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STATE OF MARYLAND

CRIMINAL DIVISION

IN THE
CIRCUIT COURT FOR
BALTIMORE CITY

v.

EDWARD NERO

CASE No. 115141033

* * * * *

STATE'S SUPPLEMENT TO ITS RESPONSE TO DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO CHARGE A CRIME

Now comes the State of Maryland, by and through Marilyn J. Mosby, the State's Attorney for Baltimore City; Michael Schatzow, Chief Deputy State's Attorney for Baltimore City; Janice L. Bledsoe, Deputy State's Attorney for Baltimore City; and Matthew Pillion, Assistant State's Attorney for Baltimore City; and supplements as follows the State's Response to the Defendant's Motion to Dismiss for Failure to Charge a Crime in light of the Court of Special Appeals's recent reported opinion in *Riley v. State*, ___ Md. App. ___, 2016 Md. App. LEXIS 30 (Mar. 30, 2016):

1. On February 1, 2016, the Defendant filed a Motion to Dismiss for Failure to Charge a Crime, attacking the sufficiency of the assault count in the indictment and contending that because of his status as a police officer charged with committing an arrest-based battery, the State was required to allege that the Defendant acted with "malice." Def. Mot. at 3. The State filed a Response to this Motion on February 16, citing procedural impropriety and also an array of authority refuting the merits of this claim.

2. Subsequently, on March 30, 2016, the Court of Special Appeals decided *Riley v. State*, in which a Prince George's County police officer had been convicted of second-degree assault after shooting a handcuffed, unarmed, stolen-vehicle arrestee attempting to

