

STATE OF MARYLAND

Plaintiff

v.

CAESAR GOODSON

Defendant

* IN THE
* CIRCUIT COURT

* FOR
* BALTIMORE CITY

* Case No. 115141032

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BALTIMORE CITY
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CENTRAL DIVISION

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DEFENDANT'S MOTION FOR REVISED SUBPOENAS FOR TANGIBLE EVIDENCE REGARDING RECORDS OF INCARCERATION

Defendant Caesar Goodson, through his counsel, moves pursuant to Md. Rule 4-264, and requests that this Court order the issuance of subpoenas commanding the production of records of incarceration that are relevant to this case. This court had previously approved a subpoena to the custodian of records for the Maryland Department of Public Safety, but was inadvertently provided with one for signature addressed to the Maryland Department of Detention & Correctional Services - Central Booking. It appears that subpoenas to both may be required to obtain the records sought. This motion seeks revised subpoenas clarifying the recipients of the two subpoenas required to obtain the records sought.

This case concerns the death of Mr. Gray, who was arrested by Baltimore City Police Officers on April 12, 2015, and died following an injury that he suffered while in custody in a police transport van. There is evidence that Mr. Gray, while inside the van, thrashed around such that witnesses outside could hear him banging against the walls and could see the van shaking. Additionally, Donta Allen, another arrestee who was placed in the other side of the van's prisoner compartment after Stop 4, reportedly stated that he

could hear Mr. Gray banging against the walls in such a way that Mr. Allen thought that Mr. Gray was trying to hurt himself.

During the investigation of Mr. Gray's death, the Baltimore Police Department and the State's Attorney's Office received information that Mr. Gray had, on a prior occasion, tried to hurt himself following an arrest. On May 17, 2015, Detective Dawnyell Taylor noted:

I spoke with ASA Bledsoe and Psienger concerning anonymous tip information related to Grey's conduct in jail. I requested a subpoena to obtain administrative, medical, and disciplinary records for Freddie Grey for any period her may have been incarcerated.

See **Ex. A**, Progress Report for Case 15H0086 (May 17, 2015). Again, on May 22, 2015, Detective Taylor noted:

On 5/22/15 an anonymous tip came in on the command line in the BPD homicide office. This female caller stated that Freddie Gray had attempted to injure himself in the past when arrested and that there was an incident inside the CBIF where he had to be restrained and disciplined for his attempts to hurt himself. I contacted the ASA's office to request a subpoena to Department of Public Safety (DPS) for an administrative, medical, and disciplinary records related to Gray to verify this claim. This caller refused to leave any personal contact information and called from an unidentified line. This will be investigated further

See **Ex. B**, Progress Report for Case 15H0086 (May 22, 2015).

Because there is clear evidence that such records may exist, and such records are relevant to Officer Goodson's case, the defense requests that this Court issue:

(1) a subpoena *duces tecum* to the custodian of records of the Department of Public Safety & Corrections ordering the production of all administrative, medical and discipline records related to any period of incarceration of Freddie C. Gray, DOB:

8/16/89 (including base, housing and location files, bed assignment, movement within facility, and rejections regarding medical issues, etc.) and

(2) a subpoena *duces tecum* to the custodian of records of the Maryland Department of Detention & Correctional Services - Central Booking, ordering the production of all administrative, medical and discipline records related to any period of incarceration of Freddie C. Gray, DOB: 8/16/89, CID #3080619, including but not limited to bed assignment, movement with facility and rejections due to medical issues, for Mr. Gray during any period that he was incarcerated.

LEGAL STANDARD

Md. Rule 4-264 states:

On motion of a party, the circuit court may order the issuance of a subpoena commanding a person to produce for inspection and copying at a specified time and place before trial designated documents, recordings, photographs, or other tangible things, not privileged, which may constitute or contain evidence relevant to the action. Any response to the motion shall be filed within five days.

A person facing criminal charges is entitled to discovery of confidential records when his constitutional rights outweigh the interests of the party holding the protection of confidentiality. *Fields v. State*, 432 Md. 650, 666-67 (2013). The test for determining whether a defendant is entitled to discovery of otherwise protected information is well-established in Maryland. The "*Zaal* test" requires that the defendant demonstrate a "'need to inspect,' that is 'a reasonable possibility that review of the records would result in discovery of usable evidence.'" *Zaal v. State*, 326 Md. 54, 81 (1992); *Fields*, 432 Md. at 667 (noting that the test set forth in *Zaal* applies broadly to different types of

