

66. In addition, "[i]n any action brought under [the CRO], the City of Chicago shall also be entitled to recover a penalty in an amount equal to the city's litigation and collection costs and attorney's fees." MCC § 1-20-060.

67. The City is entitled to recovery of the costs of necessary services provided by the City in order to provide services in investigating and responding to Defendant's violations of the MCC, together with its litigation and collection costs and attorney's fees.

WHEREFORE, the City respectfully requests that the Court:

- A. Find that the City incurred necessary costs investigating and responding to Defendant's statements made in violation of the MCC;
- B. Order Defendant to pay the City's response costs in an amount to be proven at trial;
- C. Order Defendant to pay the City a penalty in amount equal to the City's litigation and collection costs and attorney's fees; and
- D. Award such further relief as this Court deems just and equitable.

Dated: April 11, 2019.

Respectfully submitted,

EDWARD N. SISKEL
Corporation Counsel, City of Chicago

/s/ Edward N. Siskel

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

Olabinjo Osundairo and Abimbola Osundairo, Individually,)	
)	
Plaintiffs,	)	Case No.
)	
v.	)	Judge
)	
Mark Geragos, Tina Glandian, and Geragos & Geragos Law Firm,	)	Magistrate Judge
)	
	)	JURY DEMAND
)	
Defendants.)	

COMPLAINT

NOW COME Plaintiffs Olabinjo Osundairo and Abimbola Osundairo (hereinafter “Plaintiffs” or “Osundairo brothers”), by and through their attorneys, Gregory E. Kulis & Associates, Ltd., the Law Offices of James D. Tunick, and the Gloria Law Group, and for their complaint against Defendants Tina Glandian, Mark Geragos, and the Geragos & Geragos Law Firm, state as follows:

PARTIES

1. Plaintiff Olabinjo Osundairo (hereinafter “Mr. Ola Osundairo”) is an individual who is a United States citizen, born and raised in Chicago, and continues to reside in Chicago, Illinois.

2. Plaintiff Abimbola Osundairo (hereinafter “Mr. Bola Osundairo”) is an individual who is a United States citizen, born and raised in Chicago, and continues to reside in Chicago, Illinois.

3. Defendant Tina Glandian is an attorney employed by Defendant Geragos & Geragos Law Firm and is a resident of New York City, New York.

4. Defendant Mark Geragos is a partner at Defendant Geragos & Geragos Law Firm and is a resident of Los Angeles, California.

5. Defendant Geragos & Geragos Law Firm is a private law firm with its principal place of business in Los Angeles, California, with business in Las Vegas and New York.

JURISDICTION AND VENUE

6. The Court has personal jurisdiction over Defendants since they have availed themselves of Illinois law in numerous ways. First, they conducted business in the State of Illinois. Defendants transacted as criminal counsel for Chicago actor Justin “Jussie” Smollett (hereinafter “Mr. Smollett”), defending his Illinois criminal case and often acting as de facto public relations representatives while in Illinois. Second, Defendants also committed torts within the State of Illinois by making public defamatory statements against Plaintiffs, which were published broadly in Illinois by major news outlets such as the Chicago Sun-Times, the Chicago Tribune, and WGN Radio. Moreover, these tortious statements involve a hoax conducted in Illinois and orchestrated by Mr. Smollett. Finally, and importantly, these statements also impacted the reputation of Plaintiffs, who are employed and live in Illinois. Pursuant to the Illinois Long Arm Statute and federal law, Defendants have maintained minimum sufficient contacts with the State of Illinois to establish personal jurisdiction. 735 ILCS 5/2-209.

7. Venue is proper under 28 U.S.C. §1391(b)(2), as a substantial part of the events or omissions giving rise to the claim, as discussed in the previous paragraph, occurred in Chicago, Illinois.

8. This Court also has subject matter jurisdiction because the amount in controversy exceeds \$75,000.00 for each Plaintiff, exclusive of interests and costs, and is between citizens of different states, per 28 U.S.C. §1332(a).

CHOICE OF LAW

9. This complaint will allege violations of the torts of defamation and false light, established under the Illinois common law. This is because Illinois choice-of-law principles hold that the Illinois forum court must apply the substantive laws of the state where the case has “the most significant contacts.” *Snead v. Forbes*, 275 N.E. 2d 746, 748-49 (1st Dist. Ill. 1971) *citing* Restatement of Law, Second, Conflicts of Law §150. For the torts of defamation and false light, this is the state in which the defamed plaintiff was domiciled at the time the tortious comments were made, as plaintiff’s state of residence is “the place of greatest potential injury to the reputation of plaintiff”. *Id.* For Plaintiffs, that state is Illinois.

FACTUAL ALLEGATIONS

10. On or around the morning of January 29, 2019, it was virally reported that actor Justin “Jussie” Smollett was attacked in Chicago’s Streeterville neighborhood while walking home.

11. Mr. Smollett had reported to Chicago Police that two men in ski masks pulled a noose around his neck, poured an unknown liquid on his body, and battered him with their hands and feet. Mr. Smollett also reported that the masked men yelled “this is MAGA country!” – referring to President Trump’s campaign slogan “Make America Great Again” – along with various racist and homophobic slurs.

12. Mr. Smollett’s report led to international outrage, with near unanimous calls for the Chicago Police (hereinafter “CPD”) to find and prosecute Mr. Smollett’s attackers. On February 15, 2019, CPD’s investigation led them to the Osundairo brothers, the Plaintiffs in this case, upon which they were taken into custody and questioned. On February 15, 2019, Plaintiffs were promptly released without charges, as there was verification and in-depth corroboration that the

“attack” was a hoax entirely conceived and directed by Mr. Smollett.

13. CPD and the public at large grew increasingly skeptical about the circumstances of Mr. Smollett’s attack. As the Osundairo brothers were extras on Mr. Smollett’s television show “Empire,” occasionally socialized with Mr. Smollett, and are also Black men, the suggestion that they committed a brutal hate crime against Mr. Smollett raised the proverbial eyebrow.

14. The media soon circulated CPD’s theory of what actually occurred: Mr. Smollett paid Plaintiffs a sum of money to stage the attack to benefit himself.

15. In short, Mr. Smollett used his clout as a wealthy actor to influence Plaintiffs, who were in a subordinate relationship to him and were aspiring to “make it” in Hollywood.

16. On January 25, 2019, Mr. Smollett told Plaintiffs, in private, that he needed a favor from them: they were to help him stage a social media hoax and pretend to attack him. Mr. Smollett’s motivation was simple. He wanted his employer and the public to notice and appreciate him as a successful Black, openly gay actor. So, Mr. Smollett directed every aspect of the attack, including the location and the noose.

17. On February 20, 2019, Plaintiffs testified truthfully before a grand jury regarding the facts of what happened on or around January 29, 2019.

18. On March 7, 2019, Mr. Smollett was indicted for 16 felony counts of a false report of offense pursuant to Illinois criminal statute 720 ILCS 5/26-1(a)(4). He was represented by Defendants.

19. In a controversial move, the Cook County State’s Attorney dropped his charges almost immediately, less than three weeks after charging Mr. Smollett.

20. The swiftness and manner with which Mr. Smollett’s charges were handled is notably unheard of in Cook County. Yet, the State’s Attorney seemed satisfied by Mr. Smollett’s

\$10,000.00 payment in bond and his “community service” which he apparently already served as a prominent Chicago figure.

21. Mr. Smollett’s charges were dropped on or around March 26, 2019.

22. What followed was mass public outcry, including dismay from the media, several district attorney bar associations, police unions, and the federal government. Many argued the Cook County State’s Attorney botched the prosecution of Mr. Smollett’s case. Some suggested that the State’s Attorney cut him a deal due to his affluence and celebrity.

23. Mr. Smollett’s attorneys, faced with an outraged public, did not retreat after their success. Instead they doubled down, not simply affirming that Mr. Smollett was a wholly innocent victim, but that (among other accusations) Plaintiffs unequivocally led a criminally homophobic, racist, and violent attack against Mr. Smollett. Defendants made these comments knowing they were untrue to distract from Mr. Smollett’s farce and to promote themselves and the Geragos & Geragos Law Firm. This vitriol against Plaintiffs is tortious and comprises the substance of the following allegations.

DEFENDANT TINA GLANDIAN

COUNT I
COMMON LAW DEFAMATION PER SE

I. Statements Accusing Plaintiffs of Committing a Hate Crime, Perjury, and Conspiring to Make False Statements to Chicago Police

24. On or around March 27, 2019, Defendant Tina Glandian appeared on Good Morning America, aired by the American Broadcasting Corporation (“ABC”). On or around March 28, 2019, Ms. Glandian appeared the Today show, aired by the National Broadcasting Company (“NBC”). In both appearances, Ms. Glandian discussed her client, Mr. Smollett, and his

criminal case. The following statements were echoed in numerous other publications, including the podcast *Reasonable Doubt*.

25. All the statements alleged below were in concert and coordination with Defendant Mark Geragos and Defendant Geragos & Geragos Law Firm.

26. Ms. Glandian insisted Mr. Smollett was innocent of making a false police report and falsely added that Plaintiffs criminally attacked Mr. Smollett.

27. Ms. Glandian then falsely submitted that Plaintiffs may have been wearing “whiteface” while attacking Mr. Smollett – again stating Plaintiffs battered Mr. Smollett and adding the implication that this battery was a hate crime.

28. Ms. Glandian’s statements that Plaintiffs committed a hate crime against Mr. Smollett and donned whiteface were published to third parties everywhere as they were broadcast by ABC and NBC, and were republished in numerous newspapers, blogs, and periodicals.

29. Ms. Glandian’s statements explicitly identify Plaintiffs as the subject of her accusations, as she was responding directly to questions about the Osundairo brothers.

30. Ms. Glandian’s statements indicating Plaintiffs actually criminally battered Mr. Smollett without his consent are patently false and defamatory, as Mr. Smollett originated, planned, and orchestrated the attack.

31. Ms. Glandian, in stating that Plaintiffs criminally battered Mr. Smollett, implicitly proffered that Plaintiffs are guilty of perjuring themselves during the February 20, 2019 grand jury proceedings, and she specifically stated such in media appearances.

32. Ms. Glandian, in stating that Plaintiffs criminally battered Mr. Smollett, implicitly proffered that Plaintiffs are guilty of conspiring to give false statements and/or giving false statements to Chicago Police, and she specifically stated such in media appearances.

33. Ms. Glandian's statements that Plaintiffs donned "whiteface" on the day of Mr. Smollett's alleged attack are patently false and defamatory, as neither wore "whiteface" or pretended in any way to be Caucasian.

34. Ms. Glandian's statements were made after the close of Mr. Smollett's criminal case, did not serve any legal function, and was not a requirement of her job as a defense attorney.

35. Instead, these statements were unnecessarily made on national media to advance Mr. Smollett's and Ms. Glandian's reputation and fame at high cost to Plaintiffs.

36. Indeed, Ms. Glandian's statements have caused considerable damage to Plaintiffs' careers, as they have lost talent agent contracts and career opportunities.

37. Thus, Ms. Glandian's statements have caused Plaintiffs irreparable financial damage.

38. As a result of Ms. Glandian's comments, Plaintiffs have suffered significant emotional distress and feel unsafe and alienated in their local Chicago community. This is because Ms. Glandian, a very famous attorney, falsely and publicly stated Plaintiffs have committed a gruesome hate crime, lied under oath, and intentionally misled CPD.

39. Ms. Glandian's statements have caused Plaintiffs severe emotional damage.

40. Ms. Glandian, in falsely accusing Plaintiffs of committing a hate crime, perjuring themselves, and making false statements to a police officer, has acted with fault clearly amounting to negligence and/or actual malice.

41. Ms. Glandian's comments, in falsely accusing Plaintiffs of committing a hate crime, perjuring themselves, and making false statements to a police officer, are defamatory per se under Illinois common law.

42. As a result of Ms. Glandian's false and defamatory statements, Plaintiffs suffered and will continue to suffer damage, including economic damages, damages to their reputations, and/or damage to current and prospective business relations.

II. Statements Harming Plaintiffs in their Profession and Implying a Lack of Integrity in Plaintiffs' Professional Duties

43. On or around April 6, 2019, Defendant Tina Glandian further discussed Plaintiffs on the *Reasonable Doubt* podcast.

44. Ms. Glandian's statements were made after the close of Mr. Smollett's criminal case, did not serve any legal function, and were not a requirement of her job as a defense attorney.

45. Ms. Glandian knew that Plaintiffs were partially self-employed, as creators and promoters of their brand "Team Abel". Team Abel advises and demonstrates how to strengthen and build muscle while maintaining a healthy, steroid-free diet and fitness regimen.

46. Ms. Glandian falsely stated that Plaintiffs are involved in "illegal" Nigerian steroid trafficking, and that these steroids help clients lose weight.

47. Ms. Glandian added, scoffing, that Plaintiffs' "platform. . . is all about being steroid-free . . . Their whole thing is, you know, all-natural bodybuilding. It's ridiculous."

48. Plaintiffs do not use or distribute illegal Nigerian steroids.

49. Ms. Glandian's comments are patently false and defamatory.

50. These statements were unnecessarily made publicly to numerous third parties to advance Ms. Glandian's reputation and fame and to undoubtedly ruin Plaintiffs' business.

51. Ms. Glandian's statements have caused considerable damage to Plaintiffs' careers, causing Plaintiffs irreparable financial damage, losing business and the opportunity of business.

52. Ms. Glandian's statements have caused Plaintiffs severe emotional distress.

53. Ms. Glandian, in falsely accusing Plaintiffs of running their all-natural business fraudulently, has acted with fault clearly amounting to negligence and/or actual malice.

54. Ms. Glandian, in falsely accusing Plaintiffs of illegally distributing foreign steroids, has acted with fault clearly amounting to negligence and/or actual malice.

55. Ms. Glandian, in falsely accusing Plaintiffs of professionally defrauding and misleading clients, has committed defamation per se under Illinois law, as those statements call into question whether Plaintiffs have integrity in performing their duties as professionals in their industry.

56. Ms. Glandian, in falsely accusing Plaintiffs of criminally distributing foreign unlawful steroids, has committed defamation per se under Illinois law.

57. As a result of Ms. Glandian's false and defamatory statements concerning Plaintiffs' use and distribution of illegal steroids to their clientele, Plaintiffs suffered and will continue to suffer damage, including economic damages, damages to their reputation, and/or damages to current and prospective business relations.

III. Statements Falsely Accusing Plaintiff of Engaging in Fornication with Mr. Smollett.

58. On or around April 6, 2019, Defendant Tina Glandian further discussed Plaintiff Abimbola Osundairo (hereinafter "Bola Osundairo") on the podcast *Reasonable Doubt*.

59. Ms. Glandian inferred that Bola Osundairo and Mr. Smollett engaged, at least briefly, in homosexual acts together. These statements were made to the third-party press and public.

60. Bola Osundairo is heterosexual and was dating a woman at the time.

61. Bola Osundairo has never engaged in any sexual acts with Mr. Smollett, thus Ms. Glandian's statements are patently false.

62. Bola Osundairo is also Nigerian-American, has family in Nigeria, and enjoys visits to Nigeria.

63. Same-sex sexual activity is illegal in Nigeria, which can result in 14 years of imprisonment. If the accused is married, the punishment is death by stoning.

64. Research by Pew indicates that 99% of Nigerians believe homosexuality should not be tolerated.¹

65. Ms. Glandian's globally broadcasted statements that Bola Osundairo is homosexual endangers him and the lives of his Nigerian family.

66. Ms. Glandian's statements were made after the close of Mr. Smollett's criminal case, did not serve any legal function, and were not a requirement of her job as a defense attorney.

67. Ms. Glandian's statements have caused Plaintiffs severe emotional distress.

68. Ms. Glandian, in falsely accusing Bola Osundairo of fornication with Mr. Smollett, has committed defamation per se under Illinois law.

69. As a result of Ms. Glandian's false and defamatory statements concerning Bola Osundairo's sexual activity, Plaintiff suffered and will continue to suffer damage, including economic damages and damages to his reputation.

WHEREFORE, the Plaintiffs OLABINJO OSUNDAIRO and ABIMBOLA OSUNDAIRO pray for judgment against Defendant TINA GLANDIAN, for the appropriate compensatory damages, punitive damages and costs.

¹ See <https://www.pewresearch.org/fact-tank/2013/06/21/ahead-of-same-sex-marriage-decisions-what-you-need-to-know/>; the study claims Nigeria is the least accepting of homosexuality of all countries surveyed.

COUNT II
COMMON LAW FALSE LIGHT

1-69. The Plaintiffs hereby re-allege and incorporate their allegations of Paragraphs 1-69 of Count I as their respective allegations of Paragraphs 1-69 of Count II as though fully set forth herein.

70. Ms. Glandian made false statements to the third-party press and public that Plaintiffs committed a hate crime, perjured themselves, and conspired to make false statements to CPD.

71. Ms. Glandian made false statements to the third-party press and public that Plaintiffs used “whiteface,” both in the past and while committing a hate crime.

72. Ms. Glandian made false statements that Plaintiffs’ business is misleading to their clientele and is a sham enterprise, as Plaintiffs use and/or provide illegal steroids while stating their business is “all natural.”

73. Ms. Glandian made false statements that Plaintiffs are illegally distributing foreign steroids.

74. Ms. Glandian made false statements that Plaintiff Bola Osundairo engaged in homosexual acts with Mr. Smollett.

75. Statements falsely accusing Plaintiffs of illegal activities, including committing a hate crime, committing perjury, intentionally making false statements to police, and distributing steroids, are objectively offensive.

76. Statements falsely accusing Plaintiffs of lacking professional integrity by lying to clientele about the propriety of steroids are objectively offensive.

77. Statements falsely accusing Plaintiff Bola Osundairo of engaging in sexual acts with Mr. Smollett are objectively offensive, especially as Bola Osundairo was dating someone else at the time.

78. Ms. Glandian explicitly identified Plaintiffs in making these offensive, untrue statements. Even when she refers to them as “the brothers” they are still easily identifiable.

79. Ms. Glandian, in making these statements, acted with actual malice and reckless disregard for the truth, knowing these statements were clearly false.

80. Ms. Glandian’s statements were made after the close of Mr. Smollett’s criminal case, did not serve any legal function, and were not a requirement of her job as a defense attorney.

81. As a result of Ms. Glandian’s objectively and highly offensive statements, Plaintiffs have suffered and will continue to suffer extreme emotional distress, humiliation, and anxiety, damages to their reputation, and/or damage to current and prospective business relations.

WHEREFORE, the Plaintiffs OLABINJO OSUNDAIRO and ABIMBOLA OSUNDAIRO pray for judgment against Defendant TINA GLANDIAN, for the appropriate compensatory damages, punitive damages and costs.

