

RECEIVED FOR RECORD
CIRCUIT COURT FOR
BALTIMORE CITY

2015 DEC 29 P 1:47

STATE OF MARYLAND

v.

CAESAR GOODSON

* * * * *

IN THE
CIRCUIT COURT FOR
BALTIMORE CITY
CASE No. 115141032

STATE'S MOTION TO QUASH SUBPOENAS

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 pursuant to Rule 4-266(c) requests for the reasons which follow that this Court quash a deposition subpoena issued to the Custodian of Records for Central Booking on December 23, 2015, and also quash a hearing subpoena issued to Stephen Moyer on December 21, 2015:

1. On December 23, 2015, the Defendant, through his attorney, sent a signed subpoena and cover letter (attached as State's Exhibit 1) to the Custodian of Records for the Department of Detention and Corrections, Central Booking, compelling the Custodian's appearance at a deposition on December 30, 2015, at 9:00 a.m. at defense counsel's office. The subpoena further sought the production of "Original [*sic*], authenticated copies of ALL administrative, medical, and discipline records related to any period of incarceration of Freddie C. Gray DOB 8/16/89, CID #3080619 (including bed assignment, movement within facility, rejections due to medical issues)." State's Exhibit 1 at attached Subpoena. In a cover letter to the subpoena mailed to the Custodian, defense counsel wrote, "if you will deliver all of the requested records to our office by December 30, 2015, along with the completed Affidavit of Authenticity, you will be released from any obligation to appear pursuant to the Subpoena; otherwise, we will take

your deposition at that time.” State’s Exhibit 1 at 1. The letter also notes that in addition to the deposition subpoena, the Defendant has asked the Court to issue a subpoena for the same records. The letter does not inform the Custodian what type of subpoena the Defendant requested the Court to issue, but presumably the letter refers to the contemporaneously filed Motion for Revised Subpoena for Tangible Evidence Regarding Records for Incarceration made to Rule 4-264 but not yet granted.

2. Rule 4-261 governs depositions in criminal cases and permits a subpoena for a deposition only “[u]pon entry by the court of an order for a deposition or upon request pursuant to stipulation entered into” between the parties. Rule 4-261(d). In this case, the State has entered into no stipulation with the Defendant to take the Custodian’s deposition, nor has the Court entered an order for such a deposition. The Defendant’s subpoena, therefore, is patently improper, unduly burdensome, and an abuse of this Court’s writs. The deposition subpoena should be quashed accordingly.

3. Also on December 23, 2015, the Defendant, through his attorney, sent a hearing subpoena and cover letter (attached as State’s Exhibit 2) compelling Mr. Stephen Moyer, the Secretary of the Department of Public Safety and Correctional Services, or his Designee, to appear in the Circuit Court for Baltimore City at 9:00 a.m. on January 6, 2016. The subpoena bears an issue date of December 21, 2015, and compels Secretary Moyer or his Designee to testify and to produce “Original, authenticated copies of all administrative, medical, and disciplinary records related to any period of incarceration of Freddie C. Gray, DOB 8/16/89 (including base, housing and location files, bed assignment, movement within facility, and rejections regarding medical issues, etc.)”

State's Exhibit 2 at attached Subpoena. In a cover letter to Mr. Moyer enclosing this hearing subpoena, defense counsel wrote,

We have no desire to ask you any questions at this time. We are only interested in obtaining the requested records. Therefore, if you will deliver all of the requested records to our office by December 30, 2015, along with the completed Affidavit of Authenticity, you will be released from any obligation to appear pursuant to the Subpoena; otherwise, we will take your deposition at that time.

State's Exhibit 2 at 1. The letter further informs Mr. Moyer that the Defendant has asked the Court to issue a separate subpoena ordering the production of the same documents, apparently referring to the contemporaneously filed Motion for Revised Subpoena for Tangible Evidence Regarding Records for Incarceration made to Rule 4-264 but not yet granted.

4. Rule 4-264 provides a criminal defendant with the exclusive method of obtaining tangible documents before trial from a third party and plainly permits compelled production only of records "which may constitute or contain evidence relevant to the action." Rather than await the Court's ruling on his Motion for Revised Subpoena under Rule 4-264, the Defendant has attempted an end-run around the limits of pretrial discovery. Under the guise of a hearing subpoena issued under *Rule 4-265*, the Defendant has not only attempted to coerce Mr. Moyer on threat of deposition to produce documents prior to the January 6 hearing date but has also asked for a range of materials so broad and so lacking in any conceivable relevance that no order pursuant to Rule 4-264 would ever permit him to review them. Indeed, the Defendant's Motion for Revised Subpoena requests documents founded upon the need for information about Mr. Gray's past medical complaints and treatments, but the hearing subpoena compels, among other

