

2025 M. Gene Blackburn Award presented to Jordan Heeter

This annual award, funded by the Cedar Rapids law firm of Simmons Perrine Moyer & Bergman, is presented to the student who submits the best brief for the Supreme Court Celebration Moot Court Competition. The recipient is chosen on the basis of superior writing skills that communicate an issue position based upon an innovative, creative, and concise approach.

The award is named for M. Gene Blackburn, LW'55, in recognition of his dedication to the development of appellate advocacy while a professor at Drake Law School.

The Supreme Court Competition

Each year, outstanding advocates in the Law School compete in the Supreme Court Competition for the honor of presenting final arguments to the Iowa Supreme Court. The problem is based on a real case, using an actual record that was pending before an appellate court and involving an unresolved legal issue, thus giving competitors a realistic experience.

The competition is open to second- and third-year law students and consists of writing a brief and arguing in two preliminary rounds. The competition has been incorporated into an Appellate Advocacy skills course that provides students with an opportunity to develop their persuasive writing and oral advocacy talents. The brief-writing process has been supplemented with an ongoing, in-depth discussion of best practices in appellate briefing, and the preliminary rounds were preceded by a series of practice rounds that enabled students to sharpen their advocacy skills and prepare to give the very best version of their arguments. The top four advocates based upon the scores from the preliminary rounds advance to the final round before the Iowa Supreme Court.

2025 Supreme Court Competition Problem

Dale Gilbert is an ordinary graduate student, except he is one of four identical quadruplets. One of his brothers, TBD Gilbert, was the subject of an arrest warrant. Dale was arrested on that warrant by a Story County deputy who thought that "TBD" was an alias or a placeholder. The deputy confirmed that Dale's last name and birth date matched the warrant, so he arrested Dale and took him to the Story County Jail. That was around 4:45 p.m. on Friday, December 22.

As soon as Dale figured out that they were looking for "TBD Gilbert," he told every deputy within earshot that he was not TBD and that he could prove that TBD Gilbert was a separate person. The four of them used to be in a boy band called 2winz, and their last music video opened with a graphic of each brother's name. That music video was the top search engine result for 2winz (and it still is — seriously, go look).

Dale repeatedly asked the deputies who monitored the jail to take a few seconds to access the publicly available proof that Dale Gilbert and TBD Gilbert were two separate people. None of the deputies would do it; they told him that he could say what he needed to say during his appearance before the next available magistrate, as was standard procedure.

No magistrates were available over the weekend or on Christmas day. Dale stayed in jail until the morning of December 26, when he had his virtual appearance before the magistrate who issued TBD's arrest warrant. The judge immediately knew that Dale was

not TBD. He ordered the Story County deputies to release Dale and apologize for ruining his holiday weekend.

Dale sued Story County, alleging that the deputies violated his constitutional rights. He has two claims. His first alleges that they violated his Fourth Amendment right to be free from unreasonable seizures. He argues that, even if the arrest was a reasonable mistake of fact, it *stopped* being reasonable as he repeatedly told them that he was not TBD and offered readily available proof. It's not clear where this Court should draw the line between a reasonable seizure that arises from ordinary execution of an arrest warrant in good faith, and an unreasonable seizure that even a valid arrest warrant can't salvage. How should a court tell the difference?

Dale's second claim alleges that the deputies violated his Fourteenth Amendment guarantee against deprivations of liberty without due process. The U.S. Supreme Court said that a three-day stint in jail in a similar case of mistaken identity didn't establish a due process violation, in *Baker v. McCollan*. How should this Court apply *Baker*? And *Baker* was decided in 1979 — have subsequent cases (or other developments) changed how courts should apply *Baker* in cases like these? It's up to our intrepid student advocates to try to guide the Court to satisfying answers to those difficult constitutional questions — and they've got just one day to do it.

IN THE SUPREME COURT OF IOWA
Supreme Court No. 24-20X6

DALE GILBERT,
Plaintiff-Appellant,

vs.

STORY COUNTY, IOWA.
Defendant-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
FOR STORY COUNTY
THE HONORABLE WAUGHIN JARTH, JUDGE

APPELLEE'S BRIEF

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

- I. Officers believed they were looking for an individual with the alias TBD Gilbert. When they were able to match Gilbert’s date of birth, name, and description to the warrant, they arrested him. Gilbert’s assertion that he was an identical quadruplet was the only indication of mistaken identity. He claimed a YouTube video would prove it.**

Was it unreasonable for officers to rely on the matching information over an arrestee’s claim under the Fourth Amendment?

Authorities

U.S. Const. Amend. IV.
Baker v. McCollan, 443 U.S. 137 (1979)
City of Sacramento v. Lewis, 523 U.S. 833 (1998)
Gerstein v. Pugh, 420 U.S. 103 (1975)
Manuel v. City of Joliet, 580 U.S. 357 (2017)
Berg v. County of Allegheny, 219 F.3d 261 (3d Cir. 2000).
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Seales v. City of Detroit, 724 F. App'x 356 (6th Cir. 2018).
Sosa v. Martin County, 57 F.4th 1297 (11th Cir. 2023)
Tillman v. Coley, 886 F.2d 317 (11th Cir. 1989).

- II. Gilbert was detained for less than four days over a holiday weekend. The only indication that they did not arrest the right person was Gilbert’s protests of innocence. Officers ensured he had a court date as soon as a magistrate was available.**

Did this amount to a violation of due process under the Fourteenth Amendment? This is text for second issue statement.

Authorities

Baker v. McCollan, 443 U.S. 137 (1979)
City of Sacramento v. Lewis, 523 U.S. 833 (1998)
Rochin v. California, 342 U.S. 165 (1952).
Armstrong v. Squadrito, 152 F.3d 564 (7th Cir. 1998)
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Gray v. Cuyahoga Cnty. Sheriff's Dept., 150 F.3d 579 (6th Cir. 1998)
Porter v. Epps, 659 F.3d 440 (5th Cir. 2011).
Sosa v. Martin County, 57 F.4th 1297 (11th Cir. 2023)

ROUTING STATEMENT

Dale Gilbert is asking the court to overturn the dismissal of his claims under 42 U.S.C. § 1983 (1996). This case involves two constitutional claims, under the Fourth and Fourteenth Amendment, which would have broad impacts on the public and law enforcement who are concerned with the requirements of investigation before addressing active warrants. This case should be retained by the Iowa Supreme Court pursuant to Iowa R. App. P. 6.1101(2)(d).