DEFENDANT MARK GERAGOS

COUNT III
COMMON LAW DEFAMATION PER SE

1-81. The Plaintiffs hereby re-allege and incorporate their allegations of Paragraphs 1-81 of Count II as their respective allegations of Paragraphs 1-81 of Count II as though fully set forth herein.

82. On the same podcast in which Ms. Glandian made tortious and defamatory statements about Plaintiffs, Defendant Mark Geragos (hereinafter “Mr. Geragos”) also appeared, and occasionally made comments.

83. Mr. Geragos falsely stated that he could not think of anyone else who committed the hate crime against his client, Mr. Smollett, besides Plaintiffs.

84. Mr. Geragos repeatedly indicated that Plaintiffs conspired to criminally attack Mr. Smollett, and by doing so, implied Plaintiffs committed perjury before the February 20, 2019 grand jury and conspired to make false statements to Chicago Police.

85. Moreover, the above defamatory statements in Counts I and II made by Ms. Glandian were made in concert with and approved by Mr. Geragos to promote his law firm and his reputation.

86. Mr. Geragos’s statements were made after the close of Mr. Smollett’s criminal case, did not serve any legal function, and were not a requirement of his job as a defense attorney.

87. Mr. Geragos’s statements have caused the Plaintiffs severe emotional distress and have caused Plaintiffs irreparable financial damage as alleged above.

88. The Plaintiffs feel unsafe and alienated in their local Chicago community. This is because Mr. Geragos, a very famous attorney, falsely and publicly stated they have committed a heinous, racially, and homophobically motivated hate crime, that they lied under oath, and that they lied to CPD.

89. Mr. Geragos, in falsely accusing Plaintiffs of committing a hate crime, perjuring themselves, and conspiring to give false statements to CPD, has acted with fault clearly amount to actual malice.

90. Mr. Geragos's statements, in falsely accusing Plaintiffs of committing a hate crime, perjuring themselves, and conspiring to give false statements to Chicago Police, are defamatory per se pursuant to Illinois law.

91. As a result of Mr. Geragos's false and defamatory statements, Plaintiffs suffered and will continue to suffer damage, including economic damages, damages to their reputations, and/or damage to current and prospective business relations.

WHEREFORE, the Plaintiffs OLABINJO OSUNDAIRO and ABIMBOLA OSUNDAIRO pray for judgment against Defendant MARK GERAGOS, for the appropriate compensatory damages, punitive damages and costs.

COUNT IV
COMMON LAW FALSE LIGHT

1-91. The Plaintiffs hereby re-allege and incorporate their allegations of Paragraphs 1-68 of Count III as their respective allegations of Paragraphs 1-91 of Count IV as though fully set forth herein.

92. Mr. Geragos made false statements to the third-party press and public that Plaintiffs committed a hate crime, perjured themselves before a grand jury, and conspired to make give false statements to CPD.

93. Additionally, Ms. Glandian's above tortious statements were made in consort and coordination with Mr. Geragos in an attempt to promote his law firm and reputation.

94. Mr. Geragos's tortious statements explicitly identified Plaintiffs in making these untrue statements. Even when he referred to them by pronouns, they are still easily identifiable.

95. Statements falsely accusing Plaintiffs of illegal activities are objectively offensive.

96. Mr. Geragos's statements were made after the close of Mr. Smollett's criminal case, did not serve any legal function, and were not a requirement of his job as a defense attorney.

97. Mr. Geragos, in making these statements, acted with actual malice as he knew these statements were clearly false, and thus acted with reckless disregard for the truth.

98. As a result of Mr. Geragos's objectively and highly offensive statements, Plaintiffs suffered and will continue to suffer extreme emotional distress, humiliation, anxiety, damages to their reputation, and damages to current and prospective business relations.

WHEREFORE, the Plaintiffs OLABINJO OSUNDAIRO and ABIMBOLA OSUNDAIRO pray for judgment against Defendant MARK GERAGOS, for the appropriate compensatory damages, punitive damages and costs.

DEFENDANT GERAGOS & GERAGOS LAW FIRM

COUNT V
RESPONDEAT SUPERIOR

1-98. The Plaintiffs hereby re-allege and incorporate their allegations of Paragraphs 1-98 of Count IV as their respective allegations of Paragraphs 1-98 of Count V as though fully set forth herein.

99. At all relevant times the Defendants Tina Glandian and Mark Geragos were acting within their scope of employment as employee and partner, respectively, of Geragos & Geragos Law Firm.

100. Geragos & Geragos Law Firm is responsible for the actions of its agents.

WHEREFORE, the Plaintiffs OLABINJO OSUNDAIRO and ABIMBOLA OSUNDAIRO pray for judgment against Defendant GERAGOS & GERAGOS, for the appropriate compensatory damages, punitive damages and costs.

JURY DEMAND

Plaintiffs hereby request trial by jury.

Respectfully Submitted,

By: /s/ Gregory E. Kulis

Gregory E. Kulis
Monica Ghosh
Gregory E. Kulis & Associates, Ltd.
30 North LaSalle Street, Suite 2140
Chicago, Illinois 60602
312-580-1830

James D. Tunick
30 North LaSalle Street, Suite 2140
Chicago, Illinois 60602
312-759-7626

Gloria V. Schmidt
Jorge A. Rodriguez
The Gloria Law Group
211 West Wacker Drive, 5th Floor
Chicago, Illinois 60606
312-982-2974

GERAGOS & GERAGOS

A PROFESSIONAL CORPORATION
LAWYERS
644 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 625-3900
FACSIMILE (213) 232-3255
GERAGOS@GERAGOS.COM

April 4, 2019

Via E-Mail and U.S. Mail

Edward N. Siskel
City of Chicago Department of Law
121 N. LaSalle, Room 600
Chicago, IL 60602

Re: Demand for Repayment of Investigation Costs to Jussie Smollett

Dear Mr. Siskel:

Our firm represents Jussie Smollett in this matter. Please direct all future communications to our attention.

We are in receipt of your March 28, 2019 letter, sent two days after all criminal charges against Mr. Smollett were dismissed, demanding that Mr. Smollett pay to the City of Chicago \$130,106.15 for "repayment of investigation costs" within seven (7) days; otherwise, you threaten to prosecute Mr. Smollett for making a false statement to the City pursuant to Municipal Code § 1-21-010 or to pursue any other legal remedy available at law. Your letter constitutes part of a course of conduct intended to harass and irreparably injure Mr. Smollett. As explained below, your letter is both factually and legally flawed, and Mr. Smollett will not be intimidated into paying the demanded sum.

As you know, Mr. Smollett vehemently denies making any false statements to the City of Chicago, or to any individuals investigating the January 29, 2019 attack on him.¹ All criminal charges against Mr. Smollett from this incident have been dismissed and his record has been sealed. Thus, your claim that Mr. Smollett filed a false police report and orchestrated his own attack is false and defamatory.

Furthermore, it is apparent that your threats were made maliciously and in bad faith, and without an honest belief that a cause of action against Mr. Smollett exists, even under the lesser preponderance of evidence standard. This is evident from 1) the dismissal of all charges against Mr. Smollett and the sealing of his record; 2) the lack of

¹ The investigation revealed that Mr. Smollett's statements to police--that on January 29, 2019, two men attacked him while yelling racial and homophobic slurs--were, in fact, true.

any investigation between the dismissal of charges on March 26, 2019 and your demand for payment on March 28, 2019; 3) the lack of any independent corroboration of the Osundairo brothers' self-serving statements (made after 47 hours of interrogation, while detained, and only after guidance by their attorneys) that the January 29, 2019 attack on Mr. Smollett was a hoax; and 4) public statements expressly contradicting the theory that the attack was a hoax. As you should know, neither the threats in your letter, nor the defamatory statements they rely upon, are afforded First Amendment protection.

Moreover, your unprecedented attempt to file a civil lawsuit against Mr. Smollett charging him with Municipal Code § 1-21-010 for "repayment of investigation costs" is unconstitutional as applied to Mr. Smollett. The Chicago False Claims Act, §§ 1-21-010 through 1-22-060, was enacted on January 10, 2005 and modeled after the federal FCA. These statutes are routinely used to bring civil lawsuits against corporations for deceptive business practices in order to prevent fraud and protect consumers, *see, e.g., City of Chicago v. Purdue Pharma L.P.*, 211 F. Supp. 3d 1058 (N.D. Ill. 2016); *People ex rel. Madigan v. United Const. of Am., Inc.*, 2012 IL App (1st 2012) 120308, 981 N.E.2d 404, or as *qui tam* whistleblower actions. Our research discloses no cases in which the municipal ordinance has been used to try to get a second bite at the apple once charges against a criminal defendant have been dismissed. Thus, despite your repeated claims that you want to treat Mr. Smollett like any other citizen, the 16-count indictment against him followed by your threats of further prosecution clearly constitute disparate treatment.² Application of § 1-21-010 under the facts of this case is unconstitutional.

Finally, any future prosecution of Mr. Smollett for making allegedly false statements about the January 29, 2019 attack would violate the federal³ and state⁴ ban against double jeopardy. The United States Supreme Court has held that successive prosecutions for the same offense⁵ by a State and by a municipality within that State are

² *See, e.g.,* <https://chicago.suntimes.com/news/woman-23-stabbed-by-robber-in-grant-park/> (23-year old Columbia College student who police say falsely reported a robbery and stabbing in Grant Park has not been criminally charged).

³ The double jeopardy clause of the Fifth Amendment to the United States Constitution provides no person shall "be subject for the same offence to be twice put in jeopardy of life or limb." U.S. Const., amend. V.

⁴ The Illinois Constitution of 1970 provides "[n]o person shall . . . be twice put in jeopardy for the same offense." Ill. Const. 1970, art. I, § 10.

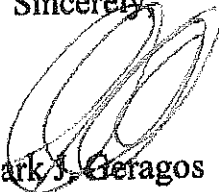
⁵ Here, the elements of filing a false report under Illinois Statutes § 26-1(a)(4), as Mr. Smollett had been charged with in the now-dismissed indictment, and making a false statement to the City in violation of Municipal Code § 1-21-010, are virtually the same.

prohibited by the double jeopardy clause. *See Waller v. Florida*, 397 U.S. 387, 392-95 (1970). Moreover, the Illinois Supreme Court has explained that there is nothing "in *Waller* to suggest that a municipal ordinance designed to provide only for a fine was not to be comprehended in the Supreme Court's holding." *People v. Allison*, 46 Ill. 2d 147, 149, 263 N.E.2d 80, 81 (1970). Here, the State Attorney's Office moved to *nolle pros* the charges against Mr. Smollett who, in turn, agreed to forfeit his \$10,000 bail to the City of Chicago. Thus, any subsequent prosecution of Mr. Smollett under the Illinois Municipal Code based on the events of January 29, 2019 would violate Mr. Smollett's rights under the Illinois and federal constitutions.

If, despite the deficiencies above, you file a civil action against Mr. Smollett, please be advised that in addition to raising the appropriate legal defenses, 1) we will demand the prompt production of the entire investigation file in this matter, including the full discovery from the criminal action which was never provided to the defense; 2) we will demand that you promptly produce for deposition Mayor Rahm Emanuel, Police Superintendent Eddie Johnson, Abimbola Osundairo, Olabinjo Osundairo, and attorneys Gloria Schmidt and Jorge Rodriguez; and 3) we will seek to have all records and hearings on this matter be open to the public. In light of their apparent vested interest in this matter, we are confident that Mayor Emanuel and Superintendent Johnson will not object to providing their testimony under oath. Mr. Smollett's preference remains, however, that this matter be closed and that he be allowed to move on with his life.

We are available to discuss this matter further.

Sincerely,



Mark J. Geragos
GERAGOS & GERAGOS

cc: Tina Glandian



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 10, 2019

Natalie J. Spears, Esq.
DENTONS US LLP
233 South Wacker Drive – Suite 5900
Chicago, Illinois 60606

Re: *People v. Smollett*
No. 19 CR 0310401 (Cook Co.)

Dear Ms. Spears:

This letter acknowledges receipt of your April 3, 2019, notice of claim of unconstitutionality in the above-referenced matter. Based upon a review of the notice and enclosed documents, the opportunity to intervene will not be pursued by this Office at this time.

Kindly advise me of the Court's resolution of this constitutional claim. Thank you for your cooperation. Should you have any questions, please contact me at 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601, or at (312) 814-2822.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Van de Burgt".

David Van de Burgt
Division Chief
Government Representation

CERTIFICATE OF SERVICE

Natalie J. Spears, an attorney, certifies that she caused a copy of the foregoing **REPLY MEMORANDUM IN SUPPORT OF MEDIA INTERVENORS' MOTION TO INTERVENE FOR PURPOSES OF OBJECTING TO AND VACATING THE SEALING ORDER** to be served upon:

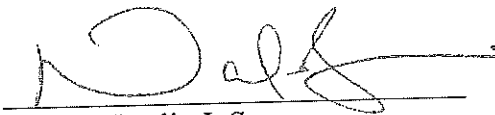
Patricia Brown Holmes
pholmes@rshc-law.com

Brian O'Connor Watson
bwatson@rshc-law.com

Mark J. Geragos
mark@geragos.com

Risa Lanier
statesattorney@cookcountyil.gov
risa.lanier@cookcountyil.gov

by causing a copy to be delivered via e-mail to the above e-mail addresses and U.S. Mail on this 7th day of May, 2019.



Natalie J. Spears

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THE PEOPLE OF THE)
STATE OF ILLINOIS,)
)
Plaintiff,)
)
vs.) No. 19 CR 03104-01
)
JUSSIE SMOLLETT,)
)
Defendant.)

REPORT OF PROCEEDINGS at the hearing of the
above-entitled cause before the HONORABLE STEVEN G.
WATKINS, Judge of said Court, on the 26th day of
March, 2019.

APPEARANCES:

HON. KIMBERLY M. FOXX,
State's Attorney of Cook County,
By: MS. RISA LANIER,
Assistant State's Attorney,
on behalf of the People;

MS. PATRICIA BROWN HOLMES,
MS. TINA GLANDIAN and
MR. BRIAN WATSON,
on behalf of the Defendant.

Mary Ellen Kusibab
Official Court Reporter
CSR License No. 084-004348

1 THE CLERK: Jussie Smollett.

2 THE COURT: Good morning.

3 MS. BROWN HOLMES: Good morning, Judge. Patricia
4 Brown Holmes, Tina Glandian and Brian Watson on behalf
5 of Jussie Smollett.

6 MS. LANIER: Risa Lanier -- R-i-s-a, L-a-n-i-e-r --
7 for the People.

8 Your Honor, on today's date, the State did file
9 a motion to advance this matter. It was originally set
10 for April 17th, but we did file a motion to advance it
11 to today's date.

12 THE COURT: The Court entered an order yesterday,
13 setting the matter for April 2nd on the media coverage.
14 So we can strike that date as well?

15 MS. LANIER: Yes.

16 THE COURT: All right. What are we doing?

17 MS. LANIER: Motion to advance sustained?

18 THE COURT: Granted.

19 MS. LANIER: Thank you.

20 Judge, on today's date, the State does have a
21 motion in this case. After reviewing the facts and
22 circumstances of the case, including Mr. Smollett's
23 volunteer service in the community and agreement to
24 forfeit his bond to the City of Chicago, the State's

1 motion in regards to the indictment is to nolle pros.
2 We believe this outcome is a just disposition and
3 appropriate resolution to this case.

4 I do have an order directing the Clerk of the
5 Circuit Court to release Bond No. D 1375606, payable to
6 the City of Chicago, to be sent directly to the City of
7 Chicago, Department of Law. And there's an address and
8 the person there who takes care of that on behalf of the
9 City.

10 THE COURT: Thank you.

11 Defense?

12 MS. BROWN HOLMES: Judge, we would absolutely
13 agree. And we would also ask that the Court immediately
14 seal the records.

15 THE COURT: Do you have an order prepared for that?

16 MS. BROWN HOLMES: Yes, we do, Judge.

17 THE COURT: Motion, State, Nolle Pros, granted.

18 Motion, State, to release D-Bond 1375606 to the
19 City of Chicago will be granted.

20 Motion, defendant, for immediate sealing of the
21 criminal records will be granted as well.

22 MS. BROWN HOLMES: Thank you very much, Judge.

23 THE COURT: Sure. Anything else?

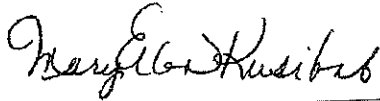
24 MS. LANIER: No, that's it.

1 THE COURT: All right. Good luck, Mr. Smollett.
2 THE DEFENDANT: Thank you very much.
3 THE COURT: You're welcome.
4 MS. BROWN HOLMES: We appreciate it.
5 THE COURT: You're welcome.
6 (Which were all the proceedings
7 had in the above-entitled cause
8 on this date.)
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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)

4 I, MARY ELLEN KUSIBAB, an Official
5 Court Reporter for the Circuit Court of Cook County,
6 Illinois, County Department, Criminal Division, do
7 hereby certify that I reported in shorthand the
8 proceedings had on the hearing in the above-entitled
9 cause; that I, thereafter, caused the foregoing to be
10 transcribed into typewriting, which I hereby certify
11 to be a true and accurate transcript of the
12 proceedings.

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Mary Ellen Kusibab
C.S.R. No. 084-004348
Circuit Court of Cook County, IL
County Department - Criminal Division

Dated March 26, 2019.

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
v.	)	No. 19 CR 3104
	)	(Municipal No. 19-110327101)
JUSSIE SMOLLETT,)	
)	
Defendant.)	

ORDER OF WITHDRAWAL OF ATTORNEY

This cause coming before the Court on the Motion for Withdrawal of Attorney,
due notice having been given and the Court being fully advised in the premises, IT IS
HEREBY ORDERED THAT:

1. The Motion for Withdrawal of Attorney is granted; and
2. Jack B. Prior is given leave and deemed *instantly* to withdraw his
appearance for Defendant, Jussie Smollett.

IT IS SO ORDERED.

ENTERED:

Circuit Court of Cook County
Criminal Division

Sheet # 0019
Defendant Sheet # 0001 OF 0002

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1735 304 STEVEN G. WATKINS
100 CHICAGO POLICE DEPT

CLERK USE ONLY
0019

CASE NUMBER

19CR0310401

DEFENDANT NAME

SMOLLETT JUSSIE

ATTORNEY

RILEY SAFER HOLMES CANCEL

COURT DATE
03-26-2019

COURT CALL/TIME
2-0930 AM

CB/DCN #

019771648

IR #

2397168

EM

BOND #

1375606

I C D

X

BOND AMOUNT
\$100,000.00

CHARGES

COURT ORDER ENTERED

CODES

C001 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C002 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C003 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C004 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C005 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C006 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C007 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C008 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C009 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C010 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

C011 720-5/26-1(A) (4)

FALSE REPORT OF OFFENSE
03/14/19 PLEA OF NOT GUILTY

JUDGE:

JUDGE'S No.

