

No. 24-

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IN THE  
**Supreme Court of the United States**

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DANIEL A. MADERO,

*Petitioner,*

*v.*

OWEN MCGUINNESS,

*Respondent.*

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**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

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**PETITION FOR A WRIT OF CERTIORARI**

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## **QUESTIONS PRESENTED FOR REVIEW**

- I. Whether the denial of Mr. Madero's appeal to Respondent's motion for summary judgment was in error, under this Court's ruling in *Tolan*, as there was a genuine dispute of material fact and the evidence of the nonmovant was not believed.
- II. Whether the denial of Mr. Madero's appeal regarding lack of probable cause at the time of his arrest violates the Fourth Amendment, and is contradictory to this Court's findings in *Beck* and *Llaguna*.

## **PARTIES TO THE PROCEEDINGS**

The parties to the proceedings before this court are as follows:

Daniel A. Madero.

Owen McGuiness.

**LIST OF PROCEEDINGS**

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

Case No. 23-2574

DANIEL A. MADERO V. OWEN MCGUINNESS  
No. 23-2574, (CITATION)

Order affirming the decision of the district court.  
Judgment dated April 1, 2024.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
Case No. 20-CV-50062

DANIEL A. MADERO V. OWEN MCGUINNESS  
No. 20-CV-50062 (CITATION)

Order granting motion for summary judgment.  
Judgment dated June 27, 2023

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner, Daniel A. Madero respectfully requests that a Writ of Certiorari be issued to review the denial of relief from the United States Court of Appeals for the Seventh District.

### **OPINIONS BELOW**

The June 27, 2023, order from the United States District Court for the Northern District of Illinois Western Division is reproduced in the Appendix (“Appendix B”)

The April 1, 2024, opinion from the United States Court of Appeals for the Seventh Circuit is reproduced in the Appendix (“Appendix A”).

### **BASIS FOR JURISDICTION IN THIS CASE**

The United States Court of Appeals for the Seventh Circuit issued its opinion on April 1, 2024. This Court has jurisdiction under 28 U.S.C. §1254.

### **CONSTITUTIONAL PROVISIONS INVOLVED**

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.”

U.S. Const. amend. IV.

## **STATUTORY PROVISIONS INVOLVED**

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.”

42. U.S.C. §1983

## **FEDERAL RULE PROVISIONS INVOLVED**

“A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact, and the movant is entitled to judgment as a matter of law. The court should state on the

record the reasons for granting or denying the motion.”

Fed. R. Civ. P. 56 (a).

### **STATEMENT OF THE CASE**

Applicant Daniel A. Madero (“Mr. Madero or Applicant”) brought the above-captioned appeal following the granting of the motion for summary judgment. The lower court should not have granted the motion for summary judgment as there was a genuine dispute as to material fact within the case. Further, this Petition raises questions about a grave constitutional violation in Mr. Madero’s arrest and the wrongful granting of the motion for summary judgment. Mr. Madero followed all necessary procedures and exhausted all lower court remedies before promptly filing.

On February 9, 2018, during a heavy snowstorm, Mr. Madero, went out in the storm to assist other drivers whose vehicles got stuck in the storm. Compl. ¶ 7 (“Appendix C”). On Mr. Madero’s drive home, he was stopped at a red light at the intersection of Parkside Avenue and Broadway, where he was ambushed. Compl. ¶ 9. Three individuals, Brandon Philbee (“Philbee”), Brett Daehler (“Daehler”), and John Keck (“Keck”), hazardously surrounded Mr. Madero while in their vehicle, driving at a high-speed rate. Compl. ¶ 9. Philbee was the one whose vehicle was hit, and Daehler and Keck were merely “witnesses” of the accident.

Before surrounding Mr. Madero’s vehicle, Philbee was driving through an intersection, where another vehicle

collided with his, leaving the scene. Compl. ¶ 10, 13. Philbee, along with Daehler and Keck, left the scene and began to chase down the individual who collided with his car. Compl. ¶14. While in this pursuit, Philbee, Daehler, and Keck lost sight of the individual, and in desperate need to find the suspect, decided to surround and ashbush Mr. Madero. Compl. ¶ 17. When surrounding his vehicle, Philbee approached Mr. Madero's window and began screaming at him, which prompted Mr. Madero to roll down his window and inform Philbee he was not involved in an accident. Compl. ¶ 17.

In full rage, and need to find the individual who hit his vehicle Philbee did not believe Mr. Madero, and opened his driver-side door, punched Mr. Madero, and threatened to kill him. ¶ 18-19. Philbee, then proceeded to jump into Mr. Madero's car, continuing to punch and choke him, forcing Mr. Madero to defend himself. Compl. ¶ 20.

Officer Owen McGuiness ("Officer McGuiness") responded to the scene around 4:00 A.M., along with Officer Kurt Swanson ("Officer Swanson") and Officer James Napchampassack ("Officer Napchampassack"). Compl. ¶23. Each officer interviewed Phillipbee, Keck, and Daehler, and they received contradictory information from all the interviews. Compl. ¶24. Philbee claimed that he fell inside Mr. Madero's vehicle, while Daehler and Keck stated that Philbee jumped into Madero's vehicle. Compl. ¶24.

Officer McGuiness within this process did an incomplete investigation of the scene (McGuiness Police Report, 7). At no point did Officer McGuiness witness any of the crime first-hand. (McGuiness, 7). It was

noted that upon arrival “the Audi passenger side door [Madero’s vehicle] was open and I noticed Madero and Philbee grabbing each other inside the Audi. (McGuiness, 7). According to Officer McGuiness, “Philbee exited the passenger side of the vehicle and told [him] that Madero stabbed him in the face with a key. (McGuiness, 7). Officer McGuiness “observed a cut under Philbee’s right eye,” he did not witness the alleged account, nor did he recover any evidence that corroborates Philbee’s story of the encounter. (McGuiness 7).

Officer McGuiness further acknowledges that Officer Nachampassack spoke with Mr. Madero, as provided that Mr. Madero stated that “Philbee punched him a few times in the face” (McGuiness, 7). Yet, despite obtaining this information from Officer Nachampassack, Officer McGuiness, arrested Mr. Madero for aggravated battery based solely on the information provided by Philbee, although his fellow officer mentioned how Philbee punched Mr. Madero. Further, this was provided in the probable cause statement provided by Officer McGuiness as it was stated “Philbee punched him a few times in the face.” (Probable Cause, 1). Not only did Officer McGuiness not have probable cause for the arrest of Mr. Madero as there was a complete lack of investigation, but he acknowledged Mr. Madero was punched and failed to arrest Philbee.

Beyond, the physical aspect of the event, there was an issue regarding Officer McGuiness and Mr. Madero’s vehicle. Officer McGuiness failed to complete a full investigation of Mr. Madero’s vehicle to see if there was damage to the vehicle that should have been based on the description of the accident from Philbee. Officer McGuiness stated “I observed the green Audi [Mr. Madero’s vehicle]

had front-end damage. The Pontiac Torrent [Philbee's vehicle] had driver side and passenger side damage, both headlights were smashed . . . I was unable to see any visible paint transfer from the vehicles due to the heavy snowstorm" (McGuiness, 8). As shown here Officer McGuiness failed to do an adequate investigation to see if the damages to the vehicles equated to the reported accident and made an arrest solely on the account of the victim, and not the accused.

Further, after Mr. Madero was arrested and everyone left the scene, there was contradictory evidence that was introduced that speaks to the dispute as to material fact relating to the statements of the witnesses and the supposed damage to the front of Mr. Madero's vehicle. Richard DeVliger, a detective, in his deposition, stated about Mr. Madero's vehicle when presented with the question of whether there was any front-end damage "Not on the front. There was some damage on the back." (DeVliger Deposition, 23). Further, when asked if there was any other damage indicating if the vehicle was involved in a collision "absolutely not." (DeVliger, 23). Further, DeVliger, noted in his report "while looking at the Audi I could not observe any front end damage consistent with a front end collision. The head lights, grill and hood were all intact and had no visible damage." (DeVliger Report, 12).

While interviewing Mr. Madero, DeVliger, provided regarding the event Mr. Madero stated "the driver of the truck [Philbee] then reached in and took the car keys from the ignition. Madero said during this altercation Brandon [Philbee] said he was going to "kill me.'" (DeVliger Report, 14). Further noting, Mr. Madero told officers he was not involved in any accident, and the only front end

damage possible would be front hitting a snow bank when Philbee jumped into his vehicle. (DeVliger Report, 14).

Within Officer Swanson's report, at around 5:00 A.M., he stated that Daehler called the 911 dispatch center wanting to speak to one of the Officers. (Swanson Report, 8). At 7:40 A.M. Swanson spoke with Daehler, where it was reported that he and Keck when speaking about the accident wanted to recant their initial statements about the accident (Swanson, 8). Daehler and Keck both provided that they were not certain if Mr. Madero was the one to hit Philbee. (Swanson, 8). Daehler specifically provided that he believed this because "the front-end damage that was on the Audi on the scene was likely not caused by the collision that they witnessed. (Swanson, 8). Further, Daehler stated he is now changing his story because "at the time of the incident he was going along with the victim but now . . . he did lose sight of the Audi but never lost sight of the Pontiac, which was chasing the suspect vehicle." (Swanson, 8). Further, DeVileger in his report provides that while speaking with Keck, he stated, "one he was away from the scene and had time to sit and reflect on what had occurred he realized the front of the Audi did not have any damage which it should have." (DeVlieger Report, 11).

Mr. Madero was released from jail around 5:00 P.M. after the state declined to charge him with aggravated battery, and his tickets were later dismissed.

The procedural history is as follows:

- On February 10, 2020, Mr. Madero filed a complaint with the United States District Court

for the Northern District of Illinois alleging that Officer McGuiness conducted an unreasonable search and deprived Mr. Madero of his liberty in violation of 42 U.S.C. §1983 and the Fourth Amendment of the United States Constitution.

- On January 30, 2023, Officer McGuiness filed a motion for summary judgment.
- On April 10, 2023, Mr. Madero filed a motion in opposition to Officer McGuiness's motion for summary judgment.
- On June 27, 2023, the United States District Court for the Northern District of Illinois granted Officer McGuiness' motion for summary judgment.
- On August 10, 2023, Mr. Madero filed a notice of appeal to the United States Court of Appeals for the Seventh Circuit.
- On April 1, 2024, the United States Court of Appeals for the Seventh Circuit released its opinion affirming the decision of the District Court.
- On June 14, 2024, the Supreme Court of the United States granted an extension for filing to July 30, 2024.

## REASONS TO GRANT THIS PETITION

This Court should reverse the lower courts and remand with instructions to grant relief because Mr. Madero denies a critical constitutional right. In 1986, this Court found in *Celotex Corp v. Catrett*, that the burden of proof is on the moving party to prove that there is no genuine dispute of any material fact and must demonstrate the absence of such by “citing to particular parts of materials in the record” *Celotex Corp v. Catrett*, 477 U.S. 317, 323 (1986). this Court, Moreover, in 2014, this Court *Tolan v. Cotton*, vacated the fifth circuit’s judgment because they failed to adhere to the principle that reasonable inference should be drawn in favor of the nonmoving party at the summary judgment stage, and further that genuine disputes should be resolved by juries. *Tolan v. Cotton*, 572 U.S. 650 (2014). The standard to be used regarding summary judgment is not only provided in the case law precedent of this Court but further in FRCP 56(a).

Moreover, under 42 U.S.C. §1983 and the Fourth Amendment of the United States Constitution, a police officer must have probable cause to make an arrest. Probable cause depends on the “factual and practical considerations of everyday life. *Illinois v. Gates*, 462 U.S. 213, 231 (1983). In considering probable cause, it includes the totality of the circumstances, including the facts available to the defendant, that are dispositive. *Id.* at 231-232; *United States v. Fooladi*, 703 F.2d 180 (5th Cir. 1983).

This Court should reverse the lower courts’ granting of summary judgment because the dismissal of the claim is contrary to, FRCP 56, and the constitutional rights

under the 4th Amendment as to probable cause required in an arrest.

**I. The denial of Mr. Madero's appeal to Respondent's motion for summary judgment was in error, under this Court's ruling in *Tolan*, as there was a genuine dispute of material fact and the evidence of the nonmovant was not believed.**

To determine if summary judgment can be granted, the Federal Rules of Civil Procedure provides that summary judgment is only appropriate when "there is no genuine dispute as to any material fact." Fed. R. Civ. P. 56(a). In doing so, the moving party must demonstrate the absence of a genuine dispute of any material fact by "citing to particular parts of materials in the record. *Celotex*, 477 U.S. at 317; Fed. R. Civ. P 56(c). The burden of proof is on the moving party to prove that there is no dispute as to any material fact. *CeloTex*, 477 U.S. at 323. When a court is ruling on a motion for summary judgment "the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor. *Tolan*, 572 U.S. at 651 (citing to *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)). Further, when there is dispute of material fact "whether an officer had probable cause to make an arrest generally will present a question for the jury, although the court can decide it when the material facts are not disputed." *Jones by Jones v. Webb*, 45 F.3d 178, 182 (7th Cir. 1995).

In *Tolan*, the District court granted summary judgment to the moving party and reasoned that his use of force was not unreasonable and did not violate the Fourth Amendment. This Court remanded this decision finding

that the Fifth Circuit failed to adhere to the axiom that “in ruling on a motion for summary judgment, the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.” *Tolan*, 572 U.S. at 651 (citing to *Anderson*, 477 U.S. at 255 (1986). There, this Court, provided that the Circuit Court failed to view the evidence at summary judgment in the light most favorable to the nonmovant concerning the central facts of the case. *Id.* at 658. As a result of failing to credit evidence that contradicted some of the key factual conclusions, the court improperly “weighed the evidence” and “resolved disputed issues in favor of the moving party.” *Id.* (citing to *Anderson*, 477 U.S. at 249.) This Court further provided that the lower court should have acknowledged and credit the evidence of the nonmovant regarding smaller details such as lighting, demeanor, and whether certain words were an overt threat, as a part of their reasoning to remand the summary judgment decision. *Id.* at 660. The Court did not speak to the Fourth Amendment determinations but showed that they are vacating so the court can determine “when evidence is properly credited and factual inferences are reasonably drawn in his favor, Cotton’s actions violated clearly established law.”

As this Court ruled in *Tolan*, we are asking you to consider this case as the decision of the lower court is in direct conflict with the ruling here. The lower court failed to consider all of the evidence in the light of the non-moving party in the summary judgment ruling. Here, as in *Tolan*, the lower court improperly weighed the evidence and resolved disputed issues in favor of the moving party. Here, there were multiple disputes as to material fact including; whether it was Mr. Madero who was in the accident, whether McGuiness properly

investigated the scene prior to the arrest of Mr. Madero, whether there was damage to the front of the vehicle indicating a car accident, whether Mr. Madero caused the supposed injury to Philbee, and the recanting of evidence of the two witnesses to the accident.

In *Tolan*, this Court remanded to the lower court based on minor details from the time of day, demeanor, and the usage of words. Using this same reasoning this Court should remand to the lower court as the issues of material fact here are grave.

Looking at the evidence in the light most favorable to the non-moving party, first, Mr. Madero stated to the police that he was not in any kind of car accident, in the encounter with McGuiness and the lower court did not see that as a genuine dispute, when there is a major discrepancy between the two parties.

Second, as to the proper investigation McGuiness provides, and the court concluded that McGuiness did a proper investigation while looking at the facts in a favorable light to Mr. Madero, there is a genuine dispute as to the facts. Here, Mr. Madero's vehicle did not have any damage that would lead to a conclusion he was in a car accident, and Mr. Madero stated he was punched, choked, and told he was going to be killed, yet Mr. Madero was the one who was arrested. McGuiness failed to do a proper investigation, as it was provided in DeVliger's report that upon looking at the front of Mr. Madero's vehicle there was a clear indication that there was no damage to the front of the vehicle showing he was in an accident. Moreover, this was provided in the amended statements of the witness' to DeVliger in his report. The witness' stated that upon

thinking back at the accident they did not see any damage to the vehicle that should have been there if Mr. Madero was a party to the accident but rather were going on the statements of Philbee rather than what they witnessed. There is a clear issue as to material fact as to whether the investigation of McGuiness and proper and further as to the evidence and statements that were obtained.

Third, there is a dispute over material facts when it comes to the witnesses of the accident and the other officers. As provided in McGuiness's police report and that of the officers, the witnesses had different stories regarding which road they were going down, the direction, and whether it was for certain that Mr. Madero was the one who hit Philbee's vehicle, similar to the issue of fact that was remanded in *Tolan*. McGuiness, failed to do a proper investigation, as there was not a clear statement of facts between all of the officers on the scene and between the witnesses before an arrest. Further, the lower court provided that the recanting of the statements of the witnesses was not relevant here, as it was not at the time of the arrest. Although it was not at the time of the arrest, it should have been an inference that the issue later brought in the difference in the statements of the witnesses two hours past the arrest of Mr. Madero is important and is further a material fact. Instead of the court considering these statements which included evidence that which the witnesses provided they did not believe that the

Fourth, the court should not have been allowed to make a summary judgment decision as to probable cause as there was dispute as provided above as to the material facts of the case. As provided in *Jones by Jones*, the court should have left this as a dispute to present to a jury, as

there were material facts in dispute. *Jones by Jones*, 45 F.3d at 182. Due to the dispute of material fact, this Court should vacate and remand, as since there was a dispute of material fact, the court should have left the decision to the jury, rather than granting a motion for summary judgment.

Here, the lower court rather than viewing the evidence in the light most favorable to the non-moving party found “the only evidence supporting Mr. Madero’s claim that he was uninvolved in the hit and run accident, other than his testimony, was the lack of front-end damage, but none of the officers nor any of the witnesses brought up the lack of damage to the front of the car.” This was incorrect and was further contradictory to the finding in *Tolan*, as the witnesses amended their statements and DeVliger’s police report stated the issue of lack of front-end damage. Beyond the falsity of the statement, the court states the issue as to whether Philbee jumped or fell into Mr. Madero’s car was not important to dispel probable cause, and it did not matter as to the discrepancy in witness testimony as to the direction of the vehicle. These findings are contradictory to this Court’s finding in *Tolan*, as the Court did not rule on the Fourth Amendment issue but found the issue as to summary judgment and using the smaller details as material disputes of fact.

Moreover, there was incorrect inference of the evidence regarding the supposed aggravated assault of Philbee. McGuiness never witnessed Mr. Madero commit the assault but merely as he provided in the police report saw they were “grabbing each other” inside Mr. Madero’s car. McGuiness, and the lower correct incorrectly inferences the showing of blood and scratches on Philbee’s

face, even knowing the surrounding evidence that Philbee choked, punched, and threatened to kill Mr. Madero, and agreed with the incorrect inferences not in light of the moving party by McGuiness. The lower court should have found these to be a dispute as to material fact, and further, this Court should remand, as the lower court incorrectly weighed the evidence in favor of the moving party.

Therefore, as this Court has provided in *Tolan*, the present case is contradictory to this Court's findings, as such we ask the Court to vacate and remand, as the lower court failed to view the evidence at summary judgment in the light most favorable to the nonmovant concerning the central facts of the case, and improperly weighed the evidence in favor of the moving party. Thus, there was a genuine dispute of material fact in violation of FRCP 56(a).

**II. The denial of Mr. Madero's appeal regarding lack of probable cause at the time of his arrest violates the Fourth Amendment and is contradictory to this Court's findings in *Beck* and *Llaguna*.**

Whether an arrest is constitutionally valid depends in turn upon whether at the moment the arrest was made, the officers had probable cause to make it—whether at the moment the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the petitioner had committed or was committing an offense. *Beck v. Ohio*, 379 U.S. 89, 91 (1964); *Brinegar v. United States*, 338 U.S. 160, 175-176; *Henry v. United States*, 361 U.S. 98, 103 Probable cause is a “fluctuating concept; its existence depends upon factual and practical considerations of everyday life” *Illinois v.*

*Gates*, 462 U.S. 213, 231 (1983) (quoting *Brinegar v. United States*, 338 U.S. 462 (1949)).

When determining whether an officer had probable cause the court must look to the totality of the circumstances, including the facts available to the defendant that are dispositive. *Gates*, 462 U.S. at 231-232; *United States v. Fooladi*, 703 F.2d 180 (5th Cir. 1983). In the determination of probable cause “police officers are allowed to make mistakes, but those mistakes must be reasonable ones. *BeVier v. Hucal*, 806 F.2d 123, 126 (7th Cir 1986); *Brinegar*, 338 U.S. at 176; *McKinney v. George*, 726 F.2d 1183, 1187 (7th Cir 1983). Further, a police officer is not allowed to “close her or his eyes to facts that would help clarify the circumstances of an arrest.” *BeVier*, 806 F.2d at 128.

The court in *Llaguna v. Mingey*, found that in determining probable cause, the court should balance the amount of information available to the police with the situation they faced to decide whether probable cause existed. *Llaguna v. Mingley*, 763 F.2d. 1560 (7th Cir. 1985). There, the court found that the amount of information that prudent police will “collect before deciding to make a search or an arrest, and hence the amount of probable cause they will have, is a function of the gravity of the crime, and especially the danger of its imminent repetition. *Id.* at 1566-1567. Further, there the officer acted on minimal information and weak inferences because *the danger was so great*, as they were searching for two murderers. *Id.* at 1567 (emphasis added).

Here, when looking at the totality of the circumstances, McGuiness did not have sufficient information, knowledge,

and trustworthiness of the information to have probable cause under this Court's ruling in *Beck*. As stated above, McGuiness did not have direct knowledge as to any of the relevant facts to have probable cause. McGuiness did not witness any supposed aggravated battery, he did not witness the hit and run and did not have any evidence such as looking to see if Mr. Madero's vehicle evidenced a car accident such as damage to the front of his vehicle. McGuiness, as provided in his police report noticed Mr. Madero and Philbee "grabbing each other" inside Mr. Madero's vehicle. While McGuiness was told that Mr. Madero was punched, choked, and threatened, McGuiness failed to recover any relevant evidence. McGuiness and the lower court failed to consider the statements of Mr. Madero as to his experience of the event and rather relied on the testimony of witnesses, which was later retracted as McGuiness failed to properly conduct a full investigation.

Further, concerning *Llaguna*, this Court has found that the officer had probable cause acting on minimal information and weak inferences because the *danger was so great* as they were searching for murderers. This standard would not apply here McGuiness, was not in great danger. McGuiness arrived on the scene after the event had occurred. McGuiness did not witness the accident and alleged battery. As such McGuiness should have been required to collect the amount of evidence that a prudent officer would have before deciding to make an arrest, concerning the gravity of the crime, and the danger of repetition. Here, there was no gravity as to the repetition of the crime as it was concluded by the time of McGuiness's arrival and further, the gravity of the crime was nothing to the extent of finding murders on the run. The event here was contained, and as such

McGuiness should have collected ample evidence before making an arrest. Especially due to the contradictory statements made and should have taken the time to look at Mr. Madero's vehicle for damage to back the finding that Philbee was accusing Mr. Madero of a hit and run, which led to the accused aggravated battery.

Therefore, the lower court was incorrect in their findings, as they are contradictory to this Court's ruling in *Beck* and *Llaguna*, as McGuiness did not collect the amount of evidence that a prudent officer would have, concerning the gravity of the crime, and did not have sufficient and trustworthy knowledge, McGuiness failed to have probable cause in the arrest of Mr. Madero. Thus, this Court should vacate and remand the finding that McGuiness, violated Mr. Madero's Fourth Amendment rights.

## CONCLUSION

The harm suffered by Mr. Madero in the granting of summary judgment in the lower court goes against the essence of the Constitution and the rulings of this Court, causing irreparable harm upon Mr. Madero absent the relief requested here.

For the foregoing reasons this Court should grant this Petition for Writ of Certiorari.

Respectfully submitted,

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## **APPENDIX**

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**APPENDIX A — ORDER AFFIRMING DECISION  
OF THE DISTRICT COURT IN THE UNITED  
STATES COURT OF APPEALS FOR THE  
SEVENTH CIRCUIT, DECIDED APRIL 1, 2024**

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

No. 23-2574

DANIEL A. MADERO,

*Plaintiff-Appellant,*

v.

OWEN McGUINNESS,

*Defendant-Appellee.*

Appeal from the United States District Court for the  
Northern District of Illinois, Western Division,  
No. 3:20-cv-50062—Philip G. Reinhard, *Judge.*

ARGUED FEBRUARY 22, 2024  
DECIDED APRIL 1, 2024

Before SYKES, *Chief Judge*, and RIPPLE and ST. EVE,  
*Circuit Judges.*

RIPPLE, *Circuit Judge.* At 4 a.m. on a snowy morning in Rockford, Illinois, Officer Owen McGuinness responded to a call that drivers involved in a hit-and-run accident were fighting. When he arrived at the scene, Officer

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McGuinness was faced with two different stories of the events that had transpired. Three witnesses insisted that Daniel Madero had been the driver of the hit-and-run vehicle and that, after a confrontation, Mr. Madero had struck Brandon Philbee, the hit-and-run victim, in the face with a key. For his part, Mr. Madero asserted his innocence, denying that he was the driver of the hit-and-run car. He maintained that he had acted in self-defense against Philbee. It was, essentially, three against one. Confronted with the decision of whose story to credit, Officer McGuinness believed the three witnesses. He arrested Mr. Madero for aggravated battery for his fight with Philbee and issued him traffic citations for his role in the hit-and-run accident.

An investigation later in the day concluded that Mr. Madero's vehicle was likely not involved in the hit-and-run accident. An assistant state's attorney declined to press charges against Mr. Madero, and he was released from jail that evening. He then filed a complaint in federal district court against Officer McGuinness. His complaint set forth claims of false arrest in violation of the Fourth and Fourteenth Amendments. The district court granted summary judgment to Officer McGuinness because it determined that he had probable cause to arrest Mr. Madero. We hold that the district court correctly concluded that Officer McGuinness had probable cause to arrest Mr. Madero based on the information available to him at the time of the arrest. Accordingly, we affirm the judgment of the district court.

*Appendix A***I**  
**BACKGROUND****A. Facts**

The events in question occurred in the early morning hours of February 9, 2018, in Rockford, Illinois. There were four main witnesses and/or participants to the hit-and-run accident and ensuing fight: Mr. Madero, Philbee, Daehler, and Keck.