STATEMENT OF THE CASE

Nature of the Case

Dale Gilbert was arrested based on a valid warrant for TBD Gilbert. After a brief exchange where the Deputy was able to confirm that his name and date of birth matched the warrant, the Deputy arrested Gilbert and brought him to the Story County Jail. The Deputy believed that the warrant was issued without a first name, pursuant to Iowa law, and that TBD was an alias. Upon getting to the jail and being processed, Gilbert asserted that a YouTube video would prove he was not TBD Gilbert. The deputies did not watch the YouTube video as they had already taken his fingerprints, verified his date of birth to the warrant, and reasonably assumed that TBD was just an alias. The Deputies repeatedly told Gilbert that at his initial

appearance, he would be able to tell the judge about his claims of mistaken identity.

Due to the Christmas holiday and weekend, there was no magistrate available until December 26th. Gilbert was detained for a little over 3.5 days. The magistrate had access to a photograph of TBD and was able to determine that Gilbert was not the same individual as the person in the warrant. The only differences in the photograph were a goatee, glasses, and beanie. Gilbert was then promptly dismissed.

Gilbert filed a complaint against Story County under 42 U.S.C. § 1983 for a violation of his Fourth and Fourteenth Amendment rights. Story County filed a motion to dismiss for failure to state a claim upon which relief could be granted. The District Court of Story County ordered that the Gilbert's claims should be dismissed. Gilbert argues on appeal that the county did violate his right against unreasonable seizures and his right against unjustified detention under the Due Process Clause.

Statement of Facts

Dale Gilbert was detained based on an active warrant for TBD Gilbert. R. at 2. Upon hearing someone call Dale "Gilbert," Deputy Brandity confirmed that he had the same date of birth listed in the warrant. R. at 2.

During the brief exchange where Deputy Brandity placed him under arrest, Gilbert asked if the deputy could be looking for a brother. R. at 2. The deputy relied upon the same date of birth and asked “What, you’re going to tell me that I’ve got the wrong twin?” R. at 2. Knowing how rare twins are, the Deputy continued with the arrest even after Gilbert told him he was an identical quadruplet. R. at 2. During the trip to the jail, Gilbert told the officer of his brother’s names, At Sign, TBD, and Juunyor. R. at 2. Believing TBD to be an alias, the deputy did not release Gilbert based on his word about his brothers. R. at 2. Gilbert was processed on December 22nd at 4:45 pm. R at 2. He cooperated with deputies who took his fingerprints, full name, and address. R.at 2.

After the booking process, Gilbert was shown the warrant with TBD’s name on it. R. at 2. It was at this point he began claiming a video on YouTube would prove that he was not his identical quadruplet brother. R. at 3. He claimed the video would be easy to find and would conclusively prove that Gilbert was not TBD. R. at 2. The deputies did conduct an inquiry or investigation to investigate if Gilbert’s claims were true. Instead, they informed him that he would be brought before a magistrate for an initial appearance, and he could tell the judge about his claim of mistaken identity. R. at 3.

Gilbert was arrested right before the Christmas holiday and a weekend. R. at 3. Because of this, he was not able to see a magistrate until December 26th at 9:00 AM. R. at 3. He attended the virtual appearance where the magistrate was able to determine that Gilbert was not TBD. R. at 3. The magistrate showed a photograph that was contained in the original warrant. R. at 3. This showed TBD wearing glasses and beanie and he had a goatee. R. at 3. These are the only differences that the record indicates were observable differences between Gilbert and TBD. R. at 3. The judge ordered Gilbert's immediate release. R. at 4.

Course of Proceedings

Gilbert brought suit against Story County under 42 U.S.C. § 1983, claiming a violation of his constitutional rights. R. at 4. He claimed that the deputies detained him for “an unreasonable length of time without cause and with deliberate indifference to knowable and readily available facts that would have made it clear that he should be released.” R. at 4. He specifically claimed his right to be free from unreasonable seizures under the Fourth Amendment and his right to be free from unjustified detention under due process of the Fourteenth Amendment were violated by the deputies' actions. R. at 4. Gilbert's challenge is not addressing the initial arrest, nor does he claim that officers could have determined he was not TBD based

solely on the warrant. R. at 9. Gilbert also did not raise any violation of the Iowa Constitution nor any common law tort claims. R. at 4.

Story County motioned to dismiss the complaint under Iowa R. Civ. P. 1.421(1)(f). R. at 4. The County challenged Gilbert's claim for failing to state a claim upon which relief could be granted. R. at 4. The District Court dismissed Gilbert's claims. R. at 4. The County did not raise any claim relating to whether or not the County is the correct defendant nor any claims of qualified immunity. R. at 4. The Court ruled that the Fourth Amendment did not apply beyond the period of time when the warrant was issued and when it was executed. R. at 9-10. Instead, they found that this overdetention claim needed to be brought under the Fourteenth Amendment or a state law tort claim. R. at 10.

The District Court also found Gilbert's claims under the Fourteenth Amendment to be unpersuasive. R. at 10. The County urged the District Court to adopt a bright-line rule when detention only lasts for three days or less or when failure to take extra steps to verify facts would establish a right to immediate release. R. at 10. The District Court instead adopted a totality of the circumstances approach, finding it better to expend judicial resources to consider all relevant facts. R. at 11. Considering all relevant facts, the court focused on the fact that the "few differences in their facial hair and

wardrobe choices would not lead most officers to suspect misidentification” and the fact that “arrestees say all manner of things to the officers who staff jails,” to decide that their actions did not violate the due process clause. R. at 12. The court acknowledged that while it might be preferable for deputies to “look up the readily available video” to establish mistaken identity before Gilbert spent the holiday in jail, it is not conduct that shocks the conscious. R. at 12. Absent a showing that officers hid exculpatory evidence or acted with purpose to cause Gilbert to remain in jail, the deputies conduct did not rise to the level that would shock the conscious. R. at 13. More specifically, the court said the conduct is “at worst, a failure to preform an act that would go beyond the ordinary scope of duty.” R. at 12. Gilbert’s claims that the conduct amounted to deliberate indifference was also unconvincing to the court because even though it would take seconds to watch the video, the three-day stay while a judge was unavailable was not enough when coupled with the remote likelihood that deputies were mistaken about identity. R. at 13-14.

The Iowa Supreme Court granted Gilbert’s appeal. R. at 15. The parties have been asked to address the claims under both the Fourth and the Fourteenth amendment. R. at 15. They have asked each party to explain whether the amendment applies to overdetention on a warrant that was

initially valid as well as what test or standard should apply in these types of claims. R. at 15.

SUMMARY OF THE ARGUMENT

This Court should affirm the District Court's dismissal of Gilbert's claims for failure to state a claim for which relief can be granted. Gilbert claims a violation of his Fourth Amendment right because of his unreasonable length of detention with cause. He also claims officers violated his Fourteenth Amendment right to due process because officers were deliberately indifferent to information establishing mistaken identity.

