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

IBRIHAM KISWANI, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 OFFICER AARON CUNNINGHAM, )  
 )  
 Defendant )

**FILED**

Case No. 05 C 4559

JUN 11 2008

**MAGISTRATE JUDGE  
MORTON DENLOW**

Magistrate Judge Denlow

**DEFENDANT'S MOTION FOR JUDGMENT AS A MATTER OF LAW**

Defendant Aaron Cunningham by his attorney, Thomas J. Platt, Assistant Corporation Counsel and pursuant to FRCP 50, move for judgment as a matter of law on all of plaintiff's claims, stating as follows:

1.) Plaintiff has failed to prove the necessary elements required to succeed on his substantive due process claim. Plaintiff has presented no evidence that Aaron Cunningham intentionally withheld evidence from prosecutors at plaintiff's criminal trial which was not already known or available to the plaintiff or his attorneys through the exercise of reasonable diligence. *Ienco v. Angarone*, 429 F.3d 680 (7<sup>th</sup> Cir. 2005). *Thompson v. City of Chicago*, 2008 WL 780631 (N.D.Ill. March 20, 2008)(Guzman, J.).

2.) Plaintiff has failed to prove all the necessary elements of his malicious prosecution claim. Plaintiff has admitted to all the basis upon which Aaron Cunningham had probable cause to arrest him for aggravated unlawful use of weapons, namely that, he had a fully loaded handgun on his person on the public way. No applicable exceptions or exemptions applied.

*People v. West*, 422 N.E.2d 943, 945 (1981); *Marshall v. Walker*, 958 F.Supp. 2d 359, 365 (N.D. Ill. 1997).

Wherefore, defendant Aaron Cunningham requests this court to enter judgment in his favor on all of plaintiff's claims.

Respectfully submitted,

/s/ Thomas J. Platt  
Assistant Corporation Counsel

30 N. LaSalle Street  
Suite 1400  
Chicago, Illinois 60602  
312-744-4833