

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

things, disclosure of Mr. Gray's base file, which would cover information far beyond any medical records. *See* COMAR 12.02.07.01 (2015) (listing the many types of documents that are required to be maintained in an inmate's base file, including juvenile history, school records, victimization by other inmates, and social history). Moreover, the Defendant's hearing subpoena compels Mr. Moyer to appear and testify before this Court, but the Defendant's letter to Mr. Moyer states that the Defendant has no desire to ask any questions of Mr. Moyer, provided, of course, that he discloses the materials before the hearing date. Because of these abuses of this Court's judicial processes, the Defendant's hearing subpoena to Mr. Moyer should also be quashed as improper, oppressive, and unduly burdensome.

Wherefore, the State requests that this Court order that the deposition subpoena issued to the Custodian of Records for Central Booking on December 23, 2015, and the hearing subpoena issued to Stephen Moyer on December 21, 2015, be quashed for the reasons stated herein.

Respectfully submitted,

Marilyn J. Mosby

  
Michael Schatzow (#717876)  
Chief Deputy State's Attorney  
120 East Baltimore Street  
The SunTrust Bank Building  
Baltimore, Maryland 21202  
(443) 984-6011 (telephone)  
(443) 984-6256 (facsimile)  
[mschatzow@statorney.org](mailto:mschatzow@statorney.org)



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[mpillion@statorney.org](mailto:mpillion@statorney.org)

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December, 2015, a copy of the State's Motion to

Quash Subpoenas was mailed and e-mailed to:

Matthew B. Fraling, III  
Sean Malone  
Harris Jones & Malone, LLC  
2423 Maryland Avenue, Suite 100  
Baltimore, MD 21218  
(410) 366-1500  
[matthew.fraling@mdlobbyist.com](mailto:matthew.fraling@mdlobbyist.com)  
Attorneys for Officer Caesar Goodson

Andrew Jay Graham  
Amy E. Askew  
Kramon & Graham, P.A.  
1 South Street, Suite 2600  
Baltimore, MD 21202  
410-752-6030  
[AGraham@kg-law.com](mailto:AGraham@kg-law.com)  
Attorney for Officer Caesar Goodson

Respectfully submitted,

Marilyn J. Mosby



Janice L. Bledsoe (#68776)  
Deputy State's Attorney  
120 East Baltimore Street  
The SunTrust Bank Building  
Baltimore, Maryland 21202  
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(443) 984-6256 (facsimile)  
[jbledsoe@stattorney.org](mailto:jbledsoe@stattorney.org)

STATE OF MARYLAND

v.

CAESAR GOODSON

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\*  
\*  
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IN THE  
CIRCUIT COURT FOR  
BALTIMORE CITY  
CASE No. 115141032

**ORDER**

Having considered the State’s Motion to Quash Subpoenas issued to the Custodian of Records for Central Booking and to Stephen Moyer, for good cause shown, it is this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by the Circuit Court for Baltimore City

**ORDERED** that the State’s Motion to Quash Subpoenas be and hereby is **GRANTED**; and it is further

**ORDERED** that the deposition Subpoena issued to the Custodian of Records for Central Booking on December 23, 2015, be and hereby is **QUASHED**; and it is further

**ORDERED** that the hearing Subpoena issued to Stephen Moyer on December 21, 2015, be and hereby is **QUASHED**.

\_\_\_\_\_  
Judge  
Circuit Court for Baltimore City

LAW OFFICES  
KRAMON & GRAHAM, P.A.

ONE SOUTH STREET  
SUITE 2600

BALTIMORE, MARYLAND 21202-3201

TELEPHONE: (410) 752-6030  
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M. NATALIE MCSHERRY  
DIRECT DIAL  
(410) 319-0515

E-MAIL  
nmcsherry@kg-law.com  
DIRECT FACSIMILE  
(410) 361-8234

December 23, 2015

Via Hand Delivery

Custodian of Records  
Maryland Department of Detention & Correctional Services  
Central Booking  
400 E. Madison Street  
Baltimore, Maryland 21202

Re: *State v. Goodson*  
Criminal Case No. 115141032

Dear Sir/Madam:

Our firm represents the Defendant in the case referenced above. According to information received, the deceased, Freddie Carlos Gray, has been incarcerated on multiple occasions and in multiple facilities, and records of his incarceration are relevant in this case. For that reason, we have asked the Court to issue a Subpoena ordering the production of those documents to us, as indicated on the attached Subpoena.

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.

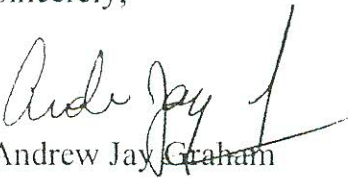
The attorney for the deceased's personal representative has accepted service of the required notice pursuant to Md. Code Ann., Health Gen. §§ 4-301 and 4-306. If you have any questions regarding this matter, please call me at the number noted above.