Gilbert's Fourth Amendment claim fails to establish that the officers acted unreasonable or that his detention was unjustified. Officers reasonably relied upon the warrant when all of the information they had matched. Officers are not required to take an arrestee at their word, especially when they are known to use an alias. Additionally, requiring an officer to find extra evidence when no indication exists that would warrant further investigation is not reasonable. Gilbert does not challenge probable cause for the initial arrest and since there was no substantial change in evidence, probable cause continued through his entire period of detention. Lastly, the Fourth Amendment governs arbitrary government action. There can be no violation for failure to investigate absent evidence other than the arrestee's word.

The Fourteenth Amendment can only be violated if Gilbert can establish that he was not afforded due process. Under a totality of the circumstances analysis, Gilbert has not shown that the officers did anything to disregard his rights. Just because he claimed he was an identical quadruplet; the officers did not have a duty to investigate without further discrepancies to suggest that there was a mistake of identity. Similarly, under bright line tests that rely on a three-day requirement or actual notice, Gilbert has not shown that his detention exceeded the three days deemed too short to violate the Fourteenth Amendment nor has he shown that the officers had actual notice they were violating Gilbert's due process right. With only his word that the YouTube video was exactly what he said it was, Gilbert cannot show that officers acted with deliberate indifference because he was brought before a magistrate within a reasonable amount of time. He also cannot show the conduct shocks the conscious because there is no intentional conduct to cause him harm.

ARGUMENT

Overdetention based on mistaken identity does not automatically give a plaintiff the right to sue under 42 U.S.C. § 1983 (1996). To establish a claim for relief, the plaintiff must show that (1) action was taken “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia” and (2) the action deprived them “of any rights, privileges, or immunities secured by the Constitution and laws.” § 1983. The Supreme Court found “liability for negligently inflicted harm is categorically beneath the threshold of constitutional due process,” and held that § 1983 claims require more than just a claim of simple negligence. *City of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998). Other circuits have similarly adopted this rule, requiring the plaintiff to show gross negligence, or at the very least intentional or reckless disregard for a constitutional right. See *Jamison v. McCurrie*, 565 F.2d 483, 486 (7th Cir. 1977); *Love v. King* 784 F.2d 708, 713 (5th Cir. 1986).

The District Court for Story County properly dismissed Gilbert’s claims. R. at 14. Gilbert did not establish that his Fourth Amendment right to be protected from unreasonable seizures or his Fourteenth Amendment right to due process was violated. R. at 4, 14. The officers acted reasonably by relying on a valid warrant and a reasonable belief that and Story County

did afford him due process. Because Gilbert's rights were not violated, he failed to state a claim upon which relief could be granted requiring dismissal.

- I. **There is no Fourth Amendment violation for overdetention when the officers reasonably believed that Gilbert was the individual wanted by the valid warrant. Officers were not required to believe Gilbert's word that he was an identical quadruplet.**

Preservation of Error

Gilbert preserved error on his Fourth Amendment claim when he raised this argument in his challenge to the Motion to Dismiss before the District Court of Story County. R. at 4.

Standard of Review

Courts review dismissals for failure to state claim *de novo*. *Sosa v. Martin County*, 57 F.4th 1297, 1300 (11th Cir. 2023). Additionally, because this case is at the motion to dismiss phase, the court must accept all well-pleaded facts in the complaint as true. *Albright v. Oliver*, 510 U.S. 266, 268 (1994).

Merits

An individual's repeated claims of innocence will not be enough on its own to establish a police officer wrongfully detained someone based on mistaken identity. *Baker v. McCollan*, 443 U.S. 137, 145 (1979). In *Baker*, the Supreme Court held that when officers execute an arrest warrant, they

are not required to “investigate independently every claim of innocence” nor are they required to “perform an error-free investigation.” *Baker*, at 145-46. The court found “the Constitution does not guarantee that only the guilty will be arrested.” *Id.* The court did note that someone “could not be detained indefinitely in the face of repeated protests of innocence even though the warrant under which he was arrested and detained met the standards of the Fourth Amendment.” *Id.* But they did not find that a three-day detention over a holiday weekend was unreasonable in light of the circumstances. *Id.*

Here, the officers reasonably relied upon a valid arrest warrant, and Gilbert does not challenge the initial arrest. R. at 2, 9. Officers relied upon the information in the arrest warrant and matched the name and date of birth with the warrant prior to arresting Gilbert. R. at 2-3. Gilbert also does not claim that the officers could have discovered their mistake of identity based solely on the warrant. R. at 9. Instead, Gilbert claims they should have taken him at his word and gone to YouTube to watch an unvetted video that would have shown he was not TBD. R. at 3, 9.

Gilbert’s claim fails to state a Fourth Amendment violation unless he can show that the officer’s acted unreasonably when detaining him. U.S. Const. Amend. IV. Since the officers matched Gilbert to the information in

the warrant and reasonably thought TBD was an alias, there was no reason for them to believe they had the wrong person. Because they reasonably believed they had arrested the right person, officers had no duty to watch a YouTube video based solely on Gilbert's word.

- A. It was not unreasonable for the officers to rely on a facially valid warrant when arresting Gilbert because his information matched the warrant.**
 - 1. *It was reasonable for officers to overlook Gilbert's claims of innocence when all the other information before them indicated they arrested the correct person. TBD is not a clear indication of a separate person when it reasonably could be an alias.***

It is reasonable for an officer to rely upon an alias in a warrant when the other identifying information shares similarities to the arrestee. See *Seales v. City of Detroit*, 724 F. App'x 356, 361-62 (6th Cir. 2018). In *Seales*, the Sixth Circuit determined that it was reasonable for an officer to assume that an individual would lie about his name when he is known to use an alias. *Id.* at 362. The officers relied on the fact that Seales was the same age, same sex, and same race when he was found at the same address developed for the individual in the warrant. *Id.* at 361-62. While officers were mistaken about Seales' identity, the court found the officer's reliance on the similarities between Seales and the individual wanted by the warrant was reasonable. *Id.* Thus, Seales failed to establish that the officers

violated his Fourth Amendment rights by being mistaken about his identity. *Id.* at 362.

Gilbert's claim similarly fails to establish that the officers violated his rights by being mistaken about his identity. The officer reasonably believed that TBD was an alias because Iowa law allows warrants to be issued without a first name. Iowa Code § 804.7(1)(d). TBD is not a common name that would have given officers notice to investigate further, without some other evidence to indicate they were wrong. Gilbert matched the rest of the information in the warrant, just like how *Seales* did. See *Seales* at 360. Based on the lack of other evidence, the deputies in Gilbert were not unreasonable in their belief that Gilbert would lie about his name just like in *Seales*. See *id.*; R. at 2-3.