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:

VERIFIED BY:

[Handwritten signature]

ΔIC
MS to Adv. - Strike 4-2-19 and 4-17-19
MS NP - G
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D Bond 1375606 to City 9/18/20
Grade
MD to immediate Seal Chicago records
891
2995
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Sheet # 0019	Defendant Sheet # 0002 OF 0002	CRIMINAL DISPOSITION SHEET			Branch/Room/Location 1735 304 STEVEN G. WATKINS 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0019	
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT JUSSIE		ATTORNEY RILEY SAFER HOLMES CANCEL		COURT DATE 03-26-2019	COURT CALL/TIME 2-0930 AM	
CB/DCN # 019771648	IR # 2397168	EM		BOND # 1375606	I <input type="checkbox"/>	C <input type="checkbox"/>	D <input checked="" type="checkbox"/>	BOND AMOUNT \$100,000.00
CHARGES				COURT ORDER ENTERED				CODES
C012 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE 03/14/19 PLEA OF NOT GUILTY								
C013 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE 03/14/19 PLEA OF NOT GUILTY								
C014 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE 03/14/19 PLEA OF NOT GUILTY								
C015 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE 03/14/19 PLEA OF NOT GUILTY								
C016 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE 03/14/19 PLEA OF NOT GUILTY								
JUDGE:				JUDGE'S No.		RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:		VERIFIED BY:


MAR 26 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

PEOPLE OF THE STATE OF ILLINOIS)
 Plaintiff)
)
 VS.) Case No. 19CR-3104
)
 Jussie Smollett)
 Defendant(s))

NOW COME THE PEOPLE OF THE STATE OF ILLINOIS, by their Attorney, KIMBERLY M. FOXX, State's Attorney of Cook County, through her Assistant, Risa R Lanier, and petition this Honorable Court to advance the above captioned case.

WHEREFORE, the People respectfully request this Court to advance the above captioned case to March 26, 2019, in Room 304 at 9:00 a.m.

BY: 
Risa R Lanier
Assistant State's Attorney

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

or

A Municipal Corporation,

v.

JUSSIE SMOLLETT

Defendant/Petitioner

Case

and/or

Ticket

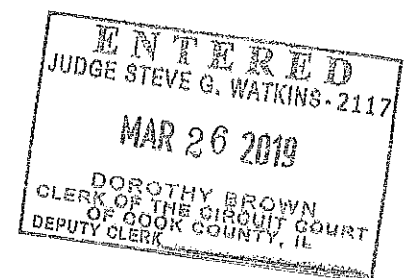
Numbers

19 CR 3104(MUNICIPAL 19-110327101)Date of Birth: 6/21/1982Gender: ☒ Male ☐ FemaleRace: BLACK

ORDER FOR IMMEDIATE SEALING OF CRIMINAL RECORDS

This Court, having considered all pleadings and any objections thereto, and after an evidentiary hearing, ORDERS THAT:

1. Defendant/Petitioner's Petition for Immediate Sealing of Criminal Records is GRANTED.
2. The Illinois State Police, the above Arresting Agency, _____, the Chicago Police Department, and the Clerk of the Circuit Court shall seal the arrest from its records, if any, within sixty (60) days of the date of service of this order. It is further directed that the Arresting Agency shall request the return of all identification materials from any other repositories and custodians of statistics that were previously notified of this arrest(s) by the Arresting Agency.
3. In accordance with the law, orders of protection, civil no contact orders, and civil no contact stalking orders shall not be sealed.

Prepared by: PATRICIA BROWN HOLMESCook County Attorney Code: 60128Name: RILEY SAFER HOLMES + CANULA LLPAddress: 70 W MADISON STE 2900City/State/Zip: CHICAGO, IL 60602Telephone: (312) 471-8700 FAX: (312) 471-8701Primary Email: PHOLMES@RSHC-LAW.COM

ENTERED:

Dated: 

Judge

Judge's No.

STATE OF ILLINOIS)
)SS.
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS)

VS.)

Case No. 19CR-3104

Jussie Smollett)

Defendant(s))

ORDER

IT IS HEREBY ORDERED that the Clerk of the Circuit Court of Cook County shall release Bond No. 137404, payable to the City of Chicago, to be sent directly to:

City of Chicago Department of Law

Attn: Natalie Frank

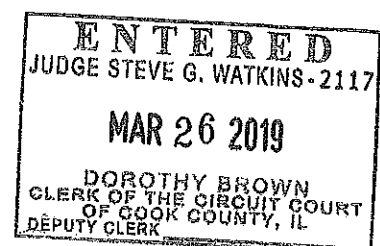
121 N. LaSalle Street, Suite 600

Chicago, Illinois 60602

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Judge of the Circuit Court of Cook County

DATED: 3/26/2019



Criminal Division-Bond Audit Form **2nd Signature**

Name Jessie Smollett

Refund \$ 9,900

2019

Case # 19CR03104-01

Bond # D-1375606

Team Review/Verification Unit/(Bond Refund Dept)

Bail Bond Audit Unit (Daley Center #1005)

- ☒ Defendant's Name
- ☒ Case/Ticket Number
- ☒ Bail Bond Number
- ☒ Bail Bond Amount Set
- ☒ Bail Bond Deposit Amount

- ☐ Defendant's Name
- ☐ Case/Ticket Number
- ☐ Bail Bond Number
- ☐ Bail Bond Amount Set
- ☐ Bail Bond Deposit Amount

Bail Bond Money Refund to:

Bail Bond Money Refund to:

- ☐ Attorney # _____
- ☐ Provider/Surety
- ☐ Defendant
- ☐ Public Defender
- ☐ Victim
- ☒ Other City of Chgo
- ☐ Deduct Bond Money to satisfy Costs, Fines &

- ☐ Attorney
- ☐ Provider
- ☐ Defendant
- ☐ Public Defender
- ☐ Victim
- ☐ Other
- ☐ Deduct Bond Money to satisfy Costs, Fines & Fees

THE HONORABLE DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
COOK COUNTY, IL

DATE: 3/26/2019 TIME: 11:23AM
IN: 0037-0001 RN: 00055030
DIS: 01 DIV: Criminal
CRN: 1119 CASHIER: SHARON CR#: 402

ATTORNEY NO: 00000

REF CASE NO: 19cr03104-01
REF OTHER:

CASE TOTAL: \$9,900.00
Bond Refund \$9,900.00
BOND BR BOND NUMBER: d-1375606
TOTAL BOND AMOUNT: \$10,000.00
REFUND AMOUNT: \$9,900.00
PAYEE: City Chgo
CHANGE \$0.00

RECEIPT 0001 OF 0001
TRANSACTION TOTAL: \$9,900.00

THANK YOU

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I verified the bail bond against the:

- ☐ Bail Bond Receipt
- ☐ CBR to Attorney
- ☐ Court Sheet
- ☐ Court Order
- ☐ Probation/Supervision Order
- ☐ This bail bond amount is equal to or greater than \$500. I have attached a copy of the court sheet.
- ☐ This bail bond amount is equal to or greater than \$5000. I have attached a copy of the court sheet, verified that a Court Clerk Bond Processor and a Manager have initialed the Bail Bond Receipt.

Reviewed/Verified by: _____

Date: _____

FOR INTERNAL USE ONLY:

Supervisor Initials

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CASH DEPOSIT BAIL BOND: CRIMINAL OR QUASI-CRIMINAL (10% OF BAIL, \$25.00 MINIMUM DEPOSIT)

D 1375606

ORIGIN OF BOND

USING AGENCY NO. SS

☐ Bail set by Rule of the Illinois Supreme Court OR

By

(PRINT NAME OF JUDGE)

(JUDGE'S NO.)

(OFFICE USE)

BAIL AMOUNT

\$ 1,000.00

00

100

DEPOSIT AMOUNT

\$ 100.00

00

100

DEFENDANT (Person Preparing Bond - Always complete this section)

Full Name

(PRINT)

(Last)

(First)

(MI)

Address

(PRINT)

Apt. No.

City and

State (PRINT)

Zip

Code

STATEMENT OF DEFENDANT: I understand and accept the terms and conditions set forth below and on the reverse side of this bail bond. I understand in all cases 10% of any amount posted up to a maximum of \$100.00 as bail is retained by the Clerk of the Court, pursuant to statute. Further, I hereby certify that I understand the consequences of failure to appear for trial as required.

ASSIGNMENT OF BAIL BOND BY THE DEFENDANT: I hereby authorize the return of the money posted above to the person shown on this bond as having provided money for my bail after all conditions of this bail bond have been met, or as ordered by the court.

Defendant's Signature

COURT COMPLAINT OR INDICTMENT NUMBER(S)

CHARGE

DISPOSITION

DISPOSITION entered by (Signature of Deputy Clerk)

Br. or Sub. CT

Court Date

Month / Day / Year

COURT APPEARANCE: Defendant named above shall appear in the Circuit Court of Cook County, Illinois located at:

Address (Number and Street)

City/Town/Village

Illinois

Branch No.

In Room No.

on

at

11:30 a.m. 1 p.m.

CONDITIONS OF BOND: The defendant is hereby released on the conditions as indicated below:

- ☒ Appear to answer the charge in court until discharge or final order of court.
- ☒ Obey all court orders and process; not leave this State without permission of court and report changes of address to the Clerk within 24 hours.
- ☒ Not commit any criminal offenses while awaiting final order in this case.
- ☒ If on appeal, prosecute the appeal, and surrender to custody if the judgment is affirmed or a new trial is ordered.
- ☐ Surrender (725 ILCS 5/110-10(a)(5)) OR not possess any firearms or dangerous weapons until final order in this case.
- ☐ Not contact or communicate with any complaining witnesses or members of their immediate families or:
- ☐ Not go to the area or premises of victims/complaining witnesses home, work, school or:
- ☐ Not to indulge in intoxicating liquors, illegal drugs or certain drugs, to-wit:

- ☐ Undergo medical or psychiatric treatment as ordered by the court.
- ☐ If you are charged with a criminal offense and the victim is a family or household member, you are ordered to refrain from all contact or communication with:

for a minimum of 72 hours following release, and further ordered to refrain from entering and/or remaining at the location of:

for a minimum of 72 hours following release.

- ☐ Reside with parents or in a foster home, attend school or nonresidential program for youths, contribute to his/her support at home or in a foster home, observe curfew set by court:
- ☐ Report to and remain under the pretrial supervision of such agency or third-party custodian as ordered by the court:
- ☐ Other conditions:

CONDITIONS - Continued on reverse side.

NOTICE TO PERSON PROVIDING BAIL MONEY OTHER THAN THE DEFENDANT

1. I understand that the money I have posted is for the bail for the defendant named on this bond in the above numbered case or cases.

2. I understand that even if the defendant follows all court orders, that this money may be ordered by the Judge to pay for the defendant's attorney fees, court costs, fines, fees and/or restitution to the victim, and that I may lose all or part of my money.

3. I understand that if the defendant fails to comply with the conditions reflected on this bond, I may lose all of my money should the court enter a forfeiture of bail order.

4. I understand in all cases 10% of any amount posted up to a maximum of \$100.00 as bail is retained by the Clerk of the Court, pursuant to statute.

Provider's Name (print):

Relationship to Defendant:

Address:

City:

State:

Zip:

Area Code/Telephone No.:

Provider's Signature:

a.m. ☐ p.m. Hour

Date 2/21/19

This bail bond form was prepared by:

Star

Police

(Signature of Peace Officer)

Dept. (CPD District No. or Suburban-City, Town, or Village)

Or Clerk of the Circuit Court of Cook County, by

(Signature of Deputy Clerk)

Loc.

(Branch or Suburban Court)

THREE
D 1375606

COURT FILE COPY

ATTACH THIS COPY TO THE COMPLAINT AND ARREST REPORT OR TO THE WARRANT AND FORWARD ALL PAPERS TO THE BRANCH OR HEADQUARTERS WHERE PERTINENT CASE IS ASSIGNED. COURT CLERK WILL ATTACH THIS COPY TO COURT FILE.

CCG N696 A-2.5M-10/08(83350067)

THE HONORABLE GORDON BROWN
CLERK OF THE CIRCUIT COURT
COOK COUNTY, IL

DATE: 3/26/2019 TIME: 11:23AM
TN: 0037-0001 RN: 00055030
DIST: 01 DIV: Criminal
CRMI-119 CASHIER: SHARONP CR#: 4.2

ATTORNEY NO: 00000

REF CASE NO: 19cr03104-01
REF OTHER:

CASE TOTAL: \$9,900.00
Bond Refund \$9,900.00
BOND OR BOND NUMBER: d-1375400
TOTAL BOND AMOUNT: \$10,000.00
REFUND AMOUNT: \$9,900.00
PAYEE: City Chgo
CHANGE \$0.00

RECEIPT 0001 OF 0001
TRANSACTION TOTAL: \$9,900.00

THANK YOU

FILE RECEIPT FOR CRIMINAL/TRAFFIC FINE(S)

Sheet # 0035		Defendant Sheet # 0002 OF 0002		CRIMINAL DISPOSITION SHEET			Branch/Room/Location 1735 304 STEVEN G. WALKINS 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0035							
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT JUSSIE		ATTORNEY RILEY SAFER HOLMES CANCEL		COURT DATE 03-14-2019		COURT CALL/TIME 2-0930 AM								
CB/DCN # 019771648		IR # 2397168		EM		BOND # 1375606		I C D <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>		BOND AMOUNT \$100,000.00						
CHARGES											COURT ORDER ENTERED		CODES			
C012 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE																
C013 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE																
C014 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE																
C015 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE																
C016 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE																
JUDGE:											JUDGE'S No.		RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:		VERIFIED BY:	

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

FILED
MAR 14 2019
DOROTHY BROWN
CLERK OF CIRCUIT COURT

PEOPLE OF THE STATE OF ILLINOIS)	
Plaintiff)	
)	
VS.	)	Case No. 19CR-3104
)	
Jussie Smollett)	
)	
Defendant(s))	

MOTION FOR PRE-TRIAL DISCOVERY
PURSUANT TO ILLINOIS SUPREME COURT RULE 413

TO: ATTORNEY OF RECORD

Now come the People of the State of Illinois, by KIMBERLY M. FOXX, State's Attorney of Cook County, by her assistant, Risa Lanier and moves this Honorable Court, pursuant to Illinois Supreme Court Rules 413(c), 413(d) and 415(b) to enter an Order directing the defendant and his attorney or attorneys:

1. To give written notice to the People of the State of Illinois of any defenses, affirmative or non-affirmative, which the defendant intends to assert at any hearing or at trial. If the defendant intended to assert the defense of Alibi he shall state in writing his location at the time of the alleged offense and the identity of witnesses to such alibi defense as in "2" below. (Having notice of such defense, the People will furnish prior to trial the names and addresses of any additional witnesses to be called to rebut said alibi defense. Rule 413(d).
2. To furnish in writing to the People of the State of Illinois, the names and last known addresses of persons the defendant intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions of such witnesses known to the defendant or his attorneys. Rule 413(d).
3. To inform the People of the State of Illinois, and to permit the inspection and copying or photographing of any reports, results or testimony relative thereto, of physical or mental examinations or of scientific tests,

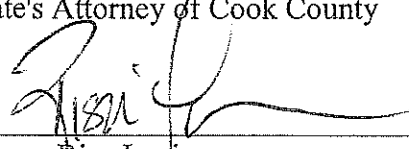
experiments, or comparisons, and any other reports of statements of experts which defense counsel has in his possession or control, including, but not limited to, statements made by the defendant contained in reports, any part of which defense counsel intends to use at a hearing or trial. Rule 413(c)

4. To furnish the People of the State of Illinois with any books, papers, documents, photographs, or tangible objects the defendant or his attorneys intend to use as evidence or impeachment at a hearing or trial. Rule 413(d)

5. To notify the People of the State of Illinois of the evidence of any material or information subject to disclosure which is discovered subsequent to compliance with any other orders entered pursuant to Illinois Supreme Court Rules. 413(c) and 413(d) Rule 415(b)

6. To furnish the People of the State of Illinois with any notes, tape recordings memoranda or other evidence of any interviews of any of the witnesses listed in the People's Answer to Discovery or named in any other report. People v. Lego, 116 Ill.2d 323, 107 Ill. Dec.647 (1987).

KIMBERLY M. FOXX
State's Attorney of Cook County


by: Risa Lanier
Assistant State's Attorney

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

FILED
MAR 14 2018
DOROTHY BROWN
CLERK OF CIRCUIT COURT

THE PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
v.) No. 19 CR 3104
)
JUSSIE SMOLLETT,)
)
Defendant.)

DEFENDANT'S FIRST MOTION FOR DISCOVERY

Defendant, Jussie Smollett, by his attorneys, Geragos & Geragos, APC and Riley Safer Holmes & Cancila LLP, requests disclosure and production of the following materials and information, which are essential and material to his defense within the State's possession or control, under Illinois Supreme Court Rule 412, the Sixth and Fourteenth Amendments of the United States Constitution, and Article 1, Section 8, of the Constitution of the State of Illinois:

1. The names, addresses, telephone numbers, and birthdates of anyone who the State may call as witnesses at any hearing or trial, together with their written or recorded statements (including drafts and notes), memoranda containing substantially verbatim reports of their statements (including drafts and notes), a list of memoranda reporting or summarizing their statements, and *in camera* review and disclosure of all other materials reporting or summarizing their statements (including drafts and notes).

2. Any written or recorded statements and the substance of any statements made by the defendant (including drafts and notes), and a list of witnesses with their names, addresses, telephone numbers, and birthdates to the making and acknowledgment of the statements.

3. Any transcripts and minutes of the grand jury, including testimony of all witnesses presented to the grand jury.

4. Any reports or statements of experts, including results of physical or mental examinations and of scientific tests, experiments, or comparisons, a statement of qualifications of the experts, and an opportunity to interview the experts.

5. Any books, papers, documents, photographs, or tangible objects which the State may use at any hearing or trial or which were obtained from or belong to the defendant.

6. Any records of criminal or civil actions of anyone who the State may call as witnesses at any hearing or trial which involve the State of Illinois, the Federal Government, or any other authorities of the State, including any records required under *Giglio v. United States*, 405 U.S. 150 (1972).

7. The names, addresses, telephone numbers, and birthdates of anyone the State may call in rebuttal, and a specific statement as to the substance of the testimony the witnesses may give.

8. Any surveillance (including wiretapping) of conversations to which the defendant was a party, or of his premises.

9. Any police reports and records connected to the investigation, mentioned in the indictment, or related to this case, including drafts, notes, and internal records.

10. Any recordings, audio, and video of anybody or anything connected to the investigation, mentioned in the indictment, or related to this case.

11. Any recordings, audio, and video of Abimbola "Abel" Osundairo and Olabinjo "Ola" Osundairo, including surveillance and camera systems while in custody.

12. Any records, reports, and communications from or with Gloria V. Schmidt, Jorge Antonio Rodriguez, The Gloria Law Group, or their agents connected to the investigation, mentioned in the indictment, or related to this case.