The story unfolds as follows. As Philbee was driving through an intersection on a green light, his beige Pontiac SUV was struck on the front passenger side by the front bumper of a dark-colored sedan driving through a red light. Philbee saw the incoming car and shifted his car into neutral before impact. The contact forced him into oncoming traffic, where he collided with a GMC pickup truck, driven by Keck. The nearby driver of a white Ford pickup, Daehler, observed the accident. The dark-colored sedan fled the scene. All three of the other drivers – Philbee in his Pontiac and Daehler and Keck in their respective trucks – followed the dark-colored sedan as it drove away, leading them on a chase around several blocks.<sup>1</sup> The chase culminated back at the original intersection. Philbee, Daehler, and Keck surrounded a

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1. The three disagreed slightly about the path they traveled. Although all agreed that they made three left turns and ended back at the original intersection, they disagreed about whether they first turned left onto Alpine Road (Philbee's testimony) or Point Avenue (Daehler's and Keck's testimony). These two roads are "a block apart." R.66-5 at 45.

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green Audi sedan waiting at the intersection with their vehicles, and Philbee got out of his car and walked up to the driver's side window of the Audi.

It is not disputed that the driver waiting at the intersection in his green Audi was Mr. Madero. Mr. Madero does dispute, however, that he was the driver of the dark-colored sedan involved in the hit-and-run accident. According to Mr. Madero, he was an innocent driver waiting at the intersection for the light to change when the three vehicles surrounded him and Philbee confronted him. But as the events of the morning continued, Philbee, Daehler, and Keck were operating under the belief that Mr. Madero and the driver of the dark-colored sedan were one and the same. They insisted, to each other and to police, that they had never lost sight of the dark-colored sedan as they chased it through the streets of Rockford.

Back to the scene. Philbee and Mr. Madero began arguing. Philbee accused Mr. Madero of the hit-and-run accident, and Mr. Madero denied involvement. At some point, Philbee reached inside the vehicle, and when the light turned green, Mr. Madero attempted to drive through the intersection. He was prevented from doing so by Daehler's truck and Keck's truck, each of which hit his Audi and sent it careening into a snowbank. Philbee, who had grabbed ahold of the steering wheel, ended up inside the vehicle, and began choking Mr. Madero. The fight between the two ended only when Officer McGuinness arrived at the scene.

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Officer McGuinness observed the very end of the fight between Philbee and Mr. Madero. He saw that Philbee had blood dripping below his eye. Philbee and Daehler informed Officer McGuinness that Mr. Madero had stabbed Philbee with a key. Mr. Madero denied the accusation.

Soon two other officers arrived: Officer Swanson and Officer Nachampasack. The officers began their initial investigation. They divided the task of interviewing the witnesses amongst themselves as was their custom. Officer McGuinness interviewed Philbee, Officer Swanson interviewed Daehler and Keck, and Officer Nachampasack attempted to interview Mr. Madero. Mr. Madero, however, was too “out of sorts” to provide a statement at that time.<sup>2</sup> For their part, Daehler, Keck, and Philbee insisted that they had never lost sight of the dark-colored sedan during the entire chase and that the dark-colored sedan was certainly Mr. Madero’s green Audi. The officers communicated with each other at the scene after conducting their respective interviews.

Eventually, an ambulance arrived and transported Mr. Madero to the hospital for treatment of his injuries sustained during the fight with Philbee. Officer Nachampasack followed the ambulance and remained with Mr. Madero at the hospital. He obtained a statement from him there. Mr. Madero told Officer Nachampasack that he had been waiting innocently at the intersection when he was surrounded by the three vehicles and attacked by

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2. R.66-3 at 27-28.

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Philbee. Officer Nachampasack called Officer McGuinness and relayed this information. Officer McGuinness then spoke on the phone with an assistant state's attorney, who approved an aggravated battery charge against Mr. Madero. In doing so, the state's attorney relied on a probable cause statement prepared by Officer McGuinness, which summarized the police interviews with the witnesses and other evidence. Mr. Madero was then informed of the aggravated battery charge against him. He was also informed that he had been issued four traffic citations relating to the hit-and-run accident. He was taken to jail around 5 o'clock that morning.

A few hours later, at around 7:30 a.m., Daehler and Keck modified their original witness statements. According to Officer Swanson's police report, after the accident, Daehler and Keck began discussing the events of the morning with each other. They ultimately came to the joint conclusion that they were no longer certain that Mr. Madero's green Audi was the dark-colored sedan involved in the original hit-and-run accident. They based this conclusion on the lack of damage to the front of the Audi; in their view, had the Audi hit Philbee's Pontiac with enough force to push it into Keck's truck, the front of the Audi should have reflected that sort of damage. It did not, and so the two informed law enforcement that they were no longer sure that the green Audi was the hit-and-run vehicle. They also admitted, contrary to their on-scene testimony, that they had not had their eyes upon the dark-colored sedan the entire time; at some point during the chase, Daehler was relying on his view of Philbee's Pontiac, and Keck was relying on his view of Daehler's truck.

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Around that time, Assistant Deputy or Deputy Chief Pann contacted Detective DeVlieger, an accident investigator, and requested that he look into the morning's events.<sup>3</sup> Detective DeVlieger read the police reports and spoke with Daehler and Keck (who at this point had called police to modify their earlier statements). He also viewed Philbee's Pontiac and Mr. Madero's Audi. The Pontiac "had a lot of front-end passenger side damage," while "there was no evidence in [Detective DeVlieger's] opinion that [Mr. Madero's] vehicle was involved in a front-end collision."<sup>4</sup> Further, Philbee's vehicle showed evidence of paint transfer from a gray or white vehicle, rather than a green vehicle. Based on this evidence, Detective DeVlieger concluded that Mr. Madero's vehicle had not been involved in the initial hit-and-run accident.<sup>5</sup>

Mr. Madero was released from jail around 5 p.m. that evening after the State declined to charge him with aggravated battery. His traffic tickets were later dismissed.

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3. It is not clear whether Chief Pann was the deputy chief or assistant deputy chief.

4. R.73-3 at 6.

5. It is not clear whether Officer McGuinness closely examined the supposed damage to the front end of the Audi from the hit-and-run accident prior to Mr. Madero's arrest. His report stated that he "observed the green Audi had front end damage," but that he "was unable to see any visible paint transfer from the vehicles due to the heavy snow storm." R.73-1 at 8. At his deposition, however, Officer McGuinness was unable to recall the damage he saw that led to this statement in his report.

*Appendix A***B. Prior Proceedings**

Mr. Madero filed an action against Officer McGuinness in the United States District Court for the Northern District of Illinois in February 2020. His complaint set forth allegations that Officer McGuinness had violated his Fourth and Fourteenth Amendment rights by falsely arresting him the morning of February 9, 2018. After the parties conducted discovery, Officer McGuinness filed a motion for summary judgment.

The district court granted the motion. The court focused on the information available to Officer McGuinness and the other officers at the time of the arrest. Of particular importance to the court was that Officer McGuinness heard testimony from three “very adamant” witnesses who each “said the same thing.” *Madero v. McGuinness*, No. 20-cv-50062, 2023 WL 10669146, at \*5 (N.D. Ill. June 27, 2023). “In short, it was three witnesses against one.” *Id.* The court explained that the officers had enough information available to them at the scene of the accident to establish probable cause to arrest Mr. Madero for aggravated battery. *Id.* at \*6.

The district court found Mr. Madero’s arguments to the contrary to be unpersuasive. First, although Mr. Madero highlighted conflicting testimony on whether Philbee “jumped” or “fell” into the Audi, the court “[did] not believe this discrepancy [wa]s material” and found that it was “not especially surprising that witnesses might have described this movement in slightly different ways given that it occurred at the end of a fairly complicated

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sequence of events.” *Id.* at \*6-7. Second, the court rejected Mr. Madero’s argument concerning Philbee’s disagreement with Daehler and Keck on the exact path taken during the chase. In the court’s view, because the witnesses were “adamant . . . that they never lost sight of the vehicle,” Officer McGuinness could have reasonably concluded “this discrepancy about the exact road taken to be an inconsequential mistake made by one of these witnesses.” *Id.* at \*7. Third and finally, the district court considered Mr. Madero’s argument regarding the lack of damage to the front of his vehicle. This argument failed, too. In the district court’s view, Detective DeVlieger’s conclusion that Mr. Madero’s vehicle was not the hit-and-run vehicle because it did not have the expected damage assumed that the hit-and-run vehicle had been traveling the posted speed limit. But the court pointed to Philbee’s testimony that the hit-and-run vehicle had slowed its speed down significantly and “barely bumped” Philbee’s car. *Id.* at \*8 (quoting R.66-4 at 19). Although the court recognized that Philbee may not have been a credible witness, it ultimately determined that Philbee’s theory was not “completely implausible.” *Id.*

In closing, the court concluded that “there was enough evidence at the time of the initial investigation to meet the lower probable cause standard for both the aggravated battery charge and for the four traffic violations,” and granted summary judgment to Officer McGuinness. *Id.* at \*9.

*Appendix A***II**  
**DISCUSSION**

We review the district court’s grant of summary judgment de novo, viewing the facts in the light most favorable to the non-moving party, here Mr. Madero. *Lawson v. Veruchi*, 637 F.3d 699, 703 (7th Cir. 2011). “Summary judgment is proper ‘if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.’” *Abbott v. Sangamon Cnty., Illinois*, 705 F.3d 706, 713 (7th Cir. 2013).<sup>6</sup>

A plaintiff seeking to prevail on a claim of false arrest must show that he was arrested without probable cause because “probable cause is an absolute defense to such a claim.” *Lawson*, 637 F.3d at 703 (quoting *Gonzalez v. City of Elgin*, 578 F.3d 526, 537 (7th Cir. 2009)). The burden of demonstrating a lack of probable cause belongs to the plaintiff. *McBride v. Grice*, 576 F.3d 703, 706 (7th Cir. 2009). Although the jury typically determines whether an

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6. We note that the district court conducted no separate analysis of Mr. Madero’s claim that his false arrest was a violation of his due process rights under the Fourteenth Amendment. Rightfully so. Claims for false arrest prior to trial are appropriately considered under the Fourth Amendment, not the Fourteenth Amendment. *Manuel v. City of Joliet, Illinois*, 580 U.S. 357, 367, 137 S.Ct. 911, 197 L.Ed.2d 312 (2017) (“If the complaint is that a form of legal process resulted in pretrial detention unsupported by probable cause, then the right allegedly lies in the Fourth Amendment.”); *Lewis v. City of Chicago*, 914 F.3d 472, 478 (7th Cir. 2019) (“It’s now clear that a § 1983 claim for unlawful pretrial detention rests *exclusively* on the Fourth Amendment.”).

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arrest was supported by probable cause in a Section 1983 false-arrest case, the court may make that decision on summary judgment if the underlying facts are undisputed. *Abbott*, 705 F.3d at 714.

An officer has probable cause when, “at the time of the arrest, the facts and circumstances within the defendant’s knowledge ‘are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect has committed . . . an offense.’” *Lawson*, 637 F.3d at 703 (quoting *Chelios v. Heavener*, 520 F.3d 678, 686 (7th Cir. 2008)). “The existence of probable cause . . . depends, in the first instance, on the elements of the predicate criminal offense(s) as defined by state law.” *Doe v. Gray*, 75 F.4th 710, 719 (7th Cir. 2023) (quoting *Abbott*, 705 F.3d at 715); *see also Michigan v. DeFillippo*, 443 U.S. 31, 36, 99 S.Ct. 2627, 61 L.Ed.2d 343 (1979). Mr. Madero was charged with aggravated battery under Section 12.305(c) of the Illinois Criminal Code. Illinois law provides that “[a] person commits battery if he or she knowingly without legal justification by any means (1) causes bodily harm to an individual or (2) makes physical contact of an insulting or provoking nature with an individual.” 720 ILCS 5/12-3. A battery charge may be elevated to an aggravated battery charge when the person committing battery, or the person battered, is on or about a public way. 720 ILCS 5/12-3.05(c).

Our inquiry into probable cause “is limited to what the officer knew at the time of the arrest.” *Harney v. City of Chicago*, 702 F.3d 916, 922 (7th Cir. 2012). We therefore consider only the information available to Officer

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McGuinness prior to his 5 a.m. arrest of Mr. Madero. We hold that Officer McGuinness had probable cause to arrest Mr. Madero.

When he arrived at the scene, Officer McGuinness was informed by three witnesses that Mr. Madero was the driver of a hit-and-run vehicle. Two of those witnesses insisted that he had struck Philbee in the face with a key. Mr. Madero disputed both assertions. It was the word of three witnesses against one.<sup>7</sup> At the scene, the only evidence supporting Mr. Madero's claim that he was uninvolved in the hit-and-run accident, other than his own testimony, was the lack of front-end damage to his car. But none of the officers nor any of the witnesses brought up the lack of damage to the front of Mr. Madero's car. Furthermore, it was snowing heavily that night, so much so that "[i]t would have been almost impossible" for the tow truck drivers to clean up accident parts from the intersection.<sup>8</sup> In such a situation, we cannot say that Officer McGuinness's failure to investigate the damage to Mr. Madero's car dispelled probable cause. *See Seiser v. City of Chicago*, 762 F.3d 647, 654 (7th Cir. 2014) ("The general rule is that when the police have information from a reasonably credible witness that a person has committed a criminal act, they

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7. The existence of probable cause does not depend on whether Officer McGuinness correctly credited Philbee's, Daehler's, and Keck's testimony over Mr. Madero's. *Braun v. Village of Palatine*, 56 F.4th 542, 549 (7th Cir. 2022) ("There is no requirement that 'the officer's belief be correct or even more likely true than false, so long as it is reasonable.'") (quoting *Qian v. Kautz*, 168 F.3d 949, 953 (7th Cir. 1999)).

8. R.66-5 at 57.

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may rely on that witness’s account, even when the suspect himself denies wrongdoing. The police need not exhaust all available avenues of investigation, including those that might potentially exculpate the suspect.”) (internal citation omitted); *Matthews v. City of East St. Louis*, 675 F.3d 703, 707 (7th Cir. 2012) (“[O]nce probable cause has been established, officials have ‘no constitutional obligation to conduct further investigation in the hopes of uncovering potentially exculpatory evidence.’”) (quoting *Spiegel v. Cortese*, 196 F.3d 717, 723 (7th Cir. 1999)).

Of course, although an officer is not required to search vigorously for exculpatory evidence, at the same time, an officer may not ignore conclusively established exculpatory evidence. *Dollard v. Whisenand*, 946 F.3d 342, 355 (7th Cir. 2019); *McBride*, 576 F.3d at 707 (“An officer . . . may not close his eyes to facts that would clarify the situation.”); *Hodgkins ex rel. Hodgkins v. Peterson*, 355 F.3d 1048, 1061 (7th Cir. 2004).<sup>9</sup> Our precedent simply

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9. Our colleagues in some of the other circuits have had occasion to acknowledge that an arresting officer, in assessing the existence of probable cause, cannot fail to acknowledge and to take into consideration *obvious* exculpatory evidence that casts a dark cloud on the reliability of other evidence suggesting guilt. *See Harvard v. Cesnalis*, 973 F.3d 190, 200 (3d Cir. 2020) (“In determining probable cause, arresting officers must consider *plainly* exculpatory evidence in addition to inculpatory evidence. This is true ‘even if substantial inculpatory evidence (standing by itself) suggests that probable cause exists.’”) (emphasis added) (quoting *Wilson v. Russo*, 212 F.3d 781, 789 (3d Cir. 2000)); *Amrine v. Brooks*, 522 F.3d 823, 832 (8th Cir. 2008) (“Exculpatory evidence is . . . relevant to whether an officer has probable cause. Officers are not required to conduct a ‘mini-trial’ before arrest, but probable

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imposes upon the arresting officer the duty to act in a reasonable fashion and not to take an ostrich-like approach to exculpatory evidence that is obvious in nature and weakens substantially the relevance and probative value of the evidence suggesting guilt. We need not examine the contours of this exception. Here, we think that it is clear that Officer McGuinness was not obliged, in the face of the eyewitness testimony before him and the evidence of a bleeding victim, to conduct a crash investigation in the middle of a snowstorm in the early hours of the morning. In short, exculpatory evidence available through a detailed examination of the exterior of the vehicles was not obviously available to the officer.

Mr. Madero raises a number of other arguments supporting his view that Officer McGuinness lacked probable cause. He submits that genuine disputes of material fact exist that prevent us from deciding the case on summary judgment. We disagree. No underlying facts supporting the probable cause determination are in dispute. Even viewing the facts in the light most favorable to Mr. Madero, and therefore assuming that he was not the driver of the hit-and-run vehicle and that he did not strike Philbee in the face with a key, Officer McGuinness

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cause ‘does not exist when a “minimal further investigation” would have exonerated the suspect.’”) (quoting *Kuehl v. Burtis*, 173 F.3d 646, 650 (8th Cir. 1999)); *Gardenhire v. Schubert*, 205 F.3d 303, 318 (6th Cir. 2000) (“[A]n officer cannot look only at evidence of guilt while ignoring all exculpatory evidence. Rather, the officer must consider the totality of the circumstances, recognizing both the inculpatory *and* exculpatory evidence, before determining if he has probable cause to make an arrest.”).

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still had probable cause to arrest Mr. Madero. As we have explained, Officer McGuinness was informed by three seemingly credible witnesses that Mr. Madero did in fact flee the scene of the accident. He also observed blood dripping from a large cut on Philbee's face and heard from both Philbee and Daehler that Mr. Madero had struck Philbee in the face with his key. That Officer McGuinness heard such testimony and saw Philbee's face is not in dispute, and he reasonably relied on such information to arrest Mr. Madero.

Two of Mr. Madero's remaining arguments generally stem from law enforcement's decision to split the task of interviewing the four witnesses between the three officers at the scene of the accident. Mr. Madero highlights conflicting testimony and suggests that had Officer McGuinness interviewed each witness himself, he would have realized the conflicts. First, Mr. Madero points to the discrepancy between Philbee's statement that he "fell" into Mr. Madero's vehicle, and Daehler's and Keck's statements that Philbee "jumped" into Mr. Madero's vehicle. This is an important distinction, Mr. Madero contends, because it goes directly to his assertion of self-defense. He also points out that Philbee, Daehler, and Keck disagreed about the path they took while chasing the hit-and-run vehicle.

These arguments fail. These slight disagreements in testimony did not dispel probable cause. First, Officer McGuinness had no duty to investigate the validity of Mr. Madero's claim of self-defense, which was far from conclusively established. Moreover, as the district court

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recognized, the disagreement between Philbee, Daehler, and Keck about the path traveled during the chase did not dispel Officer McGuinness's probable cause. At the scene, all three were "adamant" that they did not lose sight of the dark-colored sedan, and all three arrived back at the intersection, surrounding Mr. Madero's car, at the same time. The slight disagreement about the path taken is insubstantial in light of the trio's insistence in the immediate aftermath that they had maintained sight of the dark-colored sedan the entire chase.

Nor was probable cause for the arrest eliminated because Daehler and Keck later recanted their statements that they had never lost sight of the hit-and-run car. As we have explained, we look only to information available to the officer at the time of the arrest when determining whether probable cause existed. Additional evidence discovered later "is irrelevant to whether probable cause existed at the crucial time" of the arrest. *Braun v. Village of Palatine*, 56 F.4th 542, 549 (7th Cir. 2022) (quoting *Bailey v. City of Chicago*, 779 F.3d 689, 695 (7th Cir. 2015)). The accident occurred around 4 a.m., Mr. Madero was arrested around 5 a.m., and Daehler and Keck did not recant their statements until 7:30 a.m. that morning. Their recantations, therefore, do not affect the existence of probable cause.

Because we hold that Officer McGuinness had probable cause to arrest Mr. Madero, we need not reach the question of whether Officer McGuinness was entitled to qualified immunity.

*Appendix A*

**Conclusion**

Ultimately, Officer McGuinness credited the testimony of three consistent – and “very adamant” – witnesses over the testimony of one witness telling a different story. His decision to arrest Mr. Madero on the basis of the testimony of those three eyewitnesses was supported by probable cause, and we therefore affirm the district court’s grant of summary judgment to Officer McGuinness.

AFFIRMED

**APPENDIX B — ORDER OF THE UNITED  
STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ILLINOIS, WESTERN DIVISION,  
FILED JUNE 27, 2023**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS,  
WESTERN DIVISION

Case No. 20 CV 50062

DANIEL A. MADERO,

*Plaintiff,*

v.

OWEN MCGUINNESS,

*Defendant.*

June 27, 2023, Decided;  
June 27, 2023, Filed

Judge Philip G. Reinhard

**ORDER**

Defendant Owen McGuinness's motion for summary judgment [64] is granted. This case is closed.

*Appendix B***STATEMENT-OPINION**

Plaintiff Daniel Madero was arrested and charged with aggravated battery for allegedly stabbing Brandon Philbee in the face with a key during a fight after an earlier car accident that plaintiff may (or may not) have been involved in. He was also given four traffic citations for his role in allegedly causing the earlier accident. Plaintiff brought this § 1983 false arrest case against just one defendant, Officer Owen McGuinness, who was one of four Rockford police officers initially investigating this incident. Plaintiff asserts that McGuinness was the officer who made the key decisions and accuses him of conducting a one-sided and sloppy investigation that overlooked exculpatory evidence. According to plaintiff, Philbee was the aggressor against whom plaintiff was merely defending himself. Before the court is McGuinness's motion for summary judgment.

**BACKGROUD**

This case arose out of a hit-and-run traffic accident at around 4 a.m. on February 9, 2017 in Rockford—specifically at the intersection of Broadway Avenue (running east-west) and Parkside Drive/Eastmoreland Avenue (a combined north-south street). There had been a large snowstorm that night, described as a blizzard by some, and all of the four main witnesses had been out late into the night either snowplowing or helping drivers stuck in the snow.

At around 4 a.m., Brandon Philbee was driving his silver Pontiac Torrent on Broadway Avenue through

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the above-described intersection. He was going west to east and had the green light. Another car, which will be referred to for now as simply the dark-colored sedan, was going northbound up Eastmoreland Avenue approaching the intersection. The sedan went through the red light and hit Philbee's car on the passenger side. The collision pushed Philbee's car into the other lane of oncoming traffic lane where it hit into a GMC pickup truck going westbound on Broadway. Nearby was a white Ford pickup that was not involved in the accident but the driver was able to see some of what happened. John Keck and Brett Daehler were each driving one of the two pickups.<sup>1</sup> They are two important witnesses.

The dark-colored sedan, after hitting into Philbee's car, left the scene of the accident, turning right and driving eastbound on Broadway. Philbee in his Pontiac chased after the sedan, and the two pickup trucks followed behind. According to these three men (Philbee, Keck, and Daehler), they never lost sight of the sedan, which went a ways down Broadway (either two or three blocks) and then made a series of left turns, first north, then west, and finally back south. Essentially, it made a counterclockwise trip around the block (or several blocks), ending back up at the same intersection, except that the sedan was now on Parkside Drive at a red light facing south. The two pickup trucks pulled up alongside, or maybe even in front

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1. In defendant's Rule 56.1 statement, he states that it is unclear which of the two men were driving which pickup. Although it is somewhat surprising that this basic fact cannot be pinpointed, defendant asserts that resolution of this question is not important to any issue, and plaintiff does not disagree.

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of, the sedan to try to block it in and prevent the driver from leaving. Philbee got out of his car and went over to the sedan and confronted the driver who had just rolled down his driver's side window.

We can pause the narrative here to identify the central fact in dispute. Everyone agrees that the driver of the sedan waiting at the red light at this moment was plaintiff Daniel Madero and that he was driving a 1993 dark green Audi. But what is in dispute is whether the green Audi was the dark-colored sedan involved in the earlier accident. That is, was plaintiff the hit-and-run driver? Philbee, Keck, and Daehler all believed he was. They witnessed the earlier accident, saw what the car looked like (Philbee even claimed to have seen the face of the driver pretty clearly in his headlights), and they all followed that car as it drove around the block.

Turning back to the budding confrontation between Philbee and plaintiff at the car window, the court notes that the two men provide conflicting accounts of what happened next, and each accuses the other of being the aggressor and the person primarily at fault. It is not necessary nor really possible to provide a definitive blow-by-blow recounting, but the broad outlines of each man's version can be set forth. According to Philbee, he walked up to the window and tried to engage plaintiff in a reasonable manner by asking him if he would provide his insurance information to address the earlier accident. Philbee claims that plaintiff then spat in his face, whereupon Philbee reacted by punching him. Plaintiff tried to drive away. Philbee reached in the window to grab the steering wheel

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to prevent plaintiff from leaving. Eventually Philbee ended up inside the front seat of the car, and the two men continued to fight. Philbee claims he was merely trying to hold plaintiff down and restrain him—in effect, he was trying to make a citizen's arrest.

Plaintiff tells a different story, although it contains some points of agreement. Plaintiff states that he had just taken a friend home after a long night in which they helped stranded drivers. He was on his way back to his own house, waiting at a stoplight and minding his own business when three vehicles suddenly swarmed around him. Philbee came over and aggressively accused him of having caused an earlier accident. Plaintiff tried to drive away to protect himself. During the struggle inside the car, Philbee was trying to choke and strangle him. At some point, plaintiff punched Philbee in self-defense. Plaintiff denies stabbing Philbee in the face with a key or any other object. Plaintiff was spitting blood from the blows inflicted on him by Philbee.

Someone called 911, and Officer McGuinness was the first of four officers to arrive on the scene. As he pulled up, he saw Philbee and plaintiff fighting in the front seat of the car and then he saw Philbee exit the front passenger door. As McGuinness walked up, he saw plaintiff talking on the phone with someone.<sup>2</sup> McGuinness saw that Philbee had blood on his face from some type of puncture wound below his right eye. Philbee told McGuinness that the

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2. In his deposition, plaintiff claimed that McGuinness pointed a gun at him twice. However, no other witness verified this allegation, and plaintiff's attorney has not mentioned it in any of his filings here.

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wound was caused by plaintiff stabbing him with a key. Daehler, who was standing nearby, stated that he saw plaintiff holding a key in his fist during the fight. Plaintiff yelled out that this accusation—that he stabbed Philbee with a key—was untrue.

Three other officers (Sergeant Dobran, Officer Swanson, and Officer Nachampasack) arrived shortly thereafter. McGuinness and these three officers conducted the initial investigation. It was their normal procedure to divvy up interviews when multiple witnesses were present. *See McGuinness Dep.* at 43. McGuinness interviewed Philbee; Swanson interviewed Keck and Daehler; and Nachampasack interviewed plaintiff. Plaintiff was noticed to be injured and disoriented, and was taken to the hospital. Although McGuinness did not speak directly with either Keck, Daehler, or plaintiff, all the officers communicated with each other about what they learned from the interviews. They had a group conference at the scene “discussing [the] details of what [they had] uncovered.” Swanson Dep. at 55. At some point, McGuinness talked on the phone with Jessica Maveus, who as the assistant states’ attorney on duty. Officers were required to get ASA approval for any felony charges. Maveus eventually approved the aggravated battery charge against plaintiff. In addition to talking with McGuinness, she relied on a two-page probable cause statement prepared by McGuinness. This statement summarized the officers’ interviews with the four witnesses and the other evidence gathered up until that point. After Maveus approved the aggravated battery charge, plaintiff was arrested by Nachampasack and taken to jail. Plaintiff was also

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issued four traffic citations relating to his involvement in the earlier hit-and-run accident.<sup>3</sup> Sergeant Dobran gave approval at the scene to issue the four traffic citations. At this point, the initial investigation was concluded, and McGuinness had no further substantive involvement in the investigation.

