

RECEIVED FOR RECORD
CLERK OF COURT
BALTIMORE CITY

2015 DEC 30 P 3:01

STATE OF MARYLAND

Plaintiff

v.

CAESAR GOODSON

Defendant

* IN THE
* DIVISION
* CIRCUIT COURT

* FOR

* BALTIMORE CITY

* Case No. 115141032

* * * * *

DEFENDANT'S RESPONSE TO STATE'S MOTION TO QUASH SUBPOENAS

Defendant Caesar Goodson, through his counsel, submits this response to the State's Motion to Quash Subpoenas to Stephen Moyer of the Department of Public Safety & Correctional Services, and to the custodian of Records of the Central Booking and Intake Facility, filed December 29, 2015, and says:

1. Mid-day on December 29, 2015, counsel for Officer Goodson was contacted by the State's Attorney's Office inquiring about a subpoena that purportedly had been served on Central Booking and expressing some concerns regarding whether it was procedurally proper and/or contained improper information. Counsel for Officer Goodson said that he would check into it, apologized if there was an error, and offered to voluntarily address any concerns without delay.¹ Despite these representations, counsel for Officer Goodson was informed that the State likely would be filing a motion to quash.

¹ In fact, three attorneys from the State's Attorney's Office contacted three of Officer Goodson's lawyers regarding the same issue. During each of these conversations, the State was assured that the matter would be looked into and resolved in a satisfactory manner.

2. Within approximately two hours on the same day, counsel for Officer Goodson attempted to contact the State by telephone and electronic mail, seeking to determine its concerns and resolve the issue.

3. Before any additional conversations could take place, counsel for Officer Goodson was informed that the State had already filed its motion to quash, asserting that Officer Goodson's counsel had committed "abuses of the Court's judicial processes." State's Mot. at 4.²

4. Only upon receipt of the filed Motion to Quash did counsel for Officer Goodson learn that the State's Motion was premature, as the concern revolved around draft subpoenas and letters that were attached to a Motion filed with the Court on December 23, 2015, asking for the issuance of discovery subpoenas in the form attached to the Motion. The letters and subpoenas attached to the State's Motion to Quash were those form subpoenas and letters that were attached to the Defendant's Motion seeking discovery subpoenas. They have not been sent to the addressees by defense counsel.

5. In submitting the form letters and subpoenas to the Court, Officer Goodson's counsel was attempting to authenticate the documents sought for use at trial. Such authentication of business records may be accomplished either by asking questions

² In this regard, the State has not made a good faith effort to resolve a discovery dispute, in violation of the spirit, if not the letter, of the Md. Rules. *See* Md. Rule 4-263(i) (governing the certificate of good faith requirement for motions to compel). It is also not clear whether the State has standing under Md. Rule 4-266 to bring file its Motion to Quash a (draft) subpoena that is directed at a third party, unless it is the State's position that the Department of Public Safety & Correctional Services and/or the Central Booking and Intake Facility are "arms of the prosecution." *See Robinson v. State*, 354 Md. 287, 304 (1999) ("To be sure, as the State concedes, ordinarily the police are an arm of the prosecution, for purposes of the *Jencks /Carr* analysis, and, thus, a disclosure requirement applicable to the prosecution applies to them as well."). If so, the State was under a continuing obligation to produce the sought-after materials under Md. Rule 4-263(j), without the need for Officer Goodson to request subpoenas for the information.

of the custodian of records in a deposition, or obtaining an affidavit of authentication from the custodian of records. The Court has authority to order the production of the requested documents under Md. Rule 4-261(b) ("commanding the witness . . . to produce at the deposition any documents, recordings, photographs, or other tangible things designated in the order of the court"); Md. Rule 4-264 ("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"); or Mr. Rule 4-265(d) ("A subpoena duces tecum shall include a designation of the documents, recordings, photographs, or other tangible things"). Counsel for Officer Goodson simply requested that the Court enter such an order, and submitted proposed forms for doing so.

6. Counsel for Officer Goodson does not know if the Court has yet signed the discovery subpoenas, but is aware that the return date on the subpoenas has become unworkable with the passage of time since the filing of the Motion, and has no objection to modification of the proposed subpoenas to reflect a reasonable return date.

7. Counsel for Officer Goodson will continue to work cooperatively with the State to facilitate this Defendant's effort to obtain the documents that he seeks, and to which he is clearly entitled. This cooperation will relieve the Court of having to spend any of its valuable time on this issue.



Andrew Jay Graham
Amy E. Askew
Justin A. Redd
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202
Phone: (410) 752-6030
Fax: (410) 539-1269



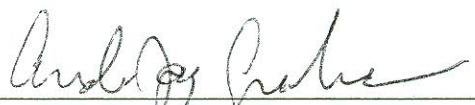
Matthew B. Fraling, III
Harris Jones & Malone, LLC
2423 Maryland Avenue, Suite 1100
Baltimore, Maryland 21218
Phone: (410) 366-1500
Fax: (410) 366-1501

Counsel for Officer Caesar Goodson

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of December 2015, a copy of the foregoing Response to State's Motion to Quash was sent by first class mail, postage prepaid and by electronic mail to:

Michael Schatzow, Chief Deputy State's Attorney
Office of the State's Attorney for Baltimore City
120 East Baltimore Street
Baltimore, Maryland 21202



Andrew Jay Graham