13. Any physical property that the State may use at any hearing or trial, including (a) a list of all physical property in the State's possession or control; (b) the date and time the property was acquired; (c) the location from which the property was acquired; (d) what person or persons first took the property into their possession; (e) reports and records made by the State pertaining to the property, including scientific reports, etc.; and (f) an opportunity to inspect the property.

14. Any certified copies of criminal or juvenile convictions the State may use for any purpose, and the time and jurisdiction of the convictions.

15. Any prior acts or convictions the State may use for proof of knowledge, intent, lack of mistake, or motive, including any "prior bad acts" or other evidence which tends to reflect upon character.

16. A copy of any legal process that was used to acquire evidence or information by the execution of legal process, including requests for judicial orders permitting the use of eavesdropping devices, electronic surveillance, wiretapping, or recording of any conversations of defendant or anyone who the State may call as witnesses at any hearing or trial.

17. Any records of cell phone activity, text messages, emails, and social media activity of defendant or anyone who the State may call as witnesses at any hearing or trial.

18. A list of the names, addresses, telephone numbers, and birthdates of anyone who might be or would be favorable to the defense, including anyone who has knowledge pertaining to the case, mentioned in the indictment, or has been interviewed by the State (whether the witness may testify or not).

19. Any physical, scientific, demonstrative, or any other type of evidence that might be or would be favorable to the defense, including the names, addresses, and telephone numbers of experts.

20. A list of anyone who the State has interviewed, their proffer agreements, their written or recorded statements (including drafts and notes), and the written

summaries of their statements (including drafts and notes), including all evidence requiring disclosure under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972).

21. Any immunity agreements with anyone who the State may call as witnesses at any hearing or trial, including all evidence requiring disclosure under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972).

22. A disclosure of any consideration of any kind given to any witness from the State, any law enforcement or prosecution agency, or anyone connected to the witness who the State knows about, in exchange for, or in relation to, their testimony which would tend to show interest, bias, or motive of the witness, including work history, past and present mental and emotional conditions, past and present alcohol or drug use, payments of money or promises of any benefits of any kind, either now or in the future.

23. Any disciplinary files of the Chicago Police Department, the Independent Police Review Authority, and the Civilian Office of Police Accountability for anyone who the State may call as witnesses at any hearing or trial, including any sustained finding of misconduct which may reflect upon truthfulness, lack of integrity in connection with official duties, or possible bias; any finding of a lack of candor during an administrative inquiry; and any credible allegation of misconduct which may reflect

truthfulness, lack of integrity in connection with official duties, or possible bias; and any investigations which are subject of confidential or open investigations.

24. Any records, reports, and communications of the Civilian Office of Police Accountability connected to the investigation or related to this case, including drafts and internal records.

25. Any records, reports, and communications of the Chicago Police Department's Bureau of Internal Affairs connected to the investigation or related to this case, including drafts and internal records.

26. Any records, reports, and communications of the City of Chicago's Office of Inspector General connected to the investigation or related to this case, including drafts and internal records.

27. Any records, reports, and communications of the Superintendent of the Chicago Police Department connected to the investigation or related to this case, including drafts and internal records.

28. Any records, reports, and communications of the United States Attorney's Office connected to the investigation or related to this case, including drafts and internal records.

29. Any records, reports, and communications of the Federal Bureau of Investigation connected to the investigation or related to this case, including drafts and internal records.

30. Any records, reports, and communications of the Cook County State's Attorney's Office connected to the investigation or related to this case, including the Investigations Bureau.

31. Any other information that might be favorable to the defendant under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972).

32. An order against the State to amend their answer as may be required by new or modified information in their possession, knowledge, or control under Supreme Court Rule 415(b).

WHEREFORE, Defendant, Jussie Smollett, by his attorneys, Geragos & Geragos, APC and Riley Safer Holmes & Cancila LLP, requests disclosure and production of these materials and information, which are essential and material to his defense within the State's possession or control, under Illinois Supreme Court Rule 412, the Sixth and Fourteenth Amendments of the United States Constitution, and Article 1, Section 8, of the Constitution of the State of Illinois.

Dated: March 14, 2019

Respectfully submitted,

/s/ Patricia Brown Holmes

Patricia Brown Holmes

Ronald S. Safer

Brian O. Watson

Riley Safer Holmes & Cancila LLP

Three First National Plaza

70 W Madison St, Ste 2900

Chicago, Illinois 60602

(312) 471-8700

pholmes@rshc-law.com

rsafer@rshc-law.com

bwatson@rshc-law.com

Firm No. 60128

Mark J. Geragos

Tina Glandian

Geragos & Geragos, APC

644 South Figueroa Street

Los Angeles, CA 90017-3411

(213) 625-3900

&

Geragos & Geragos, APC

256 5th Avenue

New York, NY 10010

mark@geragos.com

tina@geragos.com

CERTIFICATE OF SERVICE

The undersigned attorney certifies on March 14, 2019, these papers were served to the attorneys of record.

Joseph Magats
Cook County State's Attorney's Office
69 W. Washington St,
Chicago, IL 60602
joseph.magats@cookcountyil.gov

Risa Lanier
Cook County State's Attorney's Office
2650 S. California Avenue, 11D40
Chicago, IL 60608
risa.lanier@cookcountyil.gov

/s/ Brian O. Watson

Brian O. Watson

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
v.	)	No. 19 CR 3104
)	
JUSSIE SMOLLETT,)	
)	
Defendant.)	

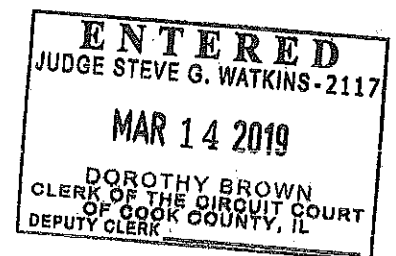
ORDER FOR DISCOVERY

This cause coming before the Court on Defendant's First Motion For Discovery,
due notice having been given and the Court being fully advised in the premises, IT IS
HEREBY ORDERED that Defendant's First Motion For Discovery is granted.

IT IS SO ORDERED.

ENTERED:

Circuit Court of Cook County
Criminal Division



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,

v.

No. 19 CR 3104JUSSIE SMOLLETT

ORDER

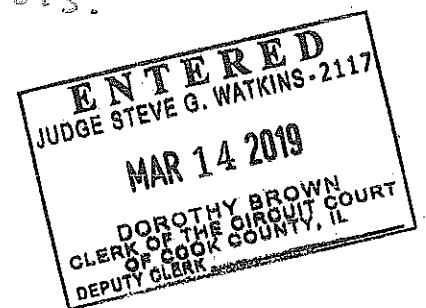
IT IS HEREBY ORDERED THAT DEFENDANT'S BOND IS MODIFIED TO PERMIT THE DEFENDANT TO TRAVEL TO MEET WITH HIS ATTORNEYS IN NEW YORK AND CALIFORNIA WITHOUT FURTHER ORDER OF THIS COURT, PROVIDED THAT DEFENDANT PROVIDES NOTICE OF THE TRAVEL TO THE STATE AND PRETRIAL SERVICES OFFICER NO LESS THAN 48 HOURS IN ADVANCE OF THE TRAVEL AND 24 HOURS AFTER RETURN TO ILLINOIS.

Atty. No.: 60128Name: GERAGOS & GERAGOS, APC
RILEY SAFFER HOLMES & CANLUP ENTERED:Atty. for: JUSSIE SMOLLETTAddress: 70W MADISON STE 2900City/State/Zip: CHICAGO, IL 60602Telephone: 312 / 471-8700

Dated: _____

Judge _____

Judge's No. _____



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

SMOLLETT, T19110327101

MARCH 14, 2019

PRETRIAL CASE SUMMARY REPORT FOR COURT

NAME: SMOLLETT, JUSSIE

DOCKET #: 19CR0310401

DATE OF BIRTH: 06/21/1982

CASE INITIATION: 02/21/2019

OFFICER: QUICK

SUPERVISOR: DIXON

IR #: 2397168

CHARGE: FALSE REPORT OF OFFENSE CHARGE TYPE: FEL

FILED

ISB #: 2397168

FBI #: 679854TC5

MAR 14 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

BOND INFORMATION

BOND TYPE: D BOND AMOUNT: 100,000.00 (02/21/2019) JUDGE: JOHN F LYKE, JR.

BOND CONDITIONS:

MET:

DATE:

PRETRIAL FEES

()

02/21/2019

Defendant Must Pay \$50.00 Per Month.

AVOID ALL CONTACT W/WITNESSES

()

02/21/2019

No Contact With Abel Or Ola Osundairo.

SURRENDER ALL PASSPORTS TO PTS

()

02/21/2019

MAILING ADDRESS VERIFICATION

()

02/21/2019

LEVEL M MONITORING

()

02/21/2019

ASSESSMENT INFORMATION

ASSESSMENT DATE: 02/21/2019

PSA EVAL LEVEL: M

*** PSA ONLY ***

0=Not Assessed

M=MONITORING - Initial Contact, Criminal Record Checks, Court Date Reminders

1=MONITORING Level + Monthly In-Person Contacts

2=MONITORING Level + 2 Times Per Month In-Person Contacts

3=MONITORING + 4 Times Per Month Alternate In-Person and By-Phone Contacts

CURRENT ADDRESS

(01/01/2017) 340 E NORTH WATER ST, #3900 CHICAGO IL 60611 (310) 993-1649

OTHER INFO:

CURRENT EMPLOYMENT

EMPLOYED?: Y

{CURR- } 20TH CENTURY FOX
.00 ACTOR

EDUCATION

NOTES:

NOTES:

SCHEDULED EVENTS

03/14/2019 RETURN COURT DATE CRIMINAL COURT BLDG. 9:30 A.M.
2600 South California Avenue - Room JUDGE: Steven Watkins

MOST CURRENT EVENT RECORDS

(Reverse Chronological Order)

03/14/2019 ARREST CHECK Watkins
ACTION: No New Arrests
NOTE: Per Clerks and Iclear

03/13/2019 COURT DATE NOTICE TO DEF QUICK
ACTION: Left Message With Machine.

03/12/2019 ARREST CHECK QUICK
ACTION: No New Arrests
NOTE: Per Clerks Iclear Leads Traffic

03/12/2019 RETURN COURT DATE Watkins
ACTION: Continued
REASON: Per Judges Order
NOTE: Judge Martin Granted Permission For the Media
To Be Present On 3-14-19.

03/12/2019 COLLATERAL CONTACT Watkins
ACTION: Completed
NOTE: The Defendant's Case Was Granted Permission To
Receive Media Coverage By Judge Martin.
The Case Is Continued To 3-14-19 In Branch 98,
Where Judge Martin Will Assign the Case To
A Permanent Courtroom and Judge. the Judge
Assigned To the Case Will Then Decide Whether
Permission Will Be Granted For Media Coverage
To Remain Present For the Ongoing Court
Proceedings.

02/28/2019 COLLATERAL CONTACT QUICK
ACTION: Completed
NOTE: P.o. Called the Deft. the Call Went To Voicemail
And the Mailbox Was Full. P.o. Called the Deft.'s
Attorney, Tina Gladini, 818-395-7975. P.o. Wanted
To Contact the Deft. To Provide Him With
Instructions For Mailing In the \$50 Monthly
Pre-Trial Fee. P.o. Emailed the Instructions
To the Deft.'s Attorney and Was Told the
Information Would Be Given To the Deft.

02/25/2019 REC'D CALL FROM CLIENT QUICK
ACTION: Completed
NOTE: P.o. Received A Telephone Call From the Deft.'s
Attorney, Tina Gladini, 818-395-7975. the
Deft. Was Also On the Line. P.o. Reviewed the
Conditions of Bond. the Deft. Verified His
Address and Telephone. the Deft.'s Attorney
Inquired About the Deft. Leaving the State
Of Illinois. After Discussion With Supervisor
Dixon, P.o. Explained That the Deft. Is Not
Allowed To Leave the State Without Permission
From the Court. This Is Indicated On the Bond
Slip. P.o. Was Informed That They Would Be
Motioning the Case Up Today To Request Permission.
P.o. Stated That Pre-Trial Will Follow All Court
Orders

02/25/2019 REC'D FILE FOLDER. QUICK
ACTION: Completed

02/25/2019 ARREST CHECK QUICK
ACTION: No New Arrests
NOTE: Per Clerks Iclear Leads

02/25/2019 CUSTODY CHECK QUICK
ACTION: Completed
NOTE: Per Inmate Locator, Not In Custody



OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

**EMC COVERSHEET
For
REQUEST FOR EXTENDED MEDIA COVERAGE**

Date: March 14, 2019

TO: Pat Milhizer, Media Liaison
Office of the Chief Judge
Phone: (312) 603-5160
Fax: (312) 603-4938
EMC mail: emc@cookcountyl.gov

FR: A. Robinson, CDC/J. Jackson, ACDC
Office of the Clerk of the Circuit Court
Phone: (773) 674-3159/ (773) 674-3678
Fax: (773) 674-6710
EMC Mail: emc@cookcountycourt.com

Hearing Date: April 17, 2019

Judge: Honorable Judge Steven Watkins

Courtroom: 304 **Time:** 9:30am

Defendant(s) Name:

JUSSIE SMOLLETT

Defendant(s) Case No:

19CR0310401

Service List

- Office of the Presiding Judge LeRoy Martin, Jr. -Criminal Division
- Honorable Judge Steven Watkins-Criminal Division
- Office of the Cook County State's Attorney-Criminal Division
- Kelly Barnicle, On-Site Media Coordinator, WGN TV
kbarnicle@wgntv.com (773) 883-3203

Law Firm of: Riley, Safer, Holmes, Cancila (Atty #60128)
3 1st National Plaza
Chicago IL 60602
(312) 955-0545

Tina Glandian, Attorney
Geragos & Geragos Law Firm
256 5th Avenue
New York, New York 10001

Total Pages Sent: 2

cc: Renee Banks, Associate Clerk-Criminal/Juvenile Bureau
Janice Jackson, Acting Assistant Chief Deputy Clerk

19 MAR 14 PM 4:52
CLERK OF THE CIRCUIT COURT
COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
DEPARTMENT, DISTRICT/DIVISION

People

Plaintiff(s)/Petitioner(s)

v.

Case No. 19 cr 0310401

Jussie Smollett

Defendant(s)/Respondent(s)

REQUEST FOR EXTENDED MEDIA COVERAGE

The undersigned media coordinator hereby states as follows:

1. This request is made on behalf of all news media organizations.
2. I hereby request consent to provide extended media coverage of the proceeding scheduled on the 17 day of April, 2019 at the Leighton Criminal Courthouse
2600 S. California, Chicago, Illinois.
3. Extended media coverage is requested for:
☐ the proceeding described above
☐ the proceeding described above and all continuances of that proceeding
☒ the proceeding described above and all future proceedings in this case, including continuances
4. The type of extended media coverage requested is as follows (Include type of equipment, number of personnel, live or delayed publication, audio or video, etc.):

request for 2 video camera's, 2 personnel (WGN TV and NBC Camera operators) 2 tripods, 4 mics w/cable and box to feed proceeding back live if permitted. One still photographer with 2 camera's (one for backup if broke) with lenses, laptop, blimp, electrical cord and mono-pod.

5. The on-site media coordinator for this proceeding will be: Name Kelly Barnicle
News Media Organization: WGN TV
Address: 2501 W. Bradley Place
Telephone: 773 883 3203 Email Address: kbarnicle@wgntv.com
6. I will abide by all the provisions of the Illinois Supreme Court's *Policy for Extended Media Coverage in the Circuit Courts of Illinois* and the Cook County Circuit Court's General Administrative Order 2014-12 on extended media coverage, and perform all duties required of me as the media coordinator.
7. This request for extended media coverage is filed (check the appropriate box):
☒ at least fourteen (14) days in advance of the proceeding identified above; or
☐ less than fourteen (14) days in advance of the proceeding identified above because

Kelly Barnicle

Signature

Kelly Barnicle

Print Name

News Media Organization: WGN TV
Address: 2501 W. Bradley Place Chicago, IL 60618Telephone: 773 883 3203 Email Address: wgntvinfo@tribunemedia.com

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,

v.

JUSSIE SMOLLETT,

Defendant.

Case No. 19 CR 0310401

Steven G. Watkins,
Judge Presiding

**ORDER SETTING HEARING
ON REQUEST FOR EXTENDED MEDIA COVERAGE**

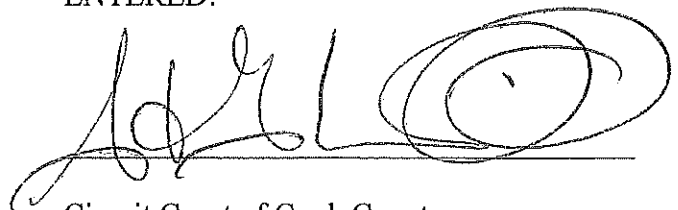
PLEASE BE ADVISED that on March 14, 2019, a Request for Extended Media Coverage was filed in the above-entitled cause for the proceeding set for April 17, 2019. The request seeks to record and broadcast the proceedings using television cameras and/or still photography cameras.

IT IS HEREBY ORDERED:

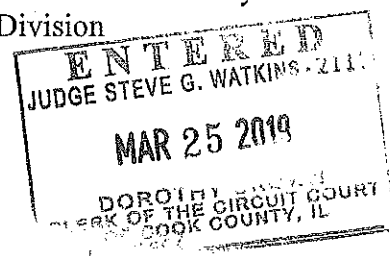
1. A hearing on the Request for Extended Media Coverage will be held on April 2, 2019 at 9:30 a.m. before this Court in **Courtroom 304** of the George N. Leighton Criminal Court Building, 2650 S. California Avenue, Chicago, Illinois.
2. Any interested party or witness who objects to the request must file a written objection using the form attached to this Order in the **Office of the Clerk of the Circuit Court of Cook County – Criminal Division, 2650 S. California Avenue, Room 526, Chicago, Illinois 60608** **no later than 4:30 p.m. on March 29, 2019.**
3. All Attorneys of Record shall serve a copy of this Order and attached Objection Form to each witness they intend to call at trial or at future proceedings in this cause.

Dated:

ENTERED:



Circuit Court of Cook County
Criminal Division



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS

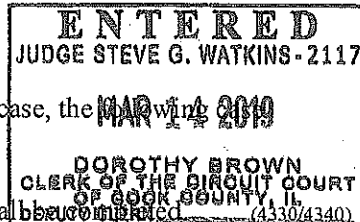
-VS-

CASE NO.