I very much appreciate your assistance in this matter.

Sincerely,



Andrew Jay Graham

Enclosures

cc: Amy E. Askew, Esquire  
Matthew B. Fraling, III, Esquire



**CIRCUIT COURT FOR BALTIMORE CITY**  
 100 N. Calvert Street, Baltimore, Maryland 21202  
 Phone: (410) 333-3722 Maryland Relay call: 711

Case No. 115141032

STATE OF MARYLAND  
 or

Plaintiff  
 TO: Custodian of Records  
 Name  
Dept. of Detention & Corrections, Central Booking  
 Address  
400 E. Madison Street  
 Address 2  
Baltimore, Maryland 21202  
 City, County, State, Zip

vs. Caesar Goodson  
 Defendant

Issue Date: 12/23/2015  
 Service Deadline: 60 days after Issue Date.

**SUBPOENA**

You are hereby compelled to appear at a  court proceeding  deposition at the following location:

Kramon & Graham, P.A., One South Street, 26th Floor  
 Address of court or other location  
Baltimore, Maryland 21202  
 City, State, Zip

On December 30, 2015 at 9:00  a.m. or  p.m.  
 Date Time

- To testify in the above case, and/or  
 To produce the following documents, items, and information, not privileged: Please see description below.

- To produce, permit inspection and copying of the following documents or other tangible items:  
Original, 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)

Defendant \_\_\_\_\_ requested issuance of this subpoena. Questions should be referred to:  
 Requested By Andrew Jay Graham, Kramon & Graham, P.A. Address One South Street, Suite 2600  
 Name \_\_\_\_\_ Address \_\_\_\_\_  
 Phone (410) 752-6030 City, State, Zip Baltimore, Maryland 21202  
 City, State, Zip \_\_\_\_\_

Special Message: \_\_\_\_\_

- If this subpoena compels the production of financial information, or information derived from financial records, the requestor of this subpoena hereby certifies having taken all necessary steps to comply with the requirements of Md. Code Ann., Fin. Inst. §1-304 and any other applicable law.  
 If this subpoena compels the production of medical records, the requestor of this subpoena hereby certifies having taken all necessary steps to comply with the requirements of Md. Code Ann., Health-Gen. §4-306 and any other applicable law.

*Lavinia G. Alexander*



**Lavinia G. Alexander, Clerk**  
**Circuit Court for Baltimore City**

**NOTICE:**

1. YOU ARE LIABLE TO BODY ATTACHMENT AND/OR FINE FOR FAILURE TO OBEY THIS SUBPOENA.
2. This subpoena is effective for the date and time stated and any subsequent dates as directed by the court.
3. If this subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate one or more persons who will testify on its behalf, pursuant to Rule 2-412(d).
4. Serving or attempting to serve a subpoena more than 60 days after the date of issuance is prohibited.

**RETURN OF SERVICE**

I certify that I delivered the original of this Subpoena to the following person(s): \_\_\_\_\_  
 on the following date: \_\_\_\_\_ by the following method (specified as required by Rule 2-126): \_\_\_\_\_

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Printed Name

STATE OF MARYLAND

\* IN THE

Plaintiff

\* CIRCUIT COURT

v.

\* FOR

CAESAR GOODSON

\* BALTIMORE CITY

Defendant

\* Case No. 115141032

\* \* \* \* \*

**AFFIDAVIT OF AUTHENTICATION OF RECORDS  
PURSUANT TO MARYLAND RULE 5-902(11)**

I HEREBY CERTIFY that I am a qualified individual in the employ of **Maryland Department of Detention & Correctional Services - Central Booking**. As part of my duties, I maintain medical records for the aforementioned concern. With respect to your request for medical records pertaining to: **Freddie Carlos Gray, DOB: 8/16/89;**

I further certify that the attached medical records (A) were made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters; (B) were made and kept in the course of the regularly conducted business activity; and (C) were made and kept by the regularly conducted business activity as a regular practice and that the medical records are trustworthy and are an accurate account with respect to the above referenced individual.

-OR-

I further certify that I have performed a thorough search of our medical record files and have found no records for the above referenced individual.

I SOLEMNLY SWEAR UNDER THE PENALTY OF PERJURY THAT THE CONTENT OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

\_\_\_\_\_  
Records Custodian (please print)

\_\_\_\_\_  
Records Custodian (signature)

\_\_\_\_\_  
Date

LAW OFFICES  
KRAMON & GRAHAM, P.A.