However, the investigation was re-opened a few hours later. When Richard DeVlieger, a Rockford police detective, showed up to work that morning, he received a visit from Douglas Pann, a deputy or assistant deputy in the office. Pann asked DeVlieger, who had experience investigating traffic accidents, to look into the case because there might be some problems with it. (Pann's involvement in the case will be further discussed briefly at the end of this decision). The preliminary results from DeVlieger's re-investigation were conveyed to ASA Wendy Larson Bennett later that day. Based on these results, at around 5:00 p.m., ASA Bennett reversed all charges against plaintiff, and he was released from jail. In total, he spent about 12 hours in jail. The main reason for reversing the charges is that Keck and Daehler called in and talked to Officer Swanson at 7:40 a.m. and told him that they had second thoughts about what happened. Here is the summary of this conversation, as set forth in Swanson's police report:

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3. These citations were for (1) disregarding a traffic control device, 625 ILCS 5/11-305; (2) failing to reduce speed to avoid an accident in violation of 625 ILCS 5/11-601(a); (3) leaving the scene of an accident in violation of 625 ILCS 5/11-402(a); and (4) operating an uninsured motor vehicle in violation of 625 ILCS 5/3-707.

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Daehler called me back and advised me that he and Keck returned to their office, after the incident and began talking about the incident. Daehler stated that he and Keck both came to the conclusion that they were not positive anymore that the Audi was the vehicle that was involved in the accident. Daehler believed this because the front end damage that was on the Audi on scene was likely not caused by the collision that they witnessed. Daehler believed that the Audi should have had front driver's side damage from the way he witnessed the crash occur, which it did not. It should be noted that Daehler said he was positive that the vehicle that struck the Pontiac was a dark colored sedan but was not sure anymore if it was the Audi because he thought the damage that the Audi had, he believed, would be different. Daehler said that he was changing his story because at the time of the incident he was going along with the victim but now, after having some time to think about the incident, he could not be 100 percent sure that the suspect vehicle was the Audi that was on scene. Daehler also changed his story, stating that he did lose sight of the Audi, but he never lost sight of the Pontiac, which was chasing the suspect vehicle. Daehler explained that because of the stress of the situation he believed that the Audi was the correct vehicle but after time passed he became less sure of the details of the incident.

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[73-4 at p. 8.] This statement sets forth two points, or changes, in their statements. First, the two men indicated that, contrary to their earlier statements, they did lose sight of the hit-and-run car, although they never lost sight of Philbee's Pontiac during the chase. Second, they raised a new theory, one that serves as plaintiff's central argument now. It is that the Audi did not have front end damage consistent with it hitting Philbee's Pontiac.<sup>4</sup> In other words, plaintiff was not the hit-and-run driver. Some participants in this case have referred to these new statements as "recantations." For example, ASA Bennett, in her deposition taken several years later, could not recall exactly why the charges were reversed except that "the witnesses had recanted." Dep. at 22. Perhaps "recantation" is a fair label, but it also should be noted that these two men did not recant all their previous statements, as will be discussed below.

**ANALYSIS**

Defendant McGuinness argues that plaintiff's two § 1983 claims both fail because (in addition to other reasons) no reasonable jury could find that probable cause was lacking for the arrest. This court agrees. In considering this question, it is important to keep in mind that McGuinness, the only defendant plaintiff chose to sue, was only substantively involved in the initial investigation, which took place *before* the recantations.

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4. Keck and Daehler apparently came up with this theory after they had left the scene, meaning that they were not then looking at the Audi but were recalling what they had seen earlier.

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Plaintiff faults McGuinness for overlooking several evidentiary anomalies supposedly undermining the probable cause finding. Plaintiff identifies three main problems, which will be considered below. But the court will first summarize the affirmative evidence McGuinness and others relied on initially. In a nutshell, they relied on three witnesses who told a consistent story implicating plaintiff. Specifically, Philbee, Keck, and Daehler all told police that (i) plaintiff was the hit-and-run driver; (ii) they followed his car after the accident and never lost sight of it during the chase; and (iii) after they caught up to plaintiff's car and after Philbee confronted him, plaintiff tried to leave the scene a second time. None of these witnesses expressed any doubts or equivocations about these points during the on-scene investigation. As McGuinness stated in his deposition: "The witnesses were very adamant that they never lost sight of the vehicle. [] We took the witnesses's statements and the victim's statement too and they were really separate statements and basically said the same thing." Dep. at 63. Two points to note about this observation. One is the confidence level of the witnesses ("very adamant"); the other is the consistency among them ("said the same thing"). In short, it was three witnesses against one.

As for the specific issue of the key stabbing, which is obviously a critical issue, McGuinness personally saw Philbee get out of the car with blood dribbling down his face from what looked like to be some sort of puncture wound to his face. This wound, which according to the pictures taken appears to be consistent with a stabbing injury, is the type of fact that calls out for some sort of

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explanation. Philbee provided one, telling McGuinness that plaintiff had stabbed him with a key. Also, Swanson was told by either Keck or Daehler that they saw plaintiff during the fight holding a key between his fingers in a way that looked like he was brandishing it as a weapon. *See* Swanson Dep. at 33. Plaintiff himself confirmed that Daehler made this statement. In plaintiff's deposition, he testified that he heard Daehler telling McGuinness on the scene that plaintiff "had stabbed someone in the face with a key." Pl. Dep. at 52. Also, even though Daehler and Keck made a partial recantation later, Daehler did not recant his statement about seeing plaintiff with a key in his hand. DeVlieger interviewed Daehler five days after this incident, and here is the portion of DeVlieger's police report summarizing what Daehler said then about the key:

I asked Daehler about the keys. Daehler said while Madero and [Philbee] were fighting he could see through the passenger side window. Daehler said he observed Madero to have keys in his hand and the keys were *pointing through his fingers "like a weapon"*. Daehler said he could see Madero was bleeding from a scrape under his eye and *assumed Madero had injured [Philbee] with the keys*. Daehler said he opened the passenger door and took the keys from the hand of Madero and told them they needed to calm down and wait for the police to arrive.

[73-5 at 16 (emphasis added).] As the italicized language indicates, although Daehler did not directly witness the moment of the stabbing, he nonetheless concluded that

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plaintiff did stab Philbee based on seeing plaintiff holding the key “like a weapon.” All this evidence, in this court’s view, is enough to establish probable cause that plaintiff purposefully stabbed Philbee with the key.<sup>5</sup>

The affirmative defense lurking in the wings is self-defense. Plaintiff has indicated, generally, that he was trying to defend himself during the fight and has admitted that he threw a punch or two to try to ward off Philbee’s aggressive attacks. However, importantly, plaintiff has consistently denied that he ever stabbed Philbee with a key or with any other similar object and also has specifically denied holding a key like a weapon. *See* Pl. Dep. at 52 (stating that he told McGuinness on the scene that he “didn’t stab anybody with a key[.]”); Pl. Resp. to Def. Fact #24 (stating that he “denies pulling out a key, placing it between his fingers, and in a closed fist, striking Philbee’s face.”). In his deposition, plaintiff was asked if he knew how Philbee got the cut on his face, and plaintiff offered no explanation. Dep. at 118. McGuinness and the other officers at the scene thus had to decide who was telling the truth about the key stabbing allegation. After talking it over in an on-scene conference, the four officers ultimately chose to believe Philbee and Daehler’s statements about the key over plaintiff’s directly contrary statement.

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5. One refrain in plaintiff’s response brief is that Philbee’s story was contradicted by the on-scene statements of Keck and Daehler. But the undisputed evidence simply does not support this broader contention. For example, as just noted above, Daehler *confirmed* Philbee’s statement that plaintiff was holding a key in his fist like a weapon.

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To sum up, McGuinness and the other officers, as well as ASA Maveus, all relied on the three generally consistent witness statements to find probable cause. They did not appear to rely on any physical evidence one way or another. (As will be discussed below, plaintiff argues they should have paid more attention to this evidence.) In his deposition, McGuinness stated that they had “no physical evidence” to tie plaintiff’s car to the initial accident scene. Dep. at 51. The other officers testified that the heavy snowstorm made it difficult to inspect the vehicles and reach any firm conclusions. In this court’s view, the evidence relied on by these officers at the scene was enough to establish probable cause for the aggravated battery charge. As the Seventh Circuit has often noted, “an officer with probable cause ordinarily may proceed with an arrest without further investigating potentially exculpatory evidence.” *Taylor v. Ways*, 999 F.3d 478, 490 (7th Cir. 2021) (“A patrol officer is not a judge. Once she has probable cause to arrest, the Fourth Amendment allows her to make the arrest and leave it to others in the criminal justice system to sort out conflicting evidence.”). However, an exception exists to this general rule when a “reasonable officer would have known that the evidence” fails to establish probable cause. *Brunson v. Murray*, 843 F.3d 698, 709 (7th Cir. 2016); *McBride v. Grice*, 576 F.3d 703, 707 (7th Cir. 2009) (although an officer may end the investigation once probable cause is found, that officer “may not ignore *conclusively established evidence* of the existence of an affirmative defense”) (quoting earlier Seventh Circuit case) (emphasis added).

Plaintiff is basically relying on this type of exception when he raises the three evidentiary anomalies that

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McGuinness allegedly ignored. However, even when the evidence is construed in the light most favorable to him, the court does not find that a reasonable jury could conclude that these three alleged anomalies, either viewed singly or in combination, “conclusively establish” that probable cause was lacking.

Plaintiff first argues that a conflict existed between the statement of Philbee, on the one hand, and the statements of Daehler and Keck, on the other hand, regarding exactly how Philbee entered through the window of plaintiff’s car during the fight. Plaintiff states that (i) McGuinness, in his police report, wrote that Philbee stated that he “fell” into plaintiff’s car during the initial struggle but (ii) Swanson, in his police report, wrote that Keck and Daehler stated that Philbee “jumped” into plaintiff’s car. Plaintiff believes that this difference—“fell” versus “jump”—is material. Plaintiff’s theory seems to be that McGuinness or Philbee, or perhaps both of them, were trying to downplay that Philbee was the aggressor and that he *purposefully* entered plaintiff’s car. In other words, it was not an accident. The court does not believe this discrepancy is material. Philbee has openly stated throughout this case that he was intentionally trying to restrain plaintiff by keeping him from driving away from the scene and that he entered the car to achieve this larger goal. *See, e.g.*, Dep. at 43 (“I dove through the window one time. It was one swift move.”); *id.* at 17 (“I jumped into the window.”). This is the citizen’s arrest rationale. Moreover, it is not especially surprising that witnesses might have described this movement in slightly different ways given that it occurred at the end of a fairly complicated sequence

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of movements. The witnesses stated that Philbee first reached through the window to grab the steering wheel; then plaintiff started driving away; as a result, Philbee was awkwardly half inside the car, with the other half of his body hanging outside the car; and finally, as the car was moving, he ended up inside. It is thus not clear exactly what the proper descriptive label should be for this final movement.

Plaintiff next argues that Philbee and the two pickup truck drivers disagreed on the exact path the hit-and-run driver took during the chase. This contradiction could potentially be important to plaintiff's theory that the three witnesses lost sight of the hit-and-run driver. Plaintiff seems to be arguing that the three drivers started following the hit-and-run driver going east on Broadway (everyone agrees on this initial fact) but then they somehow lost track of that car and mistakenly started following another car, also a dark-colored sedan, that coincidentally was going down Broadway at exactly the same time. In plaintiff's response brief, he describes the alleged contradiction as follows: "Philbee stated [that] the [hit-and-run] vehicle went north on Alpine Road while Witness Keck and Witness Daehler both stated that the vehicle went north on Point Avenue." [73 at p. 8-9.] (Alpine Road is one block further east than Point Avenue.) Although this does appear to be a contradiction, the court again finds it is not material. First, as noted previously, all three witnesses were adamant (at least in their on-scene statements) that they never lost sight of the vehicle. Given these unequivocal statements, a reasonable police officer could have viewed this discrepancy about the

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exact road taken to be an inconsequential mistake made by one of these witnesses. Second, it is undisputed that all three cars ended up behind or around plaintiff's car, back at the original Broadway intersection, all together at the same time. But this simultaneous convergence would seem unlikely if Philbee took one route and Keck and Daehler took a different route. Moreover, in their later recantation, Keck and Daehler stated that although they did lose sight of the hit-and-run car, they never lost sight of Philbee's Pontiac. This means that, even accepting the recanted version, all three of the cars were together the whole time. This again implies that this contradiction was likely a mistake in the police reports.

Plaintiff's third argument is the front-end theory discussed previously. This argument is stronger than the first two, and also more complicated, but the court still does not believe it is enough to avoid summary judgment. It is true that Keck and Daehler after their recantation, and then DeVlieger, believed that plaintiff's green Audi should have had front-end damage if it were involved in the initial accident. Plaintiff believes this argument is airtight and unimpeachable. Perhaps the argument is persuasive, but there is another competing theory in the record. Philbee, in his deposition, argued that the accident happened in a way that would not have left any front-end damage. The main difference in these two theories seems to be in how fast they assume the cars were moving at impact. DeVlieger testified that his conclusions were based on the assumption that all the cars were moving at or near the posted speed limits at the time of impact—roughly in the 30 mph range. *See* [73-5 at 12 ("The posted speed limit

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for Broadway is 35 miles per hour (MPH) and the posted speed limit for Eastmoreland Ave is 30 MPH. *With these speeds* there would be significant front end damage to the Audi.”) (emphasis added.)] Philbee, by contrast, testified that the cars were moving more slowly, particular the hit-and-run car. Philbee estimated that his car was initially moving at the speed limit but he reduced his speed down to somewhere between 20 and 25 mph just before impact to avoid the collision. Dep. at 71. He testified that the driver of the hit-and-run car was actively trying to keep from going into the intersection and had engaged the brakes before going through the red light. Philbee believed that car at the time of impact “couldn’t have been going but five miles an hour, if that” and that it “barely bumped” Philbee’s car. *Id.* at 19. Philbee further testified that he switched his car into neutral just before impact such that it only took a slight bump to push his car over the icy surface a few feet into the other lane. The court recognizes that plaintiff likely could point to criticisms about Philbee’s alternative theory and that plaintiff believes more generally that Philbee is not a credible witness. Among other things, he is not an expert in traffic accidents and not a neutral witness either.<sup>6</sup> Still, given the current record, the court cannot say with certainty that this theory is completely implausible. DeVlieger tried to interview Philbee during his more extended investigation, but he was unable to do so because he could not find him. So DeVlieger presumably was unaware of Philbee’s theory and his testimony about the speeds of the cars at the time of the crash. It also

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6. Also, at the time his deposition, Philbee was in prison serving a two-year sentence for domestic battery.

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must be remembered that McGuinness would have had to consider this issue, on the scene during a snowstorm at four in the morning. By contrast, DeVlieger examined the car several days later in a more placid setting. None of the other officers or witnesses on the scene (including specifically Keck and Daehler) spoke up and raised any concerns about the lack of front-end damage. *See* Swanson Dep. at 55-56 (during the on-scene conference, none of the four officers “brought up the fact that there was no damage to Mr. Madero’s car”).<sup>7</sup>

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7. Plaintiff has also alleged that McGuinness, in one of his police reports, “falsely stated that he had observed frontend damage to Plaintiff’s vehicle.” Cmplt. ¶ 57; *see also* Pl. Resp. at p.11. It is true that McGuinness’s police report does include this one sentence: “I observed the green Audi had front end damage.” [73-1 at p.8.] However, this police report did not flag this one fact as being important. This court does not believe that this one incorrect statement was material in a way that could save plaintiff’s claims here. This is because McGuinness did not include this fact in the two-page probable cause statement. ASA Maveus testified that it was the probable cause statement that she relied on to approve the aggravated battery charge. Also, the fact that McGuinness sought approval from the ASA is another point in his favor. *See, e.g., Fleming v. Livingston Cnty., Ill.*, 674 F.3d 874, 881 (7th Cir. 2012) (police officer’s “act in calling state’s attorney Carey Luckman goes a long way toward solidifying his qualified immunity defense”). Plaintiff seems to be suggesting here that McGuinness was engaged in an intentional effort to fabricate evidence. But this argument is speculative and is supported by no other evidence in the record. Plaintiff has never articulated any larger motive McGuinness would have had to frame him for a charge of aggravated battery. In sum, no evidence suggests that this one sentence played any role in the initial decision to charge plaintiff with aggravated battery.

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One additional point is worth noting about the broader decision to re-investigate this case based on the new front-end-damage theory. Although neither side discussed this point in their briefs or in their 56.1 statements, it is hard not to notice from reading the depositions and police reports that Douglas Pann, the chief deputy or assistant deputy at the time, played some role in deciding to re-open this investigation. This is potentially noteworthy because Pann is plaintiff's brother-in-law. As noted earlier, right after the fight, plaintiff immediately called someone on the phone before he talked to any officer on the scene. That person was Pann. So Pann knew about the case a little after four a.m. McGuinness stated that he was unable to talk to plaintiff when he first walked on the scene because plaintiff was busy talking to someone on the phone. When DeVlieger came to work later that morning, it was Pann who asked him to re-investigate the case because there were "problems" with it. DeVlieger couldn't recall in his deposition whether the problems referred to by Pann were the recantations or whether Pann approached him even before investigators learned about those recantations. Pann also talked to others that morning about the case. Swanson wrote in his police reports that Pann approached him and asked about the investigation: "Shortly after I completed the phone call with Daehler, at approximately 0800 hours, Assistant Deputy Chief D. Pann talked to me about the incident. I informed him of the facts and circumstances regarding the incident, specifically in regards to the witness changing his statement." [73-4 at 8.] Similarly, McGuinness testified that, after Keck and Daehler recanted their stories, "Chief Pann came in, we told him what happened and they [*i.e.* Pann and

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Sergeant Jacobi] said they will take care of it." Dep. at 74. ASA Bennett, in her deposition, stated that she was aware that Pann was related to plaintiff and that Pann had some limited involvement in re-opening the investigation, but she believed that Pann had "properly" distanced himself from the investigation and was not exerting any pressure on her to drop the charges but was acting more "like he was a knowledgeable citizen saying there is a problem here." Dep. at 32-33. This court is not making any judgment about Pann's involvement (the record isn't clear on this issue), but it is still possible that his efforts as described above might have unintentionally put some pressure on investigators to reach a different result from the one reached by McGuinness who did not have any known biases for reaching a particular result.

The parties have raised some additional arguments in their briefs, but the court believes that the above arguments are the most substantive ones and are sufficient to support the granting of summary judgment to defendant on both counts. In reaching this conclusion, this court is not indicating that the evidence is clear or definitive that plaintiff committed any crime or other violation, merely that there was enough evidence at the time of the initial investigation to meet the lower probable cause standard for both the aggravated battery charge and for the four traffic violations.<sup>8</sup> *See generally Kaley v. United States,*

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8. The court notes for the record that plaintiff stated in his deposition that he has a separate pending civil suit in the Circuit Court of Winnebago County Circuit Court against Philbee, Keck, and Daehler in which he alleges that he was wrongly arrested because they told false stories to police during the initial on-scene investigation. Dep. at 148.

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571 U.S. 320, 338 (2014) (“Probable cause, we have often told litigants, is not a high bar: It requires only the kind of fair probability on which reasonable and prudent people, not legal technicians, act.”) (cleaned up).

Date: 6/27/2023

ENTER:

/s/ Philip G. Reinhard  
United States District Court Judge

Electronic Notices.

**APPENDIX C — COMPLAINT IN THE  
UNITED STATES DISTRICT COURT NORTHERN  
DISTRICT OF ILLINOIS WESTERN DISTRICT,  
FILED APRIL 10, 2020**

UNITED STATES DISTRICT COURT NORTHERN  
DISTRICT OF ILLINOIS WESTERN DIVISION

DANIEL A. MADERO,

*Plaintiff,*

vs.

OWEN MCGUINNESS,

*Defendant.*

Case Number: 20-CV-50062

Jury Trial Demanded

**COMPLAINT**

NOW COMES the Plaintiff, Daniel A. Madero, by and through his attorney, James T. Harrison, and complaining of the Defendant, Owen McGuinness, states as follows:

**Jurisdiction**

1. This Complaint contains two (2) counts. Count I arises under 42 U.S.C. §1983, and the Court has original jurisdiction over Count I of this Complaint pursuant to 28 U.S.C. §1331—federal question jurisdiction, and pursuant

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to 28 U.S.C. §1343—civil rights. Count II arises under 42 U.S.C. §1983, and the Court has original jurisdiction over Count II of this Complaint pursuant to 28 U.S.C. §1331—federal question jurisdiction, and pursuant to 28 U.S.C. §1343—civil rights.

**Venue**

2. Venue is appropriate in the Northern District of Illinois, Western Division because the events alleged in the Complaint occurred in the Western Division of the Northern District of Illinois.

**Parties**

3. At all times relevant hereto, the Plaintiff Daniel A. Madero (hereinafter “Madero”) was an adult resident of the State of Illinois and was a United States citizen.

4. At all times relevant hereto, the Defendant Owen McGuinness (hereinafter “McGuinness”) was an adult resident of the County of Winnebago and the State of Illinois, and resided at 1306 Summerland Drive, in the Village of Durand, Illinois.

**FACTS**

5. At all times relevant hereto, Defendant McGuinness was employed as a police officer for the City of Rockford, Illinois and his actions complained of herein occurred under color of law.

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6. On February 8, 2018 and February 9, 2018, a heavy snowstorm fell on the greater Rockford, Illinois, area.

7. On February 9, 2018, at approximately 0130 hours, Plaintiff and his friend went out together in Plaintiff's vehicle to assist other drivers whose vehicles got stuck in the snow or had slid off the road into a ditch.

8. At approximately 0350 hours, Plaintiff and his friend returned to Plaintiff's friend's house where Plaintiff dropped off his friend and then headed home.

9. At approximately 0356 hours, Plaintiff was stopped at the red light at the intersection of Parkside Avenue and Broadway, in the City of Rockford, Illinois, when three subjects, Brandon Philbee (hereinafter "Philbee"), Bret Daehler (hereinafter "Daehler"), and John Keck (hereinafter "Keck"), came up from behind Plaintiff in their vehicles, at a high rate of speed.

10. Some minutes earlier, Philbee was eastbound on Broadway approaching the intersection with Eastmoreland Avenue and was proceeding into the intersection with a green light, when a vehicle that was northbound on Eastmoreland Avenue failed to stop at the red light at Broadway, and collided with Philbee's vehicle, striking the front/passenger-side of Philbee's vehicle with the front/driver-side of the northbound vehicle.

11. The posted speed limit for Broadway was 35 MPH, and the posted speed limit for Eastmoreland Avenue was 30 MPH.

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12. The force of the impact from the collision with the northbound vehicle caused Philbee's vehicle to go into the oncoming traffic lane and collide with Keck's vehicle which was westbound on Broadway.

13. The vehicle that collided with Philbee's vehicle left the scene of the accident eastbound on Broadway.

14. Philbee also left the accident scene, eastbound on Broadway. Daehler saw Philbee leaving the scene of the accident and pursued Philbee eastbound on Broadway. Keck left the accident scene and followed Daehler's vehicle eastbound on Broadway.

15. Plaintiff had no knowledge of or involvement in the collision involving Philbee's vehicle.

16. Philbee, Daehler, and Keck boxed-in Plaintiff's vehicle with their vehicles. Keck yelled to Daehler that there was no damage to the driver's side of the Audi, (Plaintiff's vehicle), which Daehler acknowledged.

17. Philbee got out of his car and screamed at Plaintiff that Plaintiff had run a red light and caused an accident. Plaintiff lowered his window and told Philbee that Plaintiff had not been involved in any accidents.

18. Philbee attempted, unsuccessfully, to open the driver's door of Plaintiff's vehicle, which was locked, and then punched Plaintiff in the left temple through the open window, reached into Plaintiff's vehicle, and attempted to remove the keys from the ignition.

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19. Philbee screamed at Plaintiff that Plaintiff caused an accident, and threatened to kill the Plaintiff; Philbee then physically entered Plaintiff's vehicle through the front, driver-side window.
20. Philbee got on top of the Plaintiff inside Plaintiff's vehicle and continued to strike and choke the Plaintiff, while Plaintiff attempted to defend himself.
21. During the attack by Philbee, Daehler drove his plow truck into the rear passenger-side corner of Plaintiff's vehicle, causing damage to Plaintiff's vehicle.
22. Plaintiff was still defending himself against attacks by Philbee, inside Plaintiff's vehicle, when the police arrived.
23. At approximately 0404 hours, February 9, 2018, Defendant Owen McGuinness, Officer James Napchampassack, Officer Kurt Swanson, and Sgt. Jason DoBran were dispatched to investigate the hit-and-run accident; Defendant McGuinness was the first officer to arrive on the scene.
24. Philbee got out of Plaintiff's vehicle and approached Defendant McGuinness; Philbee accused Plaintiff of being the hit-and-run driver that collided with Philbee's vehicle and claimed that Plaintiff had battered him.
25. Daehler and Keck were interviewed by Officer Swanson and initially thought the Plaintiff was involved in the collision with Philbee's vehicle.

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26. Officer Nachampassack questioned Plaintiff and asked Plaintiff what had happened. Madero stated that he was stopped at a red light when he was attacked by Philbee, and that during the attack, his car was rammed on the rear passenger-side.

27. Officer Nachampassack noted marks and multiple bruises on Plaintiff's face, swelling in his hands, marks on Plaintiff's stomach and left shoulder, marks on Plaintiff's neck, and that Plaintiff was spitting blood onto the ground.

28. Officer Nachampassack inspected the rear passenger-side of Plaintiff's vehicle and found fresh damage to the rear quarter panel and tail light assembly.

29. Officer Nachampassack did not ask Plaintiff whether his vehicle was involved in a collision with Philbee's vehicle.

30. Officer Nachampassack did not inspect the front end of Plaintiff's vehicle for any damage consistent with the hit-and-run collision with Philbee.