Officers can violate the Fourth Amendment when they have a reason - other than the individual's word - to question whether they have arrested the correct person. See *Sosa v. Martin County*, 57 F.4th 1297, 1330 (11th Cir. 2023) (dissenting from the majority decision that established a brightline rule for overdetention claims under the Fourteenth Amendment). In *Sosa*, Judge Rosenblum's dissent made a distinction between the support for a roadside arrest and the pretrial detention that resulted after. *Id.* at 1330. He found the officer had enough similarities to

reasonably believe they had the correct person during the short period of time involved in a roadside arrest. *Id.* at 1330. But Sosa's continuing detention over his objections was not reasonable because the warrant information did not align with Sosa's information beyond his name, sex and race. *Id.* at 1330-31. Additionally, the officers had readily available exculpatory evidence that would correct the mistake of identity in a timely way during the period of detention. See *id.* at 1330-31. In Judge Rosenblum's view, the Fourth Amendment was violated because the officer's disregard of information indicating mistaken identity was not reasonable during the three days Sosa was detained. *Id.*

The officers reasonably relied upon the arrest warrant and the matching information when arresting Gilbert. Unlike *Sosa*, Gilbert protests of innocence did not give officers a reason to question whether they had the correct person in custody. See *id.*; R. at 2-3. Gilbert's name matched the warrant which officers reasonably believed contained an alias and his date of birth matched, meaning there were no glaring differences like in *Sosa*, where everything beyond his name, sex and race differed. *Id.* at 1330-31; R. at 2-3. If officers looked at the photograph in the warrant, it would be reasonable for them to conclude that they had the same person, as the different facial hair and fashion choices could reasonably be changed. See

R. at 12. Gilbert has indicated nothing to suggest that officers unreasonably believed he was the individual wanted by the warrant.

2. *Officers reasonably relied upon the information routinely considered in arrest and detention rather than taking Sosa at his word that exculpatory evidence was contained in a YouTube video.*

Certain claims of mistaken identity may survive if the individual can establish the officers had exculpatory evidence readily available that they failed to check. *Russo v. City of Bridgeport*, 479 F.3d 196, 204 (2nd Cir. 2007). Following a robbery of a service station, the police took a photo from the surveillance video and created a photo line-up including a photo of Russo. *Id.* at 199-200. The court found the cashier's identification of Russo to be enough for an arrest warrant based on probable cause. *Id.* at 204. But upon arresting Russo, the officers noted his tattoos on his forearms and neck in the arrest report, none of which was evident in the video footage. *Id.* at 199-200. It was not until seven months later that he was finally released based on robber's lack of tattoos. *Id.* The court found Russo's seven-month detention was unreasonable because the police never verified Russo was the correct person by rewatching the video tape and Russo showed that the officers willingly ignored or tried to suppress the exculpatory evidence. *Id.* at 209. Focusing on the length of incarceration, the ease of determining mistaken identity, and the intentionality of the

officer's behavior, the Second Circuit found Russo proved the officers intentionally withheld evidence that could have "provided adequate verification of Russo's innocence based on his unique physical characteristics." *Id.* at 210. In their view, this satisfied the Fourth Amendment's requirements to show that the seizure was unreasonable. *Id.*

Absent a showing that an officer deliberately ignored exculpatory evidence regarding identity, an officer does not act unreasonably when they negligently fail to inquire about more information. *Kennell v. Gates*, 215 F.3d 825, 828 (8th Cir. 2000). In *Kennell*, Sharon was arrested when her name came back as an alias on an active arrest warrant issued for her sister. *Id.* at 826. The officer compared Sharon to the photo attached to the warrant and concluded that they were the same person. *Id.* at 826-27. While waiting in jail for six days, Sharon was told her fingerprints matched, despite the results eventually establishing she was not the same person as the warrant. *Id.* at 827. The Eighth Circuit found there was no constitutional violation if there was "negligent refusal to investigate claims of innocence or mistaken identity of an individual detained pursuant to facially valid warrant," and the detention only lasts a few days. *Id.* at 828. But the Court did find Sharon's claim could succeed if she established enough evidence for the jury to infer that the officers had received the fingerprint analysis

saying they had the wrong person in custody. *Id.* at 829. The court found it unreasonable for the officer to not inquire about fingerprint results when she routinely received the information the same way every time and the technician who sent them testified to the reliability of the procedures and technology used to send the results. *See id.* at 830. Due to the officer's awareness of the mistake and failure to act, the court found that the officer could have known Sharon was wrongfully detained and thus violated the constitution. *Id.* at 830.

Here, Gilbert's claims are more analogous to the facts of *Kennell* rather than *Russo*. Gilbert has not shown any glaring differences between him and TBD beyond facial hair and that he doesn't wear glasses. *R.* at 3. This is not like the situation in *Russo* where the robber clearly did not have the tattoos that the arrestee did. *See Russo*, 199-200. Like *Kennell*, the photograph does not definitely show any differences between two identical siblings when the features that do differ can be changed in a relatively short period of time. *See Kennell*, at 826-27.

Despite the similarities to these two cases, Gilbert's claims crucially fail to establish as exculpatory evidence readily available to the officers that should have indicated they had the wrong individual. *See Russo*, at 209.; *Kennell*, at 830. Gilbert's assertion that the YouTube video conclusively

proves that he was not TBD may be true, but it is not the type of exculpatory evidence that creates a violation of the Fourth Amendment. R. at 3. In *Russo*, the court focused on the video that showed the crime happening. *See Russo*, at 204. In *Kennel*, the court focused on a fingerprint analysis that routinely was used by officers to verify the identity of those in custody. *See Kennel*, at 829. Only an arrestee's word about a random YouTube video is not evidence that an officer should have known they had the wrong individual in custody.

B. Neither party asserts probable cause was lacking for the warrant or the initial arrest. Since there was no change in facts between the arrest and during the time Gilbert was detained, probable cause was supported throughout the whole case.

Gilbert does not argue that the officers had no probable cause for the initial arrest. R. at 9. He also does not challenge the validity of the warrant. *See R.* at 2. During the three and a half days that he was detained, Gilbert has pointed to no evidence that changed between the time of his initial arrest and when he saw the magistrate. R. at 2-4. The only evidence that Gilbert relies upon to conclusively prove mistaken identity is a YouTube video. R. at 3. Because there is nothing that changed between the time of arrest and when he was released to undermine probable cause, Gilbert has not shown that his detention violated the Fourth Amendment.