Jessie Smollett
Defendant

CASE MANAGEMENT ORDER

(778-Entered / 779-Amended)



IT IS HEREBY ORDERED that to provide for the orderly and timely disposition of this case, the following management schedule and requirements shall govern:

- 6-6-19 STATE'S DISCOVERY: The State's discovery production shall be completed. (4331/4341)
- 8-8-19 ANSWER/MOTIONS: Defendant's Answer and all pretrial motions shall be filed. (4331/4341)
- 9-5-19 FINAL PRETRIAL CONFERENCE: The final pretrial conference will be held. (4332/4342)
- 9-20-19 DISPOSITION TARGET: Deadline for disposition of the case. (4333/4343)

Track	Class	Discovery	Answer /Pretrial Motions	Final Pretrial Conference	Disposition
I	3 & 4	< 2 Months	< 3 Months	< 5 Months	< 6 Months
II	1 & 2	< 3 Months	< 5 Months	< 8 Months	< 9 Months
III	X	< 4 Months	< 6 Months	< 10 Months	< 12 Months
IV	M	< 12 Months	< 16 Months	< 20 Months	< 24 Months

- EVALUATIONS: All ADES, TASC, MENTAL HEALTH, SEX OFFENDER, PTI and SPECIALTY PROGRAM evaluations must be completed by the deadline for the Defendant to file an Answer/Pretrial Motions. The trial will not be delayed due to an untimely request for an evaluation.
- 402 CONFERENCES: Absent good cause, 402 Conferences are not held after Final Pretrial Conference deadline.
- PRETRIAL MOTIONS: All pretrial motions shall be heard prior to the Final Pretrial Conference. All routine motions in limine and proposed jury instructions must be presented by both sides at the Final Pretrial Conference.
- SPEEDY TRIAL: This Order does not affect the Defendant's right to demand a Speedy Trial nor the State's continuing legal obligations under the rules governing discovery.
- CONTINUANCES: Unless requested at a status hearing, the Court will not grant a continuance of a hearing or trial without a written motion, supported by affidavit. The case must be advanced for the continuance motion to be heard prior to the subject hearing/trial date.
- MODIFICATIONS: This Order is subject to change at the discretion of the Court or upon good cause shown. Agreements between counsel shall not affect any deadline in this order, absent court approval.
- VIOLATIONS: Counsel must notify the Court of discovery violations by filing a written motion to compel within the discovery period. These deadlines apply whether or not the case is on the court call that day. Governing court rules apply to deadlines that fall on a weekend or holiday. A violation of this Order could subject counsel to sanctions.

ENTERED:

Judge

Judge No. 2117

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

FILED

MAR 14 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
v.	)	No. 19 CR 3104
	)	(Municipal No. 19-110327101)
JUSSIE SMOLLETT,)	
)	
Defendant.)	

MOTION FOR WITHDRAWAL OF ATTORNEY

Defendant, Jussie Smollett, by his attorneys, Geragos & Geragos, APC and Riley Safer Holmes & Cancila LLP, requests leave to withdraw Jack B. Prior of Hart McLaughlin & Eldridge as an attorney of record and states as follows:

1. Jack B. Prior entered an initial appearance as an attorney of record for Mr. Smollett.
2. Other attorneys, including Mark Geragos and Tina Glandian of Geragos & Geragos, APC, and Patricia Brown Holmes, Ronald S. Safer, and Brian O. Watson of Riley Safer Holmes & Cancila LLP, have since entered their appearances and will continue to represent Mr. Smollett as attorneys of record.
3. Jack B. Prior's withdrawal will not cause delay or prejudice.

WHEREFORE, Defendant, Jussie Smollett, by his attorneys, Geragos & Geragos and Riley Safer Holmes & Cancila LLP, requests leave to withdraw Jack B. Prior of Hart McLaughlin & Eldridge as an attorney of record.

Dated: March 14, 2019

Respectfully submitted,

/s/ Jack B. Prior

Jack B. Prior
Hart McLaughlin & Eldridge
22 W Washington St, #1600
Chicago, IL 60602
(312) 955-0545
jprior@hmelegal.com

/s/ Patricia Brown Holmes

Patricia Brown Holmes
Ronald S. Safer
Brian O. Watson
Riley Safer Holmes & Cancila LLP
Three First National Plaza
70 W Madison St, Ste 2900
Chicago, Illinois 60602
(312) 471-8700
pholmes@rshc-law.com
rsafer@rshc-law.com
bwatson@rshc-law.com
Firm No. 60128

/s/ Tina Glandian

Mark J. Geragos
Tina Glandian
Geragos & Geragos, APC
644 South Figueroa Street
Los Angeles, CA 90017-3411
(213) 625-3900
&
Geragos & Geragos, APC
256 5th Avenue
New York, NY 10010
mark@geragos.com
tina@geragos.com

CERTIFICATE OF SERVICE

The undersigned attorney certifies on March 14, 2019, these papers were served to the attorneys of record.

Joseph Magats
Cook County State's Attorney's Office
69 W. Washington St,
Chicago, IL 60602
joseph.magats@cookcountyil.gov

Risa Lanier
Cook County State's Attorney's Office
2650 S. California Avenue, 11D40
Chicago, IL 60608
risa.lanier@cookcountyil.gov

/s/ Brian O. Watson

Brian O. Watson

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION

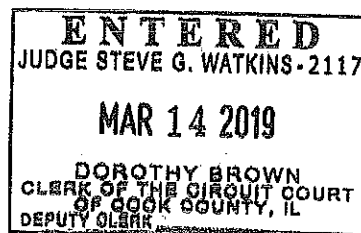
THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
v.	)	No. 19 CR 3104
	)	(Municipal No. 19-110327101)
JUSSIE SMOLLETT,)	
)	
Defendant.)	

ORDER OF WITHDRAWAL OF ATTORNEY

This cause coming before the Court on the Motion for Withdrawal of Attorney, due notice having been given and the Court being fully advised in the premises, IT IS HEREBY ORDERED THAT:


1. The Motion for Withdrawal of Attorney is granted; and
2. Jack B. Prior is given leave and deemed *instante* to withdraw his appearance for Defendant, Jussie Smollett.

IT IS SO ORDERED.




ENTERED

Circuit Court of Cook County
Criminal Division

Sheet # 0058	Defendant Sheet # 0001 OF 0002	CRIMINAL DISPOSITION SHEET		Branch/Room/Location 1701 101 LEROY K. MARTIN JR. 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0058	
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT JUSSIE		ATTORNEY		COURT DATE 03-12-2019	COURT CALL/TIME 1-0900 AM
CB/DCN # 019771648	IR # 2397168	EM	BOND # 1375606	I	C	D	BOND AMOUNT \$100,000.00
CHARGES							
C001 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C002 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C003 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C004 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C005 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C006 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C007 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C008 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C009 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C010 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C011 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
JUDGE: 	JUDGE'S No.	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:				VERIFIED BY:	

Att'y App allowed
m & dia counseling
EO 3-14-19 allowed
only.

Sheet # 0058	Defendant Sheet # 0002 OF 0002	CRIMINAL DISPOSITION SHEET		Branch/Room/Location 1701 101 LEROY K. MARTIN JR. 100 CHICAGO POLICE DEPT		CLERK USE ONLY 0058	
CASE NUMBER 19CR0310401		DEFENDANT NAME SMOLLETT JUSSIE		ATTORNEY		COURT DATE 03-12-2019	COURT CALL/TIME 1-0900 AM
CB/DCN # 019771648	IR # 2397168	EM	BOND # 1375606	I	C	D	BOND AMOUNT \$100,000.00
CHARGES							
C012 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C013 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C014 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C015 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
C016 720-5/26-1(A) (4) FALSE REPORT OF OFFENSE							
JUDGE:  JUDGE'S No. _____							
RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK: _____ VERIFIED BY: _____							

Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19-CR-3104

v.

Charge

Jussie Smollett

720 ILCS 5/26-1(a)(4)

Disorderly conduct

Defendant(s)

APPEARANCE

The undersigned, as attorney, enters the appearance of

Jussie Smollett

Defendant(s) in the above entitled cause.

/s/ Ronald S. Safer

Attorney

Atty. No.: 6186143, Firm No. 60128

Atty Name: Ronald S. Safer, Riley Safer Holmes & Cancila LLP

Atty. for: Jussie Smollett

Address: 70 W Madison St, Suite 2900

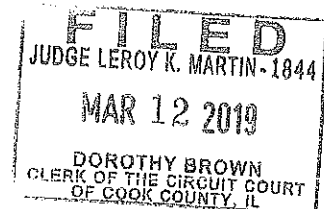
City: Chicago State: IL

Zip: 60602

Telephone: (312) 471-8700

Primary Email: rsafer@rshc-law.com

19 MAR 11 AM 10:50
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, ILL.



Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19-CR-3104

v.

Charge

Jussie Smollett

720 ILCS 5/26-1(a)(4)

Disorderly conduct

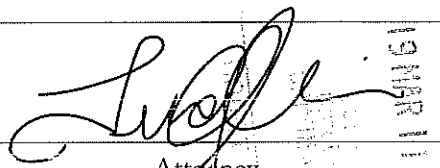
Defendant(s)

APPEARANCE

The undersigned, as attorney, enters the appearance of

Jussie Smollett

Defendant(s) in the above entitled cause.


Attorney
19 MAR 11 AM 10:50
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

Atty. No.: 707 ARDC Asgmtt

Atty Name: Tina Glandian, Geragos & Geragos

Atty. for: Jussie Smollett

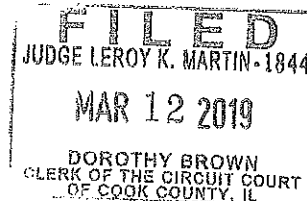
Address: 256 5th Avenue

City: New York State: NY

Zip: 10001

Telephone: (213) 625-3900

Primary Email: tina@geragos.com



Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19-CR-3104

Charge

720 ILCS 5/26-1(a)(4)

Disorderly conduct

Jussie Smollett

v.

Defendant(s)

APPEARANCE

The undersigned, as attorney, enters the appearance of

Jussie Smollett

Defendant(s) in the above entitled cause.

Attorney

Atty. No.: 707 ARDC Asgmtt

Atty Name: Mark J. Geragos, Geragos & Geragos

Atty. for: Jussie Smollett

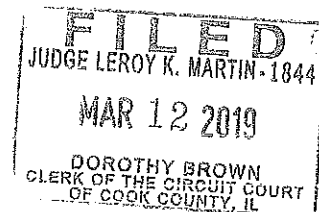
Address: 644 South Figueroa Street

City: Los Angeles State: CA

Zip: 90017

Telephone: (213) 625-3900

Primary Email: mark@geragos.com



Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19-CR-3104

Charge

720 ILCS 5/26-1(a)(4)

Disorderly conduct

v.

Jussie Smollett

Defendant(s)

APPEARANCE

The undersigned, as attorney, enters the appearance of

Jussie Smollett

Defendant(s) in the above entitled cause.

/s/ Patricia Brown Holmes

Attorney

Atty. No.: 6194645, Firm No. 60128

Atty Name: Patricia Brown Holmes, Riley Safer Holmes & Cancila LLP

Atty. for: Jussie Smollett

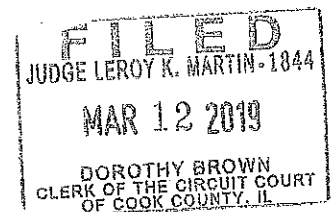
Address: 70 W Madison St, Suite 2900

City: Chicago State: IL

Zip: 60602

Telephone: (312) 471-8700

Primary Email: pholmes@rshc-law.com



19 MAR 11 AM 10:51
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, ILL.

Appearance

(01/29/18) CCCR N114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No. 19-CR-3104

v.

Charge

Jussie Smollett

720 ILCS 5/26-1(a)(4)

Disorderly conduct

Defendant(s)

3-14-19

APPEARANCE

The undersigned, as attorney, enters the appearance of

Jussie Smollett

Defendant(s) in the above entitled cause.

/s/ Brian O. Watson

Attorney

Atty. No.: 6304248, Firm No. 60128

Atty Name: Brian O. Watson, Riley Safer Holmes & Cancila LLP

Atty. for: Jussie Smollett

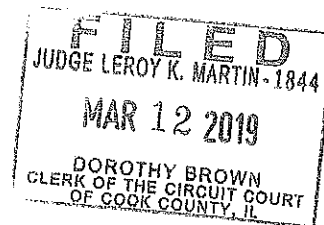
Address: 70 W Madison St, Suite 2900

City: Chicago State: IL

Zip: 60602

Telephone: (312) 471-8700

Primary Email: bwatson@rshc-law.com



SMOLLETT, T19110327101

MARCH 12, 2019

PRETRIAL CASE SUMMARY REPORT FOR COURT

NAME: SMOLLETT, JUSSIE

DOCKET #: 19110327101

DATE OF BIRTH: 06/21/1982

CASE INITIATION: 02/21/2019

OFFICER: QUICK

SUPERVISOR: DIXON

IR #: 2397168

CHARGE: FALSE REPORT OF OFFENSE CHARGE TYPE: FEL

ISB #: 2397168

FBI #: 679854TC5

BOND INFORMATION

BOND TYPE: D BOND AMOUNT: 100,000.00(02/21/2019) JUDGE: JOHN F LYKE, JR.

BOND CONDITIONS:

MET:

DATE:

PRETRIAL FEES

()

02/21/2019

Defendant Must Pay \$50.00 Per Month.

AVOID ALL CONTACT W/WITNESSES

()

02/21/2019

No Contact With Abel Or Ola Osundairo.

SURRENDER ALL PASSPORTS TO PTS

()

02/21/2019

MAILING ADDRESS VERIFICATION

()

02/21/2019

LEVEL M MONITORING

()

02/21/2019

ASSESSMENT INFORMATION

ASSESSMENT DATE: 02/21/2019

PSA EVAL LEVEL: M

*** PSA ONLY ***

0=Not Assessed

M=MONITORING - Initial Contact, Criminal Record Checks, Court Date Reminders

1=MONITORING Level + Monthly In-Person Contacts

2=MONITORING Level + 2 Times Per Month In-Person Contacts

3=MONITORING + 4 Times Per Month Alternate In-Person and By-Phone Contacts

CURRENT ADDRESS

(01/01/2017) 340 E NORTH WATER ST, #3900 CHICAGO I60611 (310)993-1649

OTHER INFO:

CURRENT EMPLOYMENT

EMPLOYED?: Y

{CURR- } 20TH CENTURY FOX
.00 ACTOR

EDUCATION

NOTES:

NOTES:

SCHEDULED EVENTS

03/14/2019 RETURN COURT DATE BRANCH 98 11:30 A.M.
2600 South California, Room 101 JUDGE: Presiding Judge

MOST CURRENT EVENT RECORDS

(Reverse Chronological Order)

03/12/2019 ARREST CHECK QUICK
 ACTION: No New Arrests
 NOTE: Per Clerks Iclear Leads Traffic

02/28/2019 COLLATERAL CONTACT QUICK
 ACTION: Completed
 NOTE: P.o. Called the Deft. the Call Went To Voicemail And the Mailbox Was Full. P.o. Called the Deft.'s Attorney, Tina Gladini, 818-395-7975. P.o. Wanted To Contact the Deft. To Provide Him With Instructions For Mailing In the \$50 Monthly Pre-Trial Fee. P.o. Emailed the Instructions To the Deft.'s Attorney and Was Told the Information Would Be Given To the Deft.

02/25/2019 REC'D CALL FROM CLIENT QUICK
 ACTION: Completed
 NOTE: P.o. Received A Telephone Call From the Deft.'s Attorney, Tina Gladini, 818-395-7975. the Deft. Was Also On the Line. P.o. Reviewed the Conditions of Bond. the Deft. Verified His Address and Telephone. the Deft.'s Attorney Inquired About the Deft. Leaving the State Of Illinois. After Discussion With Supervisor Dixon, P.o. Explained That the Deft. Is Not Allowed To Leave the State Without Permission From the Court. This Is Indicated On the Bond Slip. P.o. Was Informed That They Would Be Motioning the Case Up Today To Request Permission. P.o. Stated That Pre-Trial Will Follow All Court Orders

02/25/2019 REC'D FILE FOLDER. QUICK
 ACTION: Completed

02/25/2019 ARREST CHECK QUICK
 ACTION: No New Arrests
 NOTE: Per Clerks Iclear Leads

02/25/2019 CUSTODY CHECK QUICK
 ACTION: Completed
 NOTE: Per Inmate Locator, Not In Custody

02/25/2019 COURT DATE NOTICE TO DEF QUICK
 ACTION: Defendant Contacted

02/22/2019 CALLED CLIENT DIXON
 NOTE: Smollett T19110327101. This Sup Called Deft At The Number Provided, 310.993.1649, and Left A Message On the Voicemail For Deft To Call This Sup Back At 773.674.3674 To Review Defts Conditions of Bond. This Sup Also Left Defts Next Court Date Information of March 14, 2019 @ 11:30 Am At 26th & Cal Room 101. Deft Given the Officer Assigned To Case, Officer Quick, Name and Phone Number.

02/22/2019 ASSIGN SUPERVISOR DIXON
 02/22/2019 ASSIGN CASEWORKER QUICK

(TROC/PS520/REV. 082916)

THE PEOPLE OF THE STATE OF ILLINOIS
Plaintiff,
v.
JUSSIE SMOLLETT,
Defendant.

3-14-19

GERAGOS

Illinois Supreme

1. My full name is MARK JOHN GERAGOS. The address of offices from which I practice law and related email address and telephone numbers are as follows:

GERAGOS & GERAGOS, APC, 256 5th Avenue, New York, NY 10010;
mark@geragos.com; 213-625-3900

2. I represent JUSSIE SMOLLETT in *People of the State of Illinois vs. Jussie Smollett*, Case No. 19-CR-3104.

3(a). I have not filed any other appearance pursuant to this rule during this calendar year.

3(b). I have not received a registration number from the ARDC.

4(a). I list each jurisdiction of admission, including any state, territory, or commonwealth of the United States, the District of Columbia, or in a foreign country, and my full admission name and license number.

CALIFORNIA STATE BAR MARK JOHN GERAGOS 108325

4(b). I attach as Exhibit 1 a letter or certificate of good standing for each of the jurisdictions listed in paragraph 4(a) above.

5. I have no office or other presence in Illinois for the practice of law.

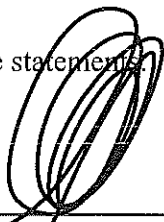
6. I submit to the disciplinary authority of the Supreme Court of Illinois;
7. I have undertaken to become familiar with and to comply, as if admitted to practice in Illinois, with the rules of the Supreme Court of Illinois, including the Illinois Rules of Professional Conduct and the Supreme Court Rules on Admission and Discipline of Attorneys, and other Illinois law and practices that pertain to the proceeding;
8. The full name, business address and ARDC number of the Illinois attorney with whom I have associated in the matter is: Patricia Brown Holmes, Riley Safer Holmes & Cancila LLP, Three First National Plaza, 70 W Madison St, Suite 2900, Chicago, Illinois 60602, pholmes@rshc-law.com, (312) 471-8700. ARDC #6194645.
9. I certify that I have served this Statement upon the following and that these parties are all entitled to service under this rule:

JOSEPH MAGATS
RISA LANIER
COOK COUNTY STATE'S ATTORNEY
69 W. WASHINGTON
CHICAGO, IL 60602
Joseph.magats@cookcountyil.gov
Risa.lanier@cookcountyil.gov

CRIMINAL DIVISION
2650 SOUTH CALIFORNIA AVE.
LEIGHTON CRIMINAL COURT BUILD.
5TH FLOOR, ROOM 526
CHICAGO, IL 60608

Verification

I verify the accuracy and completeness of each of the above statements.