31. Defendant McGuinness claimed to have inspected Plaintiff's vehicle for front-end damage while he was at the scene.

32. Plaintiff's vehicle had no front-end damage and no other damage consistent with a front-end collision.

33. The head lights, parking lights, turn lights, grill, and hood of the Plaintiff's vehicle were all intact and had no visible damage.

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34. The lack of front-end damage to Plaintiff's vehicle contradicted Plaintiff's involvement in the collision with Philbee's vehicle.
35. There was no physical evidence that Plaintiff's vehicle was involved in the collision with Philbee's vehicle.
36. Plaintiff was transported via rescue squad to St. Anthony Hospital Emergency Room for treatment of the injuries he sustained at the hands of Philbee.
37. The Rockford police impounded Plaintiff's vehicle and had it towed to the Greater Rockford Auto Auction for storage and safekeeping; the Rockford police also had Philbee's vehicle towed to Cruz Towing for storage and safekeeping.
38. Officer Nachampassack questioned Madero again at the hospital; Madero explained that he was stopped at a red light when Philbee, Daehler, and Keck surrounded him, physically attacked him, prevented him from leaving, and rammed his vehicle.
39. Plaintiff told Officer Nachampassack that Philbee had forcibly entered Plaintiff's vehicle through the open driver-side window, after Philbee had punched Plaintiff in the left side of Plaintiff's head, through the open window.
40. Plaintiff received emergency medical treatment for injuries to Plaintiff's left temporal lobe.

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41. Plaintiff told Officer Nachampassack that Philbee had choked Plaintiff Madero with his hands, his arm, and with other items in the vehicle.

42. Plaintiff received emergency medical treatment for strangulation injuries on his neck.

43. Plaintiff Madero told Officer Nachampassack that he wanted to press charges against Philbee.

44. Defendant McGuinness notified Plaintiff that Plaintiff was going to be arrested upon his release from the hospital.

45. Defendant McGuinness did not personally question Madero, Daehler, or Keck in his investigation.

46. Plaintiff was released from the hospital at approximately 0530 hours. Plaintiff incurred charges and expenses for the medical treatment he received for the injuries he sustained at the hands of Philbee.

47. Upon his release from the hospital, Plaintiff was charged with disobeying a traffic control device, failure to reduce speed to avoid an accident, and leaving the scene of an accident. Plaintiff was also charged with felony aggravated battery to Philbee. Plaintiff was taken into custody and transported to the Winnebago County Jail wherein Plaintiff was incarcerated.

48. Plaintiff's arrest occurred after Defendant McGuinness inspected Plaintiff's vehicle.

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49. Defendant McGuinness did not arrest Philbee for his attack on Plaintiff Madero.

50. Also at approximately 0530 hours, February 9, 2018, Daehler contacted the Rockford Police Department to recant his and Keck's previous statements.

51. In their revised statements, Daehler and Keck stated that Plaintiff's vehicle was not the vehicle involved in the collision with Philbee's vehicle, because Plaintiff's vehicle had no front-end damage, and the vehicle that struck Philbee's vehicle would have had significant front-end damage.

52. On February 12, 2018, Officer Richard DeVlieger, a traffic investigator for the Rockford police, conducted a supplemental inspection of Plaintiff's vehicle, which had been impounded and was still being held at the Greater Rockford Auto Auction.

53. Officer DeVlieger's inspection revealed that there was no front end damage to Plaintiff's vehicle and no damage consistent with a front end collision.

54. Officer DeVlieger's inspection revealed that the head lights, grill, and hood of the Plaintiff's vehicle were all intact and had no visible damage. There was no collision damage to either front quarter panel of Plaintiff's vehicle.

55. Officer DeVlieger's physical inspection of Plaintiff's vehicle revealed no physical evidence to support the allegations of Philbee, Daehler, and Keck, that Plaintiff's vehicle was involved in the collision with Philbee's vehicle.

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56. As a result of his inspection of Plaintiff's vehicle, Officer DeVlieger determined that Plaintiff's vehicle was not the vehicle involved in the hit-and-run accident with Philbee's vehicle.

57. In Defendant McGuinness's report of his investigation of the hit-and-run collision involving Philbee's vehicle, Defendant McGuinness falsely stated that he had observed front-end damage to Plaintiff's vehicle.

58. Officer DeVlieger did find evidence of a collision and paint transfer from Daehler's snow plow onto the passenger-side rear corner of Plaintiff's vehicle.

59. On February 14, 2018, Officer DeVlieger went to Cruz Towing to inspect Philbee's vehicle which had been towed from the scene and stored in their secured holding area.

60. Officer DeVlieger's inspection revealed that Philbee's vehicle had front end damage as well as severe damage to both front corners. Both headlight assemblies were damaged and pushed in. The front bumper on the driver's side was pulled out away from the attachment point. The front tires were in different positions and were bent.

61. Officer DeVlieger's inspection revealed that the front passenger-side corner of Philbee's vehicle was severely damaged where the suspect vehicle was reported to have collided.

62. Officer DeVlieger's inspection revealed that the front passenger-side of Philbee's Pontiac, where the suspect

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vehicle was reported to have struck the Pontiac, had no green or dark colored paint transfer.

63. Officer DeVlieger's inspection of the front passenger side of Philbee's Pontiac where the suspect vehicle was reported to have struck the Pontiac, revealed a lighter colored, white, silver, or gray paint transfer.

64. All charges filed against the Plaintiff were subsequently dismissed in Plaintiff's favor by the Circuit Court of the 17th Judicial Circuit, Winnebago County, on motion of the Winnebago County State's Attorney's Office.

**Count I**  
**42 U.S.C. §1983**  
**Fourth Amendment—Unreasonable Search**

65-128. Plaintiff adopts by reference thereto, and incorporates by reference herein, paragraphs 1-64 of this Complaint as paragraphs 65-128 of Count I.

129. 42 U.S.C. §1983 provides that "every person who, under color of any statute, ordinance, regulation, custom, or usage of any State . . . , subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . "

130. The Fourth Amendment of the United States Constitution guarantees the right of the people, including

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the Plaintiff, to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.

131. At all times relevant hereto, Defendant McGuinness had a duty under the Fourth Amendment to act reasonably with regard to the enforcement of Illinois criminal laws against United States citizens, including the Plaintiff Madero.

132. At all times relevant hereto, the law was clearly established that probable cause was required for the police to make an arrest.

133. There was no probable cause for Defendant McGuinness to arrest the Plaintiff for any traffic offense in connection with the hit-and-rum collision involving Philbee, including disobeying an official traffic control device, failure to reduce speed to avoid an accident, and leaving the scene of an accident.

134. There was no probable cause for Defendant McGuinness to arrest the Plaintiff for aggravated battery to Philbee.

135. Madero, Daehler, and Keck all reported that Philbee forcibly entered Plaintiff's vehicle through the driver's side window, Plaintiff reported that Philbee punched Plaintiff in the head, and medical records confirmed the injuries Plaintiff reported to the police.

136. McGuinness reported seeing a disturbance in Plaintiff's vehicle upon his arrival, and then witnessed

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Philbee come out of the passenger-side door of Plaintiff's vehicle.

137. Plaintiff's vehicle contained no front-end damage, nor any other damage consistent with a front end collision.

138. There was no evidence at the scene that Plaintiff's vehicle was involved in the original reported accident at Eastmoreland Avenue and Broadway involving Philbee's vehicle.

139. Defendant McGuinness breached his duty under the Fourth Amendment and unreasonably arrested the Plaintiff without probable cause.

140. No reasonable police officer in the position of Defendant McGuinness would have interpreted compliance with the Fourth Amendment in such a way as to arrest the Plaintiff for disobeying an official traffic control device, failing to reduce speed to avoid an accident, leaving the scene of an accident, and aggravated battery under the circumstances presented.

141. The Defendant McGuinness's arrest of the Plaintiff without probable cause was unreasonable and resulted in a deprivation of Plaintiff's constitutional rights under the Fourth Amendment.

142. The acts and/or omissions of the Defendant McGuinness were intentional and/or occurred willfully and/or with wanton disregard and/or reckless indifference to the constitutionally protected civil rights of the Plaintiff, and/or otherwise occurred in bad faith.

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143. As a direct and proximate result of the conduct of the Defendant McGuinness, Plaintiff was caused to suffer damages of a personal and pecuniary nature.

144. Pursuant to 42 U.S.C. §1983, Defendant Owen McGuinness is liable to Plaintiff for civil damages and other relief for his violation of the Plaintiff's constitutional civil rights.

WHEREFORE, the Plaintiff, Daniel A. Madero, respectfully prays this Honorable Court grant judgment in his favor and against the Defendant Owen McGuinness as follows:

- a) Compensatory damages and in an amount in excess of \$100,000;
- b) Punitive damages against the Defendant and in an amount in excess of \$250,000;
- c) An award of Plaintiff's reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988; and,
- d) Such other and further relief as this Court deems just and proper.

**COUNT II  
42 U.S.C. §1983  
Fourteenth Amendment—Deprivation of Liberty**

145-209. Plaintiff adopts by reference thereto, and incorporates by reference herein, paragraphs 1-65 of this Complaint as paragraphs 145-209 of Count II.

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210. 42 U.S.C. §1983 provides that “every person who, under color of any statute, ordinance, regulation, custom, or usage of any State . . . , subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . ”

211. The Fourteenth Amendment to the United States Constitution guarantees persons, including the Plaintiff Madero, the right to be free from deprivations of liberty without due process of law.

212. Defendant McGuinness denied Plaintiff the process of law that was due to him by falsely reporting that Plaintiff’s vehicle had front end damage, when he knew, or should have known, that Plaintiff’s vehicle had no front end damage.

213. Defendant McGuinness knew that a warrant or probable cause was required to arrest a person for a criminal offense; Defendant McGuinness did not obtain a valid warrant and did not have probable cause to arrest Plaintiff Madero.

214. Defendant McGuinness knew that his warrantless arrest of Plaintiff Madero without probable cause would result in a deprivation of Plaintiff’s constitutional right to liberty.

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215. Notwithstanding his duty under the Fourteenth Amendment to refrain from the unreasonable deprivation of Plaintiff's constitutional right to liberty, the Defendant McGuinness arrested Plaintiff Madero without a warrant and without probable cause, resulting in Plaintiff's incarceration and a deprivation of Plaintiff Madero's liberty.

216. No reasonable police officer in the position of Defendant McGuinness would have interpreted compliance with the Fourteenth Amendment in such a way as to include arresting Plaintiff Madero without probable cause and depriving the Plaintiff of his constitutional right to liberty.

217. The acts and/or omissions of the Defendant McGuinness were intentional and/or occurred willfully and/or with wanton disregard and/or reckless indifference to the constitutionally protected civil rights of Plaintiff Madero, and/or otherwise occurred in bad faith.

218. The Defendant McGuinness's unreasonable restraint and detention of Plaintiff Madero without probable cause and without a warrant constituted a denial of due process and a deprivation of Plaintiff's constitutional right to liberty, in violation of the Fourteenth Amendment of the United States Constitution.

219. As a direct and proximate result of the conduct of the Defendant McGuinness, Plaintiff was deprived of his liberty and caused to suffer extreme mental anguish and grave emotional distress.

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220. As a direct and proximate result of the conduct of the Defendant McGuinness, Plaintiff was caused to suffer damages of a personal and pecuniary nature.

221. Pursuant to 42 U.S.C. §1983, Defendant McGuinness is liable to Plaintiff Madero for civil damages and other relief for violation of Plaintiff Madero's constitutional civil rights.

WHEREFORE, the Plaintiff, Daniel A. Madero, respectfully prays this Honorable Court grant judgment in his favor and against the Defendant Owen McGuinness as follows:

- a) Compensatory damages and in an amount in excess of \$100,000;
- b) Punitive damages and in an amount in excess of \$250,000;
- c) An award of Plaintiff's reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988; and,
- d) Such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/James T. Harrison

James T. Harrison

Attorney for Plaintiff

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**APPENDIX D — REPORT OF OWEN McGUINNESS  
THE ROCKFORD, ILLINOIS POLICE  
DEPARTMENT, DATED FEBRUARY 9, 2018**

Rockford Police Department  
Report Date: 2/9/2018  
Reported By: 1955—McGuinness, Owen

Report No. 18-016047.1

Subject **AGGRAVATED BATTERY—3800 BROADWAY**

Case Report Status **A – Approved**  
Occurred On (and Between) **2/9/2018 4:04:00 AM**  
Location **3800 BROADWAY**  
Jurisdiction **RCPD– Rockford Police  
Department**  
Subbeat Area **09**  
Call Source **Dispatched from 911**  
Vehicle Activity  
Vehicle Traveling  
Cross Street  
Date Entered **2/9/2018 7:09:05 AM**  
Entered By **1955 – McGuinness, Owen**  
Date Verified **2/17/2018 1:04:05 AM**  
Verified By **4003 – Brass, Andre**  
Date Approved **2/17/2018 4:12:02 AM**  
Approved By **1169 – Ginter , Janine**  
Cross Reference  
Disposition **Arrest**  
Clearance Reason  
Date of Clearance  
Reporting Agency **Rockford Police Department**  
Bureau **Field Services Bureau**

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Reporting Officer **1955 – McGuinness, Owen**  
Assisted By **2516 – Nachampassack, James**  
**1770 – Swanson, Kurt**  
On Scene Supervisor **3858 - DoBran, Jason**

**Victim V1: PHILBEE, BRANDON L.**

---

Victim Code **V1**  
Victm Type **I – Individual**  
Name **PHILBEE, BRANDON L**  
AKA  
Address **126 BLACKHAWK**  
**CSZ ROCKFORD, IL 61102**  
Home Phone  
Pager Number  
Mobile Phone **779 208-2097**  
Email Address  
Attire **BROWN JACKET AND**  
**DARK PANTS**  
Injury **M – Apparent Minor Injury**  
Circumstances  
DOB **[REDACTED]**  
Age **23**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **170**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Facial Hair **01 – Clean Shaven**  
Complexion **FAR – Fair**

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Place of Birth	
SSN	[REDACTED]
DLN	[REDACTED]
DLN State	<b>IL – Illinois</b>
DLN Country	<b>USA – United States of America</b>
Occupation/Grade	
Employer/School	<b>AA CONSTRUCTION</b>
Work Phone	
Employment/School	
Wrok Phone	
Employment/School Hours	
Employer Address	
Employer CSZ	
Res County	<b>WINNEABGO</b>
Res Country	<b>USA – United States of America</b>
Resident Status	<b>R – Resident</b>

**Arrestee A1: MADERO, DANIEL A.**

Arrestee Number	<b>A1</b>
Name	<b>MADERO, DANIEL A</b>
AKA	
Address	<b>4970 S Mulford RD</b>
	<b>ROCKFORD, IL 61109</b>
Home Phone	
Pager Number	
Mobile Phone	<b>815 391-0032</b>
Email Address	
Scars/Marks/Tattoos	
Modus Operandi	
Other MO	
Attire	

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## Habitual Offender Status

Arrest No **1**  
DOB [REDACTED]  
Age **36**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **6'0"**  
Wt **180**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Hair Style  
Hair Length  
Facial Hair  
Complexion  
Build  
Teeth  
Place of Birth  
SSN [REDACTED]  
DLN [REDACTED]  
DLN State **IL – Illinois**  
DLN Country **USA – United States of America**  
Occupation/Grade  
Employer/School **UNEMPLOYED**  
Work Phone  
Employment/School  
Wrok Phone  
Employment/School Hours  
Employer Address  
Employer CSZ  
Res County **WINNEBAGO**  
Res Country **USA – United States of America**  
Resident Status **R – Resident**

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Arrest Type **O – On-view**  
FBI No.  
State No.  
Arrmed With **01 – Unarmed**  
Multi Clearance **N – Not Applicable**  
Multi Clearance Offense  
Prev Suspect No.  
Notified  
Arrested For **0445 – Aggravated  
Battery (Public Way)**  
**2461 – Operating  
uninsured motor vehicle**  
**5060 – Other traffic offenses**  
**7723 – Failure to reduce speed/  
Too fast for conditions**  
Fingerprints  
Photos  
Juvenile Disposition  
Adult Present  
Arrested On **2/9/2018 5:30:00 AM**  
Arrested Location **5666 E STATE ST**  
Arrest Notes **Operating Uninsured  
Vehicle: 1115228  
Failure To reduce speed:  
1115229  
Disobeying Traffic  
Control Device: 1115230  
Leaving the Scene of an  
Accident: 111523**

*Appendix D***Witness W1: KECK, JOHN L.**

---

Witness Code **W1**  
Name **KECK, JOHN L.**  
AKA  
Address **1042 WOODLAWN AVE**  
CSZ **Rockford, IL 61101**  
Home Phone  
Pager Number  
Mobile Phone **815 721-2760**  
Email Address  
Attire  
DOB **[REDACTED]**  
Age **50**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **220**  
Eye Color **BLU – Blue**  
Hair Color **BRO – Brown**  
Facial Hair  
Complexion  
Place of Birth **USA**  
SSN  
DLN **[REDACTED]**  
DLN State **IL – Illinois**  
DLN Country **USA – United States of America**  
Occupation/Grade **SNOW PLOW**  
Employer/School **K-TAPP KAPPERS**  
Work Phone  
Employment/School

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Work Phone  
Employment/School Hours  
Employer Address  
Employer CSZ  
Res County **Winnebago**  
Res Country **USA—United States of America**  
Resident Status **R – Resident**

Witness W2: DAEHLER, BRET A.

---

Witness Code **W2**  
Name **DAEHLER, BRET A.**  
AKA  
Address **509 GARVER AVE**  
CSZ **Rockford, IL 61102**  
Home Phone  
Pager Number  
Mobile Phone **815 988-8856**  
Email Address  
Attire  
DOB   
Age **37**  
Sex **M – Male**  
Race **W – White**  
Ethnicity  
Ht **6'3"**  
Wt **195**  
Eye Color **HAZ – Hazel**  
Hair Color **BLN – Blond**  
Facial Hair  
Complexion  
Place of Birth

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SSN  
DLN [REDACTED]  
DLN State **IL - Illinois**  
DLN Country  
Occupation/Grade **SNOW PLOW**  
Employer/School **K-TAPP KAPPERS**  
Work Phone  
Employment/School  
Employment/School Hours  
Employer Address  
Employer CSZ  
Res County **Winnebago**  
Res Country **USA - United States of America**  
Resident Status **R - Resident**

**Other Entity: O1 - SCHWOCHERT, JENNIFER A.**

Entity Code **O1**  
Entity Type **OP - Other Person**  
Name **SCHWOCHERT,  
JENNIFER A.**  
AKA  
Address **2405 EASTMORELAND  
AVE APT 7**  
CSZ **ROCKFORD, IL**  
Home Phone  
Pager Number  
Mobile Phone **815 397-9062**  
Email Address  
Attire **UNIFORM**  
DOB [REDACTED]  
Age **28**

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Sex **F – Female**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **195**  
Eye Color **GRN – Green**  
Hair Color **BRN – Brown**  
Facial Hair  
Complexion  
Dental Records  
Available At  
Place of Birth  
SSN  
DLN [REDACTED]  
DLN State **IL – Illinois**  
DLN Country **USA – United States of America**  
Occupation/Grade **CAHSIER**  
Employer/School **CIRCLE K**  
Work Phone **815 397-9062**  
Employment/School  
Wrok Phone  
Employment/School Hours  
Employer Address **3819 BROADWAY AVE**  
Employer CSZ **ROCKFORD, IL**  
Res County **WINNEBAGO**  
Res Country **USA – United States of America**  
Resident Status **R – Resident**  
LEADS  
Entered by  
Entity Notes  
Date Entered  
Leads #  
Lead Type

*Appendix D***Property Description Item 1: 3501 – Automobile (not Stolen or Recovered) – A – GREEN 1993 AUDI S4 #AD79903**

Item No **1**  
 Property Category **3501 - Automobile (not Stolen or Recovered)**  
 IBR Type  
 UDR Type  
 Status **K - Held For Safe Keeping (Includes Impounds)**  
 Count **1**  
 Value **1000**  
 Manufacturer **AUDI**  
 Model **S4**  
 Serial No **WAUHP84A1PNO31686**  
 License No **AD79903**  
 Color **GRN – Green**  
 Description **A-GREEN 1993 AUDI S4 #AD79903**  
 Vehicle Year **1993**  
 License Year **2018**  
 State **IL – Illinois**  
 Body Style **4D – 4 Door**  
 Recovered Date  
 Owner **1**  
 Disposition **IMPOUND TO GRAA**  
 Evidence Tag  
 LEADS  
 Entered By  
 Date Entered  
 Leads #  
 Lead Type

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Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 2: 3501 – Automobile (not Stolen or Recovered) – V – SILVER 2006 PONTIAC TORRENT #Z663533**

Item No **2**  
Property Category **3501 - Automobile (not Stolen or Recovered)**  
IBR Type  
UDR Type  
Status **I – Information Only**  
Count **1**  
Value **1000**  
Manufacturer **PONTIAC**  
Model **TORRENT**  
Serial No **2CKDL63F866163807**  
License No **Z663533**  
Color **SIL – Silver or Aluminum**  
Description **V-SILVER 2006 PONTIAC TORRENT #Z663533**  
Vehicle Year **2006**  
License Year **2008**  
State **IL – Illinois**  
Body Style **SUV – Sport Utility Vehicle**  
Recovered Date  
Owner **2**  
Disposition  
Evidence Tag

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LEADS
Entered By
Date Entered
Leads #
Lead Type
Drug Type
Drug Quantity
Drug Measure
Property Notes

**Property Description Item 3: 3534 – Truck (not Stolen or Recovered) – W1 – GRAY 2006 GMC SIERRA #80318W**

Item No	3
Property Category	3534 - Truck (not Stolen or Recovered)
IBR Type	
UDR Type	
Status	I – Information Only
Count	1
Value	1000
Manufacturer	GMC
Model	SIERRA
Serial No	1GTHK29183E166858
License No	80318W
Color	GRY – Gray
Description	W1 – GRAY 2006 GMC SIERRA #80318W
Vehicle Year	2006
License Year	2018
State	IL – Illinois
Body Style	PK – Pickup Truck

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Recovered Date  
 Owner 5  
 Disposition  
 Evidence Tag  
 LEADS  
 Entered By  
 Date Entered  
 Leads #  
 Lead Type  
 Drug Type  
 Drug Quantity  
 Drug Measure  
 Property Notes

**Property Description Item 4: 3534 – Truck (not Stolen or Recovered) – W2 – WHITE 2016 FORD F250 #1961267**

Item No 4  
 Property Category 3534 - Truck (not Stolen or Recovered)  
 IBR Type  
 UDR Type  
 Status I – Information Only  
 Count 1  
 Value 1000  
 Manufacturer FORD  
 Model F250  
 Serial No 1FT7W2B66GEA89113  
 License No 1961267  
 Color WHI – White  
 Description W2 – WHITE 2016 FORD F250 #1961267

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Vehicle Year **2016**  
License Year **2018**  
State **IL – Illinois**  
Body Style **PK – Pickup Truck**  
Recovered Date  
Owner **6**  
Disposition  
Evidence Tag  
LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 5: 1303 – Photograph –**  
**PHOTOS OF MADERO AND PHILBEE INJURIES**

Item No **5**  
Property Category **1303 – Photograph**  
IBR Type  
UDR Type  
Status **ES – Evidence (Seized)**  
Count **1**  
Value **0**  
Manufacturer  
Model  
Serial No  
License No

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Color	
Description	<b>PHOTOS OF MADERO AND PHILBEE INJURIES</b>
Vehicle Year	
License Year	
State	
Body Style	
Recovered Date	
Owner	
Disposition	<b>UPLOADED TO THE BEAST SERVER</b>
Evidence Tag	
LEADS	
Entered By	
Date Entered	
Leads #	
Lead Type	
Drug Type	
Drug Quantity	
Drug Measure	
Property Notes	

**Offense Detail: 0445 – Aggravated Battery (Public Way)**

Offense	<b>0445 – Aggravated Battery (Public Way)</b>
Description	
IBR Code	
IBR Group	
Crime Against	
Using	<b>N – Not Applicable</b>
Criminal Activity	

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Weapons/Force **90 – Other**  
 Location **13 – Highway/Road/Alley/  
 Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered  
 Entry Method  
 Type Security  
 Tools Used

**Offense Detail: 2461 – Operating uninsured motor vehicle**

Offense **2461 – Operating  
 uninsured motor vehicle**  
 Description  
 IBR Code  
 IBR Group  
 Crime Against  
 Using **N – Not Applicable**  
 Criminal Activity  
 Weapons/Force  
 Location **13 – Highway/Road/Alley/  
 Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered

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Entry Method  
 Type Security  
 Tools Used

**Offense Detail: 7723 – Failure to reduce speed/Too fast for conditions**

Offense **7723 – Failure to reduce speed/Too fast for conditions**  
 Description  
 IBR Code  
 IBR Group  
 Crime Against  
 Using **N – Not Applicable**  
 Criminal Activity  
 Weapons/Force  
 Location **13 – Highway/Road/Alley/Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered  
 Entry Method  
 Type Security  
 Tools Used

**Offense Detail: 5060 – Other traffic offenses**

Offense **5060 – Other traffic offenses**  
 Description  
 IBR Code

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IBR Group	
Crime Against	
Using	<b>N – Not Applicable</b>
Criminal Activity	
Weapons/Force	
Location	<b>13 – Highway/Road/Alley/ Street (304)</b>
Offense Completed?	<b>Yes</b>
Hate/Bias	<b>88 – None (No Bias)</b>
Domestic Violence	<b>No</b>
No Prem Entered	
Entry Method	
Type Security	
Tools Used	

On Friday 02/09/2018 at 0406 hours, Officers and I responded to 3800 Broadway in reference to a car accident. While en route dispatch advised that the suspect (later identified as Daniel Madero) was in a green Audi #AD79903 and he tried to leave the scene. Two witnesses, John Keck and Bret Daehler blocked him in with their pick up trucks. The victim, Brandon Philbee and Madero were physically fighting on scene.

