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STATE OF MARYLAND

* IN THE

Plaintiff

* CIRCUIT COURT

DEC 15 2015

v.

* FOR

**Criminal Div.
Circuit Court For
Baltimore City**

CAESAR GOODSON

* BALTIMORE CITY

Defendant

* Case No. 115141032

* * * * *

DEFENDANT'S SECOND MOTION FOR RECONSIDERATION OF THE DENIAL OF MOTION FOR REMOVAL AND REQUEST FOR HEARING

Defendant Caesar Goodson, through his counsel, files this Second Motion for Reconsideration of the Denial of Motion for Removal and in support thereof states:

This Court has previously considered Defendant's Motion for Removal, and Defendant's Motion for Reconsideration of the Denial of the Motion for Removal.¹

Based on the publicity generated by the trial of *State v. Porter*, Officer Goodson renews his Motion for Removal, and Motion for Reconsideration of the previous denial. All of the reasons for the original motion and request for reconsideration remain, and are now compounded by the added publicity attendant to *State v. Porter*, and the news coverage of testimony during that trial relating to the role and alleged responsibilities of Officer Goodson.

"The Sixth Amendment secures to criminal defendants the right to trial by an impartial jury." *Skilling v. United States*, 561 U.S. 358, 377 (2010). This is an "extreme

¹ Officer Goodson incorporates his previous motion for removal, and his motion for reconsideration of the denial of the first motion.

case" where "*presumption of prejudice*" arises. *Id.* at 380-81. The *Skilling* factors mandate removal of this case.

The first *Skilling* factor examines the relative "size and characteristics of the community in which the crime occurred." In Baltimore City, the potentially untainted jury pool shrinks by the day as the small subset of the population eligible for service has been and continues to be bombarded by the constant media reports of Officer Porter's trial.

The second factor under *Skilling* is whether the substance of the media coverage contains "blatantly prejudicial information" that has been publicized, such that potential jurors "could not reasonably be expected to shut from sight." Much of the news coming out of Officer Porter's trial has concerned Officer Goodson. Since the beginning of Officer Porter's trial, potential jurors have been exposed to multiple live blogs and countless Twitter feeds exposing the public to a play-by-play of Officer Porter's trial. *See Officer William Porter Trial: Freddie Gray Case Live Coverage*, Baltimore Sun (last visited Dec. 14, 2015 6:33 PM)²; *Officer William G. Porter Trial Recaps: Days 1-10*, Baltimore Sun (last visited Dec. 14, 2014 7:23 PM).³ Local and national news outlets alike hang on every word of the case. *See* CBS-WJZ,⁴ NBC-WBAL,⁵ CNN,⁶ Fox News.⁷ Members of the media and the public debate legal theories in daily editorials and related

² http://live.baltimoresun.com/Event/Officer_William_Porter_trial_Freddie_Gray_case_live_coverage

³ <http://www.baltimoresun.com/news/maryland/freddie-gray/trials/>

⁴ <http://baltimore.cbslocal.com/freddie-gray-trial-in-baltimore/>

⁵ http://livewire.wbal.com/Event/Trial_of_Officer_William_Porter

⁶ <http://www.cnn.com/2015/12/15/us/baltimore-police-trial-freddie-gray/index.html>

⁷ <http://www.foxnews.com/us/2015/12/14/jury-to-hear-closing-arguments-in-baltimore-police-officer-trial-in-freddie/>

comments sections. *See, e.g.,* Ian Duncan, *William Porter Case Poses Rare Question: When Is Failing To Act a Crime?*, Baltimore Sun (Dec. 12, 2015).⁸ Officer Goodson has been on trial in the media before he has set foot in the courtroom.⁹ Thus, the remaining jury pool is further tainted by the onslaught of prejudicial information.

Under the third *Skilling* factor, this uninterrupted stream of media attention and the public demonstrations outside the courthouse show that, even a few months later, not enough time has passed between the alleged criminal activity and Officer Goodson's trial to accord him a fair trial in Baltimore City. The media coverage of *State v. Porter* has kept alive, on a daily basis, the statements and accounts of that day. *Id.* at 381-84. Now, on the eve of a verdict in Officer Porter's trial, the city is on edge. *See* Colin Campbell, *Baltimore Braces for Possibility of Unrest as Jury Deliberates Porter Verdict*, Baltimore Sun (Dec. 15, 2015).¹⁰ No matter what the outcome of Officer Porter's trial, Officer Goodson will face a jury pool who has endured multiple periods of strife in Baltimore in the approximately nine months since Mr. Gray's death. Regardless of individual prejudice or lack thereof, Baltimore jurors cannot help but connect Officer Goodson to the disorder in the city, and will be unable to judge him fairly.


Based on the foregoing, voir dire cannot sufficiently ensure a fair and impartial jury. Therefore, Officer Goodson renews his request that his trial be removed from

⁸ Available at <http://www.baltimoresun.com/news/maryland/freddie-gray/bs-md-ci-porter-analysis-20151212-story.html>.

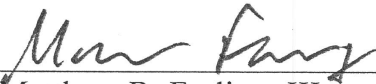
⁹ In contrast, Mr. Gray has been portrayed as a tragic hero figure. Catherine Rentz, *Freddie Gray Remembered as a Jokester who Struggled to Leave Drug Trade*, Baltimore Sun (Nov. 22, 2015), available at <http://www.baltimoresun.com/news/maryland/freddie-gray/bal-freddie-gray-remembered-as-jokester-who-struggled-to-leave-drug-trade-20151120-story.html>.

¹⁰ Available at <http://www.baltimoresun.com/news/maryland/freddie-gray/bs-md-porter-verdict-preparations-20151214-story.html>.

Baltimore City to a venue where he can be guaranteed his constitutional right to a fair trial.



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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December 2015, a copy of the foregoing Motion was sent by first class mail, postage prepaid to the following:

Michael Schatzow, Chief Deputy State's Attorney
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Andrew Jay Graham *nmg*

STATE OF MARYLAND

Plaintiff

v.

CAESAR GOODSON

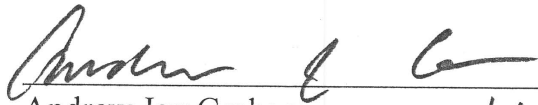
Defendant

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* * * * *

REQUEST FOR HEARING

Defendant Caesar Goodson respectfully requests a hearing on his Second Motion for Reconsideration of the Denial of Motion for Removal and Request for Hearing.



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