Mark J. Geragos
*Counsel for Defendant
Jussie Smollett*

EXHIBIT 1



THE STATE BAR OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

CERTIFICATE OF STANDING

February 12, 2019

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, MARK JOHN GERAGOS, #108325 was admitted to the practice of law in this state by the Supreme Court of California on June 3, 1983; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; that the public record states that information has been provided pursuant to Business and Professions Code section 6086.1(c); and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Trustees or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

Louise Turner
Custodian of Records

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CRIMINAL DIVISION**

THE PEOPLE OF THE STATE OF ILLINOIS)	
)	
Plaintiff,)	
v.	)	No. 19-CR-3104
)	
JUSSIE SMOLLETT,)	
)	
Defendant.)	

**VERIFIED STATEMENT OF OUT-OF-STATE ATTORNEY TINA GLANDIAN
PURSUANT TO SUPREME COURT RULE 707**

I, TINA GLANDIAN, submit this Verified Statement pursuant to Illinois Supreme Court Rule 707.

1. My full name is TINA GLANDIAN. The address of offices from which I practice law and related email address and telephone numbers are as follows:

GERAGOS & GERAGOS, APC, 644 South Figueroa Street, Los Angeles, CA 90017-3411;
tina@geragos.com; 213-625-3900

GERAGOS & GERAGOS, APC, 256 5th Avenue, New York, NY 10010;
tina@geragos.com; 213-625-3900

2. I represent JUSSIE SMOLLETT in *People of the State of Illinois vs. Jussie Smollett*, Case No. 19-CR-3104.

3(a). I have not filed any other appearance pursuant to this rule during this calendar year.

3(b). I have not received a registration number from the ARDC.

4(a). I list each jurisdiction of admission, including any state, territory, or commonwealth of the United States, the District of Columbia, or in a foreign country, and my full admission name and license number.

CALIFORNIA STATE BAR	TINA GLANDIAN	251614
NEW YORK STATE BAR	TINA GLANDIAN	5027404
FLORIDA STATE BAR	TINA GLANDIAN	0101093
NEVADA STATE BAR	TINA GLANDIAN	12582

4(b). I attach as Exhibit 1 a letter or certificate of good standing for each of the jurisdictions listed in paragraph 4(a) above.

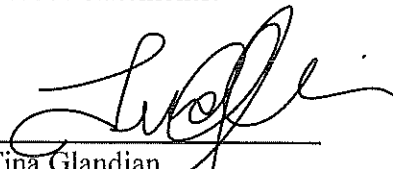
5. I have no office or other presence in Illinois for the practice of law.
6. I submit to the disciplinary authority of the Supreme Court of Illinois;
7. I have undertaken to become familiar with and to comply, as if admitted to practice in Illinois, with the rules of the Supreme Court of Illinois, including the Illinois Rules of Professional Conduct and the Supreme Court Rules on Admission and Discipline of Attorneys, and other Illinois law and practices that pertain to the proceeding;
8. The full name, business address and ARDC number of the Illinois attorney with whom I have associated in the matter is: Patricia Brown Holmes, Riley Safer Holmes & Cancila LLP, Three First National Plaza, 70 W Madison St, Suite 2900, Chicago, Illinois 60602, pholmes@rshc-law.com, (312) 471-8700. ARDC #6194645.
9. I certify that I have served this Statement upon the following and that these parties are all entitled to service under this rule:

JOSEPH MAGATS
RISA LANIER
COOK COUNTY STATE'S ATTORNEY
69 W. WASHINGTON
CHICAGO, IL 60602
Joseph.magats@cookcountyil.gov
Risa.lanier@cookcountyil.gov

CRIMINAL DIVISION
2650 SOUTH CALIFORNIA AVE.
LEIGHTON CRIMINAL COURT BUILD.
5TH FLOOR, ROOM 526
CHICAGO, IL 60608

Verification

I verify the accuracy and completeness of each of the above statements.



Tina Glandian
Counsel for Defendant
Jussie Smollett

EXHIBIT 1



THE STATE BAR OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

CERTIFICATE OF STANDING

February 26, 2019

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, TINA GLANDIAN, #251614 was admitted to the practice of law in this state by the Supreme Court of California on December 3, 2007; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Trustees or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

Denise Velasco
Custodian of Records



State of New York
Supreme Court, Appellate Division
Third Judicial Department

I, Robert D. Mayberger, Clerk of the Appellate Division of the Supreme Court of the State of New York, Third Judicial Department, do hereby certify that

Tina Glandian

having taken and subscribed the Constitutional Oath of Office as prescribed by law, was duly licensed and admitted to practice by this Court as an Attorney and Counselor at Law in all courts of the State of New York on the 29th day of March, 2012, is currently in good standing and is registered with the Administrative Office of the Courts as required by section four hundred sixty-eight-a of the Judiciary Law.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Court, at the City of Albany, this 27th day of February, 2019.

Robert D Mayberger

Clerk





The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.FLORIDABAR.org

State of Florida)

County of Leon)

In Re: 0101093
Tina Glandian
Geragos & Geragos, APC
7 W 24th St Apt 2
New York, NY 10010-3212

I CERTIFY THE FOLLOWING:

I am the custodian of membership records of The Florida Bar.

Membership records of The Florida Bar indicate that The Florida Bar member listed above was admitted to practice law in the state of Florida on **November 14, 2012**.

The Florida Bar member above is an active member in good standing of The Florida Bar who is eligible to practice law in the state of Florida.

Dated this 26th day of **February, 2019**.

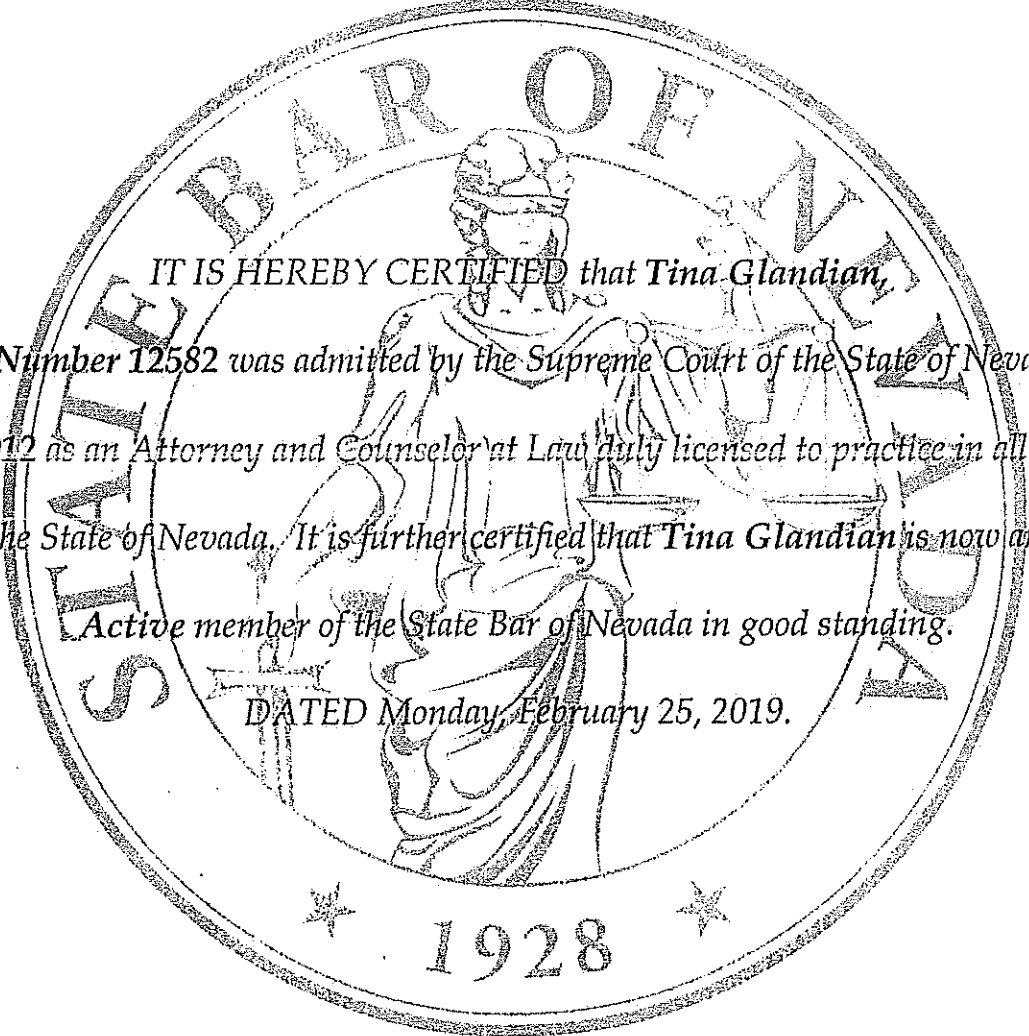
Cynthia B. Jackson, CFO
Administration Division
The Florida Bar

PG:R10
CTM-35979



State Bar of Nevada

Certificate of Good Standing

The seal of the State Bar of Nevada is a circular emblem. It features a central figure of a woman, likely representing Justice or the State, holding a scale of justice. The words "STATE BAR OF NEVADA" are inscribed around the perimeter of the seal. At the bottom, the year "1928" is displayed between two stars.

IT IS HEREBY CERTIFIED that *Tina Glandian*,
Bar Number 12582 was admitted by the Supreme Court of the State of Nevada on
05/09/2012 as an Attorney and Counselor at Law duly licensed to practice in all courts of
the State of Nevada. It is further certified that *Tina Glandian* is now an
Active member of the State Bar of Nevada in good standing.
DATED Monday, February 25, 2019.

A handwritten signature in cursive script, reading "Michael Guttadaro".

Michael Guttadaro
Member Services Administrator
State Bar of Nevada

G.J. NO. 604
GENERAL NO. 19CR-3104

CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT
CRIMINAL DIVISION
FEBRUARY 2019

The People of the State of
Illinois
v.

Jussie Smollett

ORIGINAL
FILE COPY
DO NOT REMOVE

INDICTMENT FOR
DISORDERLY CONDUCT

A TRUE BILL

Bernice C. Edwards

Foreman of the Grand Jury

WITNESS

Detective: Michael Theis, Star#21217

Filed *March 7*, 20 *19*
Dorothy Brown, Clerk
Bail \$ _____

FILED
2019 MAR -7 PM 1:15
CLERK OF CIRCUIT COURT
CRIMINAL DIVISION
DOROTHY BROWN
CLERK

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The FEBRUARY 2019 Grand Jury of the
Circuit Court of Cook County,

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A BATTERY, A HATE CRIME AND AN AGGRAVATED BATTERY, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE WITH THEIR HANDS, CAUSING BODILY HARM TO JUSSIE SMOLLETT, AND THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT, POURING AN UNKNOWN CHEMICAL SUBSTANCE ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH OFFENSES HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 1
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3(a)(1) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE WITH THEIR HANDS, CAUSING BODILY HARM TO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3(a)(1)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 2
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3(a)(2) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE WITH THEIR HANDS, AND THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT, POURING AN UNKNOWN CHEMICAL SUBSTANCE ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 3
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(c) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE WITH THEIR HANDS, CAUSING BODILY HARM TO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(c)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 4
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(c) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE WITH THEIR HANDS, AND THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT, POURING AN UNKNOWN CHEMICAL SUBSTANCE ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(c)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 5
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(f)(2) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK TO CONCEAL HIS IDENTITY, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE WITH THEIR HANDS, CAUSING BODILY HARM TO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(f)(2)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 6
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(f)(2) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, DRESSED IN BLACK AND ONE OF WHOM WORE A BLACK MASK TO CONCEAL HIS IDENTITY, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE, AND THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT, POURING AN UNKNOWN CHEMICAL SUBSTANCE ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(f)(2)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 7
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE OFFICER MUHAMMED BAIG, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A HATE CRIME, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-7.1(a) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY NEAR 341 EAST LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, TWO UNKNOWN MALES, APPROACHED JUSSIE SMOLLETT, CALLED JUSSIE SMOLLETT RACIAL AND HOMOPHOBIC SLURS, AND STRUCK JUSSIE SMOLLETT ABOUT THE FACE, CAUSING BODILY HARM TO JUSSIE SMOLLETT, AND THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT, POURING AN UNKNOWN CHEMICAL SUBSTANCE ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-7.1(a)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 8
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A BATTERY, A HATE CRIME AND AN AGGRAVATED BATTERY, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO UNKNOWN OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND HE AND THE TWO UNKNOWN OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, FELT PULLING AT HIS NECK, AND A LIQUID WAS POURED ONTO HIM, AND JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, IN DARK CLOTHING, WEARING A BLACK MASK WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND THAT THE UNKNOWN OFFENDERS CAUSED BODILY HARM TO JUSSIE SMOLLETT, AND THAT THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT BY POURING A LIQUID ONTO JUSSIE SMOLLETT, AND PUTTING A ROPE AROUND HIS NECK, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH OFFENSES HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 9
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3(a)(1) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, FELT PULLING AT HIS NECK, AND A LIQUID WAS POURED ONTO HIM, JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, IN DARK CLOTHING, WEARING A BLACK MASK WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND THAT THE OFFENDERS CAUSED BODILY HARM TO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3(a)(1)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 10
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3(a)(2) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO UNKNOWN OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, AND THAT THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT BY POURING A LIQUID ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT FELT PULLING AT HIS NECK AND THE UNKNOWN OFFENDERS PUT A ROPE AROUND HIS NECK, AND JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, WEARING A BLACK MASK WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3(a)(2)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 11
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(c) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, FELT PULLING AT HIS NECK, AND A LIQUID WAS POURED ONTO HIM, JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE OF UNKNOWN AGE, IN DARK CLOTHING, WEARING A BLACK MASK WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND THAT THE UNKNOWN OFFENDERS CAUSED BODILY HARM TO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(c)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 12
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(c) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, AND THAT THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT BY POURING A LIQUID ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT FELT PULLING AT HIS NECK AND THE UNKNOWN OFFENDERS PUT A ROPE AROUND HIS NECK, AND JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, WEARING A BLACK MASK WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(c)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 13
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(f)(2) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, FELT PULLING AT HIS NECK, AND A LIQUID WAS POURED ONTO HIM, JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, IN DARK CLOTHING, WEARING A BLACK MASK TO CONCEAL HIS IDENTITY, WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND THAT THE UNKNOWN OFFENDERS CAUSED BODILY HARM TO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(f)(2)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 14
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF AN AGGRAVATED BATTERY, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-3.05(f)(2) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HEARD RACIAL AND HOMOPHOBIC SLURS, AND TWO OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, AND THAT THE TWO UNKNOWN MALES MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT BY POURING A LIQUID ONTO JUSSIE SMOLLETT, AND JUSSIE SMOLLETT FELT PULLING AT HIS NECK AND THE UNKNOWN OFFENDERS PUT A ROPE AROUND HIS NECK, AND JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, WEARING A BLACK MASK TO CONCEAL HIS IDENTITY, WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-3.05(f)(2)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 15
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about January 29, 2019 at and within the County of Cook

Jussie Smollett

committed the offense of DISORDERLY CONDUCT

in that HE, KNOWINGLY TRANSMITTED OR CAUSED TO BE TRANSMITTED, IN ANY MANNER, TO ANY PEACE OFFICER, PUBLIC OFFICER OR PUBLIC EMPLOYEE, TO WIT: CHICAGO POLICE DETECTIVE KIM MURRAY, A REPORT TO THE EFFECT THAT AN OFFENSE HAD BEEN COMMITTED, TO WIT: JUSSIE SMOLLETT REPORTED, IN PERSON, THAT HE WAS THE VICTIM OF A HATE CRIME, A VIOLATION OF CHAPTER 720 ACT 5 SECTION 12-7.1(a) OF THE ILLINOIS COMPILED STATUTES, REPORTING THAT ON JANUARY 29, 2019, AT APPROXIMATELY 2:00 AM, ON THE PUBLIC WAY IN THE MIDDLE OF THE INTERSECTION OF NEW STREET AND LOWER NORTH WATER STREET, IN CHICAGO, COOK COUNTY, ILLINOIS, JUSSIE SMOLLETT HAD RACIAL AND HOMOPHOBIC SLURS CALLED OUT TO HIM, AND TWO UNKNOWN OFFENDERS APPROACHED JUSSIE SMOLLETT FROM BEHIND, PUNCHED JUSSIE SMOLLETT IN THE FACE, AND THAT JUSSIE SMOLLETT FOUGHT BACK, AND THAT HE AND THE TWO UNKNOWN OFFENDERS FELL TO THE GROUND WHERE JUSSIE SMOLLETT WAS KICKED IN THE BACK, FELT PULLING AT HIS NECK, AND A LIQUID WAS POURED ONTO HIM, AND JUSSIE SMOLLETT REPORTED THAT ONE OF HIS ATTACKERS WAS A MALE WHITE, WEARING A BLACK MASK WITH AN OPEN EYE AREA SHOWING THE SKIN AROUND HIS EYES, AND THAT THE UNKNOWN OFFENDERS CAUSED BODILY HARM TO JUSSIE SMOLLETT, AND THAT THE TWO UNKNOWN MALES HAD MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH JUSSIE SMOLLETT BY POURING A LIQUID ONTO JUSSIE SMOLLETT, AND PUTTING A ROPE AROUND HIS NECK, AND JUSSIE SMOLLETT KNEW THAT AT THE TIME OF THIS TRANSMISSION THERE WAS NO REASONABLE GROUND FOR BELIEVING THAT SUCH AN OFFENSE HAD BEEN COMMITTED,

IN VIOLATION OF CHAPTER 720 ACT 5 SECTION 26-1(a)(4)/(12-7.1(a)) OF ILLINOIS COMPILED STATUTES ACT 1992 AS AMENDED AND

contrary to the Statute and against the peace and dignity of the same People of the State of Illinois.