Under the Fourth Amendment, pretrial detention and arrest have the same requirements for probable cause. *Baker*, at 143. But the person who was arrested is not entitled to a separate judicial determination that there is probable cause for detention pending trial. *Baker* at 143. But when a case lacks probable cause, regardless of whether the official legal process has begun, detention is unreasonable under the Fourth Amendment. *Manuel v. City of Joliet*, 580 U.S. 357, 360 (2017). Officers pulled Manuel and his brother over his brother's failure to signal a turn. *Id.* When they pulled Manuel from the car, called him a slur, physically attacked him, and found a vitamin bottle containing pills. *Id.* Every test conducted, including the initial field tests, came back negative for controlled substances. *Id.* Despite these results, both the technician and the officer reported the presence of drugs and Manuel was charged with unlawful possession. *Id.* Manuel did have a hearing to determine probable cause, but the judge relied on the department's fabrications when ordering his detention. *Id.* The City of Joliet finally released Manuel after 48 days. *Id.*

The Supreme Court ruled that Manuel's pretrial detention violated the Fourth Amendment because officials detained him without probable cause. *Id.* The Court held "the process he received failed to establish what [the Fourth] Amendment makes essential for pretrial detention – probable

cause to believe he committed a crime.” *Id.* at 368-69. Whether the error was made by the police before formal proceedings start or made by a judicial officer relying on false statements, the Fourth Amendment required probable cause. *Id.* The court found that absent evidence of criminality between arrest and determination of probable cause, officers unreasonably detained Manuel over the 48 days he waited. *Id.*

Gilbert has failed to show that his detention lacked probable cause. Unlike in *Manuel*, Gilbert was arrested pursuant to an arrest warrant, meaning there was no requirement that he get a separate judicial determination of probable cause. *See Baker*, at 143; *Manuel*, at 360. Other facts involved here, similarly distinguish Gilbert’s case from *Manuel*. Where the police had no evidence at all that Manuel committed a crime, here, the lack of challenge to the validity of the warrant itself means that on its face, the warrant established TBD engaged in criminal activity. *Id.* Where Manuel was detained for over a month, Gilbert was detained for 3 and a half days. *Id.*; R. at 3-4.

Individuals are entitled to a judicial evaluation of the probable cause supporting their detention, but the court does not require it both before arrest and during detention. *See Gerstein v. Pugh*, 420 U.S. 103, 113-14 (1975). The Supreme Court ruled that the Fourth Amendment required a

neutral magistrate's evaluation of probable cause in order to justify pretrial detention. *Id.* But the Court also found that an officer could arrest someone on suspicion of a crime by determining probable cause in the moment and detain them for a brief period of time "to take the administrative steps incident to arrest." *Id.* at 113-14. In *Gerstein*, the Court held that the 30-day period where individuals had to wait before a determination of probable cause was unreasonable because the consequences for the individual became more serious as time continued. *Id.* at 105-07.

Again, Gilbert fails to establish that officers violated the Fourth Amendment in this way. Gilbert waited 3 and a half days, not the thirty days in *Gerstein*. *Id.* at 105-07.; R. at 3-4. Unlike the individuals who were waiting for an evaluation of probable cause, a judge had already made a determination of probable cause when issuing the arrest warrant for TBD. *Id.*; R. at 2.

Even when relying on an invalid warrant, the Fourth Amendment is not violated if the arresting officer was reasonable in their belief of its validity. *Berg v. County of Allegheny*, 219 F.3d 261, 272 (3d Cir. 2000). In *Berg*, a clerk mistakenly filed a warrant under Berg's name rather than the individual wanted for a parole violation. *Id.* at 266. She only updated the address on the warrant, not any of the other information. *Id.* at 266. When

an elected constable went to arrest Berg, he did not find him at the address in the warrant and instead was directed by Berg to his home. *Id.* Once there the constable ignored Berg's protests and paperwork showing that he had finished parole three years earlier, and instead arrested him based on his name, date of birth and social security number that matched the warrant. *Id.* at 267. Berg remained in custody for five days. *Id.* at 268. The Third Circuit held that "[o]rdinarily, it is reasonable for an officer to assume a warrant has been issued for probable cause." *Id.* at 272. It only becomes unreasonable when other circumstances (such as information possessed by the officer or the potential risk of a public threat or danger of flight) indicate the officer should not rely on an apparently valid warrant. *Id.*

When an officer has doubts about probable cause, then the reliance on a warrant can violate the Fourth Amendment. *Tillman v. Coley*, 886 F.2d 317, 319 (11th Cir. 1989). Sheriff Coley relied upon information provided by an undercover officer that a woman named Mary Tillman sold him marijuana. *Id.* Though he knew that a woman by that name lived nearby, he had doubts because her age did not match and the description of her height, weight, and complexion only generally matched the woman he knew. *Id.* Despite his doubts, he did not do anything to verify that the person was in fact the person who sold the undercover officer drugs. *Id.* The

Eleventh Circuit acknowledged that the law doesn't require perfection, but it does require probable cause. *See id.* at 319, 321. A violation occurs when a reasonable, well-trained officer would have known their affidavit did not establish probable cause and they applied for one anyway. *Id.* at 320. The Court found that a reasonable officer would have been concerned by the age discrepancy and conducted further investigation to establish probable cause. *Id.* at 321.

Here, regardless of the validity of the warrant, the officers were reasonable in relying on it to establish probable cause for Gilbert's arrest. Unlike both *Berg* and *Tillman*, there is no information that Gilbert can point to that shows the case lacked probable cause. While the officer in *Berg* ignored his paperwork about completing probation when arresting him for a probation violation, Gilbert did not have anything other than his word to indicate that the officers lacked probable cause. In *Tillman*, the court focused on the officers' doubts prior to the warrant being issued. Here, Gilbert does not challenge the initial arrest based upon the warrant and so unlike *Tillman*, there is no doubt that a reasonable officer would have recognized as a reason to investigate further.

C. The Fourth Amendment was meant to protect individuals against arbitrary government action, not their failure to act. Since Gilbert cannot show that the failure to act harmed him in such a way that it became unreasonable, he has no claim.

The Fourth Amendment mainly governs conduct not a failure to act on the part of law enforcement. *Safar v. Tingle*, 859 F.3d 241, 246 (4th Cir. 2017). Based upon a report from Costco about fraud, Rodriguez obtained arrest warrants for both Safar and Eshow. *Id.* at 243-44. The following day Costco recanted, but the officers did not retract the warrant. *Id.* Eshow was arrested, and the charges were dropped at a hearing by the prosecutor's request. *Id.* But Safar's warrant remained active until she applied for citizenship. *Id.* She remained in custody from December 23rd until December 27th waiting to be transferred to Virginia, where the charges were dropped. *Id.* During her time, Safar was strip searched and was denied the opportunity to use a breast pump. *Id.* While the court acknowledged that Safar had suffered a dreadful ordeal that could have been avoided by withdrawal of the warrants, the court refrained from holding that law enforcement had an affirmative duty to do so. *Id.* at 246. The court held that Safar may have state remedies, but "all federal claims have been found wanting." *Id.* at 251.