ONE SOUTH STREET  
SUITE 2600

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(410) 319-0515

E-MAIL  
nmcsherry@kg-law.com  
DIRECT FACSIMILE  
(410) 361-8234

December 23, 2015

Mr. Stephen Moyer, Secretary, DPSCS or Designee  
Maryland Department of Public Safety & Correctional Services  
115 Sudbrook Lane, Suite A  
Baltimore, Maryland 21208

Re: *State v. Goodson*  
Criminal Case No. 115141032

Dear Mr. Moyer:

Our firm represents the Defendant in the case referenced above. According to information received, the deceased, Freddie Carlos Gray, has been incarcerated on multiple occasions and in multiple facilities, and records of his incarceration are relevant in this case. For that reason, we have asked the Court to issue a Subpoena ordering the production of those documents to us, as indicated on the attached Subpoena.

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.

The attorney for the deceased's personal representative has accepted service of the required notice pursuant to Md. Code Ann., Health Gen. §§ 4-301 and 4-306. If you have any questions regarding this matter, please call me at the number noted above.



Custodian of Records  
Md. Dep't of Public Safety & Corrections  
December 23, 2015  
Page 2

I very much appreciate your assistance in this matter.

Sincerely,



Andrew Jay Graham

Enclosures

cc: Amy E. Askew, Esquire  
Matthew B. Fraling, III, Esquire



**CIRCUIT COURT FOR BALTIMORE CITY**  
 100 N. Calvert Street, Baltimore, Maryland 21202  
 Phone: (410) 333-3722 Maryland Relay call: 711

STATE OF MARYLAND  
 or

Case No. 115141032

Plaintiff  
 TO: Stephen Moyer, Secretary, DPSCS or Designee  
 Name  
Md. Dep't of Public Safety & Correctional Services  
 Address  
115 Sudbrook Lane, Suite A  
 Address 2  
Baltimore, Maryland 21208  
 City, County, State, Zip

vs. Caesar Goodson  
 Defendant  
 Issue Date: 12/21/2015  
 Service Deadline: 60 days after Issue Date.

**SUBPOENA**

You are hereby compelled to appear at a  court proceeding  deposition at the following location:

Circuit Court for Baltimore City  
 Address of court or other location  
Baltimore, Maryland 21202  
 City, State, Zip

On January 6, 2016 at 9:00  a.m. or  p.m.  
 Date Time

- To testify in the above case, and/or  
 To produce the following documents, items, and information, not privileged: \_\_\_\_\_

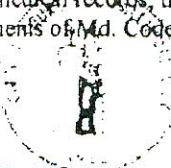
- To produce, permit inspection and copying of the following documents or other tangible items: Original, authenticated copies of all administrative, medical, and discipline records related to any period of incarceration of Freddie C. Gray, DOB: 8/16/89 (including base, housing and location files, bed assignment, movement within facility, and rejections regarding medical issues, etc.)

Defendant \_\_\_\_\_ requested issuance of this subpoena. Questions should be referred to:  
 Requested By  
Andrew Jay Graham, Kramon & Graham, P.A. One South Street, Suite 2600  
 Name Address  
(410) 752-6030 Baltimore, Maryland 21202  
 Phone City, State, Zip

Special Message: Documents should be produced to the Circuit Court for Baltimore City in sealed envelope on January 6, 2016

- If this subpoena compels the production of financial information, or information derived from financial records, the requestor of this subpoena hereby certifies having taken all necessary steps to comply with the requirements of Md. Code Ann., Fin. Inst. §1-304 and any other applicable law.  
 If this subpoena compels the production of medical records, the requestor of this subpoena hereby certifies having taken all necessary steps to comply with the requirements of Md. Code Ann., Health-Gen. §4-306 and any other applicable law.

*Lavinia G. Alexander*



**Lavinia G. Alexander, Clerk**  
**Circuit Court for Baltimore City**

**NOTICE:**

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4. Serving or attempting to serve a subpoena more than 60 days after the date of issuance is prohibited.

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 on the following date: \_\_\_\_\_ by the following method (specified as required by Rule 2-126): \_\_\_\_\_

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Printed Name

STATE OF MARYLAND

\* IN THE

Plaintiff

\* CIRCUIT COURT

v.

\* FOR

CAESAR GOODSON

\* BALTIMORE CITY

Defendant

\* Case No. 115141032

\* \* \* \* \*

**AFFIDAVIT OF AUTHENTICATION OF RECORDS  
PURSUANT TO MARYLAND RULE 5-902(11)**

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I further certify that the attached medical records (A) were made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters; (B) were made and kept in the course of the regularly conducted business activity; and (C) were made and kept by the regularly conducted business activity as a regular practice and that the medical records are trustworthy and are an accurate account with respect to the above referenced individual.

-OR-

I further certify that I have performed a thorough search of our medical record files and have found no records for the above referenced individual.



I SOLEMNLY SWEAR UNDER THE PENALTY OF PERJURY THAT THE  
CONTENT OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO  
THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

\_\_\_\_\_  
Records Custodian (please print)

\_\_\_\_\_  
Records Custodian (signature)

\_\_\_\_\_  
Date