

NO. 14-9496

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In The  
Supreme Court of the United States

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ELIJAH MANUEL,

*Petitioner,*

v.

CITY OF JOLIET, ET AL.,

*Respondents.*

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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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REPLY TO RESPONSE TO PETITION  
FOR A WRIT OF CERTIORARI

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## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

City of Joliet, Illinois, a municipal corporation

Officer Terrence J. Gruber

Officer Thomas Conroy

Sergeant Scott P. Cammack

Officer Aaron Bandy

Officer Jeffrey German

Sergeant John Stefanski

Sergeant Joseph Rosado

Officer Jeffery Kneller

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**I. PETITIONER’S FOURTH AMENDMENT MALICIOUS PROSECUTION CLAIM IS NOT TIME-BARRED**

This reply to Respondents’ Response to Petition for Writ of Certiorari is filed because the Response misstates the law with respect to the statute of limitation. (Resp’ts’ Resp. to Pet. for Writ of Cert. 4–5). Respondents argue that Elijah Manuel’s (hereinafter “Manuel” or “Petitioner”) Fourth Amendment malicious prosecution claim is barred by the two year statute of limitations because it begins at the time he became subject to legal process (sometime before April 8, 2011), as opposed to when the charges were dropped (May 4, 2011). This issue was not addressed by the Petitioner because not only is Respondents’ position contrary to the Supreme Court and the Seventh Circuit precedent, but Respondents also conceded this issue during oral argument before the Seventh Circuit Court of Appeals.

A federal malicious prosecution claim under 28 U.S.C. § 1983 does not accrue until the underlying proceedings terminate in favor of the plaintiff. *Julian v. Hanna*, 732 F.3d 842, 845 (7th Cir. 2013) (citing *Heck v. Humphrey*, 512 U.S. 477, 484 (1994); see *Wallace v. Kato*, 549 U.S. 384, 388 (2007) (“[I]t is the standard rule that accrual occurs when the plaintiff has a complete and present cause of action.”) (internal quotations omitted); *Johnson v. Saville*, 575 F.3d 656, 659 (7th Cir. 2009) (listing the common law elements of a malicious prosecution claim in Illinois, including that the charges terminate in favor of the plaintiff).<sup>1</sup> Upon questioning at oral arguments, Respondents acknowledged this point. Specifically, Respondents’ counsel was asked, “If we did recognize such a claim, at what point would you think the statute of limitations would begin to run? From the point of misrepresentation or from the point the underlying proceedings were terminated in favor of the individual?” Oral Argument at 13:36, Manuel v.

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<sup>1</sup> Respondents agree that the appropriate statute of limitation is two years pursuant to Illinois law. 735 ILCS § 5/13-202.

City of Joliet, 590 Fed. Appx. 641 (7th Cir. 2015) (No. 14-1581), *available at* <http://media.ca7.uscourts.gov/oralArguments/oar.jsp?caseyear=14&casenumber=1581&listCase=List+case%28s%29>. Respondents conceded:

If you were to recognize the malicious prosecution under the .... under 1983 and Fourth Amendment, state law malicious prosecution, the accrual is the time at which the proceedings are terminated in favor of that individual. So in this case, the date, I think the date would have been May 4<sup>th</sup> of 2011...


*Id.* at 14:00.

Manuel filed his claim on April 10, 2013, less than two years after the criminal proceedings terminated on May 4, 2011. As a result, his Fourth Amendment malicious prosecution claim would not be time-barred if it were recognized by this Court.

## II. CONCLUSION

Therefore, with this clarification of the law, we respectfully request that this Court grant the petition for a writ of certiorari to resolve a recurring issue of national importance and to settle the long-standing conflict among the circuit courts of appeal as to the availability of a Fourth Amendment malicious prosecution claim.

Respectfully submitted,

  
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