Gilbert has made no showing that the officers' failure to act caused the sort of harm required for it to violate the Fourth Amendment. Here, the district court correctly reached the same result as in *Safar*. Both *Safar* and Gilbert were held over the Christmas holiday and for the same period of time. *Id.* at 243-44.; R. at 2-3. Just like *Safar*, Gilbert has claimed that officers should have done more to prevent his detention during this time. *Id.* at 246.; R. at 3-4. But Gilbert's case is different than *Safar's* because the conduct in his case was not nearly as unreasonable. *See id.* *Safar* was detained while applying for citizenship based on a warrant where the victim recanted. *Id.* at 243-44. Unlike *Safar*, Gilbert was not denied access to a breast pump during his detention. *Id.*; R. at 3-4

Where the court has found a failure to act violates the Fourth Amendment is when the harm to the individual is so great that the officers reasonably should have known that they needed to do more. *Lee v. City of Los Angeles*, 250 F.3d 668, 684 (9th Cir. 2001). In *Lee*, the LAPD arrested Kerry Sanders based on a fugitive warrant for Robert Sanders. *Id.* at 678. Sanders had a different name, did not match other physical characteristics and had an obvious mental illness. *Id.* Despite all these contradictions, LAPD still took no steps to verify his identity before detaining him until the issuing agency came to extradite him to New York. *Id.* Not only did LAPD

unreasonably ignore these reasons to investigate further, but Sanders continued suffering from mistaken identity when the issuing agency brought him straight to prison on the word of the LAPD. *Id.* Ultimately, Sander's was detained for an additional two years before the correct Sanders was apprehended and the officers realized their mistake. *Id.*

Unlike Sanders, Gilbert has made no showing that the harm he suffered was so unreasonable that it made the officers failure to act a violation of the Constitution. *Id.* Sanders was detained in Los Angeles, extradited across the country, where he was then detained for another two years. *Id.* This type of extended detention based on an officers failure to take steps to verify his identity was enough of a harm to violate the Fourth Amendment. *Id.* Gilbert on the other hand was only detained for a fraction of the time, was not extradited anywhere, and was immediately released when the mistaken identity was uncovered. This is not at all the type of unreasonable harm that the Fourth Amendment was meant to protect. Allowing Gilbert's Fourth Amendment claim to proceed on these grounds would require officers to take every arrestee's claim of innocence at face value and would require them to investigate claims that do not have merit.

II. There was no Fourteenth Amendment violation because officers are not required to believe an individual's claims of innocence. Gilbert was afforded due process because his detention was based on adequate similarities to the arrest warrant, and he was timely released upon realization of the error.

Preservation of Error

Error was preserved when Gilbert brought claims under the Fourteenth Amendment alleging Story County violated his right to be free from unjustified detention under the due process clause. R. at 4.

Standard of Review

Courts review dismissals for failure to state claim *de novo*. *Sosa v. Martin County*, 57 F.4th 1297, 1300 (11th Cir. 2023). Additionally, because this case is at the motion to dismiss phase, the court must accept all well-pleaded facts in the complaint as true. *Albright v. Oliver*, 510 U.S. 266, 268 (1994).

Merits

Being arrested based on mistaken identity but pursuant to a valid arrest warrant does not necessarily mean there is a constitutional violation under the Fourteenth Amendment's due process clause. *Baker*, at 140 Linnie McCollan was pulled over and subsequently arrested based on a warrant issued for his brother Leonard, who had used Linnie's information on a license with his own photo on it. *Id.* 139-40. Linnie was held for three

days until police compared his photo to the one in the warrant. *Id.* at 141. The Court found that a person “could not be detained indefinitely in the face of repeated protests of innocence even though the warrant under which he was arrested and detained met the standards of the Fourth Amendment,” because it will “after the lapse of a certain amount of time deprive the accused of liberty without due process of law.” *Id.* at 144 (internal citations omitted). Specifically, the court held that “a detention of three days over a New Year’s week does not and could not amount to such a deprivation” that would amount to a Fourteenth Amendment violation. *Id.* at 145. The court limited due process claims to keep false imprisonment claims from becoming a violation simply because a state official detained the individual. *Id.* at 145-46.

Gilbert’s Fourteenth Amendment claim is precisely the type of false imprisonment claim that the Supreme Court found unconvincing in *Baker*. Gilbert was only detained half a day longer than *Baker*, but both were over a holiday weekend. R. at 2-3.; *Baker*, at 145. Both *Baker* and Gilbert asserted their innocence to the officers. *Baker*, at 139. Just like *Baker*, Gilbert needs to show more than just detention by a state official in order to establish a Fourteenth Amendment violation. No matter what test used that was developed after *Baker*, Gilbert has not established a violation.

A. Applying a totality of the circumstances tests, due process can be violated when officers ignore certain pieces of evidence. Gilbert has not pointed to any circumstance other than his word that would have led officers to question whether they had the correct person.

Incarceration without a reasonable investigation about identity before executing an arrest warrant can be subject to review under due process.

Garcia v. County of Riverside, 817 F.3d 635, 641 (9th Cir. 2016) (amended opinion). When the investigation is “so superficial, under the circumstances, that it ignored a duty to investigate,” the individual’s due process rights have been violated, especially when the circumstances “involved significant differences between the arrestee and the true warrant subject.” *Id.* at 640-41. The Sheriff’s Department arrested Garcia for driving under the influence but detained him for a felony warrant from Los Angeles. *Id.* at 638-40. Garcia’s first and last name and date of birth matched the warrant, but their middle names differed. *Id.* at 638. Garcia was also 9 inches taller and 50 pounds heavier than the individual listed in the warrant. *Id.* Not only did their descriptions differ, but if the officers conducted a fingerprint search, the biometrics, criminal identification numbers, and criminal history would not have matched either. *Id.* The court found that “[e]ven a cursory comparison of Garcia to the warrant subject should have led officers to question whether the person described in

the warrant was Garcia.” *Id.* at 641. The Ninth Circuit found the simple procedure of “readily available and resource-efficient identity checks, such as a fingerprint comparison” is not unreasonable to expect of officers who are booking an individual already arrested. *Id.* at 642. Arresting officers “cannot always pause to make inquiries on a warrant” and thus, are exempt from the duty to investigate corroborated claims of mistaken identity. *Id.* But the Ninth Circuit found Garcia was deprived of his due process rights because the officers failed to investigate when there is no reasonable explanation that would justify the difference in height or weight and they had time to do so. *Id.*

The possibility of the arrestee being a twin, or even a quadruplet does not automatically require further investigation. *See Fairley v. Luman*, 281 F.3d 913, 918 (9th Cir. 2002). Mistaken identity is a risk when executing an arrest warrant and when identical twins or other multiples are involved, the Ninth Circuit has recognized that the risk is “particularly acute.” *Id.* John Fairley was arrested for violating a restraining order when officers found two infraction warrants for his twin brother, Joe. *Id.* at 915. Even with the information from John, his wife, and the arresting officers all indicating the warrant was for Joe, the booking sergeant still approved John’s detention based on those warrants after the restraining order violation was dismissed.

