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CRIMINAL DIVISION

STATE OF MARYLAND

* IN THE

Plaintiff

* CIRCUIT COURT

v.

* FOR

CAESAR GOODSON

* BALTIMORE CITY

Defendant

* Case No. 115141032

* * * * *

**DEFENDANT CAESAR GOODSON'S OPPOSITION TO
THE STATE'S MOTION FOR CONTINUANCE**

Defendant Caesar Goodson ("Defendant" or "Officer Goodson"), through his counsel, opposes the State's Motion for Continuance Pending the Resolution by the Court of Special Appeals of the Motion for Injunction Pending Appeal by Officer William Porter or, in the Alternative, To Retry Officer William Porter's Pending Criminal Case Prior to the Trials of Those Cases in Which He Is a Subpoenaed Witness ("State's Motion"), for the reasons set forth below.

I. BACKGROUND

On May 21, 2015, Officer Goodson was indicted on charges relating to the death of Freddie Gray. The seven-count indictment charged Officer Goodson specifically with 1) Second Degree Depraved Heart Murder; 2) Involuntary Manslaughter; 3) Second Degree Assault; 4) Manslaughter by Motor Vehicle; 5) Criminally Negligent Manslaughter by Motor Vehicle; 6) Misconduct in Office; and 7) Reckless Endangerment.

On September 2, 2015, this Court granted the motion for severance filed by Officer Goodson and the other indicted officers. The Court directed the State to identify the order in which it wished to try the defendants, as well as the anticipated length of each trial. On that same day, the State indicated that it intended to try Officer Porter first.

On September 15, 2015, the State advised the Court in writing that it intended to try the defendants in the following order: Porter, Goodson, White, Miller, Nero, and Rice. The State represented to the Court that, "Defendant Porter is a necessary and material witness in the cases against Defendants Goodson and White, so it is imperative that Mr. Porter's trial takes place before their trials." Based on the State's litigation strategy (and perhaps the lack of independent evidence), the State concluded that Officer Porter's testimony was critical to its prosecution of Officer Goodson and Sergeant White. After consultation between the Court and all defense counsel, the trials of Officer Porter and Officer Goodson were scheduled for November 30, 2015 and January 6, 2016, respectively. It is reasonable to assume that before deciding upon the order in which it would call the six cases, the State reviewed Maryland law to determine whether Officer Porter could, in fact, be required to testify at the subsequent trials.

A. The State knew of Officer Porter's intention to quash the subpoena and file an appeal.

Prior to the start of the trial of Officer Porter, both of his attorneys had conversations with the State regarding his intention to assert his 5th Amendment privilege if called to testify in any subsequent trials.¹ As early as October 2015, Gary Proctor, Esq., advised the State that Officer Porter would be invoking his right not to testify in any trials other than perhaps his own. In November 2015, Joseph Murtha, Esq., had a conversation with the State, after meeting with the Court regarding the upcoming trial, and was told that the State would be subpoenaing Officer Porter for the trials of Officer Goodson and Sergeant White. In that same conversation, Mr. Murtha informed the State that Officer Porter would be moving to quash the subpoena on the grounds of his 5th Amendment privilege.

¹ Undersigned counsel has been advised that Messrs. Proctor and Murtha (counsel for Officer Porter) are prepared to execute affidavits should the Court find it necessary.