Upon arrival I observed a gray GMC Sierra #80318W, a white Ford F250 #1961267, a green Audi #AD79903, and a beige Pontiac Torrent #Z663533 in the middle of the road at 3800 Broadway. The Audi passenger side door was open and I noticed Madero and Philbee grabbing each other inside the Audi. Philbee exited the passenger side of the vehicle and told me that Madero stabbed him in

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the face with a key. I observed a cut under Philbee's right eye and there was blood dripping down his face from the cut. Philbee told me that he was traveling eastbound on Broadway and he had a green light at the Eastmoreland Ave intersection. He continued to travel eastbound on Broadway and was struck by a green Audi #AD79903 who was traveling northbound on Eastmoreland Ave. Philbee advised that the impact of the crash made his vehicle swerve into a gray GMC Sierra #80318W who was traveling westbound on Broadway. The green Audi left the scene, traveling eastbound on Broadway. Philbee advised that he and a gray GMC Sierra and the white Ford F250 followed the green Audi. The Audi went north on Alpine Rd then west onto Charles St. The Audi turned south onto Parkside Dr. and stopped at a red light at Eastmoreland Ave and Broadway. Philbee advised that he never lost sight of the vehicle. Philbee exited his vehicle and approached the green Audi. The driver had his window rolled down and Philbee asked Madero why he left the scene and they began to argue. Madero put the car in drive and tried to leave the scene. Philbee reached into his window and grabbed the steering wheel. Madero drove eastbound on Broadway while Philbee was hanging out of the window. While the vehicle was in drive Madero stabbed Philbee in the face with a key. The vehicle did a 360 degree turn in the middle of the road and the vehicle stopped. Philbee fell inside the drivers side window and Madero punched him. A gray GMC Sierra and white Ford F250 pulled up and blocked him in the road to prevent Madero from leaving. Philbee advised that he got ontop of him and waited until the police arrived on scene. Philbee wanted to pursue charges. Officer Swanson took photos of Philbee

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injuries and uploaded them to the server. Rockford Fire Ambulance arrived on scene and Philbee refused medical.

Officer Nachampassack spoke with Madero who stated that he was traveling southbound on Parkside Dr. and stopped at a red light at Broadway. A Pontiac #Z663533 pulled up to next to him and Philbee exited the vehicle and started yelling at him about blowing a red light. Philbee punched him a few times in the face and Madero drove eastbound while Philbee was hanging inside his window. Rockford Fire Ambulance transported Madero to St Anthonys Hospital for medical treatment. Officer Nachampassack went to the hospital and took photos of Madero injuries. He uploaded them to the server. See his report for further details.

Officer K. Swanson spoke with two witnesses, (snow plow drivers) John Keck (driving a white Ford F250) and Bret Daehler (driving a gray GMC Sierra) who stated that they were traveling west bound on Broadway and they saw a green Audi #AD79903 blow a red light at Eastmoreland Ave. The Audi struck a silver Pontiac #Z663533 who was traveling eastbound on Broadway. Keck and Daehler stated that they did not know either party and were independent witnesses. See Officer K. Swanson supplement report for further details.

I observed the green Audi had front end damage. The Pontiac Torrent had drivers side and passenger side damage, both headlights were smashed. The GMC Sierra had minimal rear drivers side panel damage. I was unable to see any visible paint transfer from the vehicles due to the heavy snow storm.

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Sgt Dobran arrived on scene and I briefed him of the incident.

Officer Swanson completed a impound sheet and Haas arrived on scene and impounded Madero's vehicle.

I contacted SAO who approved Aggravated Battery in a Public Way.

I completed a crash report.

Sgt Dobran approved the following charges and Madero was issued the citations

Operating Uninsured Vehicle: 1115228

Failure To reduce speed: 1115229

Disobeying Traffic Control Device: 1115230

Leaving the Scene of an Accident: 1115231

Lt Brass instructed me to do a follow up at the Circle K gas station. On 02/10/2018 at 0610 hours I met with Circle K cashier, Jennifer Schwochert who was able to operate the surveillance cameras. On 02/09/2018 at 0401 hours (camera time) I observed a dark color sedan (unknown make nor model) traveling eastbound on Broadway. A few seconds later a Suv was driving eastbound on Broadway and behind the suv was a white pickup truck with a snow plow attached to the front driving eastbound. It appeared the white pickup truck was driving at a high rate of

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speed to catch up to the vehicles. The vehicles drove out of cameras range. At 0404 hours I noticed a white pick up truck stopped at broadway just east of the west side entrance of the gas station. The white pickup truck was facing east. I only saw the front passenger door side to the engine due to cameras range. I saw a male that appeared to be Philbee standing in the road next to the truck. At 0407 hours (camera time) a black pick up truck pulled in a angle in front of the white pick up truck. I did not see the green Audi in the road due to the camera range. Circle K had no exterior cameras pointed in the direction of Eastmoreland Ave. and Broadway where the crash occurred. Schwochert advised that she was unable to provide a copy of the incident and the manager would be working later during the day.

I took no further action.

**APPENDIX E — PROBABLE CAUSE STATEMENT  
OF THE ROCKFORD, ILLINOIS POLICE  
DEPARTMENT, DATED FEBRUARY 9, 2018**

**PROBABLE CAUSE STATEMENT**

Arresting Agency: Rockford Police Dept.

Agency Case Number: 18-016047

Defendant Name: DANIEL A MADERO

Alias: \_\_\_\_\_ Defendants Address: 4970 S MULFORD RD

DOB: 05/19/1981

Officer Name: MCGUINNES Date: 02/09/2018

Reviewing Supervisor: JMAVEUS

Vehicle Impounded:  Arrest Date: On or about 02/09/2018

Domestic Related:  Defendants Status: \_\_\_\_\_

Charges: AGG BATTERY/PUBLIC PLACE

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Briefly describe how the crime was committed, how the defendant was identified as the perpetrator, and HOW YOU KNOW THESE FACTS (for example, “The named victim told me this.”)

On Friday 02/09/2018 0406 hours Officers and I responded to 3800 Broadway in reference to a car accident. While en

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route dispatch advised that the subject (later identified as Daniel Madero) in a green Audi #AD79903 tried to leave the scene. Two witnesses, John Keck and Bret Daehler blocked him in with their pick up trucks. The victim, Brandon Philbee and Madero were physically fighting.

Upon arrival I observed two pick up trucks, green Audi #A079903 and a beige Pontiac Torrent #Z663533 in the middle of the road at 3800 Broadway. I noticed Madero and Philbee fighting inside the green Audi. Philbee exited the vehicle and told me that Madero stabbed him in the face with a key. Under Philbee's right eye was cut and bleeding. Madero told me that he was traveling west bound on Broadway and he had a green light at Eastmoreland Ave intersection. He continued to travel west bound on Broadway and was struck by a green Audi #AD79903 who was traveling northbound on Eastmoreland Ave. Philbe advised that his vehicle had struck a black GMC Sierra #80318W who was traveling eastbound on Broadway. The green Audi left the scene, traveling eastbound on Broadway. Philbee advised that he and two pickup trucks followed the green Audi. They traveled around the block and the vehicle stopped at a red light at Eastmoreland Ave and Broadway. Philbee exited the vehicle and approached the green Audi. He asked Madero why he left the scene and they began to argue. Madero tried to leave the scene again and he reached into his window and grabbed the steering wheel. The vehicle drove eastbound on Broadway and the vehicle did a 360 turn. The two pick up trucks blocked him in to prevent Madero from leaving. Philbee advised that Madero stabbed him in the face with a key while he was hanging inside the vehicle. Philbee fell inside

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drivers side window and Madero punched him. Philbee advised that he got on top of him and waited until the police arrived on scene. Philbee wanted to pursue charges.

Officer Nachampassack spoke with Madero who stated that he was traveling southbound on Parkside and stopped at a red light at Broadway. A Pontiac #Z663533 pulled up to next to him and Philbee exited the vehicle and started yelling at him about blowing a red light. Philbee punched him a few times in the face and Madero drove eastbound while Philbee was hanging inside his window. Madero advised that a white pick up truck struck him and he crashed into a snow bank. Madero did not have proof of insurance.

Officer K Swanson spoke with two witnesses, John Keck and Bret Daehler who stated that they were traveling west bound on Broadway and they saw a green Audi blow a red light at Eastmoreland Ave. The Audi struck a silver Pontiac #Z663533 who was traveling eastbound on Broadway. The Pontiac crashed into Keck's GMC Sierra #80318W. Keck and Daehler followed the green Audi around the block in separate trucks. The vehicle stopped at a red light at Broadway and Eastmoreland Ave. Philbee exited his vehicle and approached the green Audi. They began to argue and the vehicle tried to leave the scene again. Philbee jumped in the drivers side window and the vehicle took off eastbound on Broadway. The vehicle stopped at 3800 Broadway and they both blocked the vehicle in with their pick up trucks until the police arrive on scene.

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Rockford Fire Ambulance transported Madero to St Anthonys Hospital for medical treatment. Madero was arrested at St Anthony's Hospital.

Operating Uninsured Vehicle: 1115228

Failure To reduce speed: 1115229

Disobeying Traffic Control Device: 1115230

Leaving the Scene of an Accident: 1115231

Date of Statement: \_\_\_\_\_

Officer (typed): \_\_\_\_\_

Signature: \_\_\_\_\_

**COURT FINDINGS**

- Probable Cause has been found to detain defendant.
- No probable cause. Defendant shall be released from custody. Summons may issue for defendant.
- Defendant to be released on recognizance bond, even though probable cause has been found.

1:27 pm 2/10/2018

/s/

**APPENDIX F — DISCOVERY DEPOSITION  
OF RICHARD DEVLEGER, DATED  
OCTOBER 21, 2021**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

No. 20-CV-50062

DANIEL A. MADERO,

*Plaintiff,*

vs.

OWEN McGUINNESS,

*Defendant.*

The discovery deposition of RICHARD DeVLIEGER taken before Kathleen E. Phillips, C.S.R., via Zoom videoconference with the witness sitting in Mesa, Arizona on October 21, 2021, at the hour of 11:00 a.m.

[2] APPEARANCES:

HARRISON LAW OFFICES, by  
MR. JAMES T. HARRISON,  
appeared via Zoom on behalf of the Plaintiff;

CITY OF ROCKFORD DEPARTMENT OF  
LAW, by MR. IFEANYI C. MOGBANA and

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MR. MATTHEW D. FLORES, appeared via Zoom on behalf of the Defendant.

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[3] COURT REPORTER: I will ask all counsel to stipulate on the record that this deposition is being taken pursuant to Amended Illinois Supreme Court Rule 206(h) and that the court reporter will administer the oath to the witness remotely. Counsel, please so stipulate for the record that you agree to this.

MR. HARRISON: Plaintiff's counsel stipulates.

MR. MOGBANA: Defense counsel stipulates.

RICHARD DeVLIEGER,

having been first duly sworn, was examined and testified as follows:

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EXAMINATION

BY MR. HARRISON:

Q Okay. Please state your full name for the record.

A It's Richard DeVlieger.

MR. HARRISON: This is the deposition of Richard DeVlieger. It's taken pursuant to subpoena. It has been continued to today's date by agreement of the parties and counsel. It's taken in compliance with the Federal Rules of [4] Civil Procedure, the local general rules of the United States District Court For the Northern District of Illinois.

Q Okay. Mr. DeVlieger, you realize you are under subpoena; is that correct?

A Yes, sir.

Q Where do you live, sir?

A I live in Mesa, Arizona.

Q How are you currently employed?

A I'm retired. I'm an independent contractor. I'm a lead golf instructor.

Q Okay. And where is that at?

A In Gilbert, Arizona.

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Q Okay. What is your highest level of education?

A High school.

Q Where did you go to school?

A Stillman Valley.

Q Okay. Were you employed by the Rockford Police Department on February 9th of 2018?

A Yes, sir.

Q What was your employment position?

A Detective.

Q And how long had you been a detective at [5] that time?

A Since 2009.

Q Okay. And how long had you—were you employed with the Rockford Police Department?

A Since 1999.

Q Have you had any other police jobs besides the Rockford Police Department?

A I had some part-time work for the Byron Police Department and a reserve deputy for the Ogle County Sheriff's Department.

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Q Okay. And that was prior to our Rockford P.D.?

A Yes, sir.

Q Okay. Have you had any other non-police jobs?

A Yes.

Q Since your retirement is your only non-police job  
your golf instructor job?

A That, and I worked at the Golf Shack before I left  
there to move to here.

Q Okay.

A The Golf Shack was in Rockford.

Q Okay. What training have you had regarding  
accident investigation?

[6] A Just through the Department.

Q Okay. Did you ever do any training like at the  
Traffic Institute or—

A No.

Q No specialized training in accident investigation?

A I took some online but it wasn't like  
reconstructionist, no.

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Q Okay.

A I hold no reconstruction license or anything like that.

Q Okay. Were you an accident investigator for a period of time during your employment at Rockford P.D.?

A Yes.

Q How long a period of time?

A Since I got promoted in 2019 until I retired in 2020.

Q Okay. And in that period of time how many accidents would you say you investigated?

A No clue. Hundreds, thousands.

Q Okay. A lot of accidents, okay.

A We had a lot of accidents in the city.

Q All right. So where did you do your [7] police training at, your basic law enforcement training?

A Champaign.

Q At PTI?

A Yes, sir.

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Q Okay. And what year did you graduate from PTI, do you recall?

A I got hired in March of '99. I couldn't tell you when I went to the Police Academy.

Q All right. Prior to your deposition you had an opportunity to review your police report in this case; is that correct?

A Yes, sir.

Q You have that in your possession?

A I have it right next to me—

Q Okay.

A —if you want me to clarify something.

Q Okay. We are going to talk about your police report so keep it nearby. But for now I would just like to ask you questions based upon your recall. Have you ever had your deposition taken before?

A Yes.

Q Okay. A couple things to remember [8] especially in this type of setting where we are working remotely, only one of us can talk at a time. If I ask a question, please wait for me to ask a full question before you start your answer. I'll wait for you to give me your full answer before I ask

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you the next question. If you don't understand a question that I ask you or other counsel asks you, tell us so we can clarify the question. We want to make sure that you are answering the question—that you know what we are asking. And if you answer a question that we put to you, I'm going to assume that you understood the question, okay?

A Yes, sir.

Q Okay. One other thing, if you hear the word "objection" come out of the mouth of either attorney, please stop talking. Let the attorney make their record and then you'll be directed whether or not to answer it, okay?

A Yes, sir.

Q All right. So let's—we are going to start asking about your report of this investigation that you did. Who is ADC Pozzi?

A He's Assistant Deputy Chief.

[9] Q Okay. And what is his role? Who is he in charge of? What does he do?

A He was in charge of—I believe it was—he was in charge of traffic. I couldn't tell you who else he was in charge of but he was in charge of our whole unit. He was the Chief of our—the new District 3.

Q Oh, okay. So he was your boss?

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A He was my boss' boss but yeah, he's still my boss.

Q All right. So he was in charge where you were working at District 3?

A Yes.

Q Okay. And he was the one that spoke to you about investigating this case?

A Not at the beginning.

Q Okay. Well, who first—who did you first talk to about this?

A That morning Deputy—I don't know if he's Assistant Deputy Chief or he's Deputy Chief but it was—Doug Pann came into my office.

Q Okay. What did he say?

A He asked if I would—I was the hit-and-run investigator so I investigated all [10] the hit and runs that happened in the city. I also reviewed some other reports just for myself so I could see what else was going on in case that vehicle might be involved in another one or whatever.

Q Okay.

A He asked if I read this one. I did not because there was already an arrest made so I don't usually go over the ones where there is an arrest made because it's not—I have no reason to investigate it.

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Q It's not an open investigation?

A It's not an open investigation. From my understanding Mr. Madero is related to him or is a friend of his or he knows of him, and said that he contacted him and there was some stipulations or some problems that he believed was with the report and was just asking my opinion if I read it. I told him I did not.

Q Okay.

A I don't know how it got between me and—again, I don't remember a whole lot of this; just what I wrote.

Q Sure.

[11] A But between him and Pozzi, then it came down to me that Pozzi said, yeah, go ahead and re-investigate this and see what went on.

Q Okay. Besides that initial conversation that you had with Doug Pann, did you have any other conversations with him about this case?

A No, that was the first I heard of it.

Q Okay. So you talked to him initially, you told him you had not reviewed it and that—

A Right.

Q —was the end of your conversation with Doug?

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A Yes, sir. It was very brief with Doug. He just wanted to know if I read it, if I'm familiar with it. I said I haven't read anything. He said, well, this person here, the girl was arrested and I guess witnesses were—I don't remember the exact conversation but it started with Doug, went to Pozzi and then came down to me.

Q Okay. So it lands in your lap. What were your marching orders?

A To follow up with some of the witnesses and re-investigate the accident.

[12] Q Did anyone advise you at the time that you started this that the witnesses had retracted their statement?

A I don't recall.

Q Okay.

A I could have—when I read the report it would have been brought to my attention because it's in my report, but I don't remember if it was brought to my attention prior to that. I don't remember.

Q All right. So how did you start your investigation? What did you do?

A I reviewed the previous reports.

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Q Okay. That included Officer McGuinness' report, Officer Nachampassack and Officer Swanson; right? Those are the three guys that wrote a police—

A I believe so, yes, sir.

Q And McGuinness was the arresting officer, do you recall that?

A I believe so.

Q Okay. So you read the reports. Do you recall—hang on just a second here. We'll come back to that.

[13] All right. So you read the reports and then what did you do? What did you next do?

A I called and spoke with the truck drivers.

Q Okay. And do you recall which one you spoke with first?

A No. I can look.

Q Go ahead, look at your report if you need to refer to it and then set it down when you are done.

A Mr. Kleck (sic).

Q Okay. So you—

A Hold on. Daehler first.

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Q I'm sorry?

A Daehler first.

Q All right. So you talked to him first and what did he have—what did you say to him and what did he say to you the best you can recall?

A I don't remember our exact conversation but I'm sure it started out as I identified who I was, I said I was investigating—or I was following up on this accident investigation. I do remember in my report it stated they called [14] because they wanted to re—they weren't sure exactly—oh, thank you. All I saw was this much of it.

Q I just noticed that myself.

A I didn't know if it was movable. That's why I didn't say anything.

Q I'm sorry about that.

A Just told him that I knew they called to talk to the officers. I didn't know if they actually spoke to them or not so I was following up—

Q Okay.

A —on what they had to say.

Q Okay. And when did you—did you come to learn that there had been a hit-and-run accident that morning?

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A Yes.

Q Okay. And do you know where that hit-and-run accident occurred at?

A Broadway, Eastmoreland and Parkside. It's an intersection—it's one intersection but there is three road names.

Q Okay. Parkside is north of Broadway; correct?

[15] A Yes, sir.

Q And Eastmoreland goes south from Broadway; is that right?

A Yes, sir.

Q Okay. So the road just changes names essentially?

A Yes.

Q Okay. The hit-and-run accident, that occurred at the intersection of Broadway and Eastmoreland; is that right?

A It happened on the south side of the street, so yes.

Q Okay.

A It's the same intersection.

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Q And the hit-and-run vehicle was northbound on Eastmoreland; is that correct?

A That's how it was reported.

Q Okay. And—

A By everybody.

Q By everybody, okay. So we all know that that much has happened. And that northbound vehicle on Eastmoreland was reported to have gone through a red light and struck one of the vehicles; correct?

[16] A It struck Mr. Philbee.

Q Okay. And do you know what the speed limits were for Broadway and Eastmoreland at that time?

A Not memorized but I'm sure I went out there because it's in my report.

Q Okay. If I were to suggest that you look at the bottom of Page 12 of your report, would that assist you in answering my question?

A Eastmoreland is 30 and Broadway is 35 which is—sounds now that I'm reading it and—like I said, that's about the right speed limit for that area.

Q Okay. And do vehicles normally travel at or near the speed limit around town?

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A That's an opinion. Everybody has their own—

Q Okay, no problem. So at—you had no opportunity to go out to the scene of the accident at the time of the accident; is that correct?

A Correct.

Q Okay. After this collision with Mr. Philbee's vehicle happened, do you know what [17] happened with Mr. Philbee's vehicle?

A He—according to the report he took off and tried to follow the vehicle.

Q I'm sorry, let me back up a little bit. After the hit-and-run vehicle struck Mr. Philbee's vehicle, did Mr. Philbee strike any other vehicles?

A It struck Mr. Kleck's truck.

Q Okay. And was Mr. Keck coming toward Mr. Philbee or was he traveling in the same direction as Mr. Philbee?

A He was traveling westbound on Broadway, Philbee was traveling eastbound on Broadway so they were crossing this direction.

Q Okay. So he was oncoming traffic?

A Correct. For Philbee, yes, yes.

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Q Okay. So when—let me make sure I have this straight. So the hit-and-run vehicle went—struck Mr. Philbee, Mr. Philbee struck Mr. Keck and the hit-and-run vehicle took off?

A As reported, yes. That's how I interpreted the reports.

Q Okay. And now, I'm not going to ask you what Mr. Daehler or Mr. Keck told the other [18] officers. I want to know what they told you, okay? When you spoke with Bret Daehler, when you spoke with him he told you that he didn't see where the dark-colored vehicle that left the scene of the accident had gone; correct?

A Correct.

Q And when you spoke with him did he indicate to you that he no longer believed that Mr. Madero's vehicle was the vehicle involved in the hit-and-run collision?

A Correct.

Q Okay. Did he tell you why?

A Because there was no damage which was consistent with a front-end accident.

Q Okay. So after you spoke with Mr. Daehler, then what did you do next?

A I spoke with Mr. Kleck.

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Q Okay.

A Keck, Keck. I'm sorry, Keck.

Q That's all right. When you say "Kleck" and "Keck"—or we are going to say Keck and Kleck are the same guy.

A Same person.

Q All right. So when you spoke with [19] Mr. Keck, what did he say with regard to his conclusions about who was involved in the hit-and-run accident?

A Well, unfortunately we try to separate witnesses but both of these guys were at the same place, and Mr. Keck was issued the usual Illinois Department of Transportation orange form where he draws the picture.

Q Okay.

A From their conversations as they were sitting there doing this, he said, wait a minute, this doesn't—now that I'm thinking about it, you know, he said, I walked around the vehicle, there was no damage where they hit each other so it was their conclusion that, you know, hey, wait a minute, no damage, you know. I think Kleck was the one that said it was hard enough to hit—that car to hit my truck, there should have been some front-end damage which there wasn't.

Q Okay. And it was your understanding that—from what they reported to you was it your understanding that

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the hit-and-run collision to Mr. Philbee's vehicle occurred with such force that it drove Mr. Philbee's vehicle into the [20] other lane of traffic?

A I don't know if it drove it but it was enough to—I mean, I don't know if it was high speed because there wasn't that much damage. I mean, it was like a normal accident. But yeah, they—if you were driving this direction and you get hit, your front end is going to move over and that's what hit the vehicle coming.

Q Okay. So he—

A It did move the whole vehicle and they side swiped and pushed—it was just more of a—from my understanding of how they reported it, it was hit hard enough to move off center for the vehicle to hit the oncoming traffic.

Q Okay. So it just moved it into—a little bit into the other lane where the front end got knocked into the other lane?

A Right. I wouldn't use the word “drove” but it was enough impact, enough force to move the vehicle out of its lane into another.

Q Okay. And you had a chance to take a look at Mr. Philbee's vehicle; right?

A I did, yes, sir.

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Q Where was the—can you describe the [21] damage? Was it—

A It was at—you asked where it was? It was Cruz's Towing. I don't remember the street but it was at Cruz's Towing. He had a lot of front-end passenger side damage which would be expected.

Q Okay.

A I took I think 19 pictures of his vehicle.

Q Okay.

A And both the front—both front ends which was consistent with him hitting Keck or Kleck.

Q Okay.

A So, yeah, he had well enough damage that he said he couldn't drive it. He had to tow it.

Q Okay.

A So he had enough impact to cause the front end tires to be moved in. I believe I even stated in my report that there was tire damage.

Q Okay. So both vehicles were impounded; right?

A I'm sorry?

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Q Were both vehicles impounded, [22] Mr. Madero's and—

A No, I don't think Mr. Philbee's was impounded. I think it was just towed because—due to damage.

Q I see, okay. All right. So you looked at the vehicle; you saw the damage there. And you also had an opportunity to look at Mr. Madero's vehicle?

A I looked at his first, but yes, and his was impounded.

Q Where was his?

A The Greater Rockford Auto Auction.

Q Okay.

A Sandy Hollow and Mulford Road.

Q Had that been in—when it's an impound nobody can mess with the vehicle between the accident and the time you looked at it; is that fair to say?

A That is very correct.

Q Okay. Did you have a chance to look at the whole vehicle and see what—you know, inspect Mr. Madero's vehicle inside and out?

A Not inside but outside, yes.

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Q Okay. Did you happen to look inside the [23] vehicle?

A I did not.

Q All right. So based on your outside inspection of the vehicle, what did you observe?

A There was no evidence in my opinion that that vehicle was involved in a front-end collision.

Q Okay. Was there any front passenger or driver's side quarter panel or front-end damage that you could observe?

A Not on the front. There was some damage on the back and I don't remember which side right now, but there was some rear end which was caused by one of the snow trucks.

Q Okay. Besides that damage, was there any other damage indicating that vehicle had been involved in a collision?

A Absolutely not.

Q Mr. Madero's Audi is equipped with air bags. Were the air bags deployed in the vehicle?

A I don't know. In order to search his vehicle I had to get a search warrant and I didn't need to get inside his vehicle. It was irrelevant to my part of my investigation.

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[24] Q Well, wouldn't whether the air bags deployed be relevant to whether the vehicle had been involved in a front-end collision?

A I did not look inside the vehicle.

Q Okay. If the air bags were not deployed, would that be consistent with your findings, that there was—that the vehicle was not involved with a front-end collision?

A Yes and no. Not every air bag deploys when it's supposed to.

Q Including front air bags and front—

A People always say, I'm surprised my air bags didn't go off and I'm like, yeah, me too, so not every accident do air bags deploy.

Q Okay.

A But there is no—

Q In any event you didn't make—you didn't observe the status of the air bags and that wasn't part of your investigation; is that fair to say?

A That's fair to say.

Q Okay. Now, in Mr.—you said you read the reports to understand what was going on with the case before you began your investigation; [25] right?

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A In 2018, yes.

Q Yeah. In Mr. McGuinness' report he states that he observed front-end damage to Mr. Madero's Audi. Did you—you didn't observe any front-end damage; is that correct?

A That is correct.

Q Did you speak with Officer McGuinness about his statement that he had seen some front-end damage to try to figure out maybe what he was referring to?

A I have not talked to anybody, any officer or anything about this case until you guys just now brought it up.

Q Okay. Well, that makes it easier. All right. So when you got finished with your investigation, did you have to report your findings to someone?

A Yes, I sent a—he was a sergeant but Pozzi, the Deputy Chief.

Q Okay.

A I'm used to him being a sergeant but he was a Deputy Chief. He got promoted to Deputy Chief.

[26] Q Okay. So did you discuss with him your investigation?

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A I did.

Q Okay. What did you tell him? What did he say to you and what did you say to him during that conversation?