COUNT NUMBER 16
CASE NUMBER 19CR-3104
CHARGE ID CODE: 0011489

01
3-7-19

4

** INFORMATION INDICTMENT RETURN SHEET **

CASE NO.	IR	DEFENDANT	NO.	ARRAIGNMENT DATE
19CR-3104	2397168	Jussie Smollett	001	03/14/2019

GJ- 604 FBI-679854TC5 SEX:Male RACE:Black DOB:06/21/1982
ISB-37521501 Add:340 E. North Water St Unit 3900,
Chicago, IL 60611

Municipal-19-1103271

CB-19771648 Arrest Agy:CHICAGO POLICE DEPARTMENT
RD/AR-JC133190 Arrest Unit:UNIT 610 - DETECTIVE SECTION -
CENTRAL
Arrest Date:02/21/2019
DL State: *** DL#: ***
Hgt:511 Wgt:175
Hair:Black Eyes:Brown

True Bill 02/28/2019
ASA: Mary Devereux

- 001 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 002 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 003 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 004 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 005 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 006 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 007 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 008 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 009 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
- 0010 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4

2019 MAR -7 PM 1:14
CLERK OF CIRCUIT COURT
CRIMINAL DIVISION
NOSOTTY BROWN
CLERK

0011 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
0012 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
0013 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
0014 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
0015 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4
0016 FALSE REPORT OF OFFENSE
720 ILCS 5/26-1(a)(4)
0011489 Class: 4

AM

FILED
2019 MAR -7 PM 1:14
CLERK OF CIRCUIT COURT
CRIMINAL DIVISION
DOROTHY BROWN
CLERK

[illegible]

1917032/701

COURT DATE: 02/21/2019 ROOM: 0100 TIME: 01:00

C001 720-5126-1-A-4

2006)

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Farrar.

At General

25

PLATE

ON Bond

19

CODE: 2143

**First Municipal District - Criminal
Clerk of the Circuit Court**

GO GREEN

[VIEW / PRINT DOCUMENTS](#)

ON PUBLIC ACCESS TERMINA

Sheet #
0001

Defendant Sheet #
0001 OF 0001

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1735 304 STEVEN G. WATKINS
101 CHICAGO(1ST) CENTRAL

CLERK USE ONLY
0001

CASE NUMBER

19110327101

DEFENDANT NAME

SMOLLETT JUSSIE

ATTORNEY

HART MCLAUGHLIN SELDRIDGE

COURT DATE
03-26-2019

COURT CALL/TIME
2-0930 AM

CB/DCN #

019771648

IR #

2397168

EM

BOND #

0000000

I C D

X

BOND AMOUNT

\$100,000.00

CHARGES

* IN CUSTODY 02/21/19*

COURT ORDER ENTERED

CODES

C001 720-5/26-1-A-4

DISORDERLY CONDUCT - FALSE RE

Seal

JUDGE:

JUDGE'S No.

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:

VERIFIED BY:

Sheet # 0002	Defendant Sheet # 0001 OF 0001	CRIMINAL DISPOSITION SHEET		Branch/Room/Location 1198 BRANCH 98 RM 101 101 CHICAGO (1ST) CENTRAL	CLERK USE ONLY 0002	
CASE NUMBER 19110327101		DEFENDANT NAME SMOLLETT JUSSIE		ATTORNEY HART MCLAUGHLIN & ELDRIDGE	COURT DATE 03-12-2019	COURT CALL/TIME E-1130 AM
CB/DCN # 019771648	IR # 2397168	EM		BOND # 0000000	I C D X	BOND AMOUNT \$100,000.00
CHARGES		* IN CUSTODY 02/21/19*		COURT ORDER ENTERED		CODES
C001 720-5/26-1-A-4 DISORDERLY CONDUCT - FALSE RE						
JUDGE: <i>[Signature]</i> JUDGE'S No. <i>243</i>						
RESponsible for coding and completion by deputy clerk: VERIFIED BY:						

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
DEPARTMENT, _____ DISTRICT/DIVISION

People

Plaintiff(s)/Petitioner(s)

v.

19110327101

Case No.

Juase Smollett

Defendant(s)/Respondent(s)

REQUEST FOR EXTENDED MEDIA COVERAGE

The undersigned media coordinator hereby states as follows:

1. This request is made on behalf of all news media organizations.

2. I hereby request consent to provide extended media coverage of the proceeding scheduled on the

14 day of March, 2019, at the Leighton Criminal Courthouse
2800 S. California, Chicago, Illinois.

3. Extended media coverage is requested for:

☐ the proceeding described above☒ the proceeding described above and all continuances of that proceeding☒ the proceeding described above and all future proceedings in this case, including continuances

4. The type of extended media coverage requested is as follows: (Include type of equipment, number of personnel, live or delayed publication, audio or video, etc.):

2 video camera's, 2 tripods, 4 microphones with cables, djero box. 2 still camera's with lenses, lap top, blimp electrical cords and mono-pod. (no radio)

5. The on-site media coordinator for this proceeding will be: Name Kelly BarnicleNews Media Organization: WGN TVAddress: 2501 W Bradley Place, Chicago, IL 60618Telephone: 773 883 3203Email Address: kbarnicle@wgn.tv

6. I will abide by all the provisions of the Illinois Supreme Court's Policy for Extended Media Coverage in the Circuit Courts of Illinois and the Cook County Circuit Court's General Administrative Order 2014-12 on extended media coverage, and perform all duties required of me as the media coordinator.

7. This request for extended media coverage is filed (check the appropriate box):

☒ at least fourteen (14) days in advance of the proceeding identified above; or☐ less than fourteen (14) days in advance of the proceeding identified above becauseKelly Barnicle

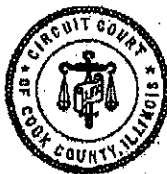
Signature

Kelly Barnicle

Print Name

News Media Organization: WGN TVAddress: 2501 W. Bradley Place, Chicago IL 60618Telephone: 773 883 3203Email Address: Wgninfo@tribunemedia.com**DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**

FILED
FEB 27 2019
DOROTHY BROWN
CLERK OF CIRCUIT COURT



OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

EMC COVERSHEET
For
REQUEST FOR EXTENDED MEDIA COVERAGE

Date: February 27, 2019

TO: Pat Milhizer, Media Liaison
Office of the Chief Judge
Phone: (312) 603-5160
Fax: (312) 603-4938
EMC mail: emc@cookcountyil.gov

FR: D. Solofra, CDC/K. Wells, ACDC
Office of the Clerk of the Circuit Court
Phone: (312) 603-3074/ (312) 603-2658
Fax: (312) 603-5051
EMC Mail: emc@cookcountycourt.com

Hearing Date: March 14th, 2019
Judge: Honorable Judge John F. Lyke Jr.
Br. 98 Courtroom: 101 Time: 11:30am

Defendant(s) Name:

Jussie Smollett

Defendant(s) Case No:

19110327101

Service List

- Office of the Presiding Judge, John Kirby – 1st Municipal District
- Honorable Judge John F. Lyke Jr.
- Office of the Cook County State's Attorney – Criminal Department
- Kelly Barnicle, On-Site Media Coordinator, WGN-TV
kbarnicle@wgntv.com (773) 883-3203

Law Firm of:

Hart, McLaughlin & Eldridge
Jack Prior, Attorney (Attorney #6306767)
22 W. Washington-Suite 1600
Chicago, IL 60602
(312) 955-0545

Total Pages Sent: 2

cc: Renee Banks, Associate Clerk-Criminal/Juvenile Bureau
Karen Wells, Assistant Chief Deputy Clerk-Criminal Division

FILED
FEB 27 2019
DOROTHY BROWN
CLERK OF CIRCUIT COURT

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,

v.

Jesse SMOLLETT

Defendant.

Case No.

19110327101

Judge Presiding

ORDER SETTING HEARING
ON REQUEST FOR EXTENDED MEDIA COVERAGE

PLEASE BE ADVISED that on FEB 27, 2019, a Request for Extended Media Coverage was filed in the above-entitled cause for the proceeding set for Mar 14, 2019. The request seeks to record and broadcast the proceedings using television cameras and/or still photography cameras.

IT IS HEREBY ORDERED:

1. A hearing on the Request for Extended Media Coverage will be held on Mar. 12, 2019 at 1130 p.m./10 before this Court in Courtroom 101 of the George N. Leighton Criminal Court Building, 2650 S. California Avenue, Chicago, Illinois.

2. Any interested party or witness who objects to the request must file a written objection using the form attached to this Order in the Office of the Clerk of the Circuit Court of Cook County - Criminal Division, 2650 S. California Avenue, Room 526, Chicago, Illinois 60608 no later than 4:30 p.m. on Mar. 11, 2019.

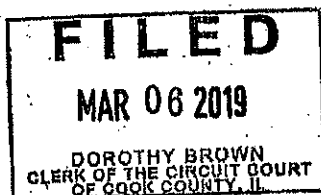
3. All Attorneys of Record shall serve a copy of this Order and attached Objection Form to each witness they intend to call at trial or at future proceedings in this cause.

Dated: MARCH 6, 2019

ENTERED:

John F. Tyner, Jr.

Circuit Court of Cook County
Criminal Division



NOTIFICATION OF MOTION

Dated Received 02/23, 2019 Date to be Heard 02/25, 2019

Defendant's Name Jussie Smollett

Case No. 19-110327101 Charge 720-5/26-1-A-4

Before Judge _____ Room _____ Regular Call _____

Specialty Call _____

Nature of Motion Modifying Conditions for Bail ~~at~~ for permission to travel outside state of Illinois

Requester's Name: Jack Prior

Address: 22 W. Washington, Suite 1600

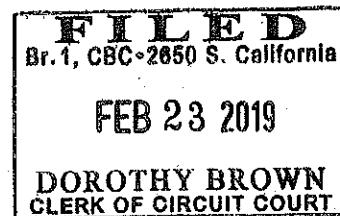
City/State/Zip: Chicago, IL 60602

Telephone: 312.955.0545

Atty. No. (if applicable): 6306767

From To: 59648

Completed _____



DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Office Use Only

- ☐ Filed
- ☐ Received File
- ☐ Verbal
- ☐ Petition/Motion enclosed

Sheet # 0224

Defendant Sheet # 0001 OF 0001

CRIMINAL DISPOSITION SHEET

Branch/Room/Location
1198 BRANCH 98 RM 101
101 CHICAGO (1ST) CENTRAL

CLERK USE ONLY
0024

CASE NUMBER
19110327101

DEFENDANT NAME
SMOLLETT JUSSIE

ATTORNEY
HART MC LAUGHLIN & ELDRIDGE

COURT DATE
02-25-2019

COURT CALL/TIME
E-1130 AM

CB/DCN #
019771648

IR #
2397168

EM

BOND #
0000000

I C D
X

BOND AMOUNT
\$100,000.00

CHARGES

* IN CUSTODY 02/21/19*

COURT ORDER ENTERED

CODES

C001 720-5/26-1-A-4
DISORDERLY CONDUCT - FALSE RE

ENTERED
FEB 25 2019
CLERK OF COURT
JESSICA S. BROWN

MIC

Attic

Dis appear used
motion to modify conditions

if Bond to allow have

is granted

M/S 3-14-19

JUDGE:

JUDGE'S NO.

DN 02200

RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:

VERIFIED BY:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of State of Illinois

v.

Jussie SmollettNo. 19-110327101

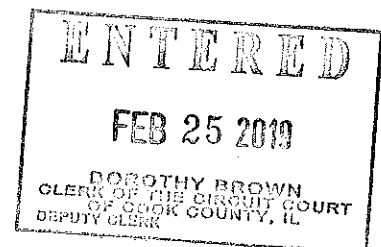
ORDER

This matter coming to be heard on Defendant's Motion Modifying Conditions for Bail:

(1) Motion is granted and Defendant is permitted to travel to New York on March 1, 2019 to March 3, 2019 and then ~~March 3, 2019~~ to California from March 3, 2019 to March 12, 2019 in order to meet with counsel. Defendant will return to Illinois on March 12, 2019.

Atty. No.: 59648Name: Jack Prior - Hart McLaughlin + EldridgeAtty. for: Jussie SmollettAddress: 22 W. Washington, Suite 1600City/State/Zip: Chicago, IL 60602Telephone: 312.955.0545

ENTERED:

Dated: February 25, 2019

Judge

Judge's No.

CB # 13

COURT BRANCH - CALL		COURT COMPLAINT TRANSMITTAL LISTING		CHICAGO POLICE CPD-11.551 (REV. 9/03)		Police personnel use unshaded lines, court personnel shaded lines.		FROM (UNIT No)		DATE PREPARED		PAGE OF	
CBC-1													
No.	CB No.	DATE OF ARREST	DEFENDANT (Last - First - MI)	ADDRESS	DISPOSITION	SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	COMPLEXION		
		Line No.	REFERENCES / Ch-Article-Section / WARRANT-Doc No. - LDS/NCIC No	C	T								
		RD No. (If Applicable)	MISCELLANEOUS										
1	19771648	21 FEB 2019	SMOLLETT, Jussie	1718 S State St, Chicago, IL 60616	M	BLK	21 JUN 1982	511	175		LBR		
	2397168	001	720 ILCS 5.0/26-1-A-4	4	F								
	JC133190												
<p><i>FILE 18</i></p> <p><i>ACC FILED</i></p> <p><i>2/2 PM</i></p> <p><i>5/12</i></p>													

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— PRO SEANT

THURSDAY 72 CUSKUS

Category B Offense D-Bond

24

ENTERED
JUDGE
B. 11/CBC 2650 S. California
FEB 21 2019
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

PREPARED BY TRAYLOR, Barbara	STAR No. 18577	RECEIVED BY (COURT)	JUDGE <i>John F. 2123</i>	SHEET
---------------------------------	-------------------	---------------------	------------------------------	-------

COURT TRANSMITTAL

DISTRICT:
COURT CLERK:

FORWARD TO COURT CLERK WITH OTHER COURT DOCUMENTS.
AFTER COURT HEARING, FORWARD TO CHIEF CLERK OF COURT.



PRISONER DATA SHEET
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Last Name: **SMOLLETT** First Name **JUSSIE** Middle Initial

Address: **340 E NORTH WATER ST**

City/Town: **CHICAGO IL** Zip Code: **60611**

Case No. **19110327101 M024** IR: **2397168**

Major Charge: **720-5/26-1-A-4** **DISORDERLY CONDUCT - FALS** No. Counts: **001**

Bail Previously Set: \$

Room: **BRANCH 98** **RM 101** Time: **1130 AM**

Branch: **98** Address: **2600 S. CALIFORNIA** City/Town:

Bail Set: \$ **100,000D**
Collect: \$ **10,000**

New Court Date: **03/14/2019** Judge: *[Signature]* Judge's No. **2143**

Bail Reduced/Increased: \$

New Court Date: Judge: Judge's No.

New Court Date: Judge: Judge's No.

Disposition (Remain in Custody): **S C O B** *Category B Offense D-Bond*

Date: Judge: Judge's No.

Disposition (Release from Custody):

Date: Judge: Judge's No.

Date: **02/21/19** Deputy Clerk: **TIFFANY WALKER**

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COPY NUMBER: **ONE**

COURT FILE COPY

RBF2019110327101 ,000002,M,998:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,

Petitioner

v.

No. 19-110327101

Jessie Smollett

Defendant

ENTERED

FEB 21 2019

ORDER FOR SPECIAL CONDITIONS OF BAIL

IT IS HEREBY ORDERED THAT, in the event the Defendant is admitted to bail, he or she shall comply with the special conditions of bail as set forth below:

☒ Report to Pretrial Services Unit of the Adult Probation Department and comply with ongoing reporting requirements as determined by Pretrial Services or as specified below:

- Pay up to \$50.00 monthly pretrial supervision fee in accordance with the guidelines of the Adult Probation Department's Pretrial Supervision Fees Instructions.
- Submit address verification to Pretrial Services at the first office visit.

- ☐ Participate in Pretrial Services Drug Monitoring Program
- ☐ Attend counseling as arranged by Pretrial Services

- ☐ Undergo drug and/or alcohol assessment
- ☐ Participate in a recommended substance abuse program
- ☐ Report to drug treatment facility for inpatient detoxification/treatment
- ☐ Refrain from indulge in intoxicating liquor, illegal drugs or the following drugs: _____

- ☐ Undergo medical or psychiatric treatment.
- ☐ Remain at the address: _____

during the curfew hours of: _____

- ☐ Remain in the custody of the designated person or organization agreeing to supervise the release of the defendant

- ☐ Surrender his or her Firearm Owner's Identification Card to the Clerk of the Circuit Court within 48 hours following release.
- ☐ Surrender all firearms in his or her possession immediately to the following law enforcement agency: _____

- ☐ Do not possess any firearm or dangerous weapon

- ☒ Do not contact the ~~victim/complainant~~ _____, witness(es) or members of their family(ies): _____

Abimbola "Abel" Osundairo and Olabinjo "Ola" Osundairo

VIOLATIONS OF THE CONDITIONS OF BAIL MAY RESULT IN ARREST, INCREASE IN BAIL OR REVOCATION OF BAIL.

ENTERED:

Dated: February 21, 2019

Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

- ☐ Refrain from contacting the victim/complainant for 72 hours following release.

- ☒ Do not enter the premises or the area: of the home, work or school of Abimbola "Abel" Osundairo and Olabinjo "Ola" Osundairo

- ☐ Refrain from entering the victim's/complainant's _____ residence for 72 hours following release.

- ☐ Vacate the residence located at: _____

until further order of the court.

- ☐ Make payment of temporary child support to his or her dependants.

- ☐ Refrain from contact or communication with child victim as ordered by court.

- ☐ Minor to reside with parents or in foster home, attend school, attend non-residential youth program, contribute to own support (Strike those not applicable.)

- ☐ Be placed in a pretrial bond home supervision capacity with an approved electronic monitoring device.

- ☐ GPS monitoring

- ☐ Report to Adult Probation and comply with GPS requirements in addition to those specified below: _____

- ☒ Surrender his or her passport prior to being admitted to bail.

Other as specified: No contact with Abimbola "Abel" Osundairo and Olabinjo "Ola" Osundairo by any means, including third party contact and social media contact. Defendant shall surrender his passport prior to being admitted to bail.

UPON release call bfc. B. QUICK 773-674-2531

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY/MUNICIPAL DEPARTMENT, _____
DIVISION/DISTRICT _____

THE PEOPLE OF THE STATE OF ILLINOIS

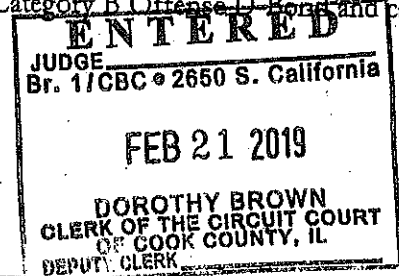
Case No. 19 1103271Jessie Smollett

Defendant.