Id. The booking sergeant focused on the similar physical descriptions and license numbers without verifying his identity with the Department of Motor Vehicles or a fingerprint check. *Id.* He also ignored the few differences between the physical descriptions, including the 66-pound difference between the two. *Id.* John was detained for twelve days. *Id.* Evaluating his § 1983 claim, the Ninth Circuit found John’s Fourteenth Amendment rights were violated. *Id.* at 918. The court found “the significant risk of deprivation of [his liberty] interest through the City’s warrant procedures, and the minimum burden to the city of instituting readily available procedures for decreasing the risk of erroneous detention, the procedures afforded by the City to John failed to provide him due process under the Fourteenth Amendment” when they detained him for 12 days. *Id.*

Unlike both Garcia and Fairley, the circumstances here do not indicate that officers failed to provide Gilbert due process. Again, Gilbert has not shown any circumstances that would have or should have prompted investigators to question whether they had the correct person in custody. Garcia’s physical description was so drastically different that the court found his due process rights were violated because mistaken identity was the only explanation that would explain the differences. *See Garcia*, at 642.

Gilbert on the other hand exactly matched the description of TBD because they were identical quadruplets. While the Ninth Circuit recognized that ignoring information about an identical twin can be a violation of the Fourteenth Amendment, they also had other circumstances that should have led officers to investigate more. *See Fairley*, at 918. Unlike *Fairley*, the only evidence that officers could have to indicate mistaken identity is Gilbert's word that the YouTube video showed he was an identical quadruplet. No one else corroborated his claims, no difference existed between Gilbert and the warrant description, and thus, there was no circumstance that indicated Gilbert's due process rights were violated.

B. Brightline rules can provide more clarity for overdetention claims while still leaving room for discretion. Detention over a holiday weekend does not violate the Fourteenth Amendment as long as the individual is timely brought before a neutral magistrate after the holiday ends.

Some courts have adopted bright-line rules from *Baker*, deciding that a three-day detention based on a valid warrant cannot violate the Fourteenth Amendment. *See Sosa*, at 1300. Two separate times, *Sosa* was arrested in Florida based on a Texas warrant for a man with the same name from over 20 years earlier. *Id.* at 1299. On the first occasion, *Sosa* was released after three hours when the officers determined that his date of birth, height, weight, social security number and tattoo information did not

match the warrant. *Id.* On the second occasion, Sosa informed the officers about the different identifiers, but he was still detained for three days over a weekend until he was finally released when his fingerprints did not match the warrant. *Id.* The Eleventh Circuit developed a rigid test based on *Baker*, holding that when the arrest is based on a valid arrest warrant and the detention lasts no longer than three days then there is no due process violation. *Id.* at 1301. Holding that “the fourteenth amendment is not a constitutional bulwark against a few-days detention,” arrests only need to be made on probable cause. *Id.* at 1300-01. Noting the arguments made by the dissent, the Court noted that more advanced technology being available that could quickly correct the mistaken identity did not change the analysis because *Baker* did not rely on outdated technology even implicitly in their analysis. *Id.* at 1301. The fact that Sosa’s name is more common than McCollan’s nor the distinction between a holiday weekend and any other time was not enough to find a violation under this test. *Id.* at 1301.

Other tests focus on whether the officer’s had actual notice that their conduct violates constitutional rights. *Porter v. Epps*, 659 F.3d 440, 447 (5th Cir. 2011). When the Department of Corrections decided that Porter violated the terms of his house arrest and revoked his suspended sentence, the Mississippi state courts found they did not have the authority to do so.

Id. at 443-44. Porter then sued Epps who implemented the policies of DOC that violated his liberty rights. *Id.* Evaluating the conduct for deliberate indifference to Porter's rights, the court held that absent a pattern of similar violations, there is no actual or constructive notice that the DOC's policy was deliberately chosen to violate constitutional rights. *Id.* at 447. Without a showing of notice, "no reasonable juror could determine that it was obvious that the likely consequence of not adopting more specific policies in the records department would be a deprivation of civil rights." *Id.* at 448 (internal citations omitted).

Under either of these tests, Gilbert has still failed to show that his Fourteenth Amendment rights were violated. His detention was pursuant to a valid warrant and his detention was only three and a half days. R. 2-3. Just like how *Sosa's* detention did not violate the *Baker* holding, neither did Gilbert's. *See Sosa*, at 1301. Additionally, Gilbert has not shown that anyone else has suffered from mistaken identity just like how Porter was unable to establish that there was any pattern of detention like his by the Mississippi DOC. *See Porter*, at 447. Here, the officers had no notice that more investigation was needed because the only indication that something was amiss was Gilbert's word. R. at 3.

C. Not taking Gilbert at his word about his innocence or the YouTube video does not amount to conduct that shocks the conscious or shows deliberate indifference of his Fourteenth Amendment right to due process.

The fourteenth amendment's due process protections do apply when there is a violation of a person's rights that shocks the conscious. *Rochin v. California*, 342 U.S. 165, 171 (1952). The courts consider the facts while being "duly mindful of reconciling the needs both of continuity and of change in a progressive society." *Id.* When the conduct "is bound to offend even hardened sensibilities," the court finds the conduct drastic enough to satisfy the "shocks the conscious standard." *Id.* This standard can be satisfied when the plaintiff shows that the officers intended to injure someone in an unjustifiable or arbitrary way. *City of Sacramento v. Lewis*, 523 U.S. 833, 843, 849 (1998). The Supreme Court has recognized that in certain situations deliberate indifference may shock the conscious when it "rests upon the luxury enjoyed by prison officials of having time to make unhurried judgments." *Id.* But when the circumstances call for quick, decisive action, the court requires more than mid-level fault to establish the harmful purpose needed to show that the conduct shocks the conscious. *Id.* at 853. Unless "such extended opportunities to do better are teamed with protracted failure to even care," deliberate indifference is not enough for conduct to shock the conscious. *Id.* at 853.