A I told him that that Audi in my professional opinion as being an investigator was not the vehicle that struck Mr. Philbee in the intersection.

Q Okay. Did you speak to him about the fact that Officer McGuinness' report stated that there was front-end damage?

A I did not.

Q Okay. After you told Deputy Chief Pozzi that you didn't believe that the vehicle was involved in the accident, what did he tell you? What happened then?

A I don't recall our actual conversation. I do know I released the vehicle with no charges, you know, so that he didn't have any tow charges or holding charges, and that's common practice. That's not just with him. I have done that with many, many investigations that a vehicle got [27] towed for some reason whatsoever and I have released them with no charges, no—not with charges, no bill.

Q No bill, okay.

A No bill.

Q Well, in this instance from your investigation

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Mr. Madero's vehicle wasn't involved in the hit-and-run accident; right?

A That is correct.

Q You had an opportunity to discuss with Mr. Madero in person what had occurred out there; is that right?

A You know, I don't remember interviewing him and I was making notes. Obviously I had audio/video recording so it's obviously yes, there is no doubt about it.

Q Okay.

A When I was reading it, it said that he was provided my number. I had that question, who gave him my number because I did not reach out to him. He reached out to me. So I would have reached out to him but he reached out to me first.

Q Okay.

[28] A And yeah, I did speak with him but I don't recall the actual one on one but it would be audio and video recorded.

Q Okay. So as you sit here today do you have any recollection of your conversation with him other than what you have included in your police report?

A No, sir, I'm sorry.

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Q Would it be fair to—is everything that you stated in your police report to the best of your knowledge and belief true and accurate?

A Yes, sir.

Q Okay. Your report said after you had completed your investigation or at some point in your investigation you spoke with Assistant State's Attorney Wendy Larson. Do you recall that?

A I do—well, I don't remember the conversation but it's in my report that I called her.

Q Why would you have called her?

A I believe because it was a felony charge.

Q Okay.

[29] A And I want to confirm that the charges—I don't remember exactly why it was done. All I know is she—I think she was the one that authorized the charges. I'm guessing at this point.

Q Okay.

A I don't remember. But I called just to let her know where I was at in my investigation. I don't remember the reason why. I don't remember if someone said hey, when you are done call Wendy Larson or, you know, when you—somewhere in there either I was directed or during

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the investigation, okay, I should let Wendy know what is going on because she was the one that authorized—I believe she was the one that authorized the charges. I'm not sure but—

Q Okay.

A I don't remember why I would call and tell her unless I was either directed to to let her know my findings. So either it was brought up to her that I was investigating it or vice versa. I don't recall at this particular point years later why I would call her. But it is in my report and if it's in my report, I did call [30] and tell her.

Q Well, if you concluded that Mr. Madero's vehicle was not the vehicle involved in the hit-and-run collision, would that have been relevant to the charges that were filed against him? Did you think they were—it was relevant, let me put it that way?

A No.

Q Okay. During your conversation with or your interview of Mr. Madero, do you recall him informing you that he was sitting at a stoplight waiting for the light to turn when a number of vehicles descended upon him and Mr. Philbee came up and punched him through the open window of his car? Do you recall that?

A Only what I wrote in my report but I think he said he thought that those vehicles were in an accident behind him and they approached him. That's how I read my report.

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Q Right.

A But yeah, then—yes, and then Philbee jumped in and started attacking him.

Q Okay. And did you observe—strike that. [31] When you interviewed Mr. Madero, did he ask you—

A I'm sorry, I didn't—when I interviewed him or—can you start that again?

Q Sure. When you interviewed Mr. Madero, did he ask you to press charges against the individual that had attacked him?

A I don't recall. I don't believe so. I don't want to say yes or no. I don't remember our conversation. If it was on the audio and video, then yes, and it could have been a possible reason why I called Wendy Larson. I don't remember that conversation.

Q Okay. Did you—when you reported your findings to Deputy Chief Pozzi, did you recommend that any charges be filed against these individuals in the conduct that was taken against Mr. Madero?

A No, I don't believe—I don't believe that was part of—no, I don't recall—I don't recall that conversation. It wasn't me actually investigating to make the charges. It was me investigating and saying here, this is what I believe happened. Here you go. You guys can [32] deal with it.

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Q Okay. Who would have been the guys that would have had to deal with it that you would have given it to? It would have gone to your boss?

A It would have gone to my boss and then it would have gone to the State's Attorney's Office.

Q I see, okay. And so you never talked to any of the officers involved in this case—

A I did not.

Q —about this case?

A Just Pozzi and Doug Pann.

Q Okay. In those conversations that you talked about; right?

A Correct, yeah.

Q Now, you had a conversation with Pozzi at the beginning of your investigation and another one when you were at the end of your investigation?

A Well, I had more. As I was going through and I walked by his office and he'd say, hey, how's it going? Hey, I just went out to the auto auction and took some pictures, that kind of [33] stuff. But the actual—my findings and stuff was after.

Q Okay. So—

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A I mean, I didn't go in his office and sit down and say hey, this is what's going on and this is what's going on and then left and came back and reported to him every time. If he would bring it up if I walked by his office and say, hey, what are you working on, I'm working on this, and that kind of stuff.

Q Okay. So nothing—until you concluded your investigation you didn't have much to report as far as findings is concerned; is that fair to say?

A Yes. I would say for now, yeah.

Q Okay. And then when you ultimately made your conclusion that Mr. Madero's vehicle wasn't the vehicle involved, what efforts, if any—I mean, you were the hit-and-run guy. What efforts did you take after that to find out who the real hit-and-run driver was?

A I didn't.

Q Why not?

A I don't recall. I don't know if they—[34] I don't recall the—I mean, hindsight now looking back at it if it was assigned to me, I would have.

Q Okay. Do you know whether it was assigned to anybody else in your unit?

A Not that I'm aware of.

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Q It would have been—I mean, if Madero was cleared of this accident, then that means Bad Guy is still out there; right, the hit-and-run driver?

A It's fair to say that, yeah. It's fair to say that.

Q But to your knowledge there was no follow up after you concluded your report?

A Correct.

Q Okay. Did you have a chance to talk to this Brandon Philbee person?

A I have not. To this day I have never spoken with him. His cousin—

Q Did you try to talk with him?

A I did. I said—I called him once or twice and it went to his voice mail and I texted him. I never received anything back. It was all through his cousin.

[35] Q You visited his work place; is that right, or you talked to—

A I called.

Q Oh, you called. What did they tell you about him?

A That he was supposed to be working and that he left work and never returned back.

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Q Okay. And so he never followed up with you, never returned your calls?

A Correct.

Q And to your knowledge no one ever followed up with them after you were finished with Philbee, Keck and Daehler?

A I don't know if anybody else continued. I don't know if the State's Attorney's Office tried to contact. I don't know. Like I said, when our report is done, it goes to the State's Attorney's—well, it goes to Pozzi and whoever they give those reports to, but I did not—after I closed mine out, I did not try—I have not spoken—I didn't speak with him then and I still haven't. I didn't speak with him after. And I don't think—I don't even think he made an attempt.

[36] Q Okay. Do you know why?

A No.

Q Generally somebody stopped at a stoplight waiting for the light to turn and a vehicle descends upon them and somebody starts attacking them through the window, that's a crime; isn't it?

A Yes.

Q Do we know why that crime wasn't prosecuted in this case?

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A You'd have to ask the State's Attorney's Office.

Q Well, the State's Attorneys aren't arresting folks. They are the ones that make the charges. Do you know why no police officer arrested Brandon Philbee for attacking Daniel Madero in the middle of the street?

A Well, at the time of the accident from my understanding they were going based on the information they had at the scene. I wasn't there investigating.

Q Sure.

A Now, after the fact we would not make the arrest. It was through the State's [37] Attorney's Office there would be an arrest warrant. We would not go out after the fact and physically arrest. It would have to go through the State's Attorney's Office with charges.

Q Sure, sure.

A So why they didn't—I don't know if they did or didn't. That was not up to me and I didn't follow up on it.

Q Do you know whether any police officers went to the State's Attorney's Office to request charges be brought against Philbee for his attack on Madero?

A I am not aware.

Q Okay. At some point in time did you have occasion to call Mr. Madero's insurance company to confirm whether or not he had insurance at the time?

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A He did have insurance. Yes, sir, I did.

Q Okay.

A That's normal.

Q Okay. So it was basically he didn't have his insurance card with him at the time of the accident?

A I don't recall if that was the reason [38] why but there is a couple of charges in there and yeah, that was one of them. I'm assuming that's the reason why.

Q Okay. You confirmed that there was insurance so that—

A That should have been dismissed.

Q Okay. And all of the tickets against Mr. Madero were dismissed. Did you have any involvement in that?

A No, I did not.

Q Did you have any involvement in the dismissal of the criminal aggravated battery charge against Mr. Madero?

A I have no authorization at all. I don't know what happened to this case after I turned it over for review.

MR. HARRISON: Hey, Guys. I'd like to—if it's all right, I would like to take about a ten-minute break here.

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I want to go over a few things. I don't have much more to go over here before we are going to be pretty close to wrapped up.

MR. MOGBANA: That's fine.

MR. HARRISON: How about we reconvene at [39] 11:50?

MR. MOGBANA: That's fine.

MR. HARRISON: Does that work for everybody and take a little break? Okay, that's good.

(Short break taken.)

MR. HARRISON: We are back on the record.

Q Mr. DeVlieger, I have a couple more questions for you. You indicated that you found red paint transfer on Mr. Madero's vehicle on the rear passenger side of his vehicle. You indicated that in your report. Do you recall that?

A I recall—I remember finding the damage. I don't remember what side. Like I said, I don't remember—I knew there was one side. If it's the passenger, then that's fine. And it was fresh red chips, yes.

Q Right. Did you have occasion to follow up with Mr. Daehler about his snowplow and the source of that red paint?

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A It was either Daehler or Keck, but one of their plows physically hit the back of Madero's vehicle which in my opinion caused the damage to that vehicle, to Madero's vehicle.

[40] Q To the rear passenger—

A Correct.

Q —side? Okay.

A I believe I took pictures of the fresh paint with the red still on there, according to my report.

Q Now, Mr.—so there was a collision between the snowplow and Mr. Madero's vehicle. Was there an accident report generated for that collision?

A If it wasn't done on scene, I don't know.

Q Okay. Did you generate that report?

A I did not.

Q Could you tell from the evidence that you saw on Mr. Madero's vehicle, the paint transfer, could you tell how that paint transfer got to be on Mr. Madero's vehicle?

A From my assumption and how it was reported with both of them saying they had a red plow, my assumption would be the red paint is from the red plow.

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Q Okay. Mr. Madero claims that Mr. Daehler intentionally struck his vehicle with his [41] snowplow and Mr. Keck says that Mr. Madero struck Mr. Daehler's snowplow when Mr. Philbee was holding onto Mr. Madero's neck because he was trying to drive away. From your investigation is there any way to tell if either of those scenarios is the accurate scenario which occurred?

A Not from my investigation, no.

Q Okay. And from the paint transfer, could you tell?

A There was contact. I'm not debating that. There was definitely contact. How that contact got there is—like I said, the witnesses are saying that as—I read the same thing, that as he was being—while being choked and steered, it hit the plow. I don't remember Madero saying that the plow hit him but if he did, I'm not disputing what he said.

Q Okay. But you couldn't tell either way whether Madero hit the plow or the plow hit Madero?

A Correct.

Q You could just tell that the two vehicles made contact? The plow made contact [42] with the rear of Madero's vehicle?

A Well, I could see that a red painted metal object hit the car. And by the witness of the other truck driver that said he did see him hit the plow so yes, there was

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contact made but how, who was right or who was wrong, I would not know through my investigation.

Q Okay. I want to go through just a couple of things here. I'm going to try screen sharing so bear with me here for a second. This is not my—

A Well, it's not mine either so I'll work around it too.

Q Okay, good. Let me see if I can—well, hang on just a second. Maybe we're going to have to—

A I have my pictures if you want me to look at my pictures.

Q You do have your pictures? Okay. Well, then I'll have you look at your pictures.

A It was emailed to me this morning.

Q Okay. I would like you to take a look at those pictures. Hang on just a second.

A I have to find them again.

[43] Q Let's start—all of the pictures have Bates stamped numbers on, okay?

A Mine has a number 261, 262, 263, 264.

Q Okay. Let me see if we can get these up.

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A Let me go back to Madero's car. All right. I've got the one where I have close ups of his back end. I think I know which one you are talking about. It has a little bit of paint hanging from it.

Q Right.

A Yep.

Q Can you tell me—

A It was my picture No. 261.

Q Okay. And on picture No. 261, is that where you deduced—that was the red paint transfer that you were talking about?

A I believe so. It's—

Q Right. Is 262 any better? We all have the same documents; right, Counsel?

A They are both about the same. I think 262 is just blown up.

Q Okay.

[44] A It's the same picture as 261. It's just blown up.

Q And the little red blob in the middle of 262, that's the chip of paint?

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A That's essentially—that was the chip, yes. I mean, I didn't test it. I didn't have it analyzed. Just from the reports that's the red paint transfer from the car and the—from the plow.

Q So are documents Bates stamped 251 through 281 all of the photographs that you took?

A Mine start at 255, 256, 257, 258, 259, 260, 261, 262 and is all of Madero's vehicle.

Q Okay. And you also took pictures of Philbee's vehicle; correct?

A I did. And that starts I think at 263 through—

Q Okay.

A —281.

Q Okay.

A And just to save the questioning, on Philbee's vehicle there was no green paint transfer.

Q Now—okay. And as far as the paint [45] transfer is concerned, I believe in your report you indicated that there was white or a light gray paint transfer on Philbee's vehicle?

A Well, we are going to use this theory, I have seen a yellow car hit a car and not leave—it's left a different

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color besides yellow so, I mean, it's not a guarantee that there is going to be a paint transfer.

Q Okay.

A In most of the cases you will have some type of paint transfer. It's not guaranteed.

Q Okay.

A But from my—from me looking at them, no, there was no darker color that would be consistent with a dark black or blue or purple. There was more of a lighter color type vehicle, a gray or white. That's what I had in my report.

Q Okay.

A But I have also seen vehicles not leave paint transfers but there is damage, but it's not every time.

Q Right. But in this case you actually found paint transfer on Philbee's vehicle and the paint transfer was a lighter colored paint [46] transfer; is that correct?

A Correct.

Q And Mr. Madero's vehicle from your photographs, that is a dark green Audi; correct?

A Correct.

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Q Okay.

MR. MOGBANA: Counsel, sorry, I don't mean to interrupt but the photos that you referred to, do you want to introduce them as exhibits?

MR. HARRISON: Yeah, I was just going to say that as the Bates stamped—photographs Bates Stamped 251 through 281 we would mark as Group Exhibit No. 1. And as far as his report is concerned which we have Bates stamped 208 through 229 inclusive, and that includes photographs that he took of Mr. Mosher's text messages with Mr. Madero and his release of the vehicle from impound, we would make that Group Exhibit No. 2.

MR. MOGBANA: Okay.

MR. HARRISON: And that I think is all we need to—that is all I'm planning to use.

MR. MOGBANA: Okay, thanks.

Q And Mr. DeVlieger, I believe you have [47] your police report with the release from—of Mr. Madero's vehicle from impound and the photographs that you took?

A It's not in my report but I did get a picture of the same pictures that you were talking about. I did receive that in an email.

Q Okay. So the photographs that you took of Mr. Mosher's phone and the text messages for Mr. Madero you submitted them into evidence with your report; right?

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A I submitted those, yes.

Q Okay. And all of the—

A I didn't submit them this morning. I saw them this morning but I was the one that took the pictures.

Q Right, okay. Those—you made the pictures and you put them into evidence at the police department?

A Correct.

Q So all of the photographs that you took as well as your police report, that is all part of the evidence that you collected in your investigation?

A Correct.

[48] Q Okay. Give me just a second, Guys. Did Mr. Madero during your conversation with him, do you recall him explaining to you that he was having trouble with his insurance company because the damage to the rear portion of his vehicle from the snowplow was not the accident that had been reported to the police? Did he explain that problem he was having to you?

A I would not have known that. I talked to him the day of—or the morning of the accident. He wouldn't have had that information so all I understand is he tried to get it out and he said it cost a lot of money and I told him I waived it. That's the only conversation I had with him.

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Q Oh, okay. I was confused by that. If you would take a look at Page 13 of your report?

A 13?

Q Yeah, Page 13. And actually if you go back to Page 12, at the bottom of the page it says on February 12th you went and looked at Mr. Madero's vehicle?

A Yep.

[49] Q That would have been three days after the accident had occurred. And then on Page—

A The only time I talked to Madero—was it the 12th? Maybe it was.

Q I'm not sure. That's why I'm asking you. If you look down at the middle of Page 13 it says at about 1400 hours I met with Madero. My question to you was going to be was that the same day?

A That would have been Monday. I think the accident was on Friday so yeah, that would have been afterwards.

Q So that would have been the same day that you went and looked at his car you talked to him?

A Right. The only thing he told me about the insurance is he attempted to get it out of impound and it was a lot of money and I told him I waived it. I don't recall a conversation about him having issues with his

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insurance company. Even in my personal opinion dealing with insurance companies, they would have waited for all the reports to come through and all of that before they deny a claim.

[50] Q Okay.

A That's just my personal—

Q You don't recall that conversation then?

A Not of him having issues with the insurance company, no.

Q All right. Just a moment.

A It doesn't surprise me.

Q Just a second. Did you know any of the individuals involved in this; Madero, Keck, Daehler or Philbee prior to this?

A Not those four. I have dealt with Sapphire before—

Q Okay.

A —on another case but not this one. So out of everybody involved I have dealt with Sapphire previously. That's why I think she was cordial because I have dealt with her before. She knew who I was and knew that I'm pretty honest.

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Q Okay. Were you dealing with her in relationship to Brandon before?

A No, it wasn't. It was a vehicle that was registered to her and was involved in an accident, but she sold it. I found out that she [51] sold it and she told me the people she sold it to and—down the line. But I went over there and knocked on the door and I recognized who she was. So I had had previous contact with Sapphire but nobody else in this case I knew prior to me investigating it.

Q Okay.

A But I wanted to make sure that was out there just in case.

Q When you were done with your investigation, did you report the results of your investigation to Deputy Chief Pann?

A I don't think I went to Pann. I think I went up my chain of command.

Q Okay.

A I don't talk to Pann very often. Even when he was—even he wasn't a Deputy Chief. It's just the different sides of the city.

Q Okay.

A And that wouldn't have been something I would have recalled going to do because that wasn't—that

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generally isn't me. And I don't recall him coming over and—I don't recall speaking to him at all after the fact of him [52] starting it.

Q And besides Pozzi did you speak to anybody else about the case after you were done?

A Not that I can recall.

Q Okay. Do you recall anything from your conversation with Wendy Larson?

A I don't. I don't even remember why I called. Okay, on the break I was reviewing my notes. The only reason I could see why it wasn't coming to me to—so if it's coded—there is codes. We have coding. It's coded aggravated battery which would go to our violent crime.

Q Okay.

A So if I had the report based on that, it would still go—because it was coded aggravated battery, it would go to the violent crime. That's how it would go down the road. I can see that's why I didn't get assigned actually to follow up on the actual case because to me, and how I read it and how I'm interpreting it, it was brought to me as hey, continue investigating. These guys, you know, are contradicting what happened. Do—get your report of it and send it through. And that's why I was saying [53] Wendy Larson would be involved because she does the criminal aspect of it. So I wasn't assigned the case to actually investigate it. I was assigned to follow up on

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what the officers did and what I saw on the scene. Then it would go to our criminal aggravated battery and they would have done the actual follow up, if there was one. I don't know. I don't follow up on the cases. Even when I make an arrest, I don't follow up on them unless I get a subpoena to go to court.

Q Right.

A Once I do my job, then it goes to you guys and however you guys handle it. It's out of my hands and I don't want—you know, that's not my job to find out. I don't call and say I want more charges. Once I'm done, I go to the next one. I don't worry what happened. Everybody has their own ways of handling stuff. You know, you guys deal and talk, let's settle this. That's irrelevant to my investigations. So I don't follow up on my cases. And this is another one I wouldn't have followed up on, especially since I didn't make an arrest.

Q So you—at the close of—you decided [54] your investigation was closed when you cleared Daniel Madero of being involved in the accident; is that correct?

A I wouldn't say I cleared him. From my investigation his vehicle—in my opinion his vehicle was not involved in this. Since he was the driver, then he would not be—but it's not in my opinion to clear him. Somebody else would have to dismiss charges and stuff.

Q Let me put it—maybe “clear” wasn't the right word. You determined Daniel Madero was not involved in the accident as a result of your investigation; correct?

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A Correct.

Q And that was the end of your investigation? You didn't take any—you didn't try to find out who was involved? You just took it to the point—

A Correct.

Q —of saying this vehicle belonging to Mr. Madero was not the vehicle involved in the accident, and that was the end of your investigation; is that fair to say?

A Yes, correct. I believe that's what was [55] assigned to me to do. Hey, was it or wasn't it? It wasn't like go investigate it. It was like here, we are at contradictions. You look at it from a fresh point of view, follow up on it and then send it through.

Q Okay. And in your review of the police reports from the other officers, would it be fair to say that what Mr. Daehler and Mr. Keck told you was very different from what they had told the officers at the scene?

A I wouldn't say very. I mean, if you listen to my report, they weren't sure if that was the actual vehicle. How it happened, they both referred to a dark colored vehicle even though there was clear or gray paint transfer. Both of them were saying the vehicle that struck them was dark color. They just said after the fact after they sat and reviewed it and looked, they believed that it wasn't involved because there was no physical damage. I happened to agree with that. There was no physical damage. That

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vehicle in my opinion did not hit Mr. Philbee and the hit and run was not that vehicle.

[56] Q Okay. Just a second.

A No worries.

Q Would it be fair to say that you made no recommendations with regard to the disposition of Mr. Madero's case? You merely reported your investigation and your findings?

A Correct.

Q And someone further up the chain of command would make decisions about what would happen as a result of your investigation; is that fair to say?

A Correct. I believe it would go to the State's Attorney's Office. They are the ones that would—like I said, after the fact it would be an arrest warrant so if they were going to do anything more, it would be through the State's Attorney's Office.

MR. HARRISON: Okay. I think that is it for now, Guys. What do you have?

MR. MOGBANA: Nothing.

MR. FLORES: Nothing.

MR. MOGBANA: Unless you have anything else, we would waive signature.

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MR. HARRISON: Okay. So good news for you, [57] Mr. DeVlieger. You can go back into retirement. Signature is waived. Since you are more than 100 miles from the courthouse, your deposition will be what will be used in court if this case goes to trial for your testimony. You will not be compelled to return to the State of Illinois which should make you happy. And I thank you for your time today. Gentlemen, Kathy, thank you all.

MR. MOGBANA: Thank you, sir.

MR. HARRISON: That is the end of our dep.  
(Concluded at 12:14 p.m.)

FURTHER DEPONENT SAITH NOT.

**APPENDIX G — REPORT OF  
RICHARD DEVLIEGER OF THE  
ROCKFORD, ILLINOIS POLICE DEPARTMENT,  
DATED FEBRUARY 9, 2018**

Rockford Police Department  
Report Date: 2/9/2018  
Reported By: 1944—DeVlieger, Richard

Report No. 18-016047.4

Subject: **AGGRAVATED BATTERY – 3800 BROADWAY**

Case Report Status **A – Approved**  
Occurred On (and Between) **2/9/2018 4:04:00 AM**  
Location **3800 BROADWAY**  
Jurisdiction **RCPD– Rockford Police  
Department**  
Subbeat Area **09**  
Call Source **Assigned Case for Follow Up**  
Vehicle Activity  
Vehicle Traveling  
Cross Street  
Date Entered **2/9/2018 3:29:44 PM**  
Entered By **1944 – DeVlieger, Richard**  
Date Verified **2/16/2018 9:01:10 PM**  
Verified By **2505 – Nicosia, David**  
Date Approved **2/17/2018 4:12:19 AM**  
Approved By **1169 – Ginter , Janine**  
Cross Reference  
Disposition **Arrest**  
Clearance Reason  
Date of Clearance  
Reporting Agency **Rockford Police Department**  
Bureau **TRAFFIC**

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Reporting Officer **1944 – DeVlieger, Richard**  
Assisted By

On Scene Supervisor

---

**Victim V1: PHILBEE, BRANDON L.**

---

Victim Code **V1**  
Victm Type **I – Individual**  
Name **PHILBEE, BRANDON L**  
AKA  
Address **126 BLACKHAWK**  
CSZ **ROCKFORD, IL 61102**  
Home Phone  
Pager Number  
Mobile Phone **779 208-2097**  
Email Address  
Attire **BROWN JACKET AND**  
**DARK PANTS**  
Injury **M – Apparent Minor Injury**  
Circumstances  
DOB **[REDACTED]**  
Age **23**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **170**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Facial Hair **01 – Clean Shaven**  
Complexion **FAR – Fair**

*Appendix G*

Place of Birth	
SSN	[REDACTED]
DLN	[REDACTED]
DLN State	<b>IL – Illinois</b>
DLN Country	<b>USA – United States of America</b>
Occupation/Grade	
Employer/School	<b>AA CONSTRUCTION</b>
Work Phone	
Employment/School	
Wrk Phone	
Employment/School Hours	
Employer Address	
Employer CSZ	
Res County	<b>WINNEABGO</b>
Res Country	<b>USA – United States of America</b>
Resident Status	<b>R – Resident</b>

**Victim V2: KECK, JOHN L**

Victim Code	<b>V2</b>
Victim Type	<b>I – Individual</b>
Name	<b>KECK, JOHN L</b>
AKA	
Address	<b>1042 WOODLAWN AVE</b>
CSZ	<b>Rockford, IL 61101</b>
Home Phone	
Pager Number	
Mobile Phone	<b>815 721-2760</b>
Email Address	
Attire	
Injury	
Circumstances	

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Victim Of **2445 – Hit and Run**  
DOB [REDACTED]  
Age **50**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **220**  
Eye Color **BLUE – Blue**  
Hair Color **BRO – Brown**  
Facial Hair  
Complexion  
Place of Birth **USA**  
SSN [REDACTED]  
DLN State **IL – Illinois**  
DLN Country **USA – United States of America**  
Occupation/Grade **SNOW PLOW**  
Employer/School **K-TAPP KAPPERS**  
Work Phone  
Employment/School  
Hours  
Employer Address  
Employer CSZ **Winnebago**  
Res County **USA – United States of America**  
**R – Resident**  
Resident Status  
Victim Offender  
Relationships  
Offender  
Relationship  
Victim Notes

*Appendix G*Arrestee A1: MADERO, DANIEL A.

