

2015 DEC 30 P 3: 01

STATE OF MARYLAND

\* IN THE  
CRIMINAL DIVISION

Plaintiff

\* CIRCUIT COURT

v.

\* FOR

CAESAR GOODSON

\* BALTIMORE CITY

Defendant

\* Case No. 115141032

\* \* \* \* \*

**DEFENDANT'S RESPONSE TO STATE'S MOTION *IN LIMINE* TO PRECLUDE  
EVIDENCE OF, OR ARGUMENT ABOUT, OR REFERENCE TO  
CERTAIN INFORMATION REGARDING THE VICTIM**

Defendant Caesar Goodson, through his counsel, opposes the State's Motion *in Limine* to Preclude Evidence of, or Argument About, or Reference to Certain Information Regarding the Victim (the "Motion"). Evidence regarding Mr. Gray's past conduct and medical history is relevant and should be admissible in the trial of this case.

The State moved *in limine* to broadly preclude any reference to "Mr. Gray's criminal record, prior encounters with law enforcement or corrections officials, prior criminal cases and representation in those cases, prior hospitalizations, prior civil claims or settlements, and/or lead paint exposure as a child." State's Mot. at 1. The State argues that the introduction of such evidence will "confuse, mislead, and prejudice the jury." State's Mot. at 1. The State's Motion should be denied. Information about Mr. Gray's criminal record, prior encounters with law enforcement or corrections officials, and prior hospitalizations is relevant to the charges against Officer Goodson.

## A. Previous Injuries and Complaints

As set forth more fully in Officer Goodson's Motions for Subpoenas for Tangible Evidence Regarding Medical Records and Records of Incarceration, there is evidence that Mr. Gray may have had a previous back or spine injury, and that he had, on at least one prior occasion, engaged in self-injurious behavior while in custody.

On May 1, 2015, Sergeant John Herzog informed the State that he had met with Mr. Gray at Western District Headquarters and Mr. Gray had told police officers that, "I hurt my back," or "I have a bad back." *See Ex. 1* (Mem. of Sgt. Herzog).

In addition, Detective Dawnyell Taylor noted that on May 17, 2015, and again on May 22, 2015, the Police Department received anonymous tips that Mr. Gray had attempted to injure himself after being arrested and had to be restrained and disciplined for attempting to injure himself while in custody. *See Ex. 2*, Progress Report for Case 15H0086 (May 17, 2015 and May 22, 2015). Medical records and records of incarceration are likely to contain, or lead to the discovery of, additional admissible evidence about these issues.

Evidence that Mr. Gray had a pre-existing condition in his spine, faked injuries, and attempted to injure himself calls into question the reliability of any complaints he may have voiced during his arrest and transportation and makes it less probable that any act or omission by Officer Goodson had any causal role in Mr. Gray's death. *See Md. Rule 5-401*. Specifically, the State alleges that the failure to seat belt Mr. Gray led to an injury between Stops 2 and 4, and the failure to provide medical assistance once Mr. Gray said he was injured and asked for assistance, led to his death. *See Bill of*

Particulars. The Defendant disputes the State's charges. Therefore, the timing of, and manner in which, Mr. Gray's injury happened, and whether he was faking injury or otherwise lying about his need for medical attention at one or more times on the date in question, are "consequential fact[s]" in this case. *Smith v. State*, 423 Md. 573, 590 (2011). These facts are admissible (among other bases) as character evidence; to show directly that Mr. Gray acted in conformity with his habits; and to confront the State's witnesses. Md. Rules 5-404, 5-405, 5-406.

Similarly, information concerning a possible previous injury, not considered by the Office of the Chief Medical Examiner, may cast doubt on the findings in the autopsy report. The State articulates no reason for why the jury should not have all of the medical facts that may be relevant to Mr. Gray's injuries.

The State has not identified any particular danger of prejudice or confusion under Md. Rule 5-403, much less any unfair prejudice or confusion that significantly outweighs the probative value of the evidence. Evidence of Mr. Gray's character or habit for self-injurious behavior, or lying about his medical condition, tends to refute the State's theory of the case, but is only "prejudicial" to the State because of its great probative value, and not due to any unfairness. On the contrary, precluding evidence regarding the victim would be unfair to Officer Goodson, who has constitutional rights to due process, a fair trial, and to confront the witnesses against him, as well as the right to present relevant evidence on issues relating to his defense. In sum, the State's Motion sets forth no basis for its request to broadly preclude evidence that is so specifically relevant to the charges in this case.