To show deliberate indifference when officers have an extended time period to investigate requires a showing that there was an apparent discrepancy and the information in their possession would clarify the discrepancy. *Gray v. Cuyahoga Cnty. Sheriff's Dept.*, 150 F.3d 579, 583 (6th Cir. 1998). In *Gray*, Dwayne was arrested and sentenced to five days in jail when officers discovered a warrant requesting extradition for an individual with the same name. *Id.* at 582. Over Dwayne's protests that his brother uses his information and instead relying on the matching information in the warrant, officers detained him for 41 days. *Id.* All Dwayne's information matched, except for a photograph that looked nothing like him and a physical description that included scars that Dwayne could readily show he did not have. *Id.* There, the court found Dwayne had shown enough evidence that the officers had information that would indicate the need for an inquiry into the discrepancies because there was no dispute that the information was in the officer's possession. *Id.* at 583. The court held that since a jury could find a failure to investigate when discrepancies arose, they could determine whether the officers acted with deliberate indifference to that information. *Id.*

Here, Gilbert has not shown any conduct that shocks the conscious or shows a deliberate indifference. The officers may not have watched the

YouTube video, but there is nothing to indicate that they did not care about Gilbert's claims. R. at 3. Gilbert acknowledges that officers told him he would have an opportunity to prove his claims when he went to court. R. at 3. This indicates no harmful purpose to keep Gilbert detained regardless of his innocence. It also does not indicate a failure to even care, as Gilbert was given an opportunity to assert his innocence within a reasonable amount of time. There is also no showing of any discrepancies within the information the officers possessed. Instead, Gilbert is asking for the court to require jail officers in charge of detention to investigate other possible evidence to determine whether any exculpatory evidence may exist. Unlike *Gray*, where the detention was extended and it gave ample opportunity for comparison between the warrant information and the arrestee which officers already had, Gilbert's three-day detention is not long enough time to require officers to watch a video based only on the arrestee's word. *See Gray*, at 583.

Absent a showing that officers "intentionally or recklessly deprived him of a constitutional right" in such a way that it shocks the conscious, there is not enough to establish a substantive due process violation. *Armstrong v. Squadrito*, 152 F.3d 564, 570 (7th Cir. 1998). *Armstrong* had agreed to voluntarily surrender based on a civil warrant

after the weekend to avoid a weekend stay in jail. *Id.* at 567. The jail had a policy where the individual is processed and then reported to the court to obtain a court date. *Id.* But Armstrong never got one because the court was never notified; he was in the jail. *Id.* He waited 57 days, repeatedly asking for a court date and being denied the opportunity to file any written complaints about his confinement. *Id.* at 568. The Seventh Circuit defined “deliberate indifference as conscious disregard of known or obvious dangers.” *Id.* at 577 (internal quotation omitted). The court held that a jailer’s knowledge that a detainee needs to be brought to court and their decision to continuously avoid investigation into why they haven’t been enough to hold them responsible for their failure to investigate. *Id.* at 579. Both the policy of waiting for a court date after reporting detention and their refusal of written complaints amounted to deliberate indifference. *Id.* at 579-80.

Deliberate indifference requires more than just a claim of mistaken identity. *See Cannon v. Macon County*, 1 F.3d 1558, 1563 (11th Cir. 1993). While on her way to Georgia, Mary Cannon, was stopped for questioning at a rest area with her family. *Id.* at 1560-61. When the officer radioed her name in for assistance, he was informed of an outstanding warrant from a theft in Kentucky. *Id.* She was then arrested and brought to jail where the

arresting officer and booking officer never verified whether her license information matched the information on the warrant. *Id.* Her middle name, height, eyes, social security number, and date of birth did not match, yet the officer used the information from the warrant to book Cannon into the jail. *Id.* Cannon was extradited 3 days later to Kentucky where officers quickly determined she was not the same person and released her. *Id.*

The Eleventh Circuit required Cannon to show that the officers acted with deliberate indifference to her due process rights in order to establish her Fourteenth Amendment claim. *Id.* at 1563. The Court focused on the following facts when concluding that there was a deliberate indifference to her rights: (1) Cannon gave her identification at the jail, (2) a copy of her license was within her file, (3) her information “differed significantly from the description” of the warrant, (4) her physical description was different, (5) the officer copied information directly from the NCIC report rather than from Cannon’s identification, (6) the officer that signed the arrest warrant had only met her that day and did not arrest her, and (7) his testimony that he would not have arrested her if he knew her social security number and date of birth were different. *Id.* at 1563-63. The court reasoned that a reasonable officer “would have at least attempted to obtain information from Cannon” to fill out the arrest report and thus would be unlikely to sign

an affidavit that she was the wanted fugitive without further investigation to verify her identity. *Id.* at 1565. As such, the eleventh circuit held that the officer acted with deliberate indifference towards her due process rights. *Id.* at 1564.

Gilbert's claim fails to show any deliberate indifference. Gilbert has not shown that officers ignored his protests of innocence. Rather, he showed that they knew he would be before a magistrate within a few days and could tell her then. *R.* at 3. This is unlike the situation in *Armstrong*, where his complaints were repeatedly ignored while officers made no effort to ensure he would have a court date to be heard. *See Armstrong*, at 579-80. Similarly, Gilbert has not shown any information that officers should have relied upon that would have demonstrated mistaken identity because his personal information matched the warrant and there was no discrepancy that would cause a reasonable officer to question whether they had the right person. *See Cannon*, at 1565. Where *Cannon* had extensive evidence that the officers took steps leading to her deprivation of liberty while ignoring exculpatory evidence, Gilbert has not shown any of the same circumstances to indicate deliberate indifference. *See id.*; *R.* at 2. Absent more, Gilbert's claim cannot succeed.

CONCLUSION

Gilbert has failed to allege a set of facts that plausibly supports the conclusion that officers violated the Fourth or Fourteenth Amendment. Gilbert matched the information contained in the warrant, so officers reasonably believed they had the correct person in custody. Gilbert's claim of innocence relying on a YouTube video does not establish that officers wrongfully ignored evidence that would suggest they had the wrong person in custody. Similarly, in light of all of the evidence, Gilbert has made no showing that officers had a duty to investigate his claims of innocence based solely on his words. Absent more facts to indicate that officers needed to do more to investigate or other corroboration of Gilbert's claims, there is no undue deprivation of liberty. This court should affirm

REQUEST FOR ORAL SUBMISSION

Gilbert's claim that the court should recognize a violation under either the Fourth or Fourteenth Amendments makes an already complex landscape more complex. The State believes that oral argument will be helpful to differentiate why these claims separately fail to establish a claim under § 1983. Iowa R. App. P. 6.908(2).

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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