---

Arrestee Number **A1**  
Name **MADERO, DANIEL A**  
AKA  
Address **4971 S Mulford RD**  
**CSZ ROCKFORD, IL 61109**  
Home Phone  
Pager Number  
Mobile Phone **815 391-0032**  
Email Address  
Scars/Marks/Tattoos  
Modus Operandi  
Other MO  
Attire  
Habitual Offender Status  
Arrest No **1**  
DOB [REDACTED]  
Age **36**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **6'0"**  
Wt **180**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Hair Style  
Hair Length  
Facial Hair  
Complexion  
Build  
Teeth  
Place of Birth

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DLN State	
DLN Country	<b>USA–United States of America</b>
Occupation/Grade	
Employer/School	<b>UNEMPLOYED</b>
Work Phone	
Employment/School	
Wrok Phone	
Employment/School Hours	
Employer Address	
Employer CSZ	
Res County	<b>WINNEBAGO</b>
Res Country	<b>USA–United States of America</b>
Resident Status	<b>R – Resident</b>
Arrest Type	<b>O – On-view</b>
FBI No.	
State No.	
Arrmed With	<b>01 – Unarmed</b>
Multi Clearance	<b>N – Not Applicable</b>
Multi Clearance Offense	
Prev Suspect No.	<b>1</b>
Notified	
Arrested For	<b>0445 – Aggravated Battery (Public Way) 2461 – Operating uninsured motor vehicle 5060 – Other traffic offenses 7723 – Failure to reduce speed/ Too fast for conditions</b>
Fingerprints	
Photos	

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Juvenile Disposition  
Adult Present  
Arrested On **2/9/2018 5:30:00 AM**  
Arrested Location **5666 E STATE ST**  
Arrest Notes **Operating Uninsured  
Vehicle: 1115228  
Failure To reduce speed:  
1115229  
Disobeying Traffic  
Control Device: 1115230  
Leaving the Scene of an  
Accident: 111523**

**Witness W1: KECK, JOHN L.**

---

Witness Code **W1**  
Name **KECK, JOHN L.**  
AKA  
Address **1042 WOODLAWN AVE**  
**CSZ Rockford, IL 61101**  
Home Phone  
Pager Number  
Mobile Phone **815 721-2760**  
Email Address  
Attire  
DOB   
Age **50**  
Sex **M - Male**  
Race **W - White**  
Ethnicity **N - Not Hispanic or Latino**  
Ht **5'8"**  
Wt **220**

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Eye Color **BLU – Blue**  
 Hair Color **BRO – Brown**  
 Facial Hair  
 Complexion  
 Place of Birth  
 SSN  
 DLN [REDACTED]  
 DLN State **IL – Illinois**  
 DLN Country **USA – United States of America**  
 Occupation/Grade **SNOW PLOW**  
 Employer/School **K-TAPP KAPPERS**  
 Work Phone  
 Employment/School  
 Work Phone  
 Employment/School Hours  
 Employer Address  
 Employer CSZ  
 Res County **Winnebago**  
 Res Country **USA – United States of America**  
 Resident Status **R – Resident**

**Witness W2: DAEHLER, BRET A.**

Witness Code **W2**  
 Name **DAEHLER, BRET A.**  
 AKA  
 Address **509 GARVER AVE**  
 CSZ **Rockford, IL 61102**  
 Home Phone  
 Pager Number  
 Mobile Phone **815 988-8856**  
 Email Address  
 Attire

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DOB [REDACTED]  
 Age 37  
 Sex M - Male  
 Race W - White  
 Ethnicity  
     Ht 6'3"  
     Wt 195  
 Eye Color HAZ - Hazel  
 Hair Color BLN - Blond  
 Facial Hair  
 Complexion  
 Place of Birth  
     SSN  
 [REDACTED] [REDACTED]  
     DLN State IL - Illinois  
     DLN Country  
 Occupation/Grade SNOW PLOW  
 Employer/School K-TAPP KAPPERS  
     Work Phone  
 Employment/School  
 Employment/School Hours  
     Employer Address  
     Employer CSZ  
     Res County WINNEBAGO  
     Res Country USA - United States of America  
     Resident Status R - Resident

**Other Entity: O1 - MOSHER, BENJAMIN**

Entity Code O1  
 Entity Type OP - Other Person  
     Name MOSHER, BENJAMIN

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AKA

Address **1419 WINTHROP LN**  
CSZ **ROCKFORD, IL**

Home Phone

Pager Number

Mobile Phone **815 307-4888**

Email Address

Attire

DOB [REDACTED]

Age **33**Sex **M - Male**Race **U - Unknown**Ethnicity **U - Unknown**Ht **6'0"**Wt **180**Eye Color **BLU - Blue**Hair Color **BRN - Brown**

Facial Hair

Complexion

Dental Records

Available At

Place of Birth

SSN  
[REDACTED] [REDACTED]

DLN State

DLN Country

Occupation/Grade

Employer/School **N/A**

Work Phone

Employment/School Hours

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Employer Address  
Employer CSZ  
    Res County **WINNEBAGO**  
    Res Country **USA—United States of America**  
Resident Status **R – Resident**  
    LEADS  
    Entered by  
    Entity Notes  
Date Entered  
    Leads #  
    Lead Type

Other Entity: O3 – TARARA, ANTHONY

---

Entity Code **O3**  
Entity Type **OP – Other Person**  
    Name **TARARA, ANTHONY**  
    AKA  
    Address **2125 OAKLAWN AVE**  
                 **ROCKFORD, IL 61109**  
    CSZ  
    Home Phone  
    Pager Number **815 703-0414**  
    Mobile Phone  
    Email Address  
    Attire  
    DOB   
    Age **41**  
    Sex **M – Male**  
    Race **W – White**

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Ethnicity **U – Unknown**  
Ht **5'7"**  
Wt **240**  
Eye Color **BRO – Brown**  
Hair Color **BLK – Black**  
Facial Hair  
Complexion  
Dental Records  
Available At  
Place of Birth  
SSN  
DLN [REDACTED]  
DLN State **IL – Illinois**  
DLN Country **USA – United States of America**  
Occupation/Grade **OWNER**  
Employer/School **AA CONSTRUCTION**  
Work Phone **815 399-7675**  
Employment/School Hours **ALL**  
Employer Address **PO Box 2005**  
Employer CSZ **LOVES PARK, IL 61130**  
Res County **WINNEBAGO**  
Res Country **USA – United States of America**  
Resident Status **R – Resident**  
LEADS  
Entered by  
Entity Notes  
Date Entered  
Leads #  
Lead Type

*Appendix G*Other Entity: O4 – PHILBEE, SAPPHIRE N.

Entity Code **O4**  
Entity Type **OP – Other Person**  
Name **PHILBEE, SAPPHIRE**  
AKA  
Address **1733 HAMILTON AVE**  
**ROCKFORD, IL 61109**

CSZ  
Home Phone  
Pager Number **815 650-5371**

Mobile Phone  
Email Address

Attire

[REDACTED] [REDACTED]  
Age **24**  
Sex **F – Female**  
Race **W – White**  
Ethnicity **U – Unknown**  
Ht **4'10"**  
Wt **107**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Facial Hair  
Complexion  
Dental Records  
Available At  
Place of Birth

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SSN	
DLN	[REDACTED]
DLN State	<b>IL – Illinois</b>
DLN Country	<b>USA – United States of America</b>
Occupation/Grade	
Employer/School	
Work Phone	
Employment/School Hours	
Employer Address	
Employer CSZ	
Res County	<b>WINNEBAGO</b>
Res Country	<b>USA – United States of America</b>
Resident Status	<b>R – Resident</b>
LEADS	
Entered by	
Entity Notes	
Date Entered	
Leads #	
Lead Type	

*Appendix G***Property Description Item 1: 3501 – Automobile (not Stolen or Recovered) – A – GREEN 1993 AUDI S4 #AD79903**

Item No **1**  
 Property Category **3501 - Automobile (not Stolen or Recovered)**  
 IBR Type  
 UDR Type  
 Status **K - Held For Safe Keeping (Includes Impounds)**  
 Count **1**  
 Value **1000**  
 Manufacturer **AUDI**  
 Model **S4**  
 Serial No **WAUHP84A1PNO31686**  
 License No **AD79903**  
 Color **GRN – Green**  
 Description **A-GREEN 1993 AUDI S4 #AD79903**  
 Vehicle Year **1993**  
 License Year **2018**  
 State **IL – Illinois**  
 Body Style **4D – 4 Door**  
 Recovered Date  
 Owner **1**  
 Disposition **IMPOUND TO GRAA**  
 Evidence Tag  
 LEADS  
 Entered By  
 Date Entered  
 Leads #  
 Lead Type

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Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 2: 3501 – Automobile (not Stolen or Recovered) – V – SILVER 2006 PONTIAC TORRENT #Z663533**

Item No **2**  
Property Category **3501 - Automobile (not Stolen or Recovered)**  
IBR Type  
UDR Type  
Status **I – Information Only**  
Count **1**  
Value **1000**  
Manufacturer **PONTIAC**  
Model **TORRENT**  
Serial No **2CKDL63F866163807**  
License No **Z663533**  
Color **SIL – Silver**  
Description **V-SILVER 2006 PONTIAC TORRENT #Z663533**  
Vehicle Year **2006**  
License Year **2008**  
State **IL – Illinois**  
Body Style **SUV – Sport Utility Vehicle**  
Recovered Date  
Owner **2**  
Disposition  
Evidence Tag

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LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 3: 3534 – Truck (not Stolen or Recovered) – W1 – GRAY 2006 GMC SIERRA #80318W**

Item No **3**  
Property Category **3534 - Truck (not Stolen or Recovered)**  
IBR Type  
UDR Type  
Status **I – Information Only**  
Count **1**  
Value **1000**  
Manufacturer **GMC**  
Model **SIERRA**  
Serial No **1GTHK29183E166858**  
License No **80318W**  
Color **GRY – Gray**  
Description **W1 – GRAY 2006 GMC SIERRA #80318W**  
Vehicle Year **2006**  
License Year **2018**  
State **IL – Illinois**  
Body Style **PK – Pickup Truck**

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Recovered Date  
Owner 5  
Disposition  
Evidence Tag  
LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 4: 3534 – Truck (not Stolen or Recovered) – W2 – WHITE 2016 FORD F250 #1961267**

Item No 4  
Property Category 3534 - Truck (not Stolen or Recovered)  
IBR Type  
UDR Type  
Status I – Information Only  
Count 1  
Value 1000  
Manufacturer FORD  
Model F250  
Serial No 1FT7W2B66GEA89113  
License No 1961267  
Color WHI – White  
Description W2 – WHITE 2016 FORD F250 #1961267

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Vehicle Year **2016**  
License Year **2018**  
State **IL - Illinois**  
Body Style **PK - Pickup Truck**  
Recovered Date  
Owner **6**  
Disposition  
Evidence Tag  
LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 7: 1303 – Photograph –**  
**PICTURES OF CELL PHONE TEXT**

Item No **7**  
Property Category **1303 - Photograph**  
IBR Type  
UDR Type  
Status **E – Evidence (Including  
Other Seized Property  
And Tools)**  
Count **2**  
Value  
Manufacturer  
Model

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Serial No	
License No	
Color	
Description	<b>PICTURES OF CELL PHONE TEXT</b>
Vehicle Year	
License Year	
State	
Body Style	
Recovered Date	
Owner	
Disposition	<b>REPORT REVIEW</b>
Evidence Tag	
LEADS	
Entered By	
Date Entered	
Leads #	
Lead Type	
Drug Type	
Drug Quantity	
Drug Measure	
Property Notes	

**Property Description Item 8: 1303 – Photograph –**  
**PICTURES OF AUDI**

Item No	8
Property Category	<b>1303 - Photograph</b>
IBR Type	
UDR Type	
Status	<b>E – Evidence (Including Other Seized Property And Tools)</b>

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Count	<b>12</b>
Value	
Manufacturer	
Model	
Serial No	
License No	
Color	
Description	<b>PICTURES OF AUDI</b>
Vehicle Year	
License Year	
State	
Body Style	
Recovered Date	
Owner	
Disposition	<b>PICTURE SERVER</b>
Evidence Tag	
LEADS	
Entered By	
Date Entered	
Leads #	
Lead Type	
Drug Type	
Drug Quantity	
Drug Measure	
Property Notes	

**Property Description Item 9: 1608 – Computer – CD ROM,  
DVD Media, Disk – DVD – DANIEL MADERO INTERVIEW**

Item No	<b>9</b>
Property Category	<b>1608 – Computer – CD ROM, DVD Media, Disk</b>
IBR Type	

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UDR Type  
Status **E – Evidence (Including  
Other Seized Property  
And Tools)**  
Count **1**  
Value  
Manufacturer  
Model  
Serial No  
License No  
Color  
Description **DVD – DANIEL  
MADERO INTERVIEW**  
Vehicle Year  
License Year  
State  
Body Style  
Recovered Date  
Owner  
Disposition  
Evidence Tag **001**  
LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

*Appendix G***Property Description Item 10: 1608 – Computer – CD  
ROM, DVD Media, Disk – PICTURE OF PONTIAC**

Item No	10
Property Category	1608 – Computer – CD ROM, DVD Media, Disk
IBR Type	
UDR Type	
Status	ES – Evidence (Seized)
Count	19
Value	
Manufacturer	
Model	
Serial No	
License No	
Color	
Description	PICTURES OF PONTIAC
Vehicle Year	
License Year	
State	
Body Style	
Recovered Date	
Owner	
Disposition	PICTURE SERVER
Evidence Tag	
LEADS	
Entered By	
Date Entered	
Leads #	
Lead Type	
Drug Type	
Drug Quantity	
Drug Measure	
Property Notes	

*Appendix G***Offense Detail: 0445 – Aggravated Battery (Public Way)**

Offense	<b>0445 – Aggravated Battery (Public Way)</b>
Description	
IBR Code	
IBR Group	
Crime Against	
Using	<b>N – Not Applicable</b>
Criminal Activity	
Weapons/Force	
Location	<b>90 – Other</b> <b>13 – Highway/Road/Alley/ Street (304)</b>
Offense Completed?	<b>Yes</b>
Hate/Bias	<b>88 – None (No Bias)</b>
Domestic Violence	<b>No</b>
No Prem Entered	
Entry Method	
Type Security	
Tools Used	

**Offense Detail: 2461 – Operating uninsured motor vehicle**

Offense	<b>2461 – Operating uninsured motor vehicle</b>
Description	
IBR Code	
IBR Group	
Crime Against	
Using	<b>N – Not Applicable</b>

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Criminal Activity  
 Weapons/Force  
 Location **13 – Highway/Road/Alley/  
Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered  
 Entry Method  
 Type Security  
 Tools Used

**Offense Detail: 7723 – Failure to reduce speed/Too fast for conditions**

Offense **7723 – Failure to reduce speed/  
Too fast for conditions**  
 Description  
 IBR Code  
 IBR Group  
 Crime Against  
 Using **N – Not Applicable**  
 Criminal Activity  
 Weapons/Force  
 Location **13 – Highway/Road/Alley/  
Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered

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Entry Method  
 Type Security  
 Tools Used

**Offense Detail: 5060 – Other traffic offenses**

Offense **5060 – Other traffic offenses**  
 Description  
 IBR Code  
 IBR Group  
 Crime Against  
 Using  
 Criminal Activity **N – Not Applicable**  
 Weapons/Force  
 Location **13 – Highway/Road/Alley/  
 Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered  
 Entry Method  
 Type Security  
 Tools Used

**Offense Detail: 2445 – Hit and Run**

Offense **2445 – Hit and Run**  
 Description  
 IBR Code  
 IBR Group  
 Crime Against  
 Using

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Criminal Activity	<b>N – Not Applicable</b>
Weapons/Force	
Location	<b>13 – Highway/Road/Alley/ Street (304)</b>
Offense Completed?	<b>Yes</b>
Hate/Bias	<b>88 – None (No Bias)</b>
Domestic Violence	<b>No</b>
No Prem Entered	
Entry Method	
Type Security	
Tools Used	

**Report Narrative**

On 2/9/18 at about 1100 hours I was asked by ADC Pozzi to review the reports for this Aggravated Battery which occurred on 2/9/18 at 0404 hours in the 3800 block of Broadway.

I reviewed the original report completed by Officer McGuinness as well as the two supplemental reports completed by Officer Nachampassack and Officer K Swanson.

While reading the reports I learned on 2/9/18 at about 0400 hours Brandon Philbee reported he was traveling eastbound on Broadway and approaching Eastmoreland Ave in his silver 2006 Pontiac Torrent. This intersection connects Eastmoreland Ave to the south and Parkside Dr to the north. This intersection is controlled by traffic lights. Brandon said as he was crossing the intersection a dark colored vehicle traveling northbound on Eastmoreland Ave

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failed to stop at the red light. The vehicle struck the side of his vehicle causing him to strike a GMC truck which was traveling westbound on Broadway driven by John Keck.

The reported dark colored vehicle fled the scene and Brandon as well Keck and witness, Bret Daehler, followed the suspect vehicle as it fled the scene. The vehicle was reported to go north and around the block and now traveling southbound on Parkside Dr stopped at a red light. At the intersection Brandon confronts the driver of a green Audi who was stopped at the intersection, later identified as Daniel Madero. During the confrontation it was reported Madero had stabbed Brandon with a key causing injury.

Both Keck and Daehler originally reported they witnessed the accident and followed the suspect vehicle to the intersection after fleeing the scene. Reported in the supplement report by Officer K Swanson at approximately 0530 hours on 02/09/18 Daehler called the dispatch center and advised he wanted to talk to one of the Officers from the accident again. Officer K Swanson called Daehler twice and he did not answer so he left him a message to return the call. At approximately 0740 hours, Daehler called Officer K Swanson back and reported Daehler and Keck returned to their office and began talking about the incident. Daehler stated they both came to the conclusion they were not positive anymore the Audi was the vehicle that was involved in the accident because the front end damage which was on the Audi on scene was likely not caused by the collision that they had witnessed. Daehler was positive the vehicle that struck the Pontiac was a dark

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colored sedan though. It should be noted at the time of receiving this information Madero was already lodged into jail.

See the previous reports for additional information.

I called and spoke with Daehler. I introduced myself to Daehler and told him I was following up with the accident from this morning. I told Daehler I was advised he had called to say he was not sure about the suspect or suspect vehicle being involved. Daehler said he did witness a dark colored vehicle traveling northbound on Eastmoreland Ave run the red light and hit the silver Pontiac traveling eastbound on Broadway. Daehler said after the accident the Pontiac started to turn and drive away from the scene so he began to follow it Daehler said he did not see where the dark color vehicle had gone and assumed the Pontiac was following the suspect vehicle. Daehler said he was trying to follow the tail lights of the Pontiac as it turned north then west then south on Parkside Dr. Daehler said when he caught up to the Pontiac the driver, Brandon, was fighting with the driver (Madero) of a green Audi. Daehler said he assumed this was the suspect vehicle and pulled along the side of the vehicle to try and keep it from leaving. Daehler said in the heat of the moment he thought the Audi was the suspect vehicle. Daehler said when everything was done he and Keck were at the office talking about the accident and from what he observed how the accident occurred he does not think the Audi is the dark colored vehicle which caused the accident. Daehler said the only time he observed the suspect vehicle was when the first contact was made. Daehler said he wanted to make sure

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he reported what had actually happened and not what he originally reported as his assumption. I thanked Daehler for speaking with me.

I called and spoke with Keck. I introduced myself to Keck and told- him I was following up with the accident investigation from this morning. Keck told me he was provided an IDOT crash report form because the suspect vehicle hit the Pontiac and the force of the impact caused the Pontiac to hit his truck. Keck said while he was filling out the form he was thinking how the accident had occurred. Keck said after the police arrived and people started to calm down he walked around the Audi which was reported to be involved. Keck said at that time he wasn't thinking of the accident just seeing how much damage was done to the Audi. Keck said he remembers seeing the rear passenger side light and quarter panel was damaged. Keck said once he was away from the scene and had time to sit and actually reflect on what had occurred he realized the front of the Audi did not have any damage which it should have Keck said the impact at the intersection was hard enough to force the Pontiac in to the truck he was driving so there should be significant front end damage to the Audi. Keck said with this information he wanted to make sure he provided the correct information.

I went over the statement with Keck, the information Keck provided to Officer K Swanson at the accident scene. Keck said in theory the statement is correct however he did not actually see the suspect vehicle. Keck said at the time of the accident he witnessed a dark color vehicle traveling northbound on Eastmoreland Ave approaching

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a red light at Broadway. Keck said he knows the light was red because he could see it as well as he had a green light while he was driving westbound on Broadway toward the intersection. Keck said he witnessed the dark color vehicle disregard the red light and entered the intersection hitting the Pontiac. Keck said at that time he did not see where the dark colored vehicle had went. Keck said he observed the Pontiac start to leave eastbound on Broadway and was thinking the Pontiac was fleeing. Keck said he observed Daehler turn around and start to follow the Pontiac so he turned around and started following Daehler. Keck said the only vehicle he could see was the tail lights of what he thought was the Pontiac. Keck said after a Couple turns he lost sight of the Pontiac but could see Daehler. Keck said as he approached Parkside Drive and Broadway he could see the Pontiac was at the stop light with a green Audi. Keck said as he approached the vehicles Brandon was already reaching in the window of the driver's side of the Audi. Keck said the Audi started to drive away and Brandon ended up inside the Audi and it hit the snow bank on Broadway.

Keck said during the actual incident everybody was excited and not thinking straight. Keck said after stepping back and thinking about the accident he can now understand why Madero was so irate. Keck said he would be irate also if he did not do something and someone started to attack him for no reason. Keck said he wanted to make sure his actions and his statement was what they truly were and not what was interpreted at the time of the accident. I thanked Keck for speaking with me.

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From the supplement report of Officer Nachampassack, Madero reported he had just left Benjamin Mosher residence at 1419 Winthrop Ln, Rockford. While reading the original report and supplement reports it does not appear anyone had spoken with Mosher. I responded to 1419 Winthrop Ln and met with Mosher. I introduced myself to Mosher and told him I was following up on an accident investigation with Madero. Mosher said he actually received a phone call from Madero who stated he was going to jail but he doesn't know all the details. Mosher said Madero told him he was stopped at a stop light when he was attacked. Mosher said Madero was hard to understand and they only spoke for a brief moment. I asked Mosher what he could tell me what he and Madero were doing prior to the reported accident. Mosher said the Audi of Madero is a "beast" as well as All Wheel Drive (AWD). Mosher said Madero would go around and pull people out of snow banks with the Audi. Mosher said on Thursday (2/8/18) night he received a text message from Madero at about 2321 hours saying he (Madero) had just pulled another car out of the ditch. Mosher said a couple hours later at about 0117 hours on Friday morning (2/9/18) he texted Madero and Madero came over to his house. Mosher said just for fun he grabbed a chain and they went back out driving around in the snow and seeing if they could pull more people out. Mosher said at about 0340 hours or so they went back to his (Mosher) house. Mosher said Madero was tired and his feet were soaking wet from being in the snow drifts. Mosher said Madero had told him he was going to go home. Mosher said at about 0458 hours he received two text messages from Madero. First one stated someone hit his car and "escalated me".

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A second text said he was stopped at a light waiting to turn and “they hit one another”. That was the last text prior to Madero calling him. Mosher said he does not know anything about the accident. Mosher allowed me to take a picture of the text messages as well at the time stamp. I thanked Mosher for speaking with me.

I emailed the pictures to my work email. I later printed them out and placed them with report review.

Mosher resides north of Charles St and Madero would be traveling southbound to go home, From the supplement report Madero explained how he traveled and what streets and direction. From what Madero had reported this would be consistent on how I would have also traveled en-route to S Mulford Rd leaving 1400 Winthrop Ln.

On 2/12/18 I went to the Greater Rockford Auto Auction (GRAA) and inspected the listed Audi. From the lyeTek diagram as well as the narrative and NetRMS report the suspect vehicle was traveling northbound on Eastmoreland Ave and struck the passenger side of the Pontiac driven by Brandon. The posted speed limit for Broadway is 35 miles per hour (MPH) and the posted speed limit for Eastmoreland Ave is 30 MPH. With these speeds there would be significant front end damage to the Audi. While looking at the Audi I could not observe any front end damage consistent with a front end collision. The head lights, grill and hood were all intact and had no visible damage. I walked around the vehicle and discovered fresh damage on the rear passenger side and a broken tail light. The damage is new, no rust and paint chips were still loose.

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There was red paint transfer as well as a piece of red paint chip stuck in the dent. I took twelve pictures of the Audi and later loaded the pictures to the picture server.

I called the listed phone number for Brandon. The phone rings and goes to a digital standard recording saying the mailbox will not accept messages. I sent Brandon a text message asking for him to contact me. Brandon listed AA Construction as a place of employment. I called the number and left a message on the recording to have someone call me. I responded to 126 Blackhawk Island, the listed residence for Brandon. This was a blue trailer, all the doors were open and appeared to be unoccupied. There were no vehicles at the residence and none of the recent snow was plowed from the front of the residence. I could not drive around to the back because the road which was plowed had stopped and the remaining of the road was not. The snow would be too deep for me to continue around the residence.

I spoke with ADC Pozzi and advised him of where I was at in the investigation. I informed ADC Pozzi with my experience as a traffic investigator the suspected Audi was not involved in the original reported accident at Eastmoreland Ave and Broadway. I told ADC Pozzi there is no evidence to support the accident by looking at the Audi and having no damage where damage should have been. Under the direction of ADC Pozzi I waived the towing fee as well as storage fee for the vehicle. I sent the completed form to the GRAA.

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I received a phone call from Madero. Madero told me he was involved in an altercation and was provided my phone number. Madero said he would like to come talk to me and provide a statement. I provided Madero the address to the District 3 Police Station. Madero said he would come to the District 3 Police Station right now to speak with me.

At about 1400 hours I met with Madero. I explained to Madero my investigation has not been completed. I told Madero because he was arrested and charged with Aggravated Battery I will speak with him however I would be audio and video recording the interview as well as explaining his Miranda Rights. Madero said he understands the process completely and agreed to speak with me. I asked Madero if he needed to use the restroom or needed something to drink and he stated no. I escorted Madero to Interview Room #3.

Daniel Madero was advised of his rights using standard department rights form. Madero read the first line aloud from the rights form without difficulty. I read the remainder of the rights form aloud to Madero. After each right was read Madero said he understood the right by saying "Yes." Madero advised he understood his right and agreed to speak with me signing the rights form at 2:16 hours.

