

STATE OF MARYLAND

* IN THE

* CIRCUIT COURT

v.

* FOR

OFFICER EDWARD NERO

* BALTIMORE CITY

* Case No.: 115141033

* * * * *

MOTION IN LIMINE PRECLUDE REFERENCE TO OR ARGUMENT ABOUT EXCESSIVE FORCE BEING USED ON MR. GRAY IN THE COURSE OF HIS DETENTION OR ARREST

Defendant, Officer Edward Nero, by undersigned counsel, pursuant to Maryland Rule 5-609, files this Motion in Limine to order the preclusion of any and all reference to or argument that excessive force was used on Mr. Gray in the course of his detention or arrest. In support, Defendant states the following:

The State's witnesses may seek to testify as to allegations that excessive force was used on Mr. Freddie Gray in the course of his detention and arrest on April 12, 2015. Notably, the State does not now allege nor has it ever alleged that any excessive force was used on Mr. Gray by any of the six defendant officers, including Defendant Officer Nero. Instead, the State's theory of second degree assault against Defendant Officer Nero is that, as a result of a lack of probable cause, any physical contact with Mr. Gray was unlawful.¹ See State's Resp. to Def.'s Demand for Bill of Particulars ¶ 1. More importantly, the State could not ethically put forth any witness to testify that excessive force was used on Mr. Gray, as such an act would be tantamount to subornation of perjury.

¹ The inaccuracy of that contention and the resulting prejudicial effect is addressed in a separate motion in limine.

RECEIVED FOR RECORD
CIRCUIT COURT FOR
BALTIMORE CITY

2016 FEB 1 1:44

CRIMINAL DIVISION