CATEGORY B OFFENSE BAIL CREDIT ORDER

This Court having jurisdiction and all parties being fully advised and in agreement, pursuant to 725 ILCS 5/110-14(c), it is hereby ORDERED:

1. Bail having been set at \$ 100,000.00 D-Bond for a Category B offense, requiring a 10% monetary deposit of \$ 10,000, the defendant shall have a credit of \$30 per day of incarceration deducted from the amount of the required monetary deposit, beginning on the date of arrest: 02/21/19.
2. The credited amount of monetary deposit shall be used to satisfy a Category B Offense D-Bond by:
 - a. the entire monetary deposit having been satisfied by time served in custody, or
 - b. a combination of time served in custody and the amount of security equal to the remainder of the required monetary deposit.
3. The assistant state's attorney and counsel for the defendant agree that, absent any security being posted, credit for the monetary deposit required will be satisfied after 334 days of incarceration, and the defendant will be eligible for release in this case on the date of 01/20/20.
4. Credit for the amount of time in custody shall be calculated, verified in writing and communicated to the Office of the Clerk of the Circuit Court by the Cook County Sheriff's Office.
5. When the required monetary deposit for a Category B Offense D-Bond has been satisfied by either 2(a) or 2(b) (above), the Clerk of the Circuit Court of Cook County shall prepare a Category B Offense D-Bond and cause it to be delivered to the Cook County Sheriff's Office.
6. This order applies only to this case.
7. Special conditions of bail, in this case only, are as follows:
☒ Pre-trial Services ☐ Electronic Monitoring ☐ GPS
☒ Other Surrender passport



ENTERED

Judge

Judge's No. 2143

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois

Plaintiff

No.

19 103271

Charge

v.

Jessie Smollett

Defendant(s)

APPEARANCE

The undersigned, as attorney, enters the appearance of

Jessie Smollett

Defendant(s) in the above entitled cause.

Attorney

Atty. No.: 91618

Atty. Name: John (Jack) Prior

Atty. for: Jessie Smollett

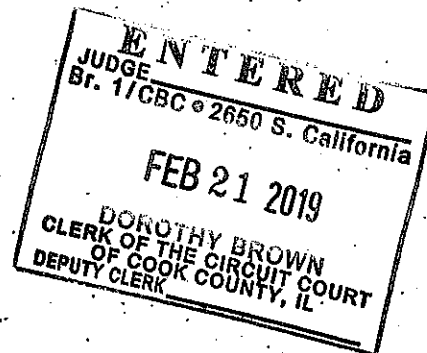
Address: 22 W. Washington St., Suite 1600

City: Chicago State: IL

Zip: 60602

Telephone: 312.971.9236

Primary Email: jprior@hmllegal.com



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

CASH DEPOSIT BAIL BOND; CRIMINAL OR QUASI-CRIMINAL (10% OF BAIL, \$25.00 MINIMUM DEPOSIT)

D 1375606

ORIGIN OF BOND

USING AGENCY NO. 55

☐ Bail set by Rule of the Illinois Supreme Court OR

By

(PRINT NAME OF JUDGE)

(JUDGE'S NO.)

(OFFICE USE)

BAIL AMOUNT

\$ 100,000.00

DEPOSIT AMOUNT

\$ 10,000.00

00

100

00

100

DEFENDANT (Person Preparing Bond - Always complete this section)

Full Name

(PRINT)

Address

(PRINT)

City and

State (PRINT)

Zip

Code

STATEMENT OF DEFENDANT: I understand and accept the terms and conditions set forth below and on the reverse side of this bail bond. I understand in all cases 10% of any amount posted up to a maximum of \$100.00 as bail is retained by the Clerk of the Court, pursuant to statute. Further, I hereby certify that I understand the consequences of failure to appear for trial as required.

ASSIGNMENT OF BAIL BOND BY THE DEFENDANT: I hereby authorize the return of the money posted above to the person shown on this bond as having provided money for my bail after all conditions of this bail bond have been met, or as ordered by the court.

Defendant's Signature

COURT COMPLAINT OR INDICTMENT NUMBER(S)

CHARGE

DISPOSITION

19110327101

720-5/26-14-4

DISPOSITION entered by (Signature of Deputy Clerk)

Br. or Sub. CT

Court Date

Month

Day

Year

COURT APPEARANCE: Defendant named above shall appear in the Circuit Court of Cook County, Illinois located at:

Address (Number and Street)

Branch No.

In Room No.

CONDITIONS OF BOND: The defendant is hereby released on the conditions as indicated below:

- ☒ Appear to answer the charge in court until discharge or final order of court.
☒ Obey all court orders and process; not leave this State without permission of court and report changes of address to the Clerk within 24 hours.
☒ Not commit any criminal offenses while awaiting final order in this case.
☒ If on appeal, prosecute the appeal, and surrender to custody if the judgment is affirmed or a new trial is ordered.

- ☐ Surrender (725 ILCS 5/110-10(a)(5)) OR not possess any firearms or dangerous weapons until final order in this case.
☒ Not contact or communicate with any complaining witnesses or members of their immediate families or:

- ☒ Not go to the area or premises of victims/complaining witnesses home, work, school or:
 Abimbola Abel O Sundairo and Olabisi O A

- ☐ Not to indulge in intoxicating liquors, illegal drugs or certain drugs, to-wit:
 Abimbola Abel O Sundairo and Olabisi O A

- ☐ Undergo alcoholism or drug addiction treatment as ordered by the court.

☒ PASS PORT Surrender

- ☐ Undergo medical or psychiatric treatment as ordered by the court.
☐ If you are charged with a criminal offense and the victim is a family or household member, you are ordered to refrain from all contact or communication with:

for a minimum of 72 hours following release, and further ordered to refrain from entering and/or remaining at the location of:

for a minimum of 72 hours following release.

- ☐ Reside with parents or in a foster home, attend school or nonresidential program for youths, contribute to his/her support at home or in a foster home, observe curfew set by court:

- ☒ Report to and remain under the pretrial supervision of such agency or third-party custodian as ordered by the court:

Upon Release, calling B. Quick 773-671-2531

- ☒ Other conditions: No contact with Abimbola and O Sundairo
 O Sundairo by any means that party contact and

CONDITIONS - Continued on reverse side.

NOTICE TO PERSON PROVIDING BAIL MONEY OTHER THAN THE DEFENDANT

1. I understand that the money I have posted is for the bail for the defendant named on this bond in the above numbered case or cases.

2. I understand that even if the defendant follows all court orders, that this money may be ordered by the Judge to pay for the defendant's attorney fees, court costs, fines, fees and/or restitution to the victim, and that I may lose all or part of my money.

3. I understand that if the defendant fails to comply with the conditions reflected on this bond, I may lose all of my money should the court enter a forfeiture of bail order.

4. I understand in all cases 10% of any amount posted up to a maximum of \$100.00 as bail is retained by the Clerk of the Court, pursuant to statute.

Provider's Name (print):

Lauren Criddle

Relationship to Defendant:

Friend

Address:

22505 Jameson Dr

City:

Calabasas

State:

Ca

Zip:

91302

Area Code/Telephone No.:

818 388 5111

Provider's Signature:

☐ a.m. ☒ p.m. Hour

Date

Month Day Year

THREE

D 1375606

COURT FILE COPY

This bail bond form was prepared by:

(Signature of Peace Officer)

Or Clerk of the Circuit Court of Cook County, by

(Signature of Deputy Clerk)

Star No.

Police Dept.

(CPD District No. or Suburban-City, Town, or Village)

Loc.

(Branch or Suburban Court)

ATTACH THIS COPY TO THE COMPLAINT AND ARREST REPORT OR TO THE WARRANT AND FORWARD ALL PAPERS TO THE BRANCH OR HEADQUARTERS WHERE PERTINENT CASE IS ASSIGNED. COURT CLERK WILL ATTACH THIS

CCG N696 A-2.5M-10/08(83350067)

Skokie Call 1
(Court Branch)

28-Feb-2019
(Court Date)

CCCR N662-125M-6/28/02 (23440565)

FELONY

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of Illinois
Plaintiff

COMPLAINT FOR PRELIMINARY EXAMINATION

v.

NO. 19M103271

Jussie SMOLLETT
Defendant

State of Illinois/ Det. M. Theis #21217
(Complainant's Name Printed or Typed)

complainant, now appears before

The Circuit Court of Cook County and states that

Jussie SMOLLETT
(Defendant)

340 E. North Water St. #3900 Chicago, IL.
(Address)

has, on or about

29-Jan-2019
(Date)

at

340 E. North Water St. Chicago, Cook County, IL.
(Place of offense)

committed the offense of Disorderly Conduct / False Police Report in that he/she
Knowingly transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee
a report to the effect that an offense will be committed, is being committed or has been committed, knowing at the
time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being
committed, or has been committed.

in violation of 720 ILCS 5 1 26-1
(Chapter) (Act) (Section)

FILED
FEB 21 2019
CHARGE CODE

Michael J. Theis #21217
(Complainant's Signature)

STATE OF ILLINOIS }
COOK COUNTY } ss.

DOROTHY BROWN
CLERK OF CIRCUIT COURT

5101 South Wentworth Ave. 312-747-8380
(Complainant's Address) (Telephone No.)

State of Illinois/ Det. M. Theis #21217
(Complainant's Name Printed or Typed)

being first duly sworn, His on oath, deposes and says the he/she read the foregoing
complaint by him/her subscribed and that the same is true.

Subscribed and sworn to before me 21 February 2019
Dorothy Brown (Judge or Clerk)

I have examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied that there
is probable cause for filing same. Leave is given to file said complaint.

Summons Issued, Judge _____ Judge's No. _____
or
Warrant Issued, Bail set at, _____
or
Bail set at _____ Judge _____ Judge's No. _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PRETRIAL SERVICES

Page 1

Public Safety Assessment - Court Report

Sheriff#: 24

Name: JUSSIE SMOLLETT PID: IL 0 Case No. 2019110327101
DOB: 06/21/1982 RACE: BLACK/AFRICAN AMER. Gender: Male
Arrest Date: 02/21/2019 PSA - Court Completion Date: 02/21/2019

New Violent Criminal Activity Flag: ☒ No

New Criminal Activity Scale - 2

1	2	3	4	5	6
---	---	---	---	---	---

Failure To Appear Scale - 2

1	2	3	4	5	6
---	---	---	---	---	---

Charges FALSE REPORT OF OFFENSE

Risk Factors:

Responses:

1. Age at Current Arrest
2. Current Violent Offense
 - a. Current Violent Offense and 20 years old or Younger
3. Pending Charge at the Time of the Offense
4. Prior Misdemeanor Conviction
5. Prior Felony Conviction
 - a. Prior Conviction
6. Prior Violent Conviction
7. Prior Failure to Appear in Past 2 Years
8. Prior Failure to Appear Older Than 2 Years
9. Prior Sentence to Incarceration

36

N

N

N

Y

N

Y

0

0

N

N

FILED
FEB 21 2019
DOROTHY BROWN
CLERK OF CIRCUIT COURT

Release Recommendation:

Release with Pretrial Monitoring

Comments

SMOLLETT, JUSSIE

Case No. 201911032710

Sheriff No. 24

RESIDENCY INFORMATION

Current Address 340 E. NORTH WATER ST, Apt.# 3900 CHICAGO, IL 60611
County COOK
Living with SELF
Length at residence 2 years

FAMILY INFORMATION (Children under 18 years of age)

Number of Children 0 # of Children Residing with Defendant 0
of Children Depend on Defendant 0 # of Children Residing Elsewhere 0

SOCIOECONOMIC

Current Employer 20TH CENTURY FOX
Address
Occupation ACTOR
Length of employment 0 years
Shift time : 0 - : 0
Retired? N
Receiving disability income? N
Student? N ☐ Full Time ☐ Part Time

SELF-REPORTED MENTAL HEALTH

Current mental health problem? N
History of mental health problems? N
Ever received treatment? N

SELF-REPORTED SUBSTANCE USE

Drug problem? Y Alcohol problem? N Ever received treatment? N

Current Activities

Gang N
Current on ☐ Pretrial Serv ☐ Probation ☐ Conditional Discharged
☐ Supervision ☐ MSR/Parole ☐ Electronic Monitoring

Armed Services

Armed Service Branch N
Service Entry Date // 0
Service Discharge Date // 0
Discharge Type

NOTES

Amount available for bond now 5,000 Amount available for bond in 48 hrs 5,000

CHICAGO POLICE DEPARTMENT

ARREST REPORT

3510 S. Michigan Avenue, Chicago, Illinois 60653

(For use by Chicago Police Department Personnel Only)

CPD-11.420C (REV. 6/30)

FINAL APPROVAL

CB #: 19771648

IR #: 2397168

YD #:

RD #: JC133190

EVENT #: 1902900959

ARREST REPORTING

Name: SMOLLETT, Jussie

Res: 340 E North Water St, #3900
Chicago, IL 60611

Beat: 1834

Arts/Movies

DOB: 21 June 1982

AGE: 36 years

POB: California

DLN: B8963425 -CA

ARMED WITH Unarmed

Male

Black

5' 11"

175 lbs

Brown Eyes

Black Hair

Natural Hair Style

Light Brown

Complexion

191103271

Arrest Date: 21 February 2019 05:10

TRR Completed: No

Total No Arrested: 1

Co-Arrests

Assoc Cases

Location: 1718 S State St
Chicago, IL 60616

Beat: 131

DCFS Ward ? No

280 - Police Facility/Veh Parking Lot

Dependent Children? No

Holding Facility: Central Male Lockup

Resisted Arrest? No

Victim

Offense As Cited: 720 ILCS 5.0/26-1-A-4

DISORDERLY CONDUCT - FALSE REPORT OF OFFENSE

Class 4 - Type F

FILED

FEB 21 2019

DOROTHY BROWN

CLERK OF CIRCUIT COURT

NO NARCOTICS RECOVERED

ARREST REPORTING

NO WARRANT IDENTIFIED

FILED

FEB 21 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

NO ARRESTEE VEHICLE INFORMATION ENTERED

Confiscated Properties :

All confiscated properties are recorded in the e-Track System. This system can be queried by the inventory number to retrieve all official court documents related to evidence and/or recovered properties.

PROPERTIES INFORMATION FOR SMOLLETT, Jussie, NOT AVAILABLE IN THE AUTOMATED ARREST SYSTEM.

(The facts for probable cause to arrest AND to substantiate the charges include, but are not limited to, the following)

On 29-Jan-2019, a call was made to 911 and when police arrived, Jussie SMOLLETT stated he was the victim of an Aggravated Battery stating that two individuals beat him, poured an unknown substance on him, and placed a rope around his neck at the location of 341 E. Lower North Water Street, Chicago, Cook County IL. On 13-Feb-2019, Police located and interviewed Abimbola OSUNDAIRO and Olabinjo OSUNDAIRO who both stated SMOLLETT planned and staged the attack with the cooperation of Abimbola OSUNDAIRO and Olabinjo OSUNDAIRO. Statements made by Abimbola OSUNDAIRO and Olabinjo OSUNDAIRO were memorialized on videotape. Through investigation it was determined that the incident, as related by SMOLLETT, did not occur. At 0510 hours on 21-Feb-2019, SMOLLETT was read his MIRANDA warnings with Attorney Tina GLANDIAN present and declined to answer questions.

No Gipp, No Trap, No Investigative Alerts, No Warrants

SEE WC COMMENTS SECTION FOR ADDITIONAL COMMENTS

Desired Court Date: 28 February 2019
Branch: SKOK-5600 OLD ORCHARD RD - Room
Court Sgt Handle? No
Initial Court Date: 21 February 2019
Branch: CBC-1 2600 S CALIFORNIA - Room100
Docket #:

BOND INFORMATION NOT AVAILABLE

ARREST REPORTING

ATTESTING OFFICER:

I hereby declare and affirm, under penalty of perjury, that the facts stated herein are accurate to the best of my knowledge, information and/or belief.

Attesting Officer: #20390 VOGENTHALER, M W (PC0M233) 21 FEB 2019 05:32

ARRESTING OFFICER(S):

1st Arresting Officer: #21247 THEIS, M J (PC0W678)

Beat

5145

2nd Arresting Officer: #20390 VOGENTHALER, M W (PC0M233)

5145

APPROVING SUPERVISOR:

Approval of Probable Cause : #428 GUERRERO, R J (PC0P119) 21 FEB 2019 05:45

ARREST COPY

FILED

FEB 21 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

ARREST PROCESSING REPORT

Holding Facility: Central Male Lockup
Received in Lockup: 21 February 2019 05:47
Prints Taken: 21 February 2019 06:06
Palmprints Taken: Yes
Photograph Taken: 21 February 2019 06:03
Released from Lockup:

Time Last Fed: 21 February 2019 05:47
Time Called: Phone#: 8183957975
Cell #: TOT Placed in one person cell
Placed under close observation
Transport Details: IPO

VISUAL CHECK OF ARRESTEE

Is there obvious pain or injury? No
Is there obvious signs of infection? No
Under the influence of alcohol/drugs? No
Signs of alcohol/drug withdrawal? No
Appears to be despondent? No
Appears to be irrational? No
Carrying medication? No

ARRESTEE QUESTIONNAIRE

(If female) are you pregnant? No
First time ever been arrested? No
Attempted suicide/serious harm? No
Transgender/intersex/gender non-conforming? No
Deaf/hard of hearing request interpreter for court? No
Interpreter needed? (indicate language) No
Serious medical problems? No
Serious mental problems? No

ARRESTEE PRESCRIPTION/MEDICATION INFORMATION

Question	Response	Medical Condition	Next Medication Due
Presently Taking Prescribed Medication?	No		

RETURN TO HOLDING FACILITY COMMENTS

QUESTIONNAIRE REMARKS

Property Receipt-None

LOCKUP KEEPER COMMENTS

21 FEB 2019 06:01 SAUSEDA, Paul M (PC0Y482) : Tot/Cpd Det.Theis: Michael At 06:00 Am

EMERGENCY CONTACT

Name : REFUSED

Res:

Beat:

FILED

FEB 21 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

NO INTERVIEWS LOGGED

ARREST PROCESSING REPORT

VISITOR LOG

NO VISITORS LOGGED

MOVEMENT LOG

MOVEMENT LOG INFORMATION NOT AVAILABLE

FILED

FEB 21 2019

DOROTHY BROWN
CLERK OF CIRCUIT COURT

WC COMMENTS

Watch Commander Comments:

#428 Guerrero, Richard J (PC0P119)

21 FEB 2019 05:42

Felony charged approved by ASA Robert Mack on 20 Feb 19 at 1810 hrs.

REL w/o CHARGING

DOES NOT APPLY TO THIS ARREST

PROCESSING PERSONNEL

ARRESTEE PROCESSING PERSONNEL:

		Beat
Searched By:	KIRKLAND, K E (PC0C933)	
Lockup Keeper:	SAUSEDA, P M (PC0Y482)	
Fingerprinted By:	KIRKLAND, K E (PC0C933)	
Detective :	#20390 Vogenthaler, Michael W (PC0M233)	21 FEB 2019 05:41 5145

APPROVAL PERSONNEL:

		Beat
Final Approval of Charges :	#428 GUERRERO, R J(PC0P119)	21 FEB 2019 06:10