Madero started off by telling me what he had done the night before by driving around and pulling vehicles out of the snow who were stuck. Madero said he received a text message from Mosher in the early hours of Friday morning. Madero said he went to the residence of Mosher

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and met with him. Madero stated they went back out together and drove around looking for more vehicles. Madero said just shortly before 0400 hours they were back at Mosher's residence. Madero said he was tired and his feet were cold and wet. Madero said he had left the residence and started to drive home. Madero explained the direction he had traveled to get to Parkside Dr and Broadway. Madero said while he was sifting at the stop light to turn eastbound on to Broadway an SUV type vehicle and two plow trucks pulled up alongside him. Madero said by the speed of how they approached and the way they stopped he thought there was an accident behind him and the vehicles had just missed him. Madero said next thing he knows a guy (Brandon) is reaching in his window and started to yell at him about running a red light. Madero said he started to driveway and was going to pull in to the gas station lot to see what was going on. Madero said Brandon was holding on to the steering wheel and trying to choke him. Madero said because Brandon was pulling on to the steering wheel he could not steer and he drove in to the snow bank on Broadway just outside of the gas station. Madero said at this point the white pickup truck with the red snow plow had hit the rear passenger side of his vehicle. Madero said the driver of the truck then reached in and took the car keys from the ignition. Madero said during this altercation Brandon said he was going to "kill me". Madero said shortly after the altercation the police showed up. Madero said he was not involved in an accident until the truck had hit his vehicle with the plow. Madero said if he has any sort of front end damage it would be from hitting the snow bank while Brandon was hanging on to the steering wheel. Madero said he

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was transported to the hospital and has about \$12,000.00 in bills. Madero was confused on how this incident had occurred. I explained to Madero how the accident was reported to the police and with the information the officers had at the time. I told Madero I was assigned to follow up and would be leaving a report of my investigation.

Madero told me he attempted to get the vehicle out of impound but they are asking for a lot of money which he does not have. Madero provided me an Insurance card for State Farm Insurance with a policy number 13-3181-Y34. I explained to Madero from my investigation and the lack of evidence on his vehicle I had waived the towing and storage charges. I told Madero to contact the GRAA again to obtain possession of his vehicle.

I provided Madero a business card and thanked him for speaking with me.

I down loaded the recorded interview and placed it on to a DVD. The DVD was placed in to evidence. (Tag 001). See the DVD recording for the full interview of Madero.

I called and confirmed the insurance was valid at the date and time of the accident.

I called and spoke with ASA Wendy Larson and advised her of my investigation.

On 2/13/18 I called and spoke with Keck. From the interview with Madero he reported one of the plow trucks had hit him with the red plow. I asked Keck about the

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damage to the rear passenger side of the Audi. I told Keck from my observation and the interview I conducted with Madero as well as red paint transfer, the damage on the Audi is consistent with being hit by a plow. Keck told me when everyone had first stopped at ParkSide Dr and BroadWay, Brandon started to fight with Madero. Keck said as the Audi started to drive away the Audi turned and he witnessed the front corner of Daehler's plow come in to contact with the Audi's rear passenger corner. Keck said both he and Daehler were stopped and the Audi started to move hitting the plow and causing the damage. Keck said the only time he spoke with Madero was after the incident and told him to just wait and speak with the police. Keck said he never entered the vehicle of the Audi. Keck said he thought the damage of the Audi was reported by Daehler to the police the morning of the accident. I thanked Keck for the clarification.

I called and left a message for Daehler to call me.

I received a phone call from Anthony Tarara, owner of AA Construction. I told Tarara I was investigating an accident where Brandon was struck by a vehicle. Tarara said "was this Friday morning". I told Tarara the accident did occur Friday morning and asked what he knows about the incident. Tarara said Brandon was working for him and the work crew was at the corner of S Alpine Rd and Harrison Ave clearing Snow by hand with snow shovels Tarara said one of the employees called around 0200 hours and said Brandon had left the jobsite, taking two shovels with him, in his personal vehicle. Tarara said he was told Brandon has been gone for about two hours and did not

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returned. Tarara said at about 1430 hours he received a phone call from Brandon who said he was involved in an accident. Tarara said he told Brandon he did not care about the accident because he was not supposed to leave the jobsite to begin with. Tarara said after they were done shoveling the work crew was supposed to go to a laundry mat further down on S Alpine Rd. Tarara said Brandon is a “problem employee” and is no longer working for him. Tarara provided an address of 1733 Hamilton Ave and a phone number for Brandon. Tarara said Brandon said he is homeless and sleeps in his car however when it is cold he stays with his cousin at this address. I thanked Tarara for the information.

The phone number provided by Tarara is the same phone number listed in the report.

On 2/14/18 I went to 1733 Hamilton Ave in an attempt to locate the vehicle as well as Brandon. At the residence I spoke with Sapphire Philbee who said she was a cousin of Brandon. Sapphire said she has not seen Brandon in a few days however she does speak with him via Facebook. Sapphire said Brandon did not tell her he was involved in an accident. I told Sapphire I was just following up with Brandon to check on his injuries. I told Sapphire I would like to get photographs of the damage to his vehicle. Sapphire told me the phone of Brandon is constantly off. Sapphire said she will get a hold of Brandon via Facebook and ask for him to contact me.

I called and spoke with Daehler who answered the phone. I explained to Daehler I had some additional

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questions which I would like to clarify. I asked Daehler about Madero hitting the front of his plow. Daehler said when he and Keck first pulled up he (Daehler) was on the passenger side of the Audi and Keck was on the driver's side. Daehler said Keck yelled out his window he does not see any damage on the driver's side of the Audi.

Daehler said he could see the rear passenger side tail light was broken and told Keck there it damage on the passenger side. Daehler said he did not know the Audi had hit his Plow until him and Keck were back at the shop talking about the accident. Daehler said he does have a scrape on the corner of his plow but he cannot be for sure it is not from plowing snow. Daehler said the scrape is higher than what he would expect from plowing but he does not know for sure. I asked Daehler about the keys. Daehler said while Madero and Brandon were fighting he could see through the passenger Side window. Daehler said he observed Madero to have keys in his hand and the keys were pointing through his fingers "like a weapon". Daehler said he could see Madero was bleeding from a scrape under his eye and assumed Madero had injured Brandon with the keys. Daehler said he opened the passenger door and took the keys from the hand of Madero and told them they needed to calm down and wait for the police to arrive. I thanked Daehler for speaking with me again.

I received a phone call from Sapphire. Sapphire told me She received a message from Brandon and she told him I wanted to see the vehicle and talk with him about the accident. Sapphire said Brandon told her the vehicle is at Cruz Towing and I could go there to take pictures.

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Sapphire asked if I still needed to speak with Brandon and I told her I do. I told Sapphire I would like to speak with Brandon because I have some additional questions. Sapphire said she would message Brandon and see if he will call me.

I called Cruz Towing and confirmed the vehicle was at their lot. I was told the vehicle is in the Secured holding area at 2805 S 4th St. I was told someone would Meet me there. I responded to Cruz Towing and was provided access to the Pontiac. I was told Brandon had called Cruz Towing and asked to tow the vehicle from the gas station at Broadway and Eastmoreland Ave to their property. Brandon told Cruz Towing he tried to drive the vehicle however the wheels are bent.

I looked at the Pontiac and observed a lot of damage. The front of the Pontiac had front end damage as well as severe damage to both front corners. Both headlight assemblies were damaged and pushed in. The front bumper on the driver's side was pulled out away from the attachment point. The front tires were in different positions and bent. There was a dent on the rear passenger side quarter panel above the wheel of the Pontiac however there was rust around the area and appeared to be old damage. There was fresh paint cracking around this dent which would be possible from the vehicle accident. I looked at the front passenger side damage where the suspect vehicle was reported to have struck the Pontiac. I could see there was no green or dark color paint transfer. There was a lighter color white, silver or gray paint like transfer. The damage on the Pontiac is consistent with a side impact on

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the passenger side as well as a side impact damage from striking the truck with the driver's side of the Pontiac. I took 19 pictures of the Pontiac and later loaded the pictures to the picture server.

At the time of this report Brandon had not contacted me for questioning.

**APPENDIX H — REPORT OF KURT SWANSON  
OF THE ROCKFORD, ILLINOIS POLICE  
DEPARTMENT, DATED FEBRUARY 9, 2018**

Rockford Police Department  
Report Date: 2/9/2018  
Reported By: 1770—Swanson, Kurt

Report No. 18-016047.3

Subject **AGGRAVATED BATTERY—3800 BROADWAY**

Case Report Status **A – Approved**  
Occurred On (and Between) **2/9/2018 4:04:00 AM**  
Location **3800 BROADWAY**  
Jurisdiction **RCPD– Rockford Police  
Department**  
Subbeat Area **09**  
Call Source **Dispatched from 911**  
Vehicle Activity  
Vehicle Traveling  
Cross Street  
Date Entered **2/9/2018 8:52:07 AM**  
Entered By **1770 – Swanson, Kurt**  
Date Verified **2/17/2018 1:04:10 AM**  
Verified By **4003 – Brass, Andre**  
Date Approved **2/17/2018 4:12:13 AM**  
Approved By **1169 – Ginter , Janine**  
Cross Reference  
Disposition **Arrest**  
Clearance Reason  
Date of Clearance  
Reporting Agency **Rockford Police Department**  
Bureau **Field Services Bureau**

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Reporting Officer **1770 – Swanson, Kurt**  
Assisted By **2516 – Nachampassack, James**  
**1770 – Swanson, Kurt**  
On Scene Supervisor

**Victim V1: PHILBEE, BRANDON L.**

---

Victim Code **V1**  
Victm Type **I – Individual**  
Name **PHILBEE, BRANDON L**  
AKA  
Address **126 BLACKHAWK**  
**CSZ ROCKFORD, IL 61102**  
Home Phone **779 208-2097**  
Pager Number  
Mobile Phone  
Email Address  
Attire **BROWN JACKET AND**  
**DARK PANTS**  
Injury **M – Apparent Minor Injury**  
Circumstances  
DOB [REDACTED]  
Age **23**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **170**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Facial Hair **01 – Clean Shaven**  
Complexion **FAR – Fair**

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Place of Birth	
SSN	[REDACTED]
DLN	[REDACTED]
DLN State	<b>IL – Illinois</b>
DLN Country	<b>USA – United States of America</b>
Occupation/Grade	
Employer/School	<b>AA CONSTRUCTION</b>
Work Phone	
Employment/School	
Wrok Phone	
Employment/School Hours	
Employer Address	
Employer CSZ	
Res County	<b>WINNEABGO</b>
Res Country	<b>USA – United States of America</b>
Resident Status	<b>R – Resident</b>

**Arrestee A1: MADERO, DANIEL A.**

Arrestee Number	<b>A1</b>
Name	<b>MADERO, DANIEL A</b>
AKA	
Address	<b>4971 S Mulford RD</b>
	<b>ROCKFORD, IL 61109</b>
Home Phone	
Pager Number	
Mobile Phone	<b>815 391-1032</b>
Email Address	
Scars/Marks/Tattoos	
Modus Operandi	
Other MO	
Attire	

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## Habitual Offender Status

Arrest No **1**  
DOB [REDACTED]  
Age **36**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **6'0"**  
Wt **180**  
Eye Color **HAZ – Hazel**  
Hair Color **BRO – Brown**  
Hair Style  
Hair Length  
Facial Hair  
Complexion  
Build  
Teeth  
Place of Birth  
SSN [REDACTED]  
DLN [REDACTED]  
DLN State  
DLN Country **USA – United States of America**  
Occupation/Grade  
Employer/School **UNEMPLOYED**  
Work Phone  
Employment/School Hours  
Employer Address  
Employer CSZ  
Res County **WINNEBAGO**  
Res Country **USA – United States of America**  
Resident Status **R – Resident**

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Arrest Type **O – On-view**  
FBI No.  
State No.  
Armed With **01 – Unarmed**  
Multi Clearance **N – Not Applicable**  
Multi Clearance Offense  
Prev Suspect No.  
Notified  
Arrested For **0445 – Aggravated  
Battery (Public Way)**  
**2461 – Operating  
uninsured motor vehicle**  
**5060 – Other traffic offenses**  
**7723 – Failure to reduce speed/  
Too fast for conditions**  
Fingerprints  
Photos  
Juvenile Disposition  
Adult Present  
Arrested On **2/9/2018 5:30:00 AM**  
Arrested Location **5666 E STATE ST**  
Arrest Notes **Operating Uninsured  
Vehicle: 1115228  
Failure To reduce speed:  
1115229  
Disobeying Traffic  
Control Device: 1115230  
Leaving the Scene of an  
Accident: 1115231**

*Appendix H***Witness W1: KECK, JOHN L.**

---

Witness Code **W1**  
Name **KECK, JOHN L.**  
AKA  
Address **1042 WOODLAWN AVE**  
CSZ **Rockford, IL 61101**  
Home Phone  
Pager Number  
Mobile Phone **815 721-2760**  
Email Address  
Attire  
DOB [REDACTED]  
Age **50**  
Sex **M – Male**  
Race **W – White**  
Ethnicity **N – Not Hispanic or Latino**  
Ht **5'8"**  
Wt **220**  
Eye Color **BLU – Blue**  
Hair Color **BRO – Brown**  
Facial Hair  
Complexion  
Place of Birth **USA**  
SSN  
DLN [REDACTED]  
DLN State **IL – Illinois**  
DLN Country **USA – United States of America**  
Occupation/Grade **SNOW PLOW**  
Employer/School **K-TAPP KAPPERS**  
Work Phone

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Employment/School Hours  
Employer Address  
Employer CSZ  
Res County **Winnebago**  
Res Country **USA—United States of America**  
Resident Status **R – Resident**

**Witness W2: DAEHLER, BRET A.**

---

Witness Code **W1**  
Name **DAEHLER, BRET A.**  
AKA  
Address **509 GARVER AVE**  
CSZ **Rockford, IL 61102**  
Home Phone  
Pager Number  
Mobile Phone **815 988-8856**  
Email Address  
Attire  
DOB   
Age **37**  
Sex **M – Male**  
Race **W – White**  
Ethnicity  
Ht **6'3"**  
Wt **195**  
Eye Color **HAZ – Hazel**  
Hair Color **BLN – Blond**  
Facial Hair  
Complexion  
Place of Birth

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SSN	
DLN	[REDACTED]
DLN State	<b>IL - Illinois</b>
DLN Country	
Occupation/Grade	<b>SNOW PLOW</b>
Employer/School	<b>K-TAPP KAPPERS</b>
Work Phone	
Employment/School Hours	
Employer Address	
Employer CSZ	
Res County	<b>WINNEBAGO</b>
Res Country	<b>USA - United States of America</b>
Resident Status	<b>R - Resident</b>

**Property Description Item 1: 3501 – Automobile (not Stolen or Recovered) – A – GREEN 1993 AUDI S4 #AD79903**

Item No	<b>1</b>
Property Category	<b>3501 - Automobile (not Stolen or Recovered)</b>
IBR Type	
UDR Type	
Status	<b>K - Held For Safe Keeping (Includes Impounds)</b>
Count	<b>1</b>
Value	<b>1000</b>
Manufacturer	<b>AUDI</b>
Model	<b>S4</b>
Serial No	<b>WAUHP84A1PNO31686</b>
License No	<b>AD79903</b>

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Color **GRN – Green**  
 Description **A-GREEN 1993 AUDI S4**  
**#AD79903**  
 Vehicle Year **1993**  
 License Year **2018**  
 State **IL – Illinois**  
 Body Style **4D – 4 Door**  
 Recovered Date  
 Owner **1**  
 Disposition **IMPOUND TO GRAA**  
 Evidence Tag  
 LEADS  
 Entered By  
 Date Entered  
 Leads #  
 Lead Type  
 Drug Type  
 Drug Quantity  
 Drug Measure  
 Property Notes

**Property Description Item 3: 3534 – Truck (not Stolen or Recovered) – W1 – GRAY 2006 GMC SIERRA #80318W**

Item No **3**  
 Property Category **3534 - Truck (not Stolen or Recovered)**  
 IBR Type  
 UDR Type  
 Status **I – Information Only**  
 Count **1**  
 Value **1000**  
 Manufacturer **GMC**

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Model **SIERRA**  
Serial No **1GTHK29183E166858**  
License No **80318W**  
Color **GRY – Gray**  
Description **W1 – GRAY 2006 GMC  
SIERRA #80318W**  
Vehicle Year **2006**  
License Year **2018**  
State **IL – Illinois**  
Body Style **PK – Pickup Truck**  
Recovered Date  
Owner **5**  
Disposition  
Evidence Tag  
**LEADS**  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

**Property Description Item 2: 3501 – Automobile (not  
Stolen or Recovered) – V – SILVER 2006 PONTIAC  
TORRENT #Z663533**

Item No **2**  
Property Category **3501 - Automobile (not  
Stolen or Recovered)**  
IBR Type

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UDR Type  
Status **I – Information Only**  
Count **1**  
Value **1000**  
Manufacturer **PONTIAC**  
Model **TORRENT**  
Serial No **2CKDL63F866163807**  
License No **Z663533**  
Color **SIL – Silver**  
Description **V-SILVER 2006 PONTIAC  
TORRENT #Z663533**  
Vehicle Year **2006**  
License Year **2008**  
State **IL – Illinois**  
Body Style **SUV – Sport Utility Vehicle**  
Recovered Date  
Owner **2**  
Disposition  
Evidence Tag  
LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity  
Drug Measure  
Property Notes

*Appendix H***Property Description Item 4: 3534 – Truck (not Stolen or Recovered) – W2 – WHITE 2016 FORD F250 #1961267**

Item No 4  
Property Category 3534 - Truck (not Stolen or Recovered)  
IBR Type  
UDR Type  
Status I – Information Only  
Count 1  
Value 1000  
Manufacturer FORD  
Model F250  
Serial No 1FT7W2B66GEA89113  
License No 1961267  
Color WHI – White  
Description W2 – WHITE 2016 FORD  
Vehicle Year F250 #1961267  
License Year 2016  
State 2018  
Body Style IL – Illinois  
Recovered Date PK – Pickup Truck  
Owner 6  
Disposition  
Evidence Tag  
LEADS  
Entered By  
Date Entered  
Leads #  
Lead Type  
Drug Type  
Drug Quantity

*Appendix H*Drug Measure  
Property Notes**Property Description Item 5: 1303 – Photograph –**  
**PHOTOS OF MADERO AND PHILBEE INJURIES**

Item No 5  
Property Category 1303 – Photograph  
IBR Type  
UDR Type  
Status ES – Evidence (Seized)  
Count 1  
Value 0  
Manufacturer  
Model  
Serial No  
License No  
Color  
Description **PHOTOS OF MADERO  
AND PHILBEE INJURIES**  
Vehicle Year  
License Year  
State  
Body Style  
Recovered Date  
Owner  
Disposition **UPLOADED TO THE  
BEAST SERVER**  
Evidence Tag  
LEADS  
Entered By  
Date Entered

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Leads #  
 Lead Type  
 Drug Type  
 Drug Quantity  
 Drug Measure  
 Property Notes

**Offense Detail: 0445 – Aggravated Battery (Public Way)**

Offense **0445 – Aggravated Battery  
(Public Way)**  
 Description  
 IBR Code  
 IBR Group  
 Crime Against  
 Using **N – Not Applicable**  
 Criminal Activity  
 Weapons/Force  
 Location **90 – Other  
13 – Highway/Road/Alley/  
Street (304)**  
 Offense Completed? **Yes**  
 Hate/Bias **88 – None (No Bias)**  
 Domestic Violence **No**  
 No Prem Entered  
 Entry Method  
 Type Security  
 Tools Used

*Appendix H***Offense Detail: 2461 – Operating uninsured motor vehicle**

Offense	<b>2461 – Operating uninsured motor vehicle</b>
Description	
IBR Code	
IBR Group	
Crime Against	
Using	<b>N – Not Applicable</b>
Criminal Activity	
Weapons/Force	
Location	<b>13 – Highway/Road/Alley/Street (304)</b>
Offense Completed?	<b>Yes</b>
Hate/Bias	<b>88 – None (No Bias)</b>
Domestic Violence	<b>No</b>
No Prem Entered	
Entry Method	
Type Security	
Tools Used	

**Offense Detail: 7723 – Failure to reduce speed/Too fast for conditions**

Offense	<b>7723 – Failure to reduce speed/Too fast for conditions</b>
Description	
IBR Code	
IBR Group	

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Crime Against Using	<b>N – Not Applicable</b>
Criminal Activity	
Weapons/Force	
Location	<b>13 – Highway/Road/Alley/ Street (304)</b>
Offense Completed?	<b>Yes</b>
Hate/Bias	<b>88 – None (No Bias)</b>
Domestic Violence	<b>No</b>
No Prem Entered	
Entry Method	
Type Security	
Tools Used	

## Offense Detail: 5060 – Other traffic offenses

Offense	5060 – Other traffic offenses
Description	
IBR Code	
IBR Group	
Crime Against	
Using	N – Not Applicable
Criminal Activity	
Weapons/Force	
Location	13 – Highway/Road/Alley/ Street (304)
Offense Completed?	Yes
Hate/Bias	88 – None (No Bias)
Domestic Violence	No
No Prem Entered	

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Entry Method  
Type Security  
Tools Used

**Report Narrative**

On 02/09/18, at approximately 0400 hours, Officer's McGuinness, Nachampassack and I were dispatched to 3819 Broadway in reference to a fight in progress.

Upon arrival I observed a dark colored Audi Sedan bearing IL registration #AD79903, a dark colored GMC Pickup Truck and a white Ford pickup truck in the roadway in front of the Circle K on Broadway.

I spoke with the driver of the GMC Pickup truck bearing IL registration #80318W. He identified himself as John Keck with his Illinois Driver's License. Keck stated that he was driving westbound on Broadway at Eastmoreland Avenue when a Dark colored Audi ran the red light northbound on Eastmoreland Ave. Keck stated that the Audi struck a silver Pontiac SUV that was heading Eastbound on Broadway. Heck continued to state that the Pontiac was pushed into his vehicle in the rear driver's side quarter panel. Keck then said that the Driver of the Audi, later identified as Daniel Madero. began to drive away from the scene Keck continued saying that the driver of the Pontiac, later identified as Brandon Philbee began following the Audi so he began following it as well. Keck said that Madero drove north onto Point Ave, West onto Charles Street, South onto Parkside Ave and stopped at Broadway. Keck said that Philbee exited his vehicle

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and attempted to stop Madero. Keck stated that Madero began driving away, while Philbee was still hanging out the window. Keck continued to say that the Audi then stopped in the middle of Broadway, in front of the circle K and Keck pulled in front of the vehicle to stop it from leaving again.

Keck stated that when the vehicle came to a stop, he observed Philbee climb completely into the Audi, on top of Madero. Keck stated that he did not see if there were any punches, strikes or any kind of fighting going on inside the vehicle. Keck stated that he stayed in his truck, on the phone with 911.

I spoke with the driver of the Ford Pickup bearing IL registration #1961267, who identified himself as Bret Daehler with his Illinois Driver's license. Daehler stated he was a witness and that he was crossing the intersection of Broadway and Eastmoreland Ave when he observed the accident. Daehler stated he observed the Green Audi, disregard the stop light, while traveling Northbound on Eastmoreland Ave. Daehler stated that he knew the light was red northbound because he could see it out of the corner of his eye and the westbound light was green as he was crossing the intersection. Daehler stated that the Audi struck the passenger side of the Pontiac as the Pontiac crossed the intersection Eastbound. Daehler stated that the Pontiac was pushed into the pickup truck following behind him, which was driven by Keck.

Daehler stated that he immediately made a u turn and began following the Pontiac which was following the

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Audi because the Audi was attempting to leave the scene. Daehler explained on scene that he did not lose sight of either vehicle during the time he was chasing it. Daehler stated that the Audi made a loop around the block, North on Point Ave, West on Charles street, South on Parkside and began to turn East on Broadway. Daehler stated that when the driver of the Pontiac caught the driver of the Audi at the stop light at Broadway, the driver of the Pontiac exited the vehicle and attempted to get the driver of the Audi to stop by reaching in the Audi and turning off the vehicle. Daehler stated that he observed Philbee leaning in the window of the Audi as the Audi began pulling away. Daehler then stated that the Audi stopped in the middle of Broadway and Philbee jumped completely inside the Audi to prevent it from leaving the scene. Daehler stated that he did not see any punches or strikes being thrown but he did see Madero had a Key between his fingers and his hand in a fist. Daehler stated that he heard Philbee state something to the effect of "I'm not getting off you because you're not leaving." Daehler told me that he did not know the driver of the Pontiac.

I issued Keck a crash report form and released him and Daehler from the scene.

I observed the driver of the Pontiac, Brandon Philbee, had a bloody cut under his right eye.

I photographed Philbee's injuries and uploaded the photos to the department digital photo server.

I released Philbee from the scene.

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I completed the AIM impound form and HAAS impounded the Pontiac from the scene for no proof of insurance.

At approximately 0530 hours on 02/09/18 Daehler called the 911 dispatch center and advised that he wanted to talk to one of the Officers who handled the accident again. I called Daehler twice and he did not answer. I left him a message to return my call. At approximately 0740 hours, Daehler called me back and advised me that he and Keck returned to their office, after the incident and began talking about the incident. Daehler stated that he and Keck both came to the conclusion that they were not positive anymore that the Audi was the vehicle that was involved in the accident. Daehler believed this because the front end damage that was on the Audi on scene was likely not caused by the collision that they witnessed. Daehler believed that the Audi should have had front driver's side damage from the way he witnessed the crash occur, which it did not. It should be noted that Daehler said he was positive that the vehicle that struck the Pontiac was a dark colored sedan but was not sure anymore if it was the Audi because he thought the damage that the Audi had, he believed, would be different. Daehler said that he was changing his story because at the time of the incident he was going along with the victim but now, after having some time to think about the incident, he could not be 100 percent sure that the suspect vehicle was the Audi that was on scene. Daehler also changed his story, stating that he did lose sight of the Audi, but he never lost sight of the Pontiac, which was chasing the suspect vehicle. Daehler explained that because of the stress of the situation he believed that the Audi was the correct

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vehicle but after time passed he became less sure of the details of the incident. It should be noted at the time of receiving this information that Madero was already booked into jail. Madero was picked up by squadrol Officers at approximately 0700 hours to be lodged in jail.

Shortly after I completed the phone call with Daehler. at approximately 0800 hours, Assistant Deputy Chief D. Pann talked to me about the incident. I informed him of the facts and circumstances regarding the incident, specifically in regards to the witness changing his statement.

I took no further action.

I informed ADC Pozzi of my completed investigation.

I took no further action at this time.