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STATE OF MARYLAND

v.

CAESAR GOODSON

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CRIMINAL DIVISION

IN THE  
CIRCUIT COURT FOR  
BALTIMORE CITY  
CASE No. 115141032

**STATE'S RESPONSE TO DEFENDANT'S MOTION IN LIMINE REGARDING JUROR ISSUES**

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 responds herein to the Defendant's Motion In Limine Regarding Juror Issues.

**Introduction**

Many of the measures the Defendant seeks would fail to increase the likelihood of a fair trial but would succeed in making jury service so unnecessarily burdensome and frightening that few would not seek to avoid it. While actively discouraging jury service might serve the Defendant's removal motion, it serves no legitimate purpose. The State and the Defendant are entitled to have this case decided by a representative cross-section of eligible jurors, selected on the basis of their ability to be fair and impartial, and not on their willingness to endure needless privation and misery.

**A. The State agrees that jurors' names should remain anonymous, but the Defendant's request for a special instruction regarding juror anonymity is unnecessary**

The Defendant's first request regarding juror procedures asks this Court to give the venire members and jurors a special instruction both at the start and close of the trial that their

names will never be publicly revealed and that they may remain anonymous. The Defendant provides no authority supporting the notion that the Court could or should give such an instruction. Instead, he cites the bare existence of Rule 4-312(d)'s shielding provision and suggests that venire members and jurors should be informed accordingly that the provision has been invoked so that they become aware of the measures taken to protect their identities. Purportedly, such extraordinary measures would somehow make jurors more likely to follow their oaths to render a fair verdict.

While the State agrees that juror names should unquestionably remain anonymous and has no objection to the jurors' knowing that fact, the Defendant's proposed special instruction is unnecessary, if not counterproductive. Rule 4-312 already prohibits the use of venire members' and jurors' names and also bars the public dissemination of the jury list in *any* criminal case. The Rule plainly provides, "[i]n any proceeding conducted in the courtroom or in chambers, a juror shall be referred to by juror number and not by name." Rule 4-312(b)(2). Regarding the jury list that contains personal information, "a party and any other person to whom the jury list is provided . . . may not disseminate the list or the information contained on the list to any other person," "copies of jury lists shall be returned to the jury commissioner," and "a jury list is not part of the case record." Rule 4-312(c)(2)-(3).

When appropriate, the Court can also utilize the additional restrictions outlined in Rule 4-312(d)'s shielding provision if extensive publicity surrounding a case legitimately risks juror intimidation or harassment, but that provision is largely intended for situations where the *defendant* poses a risk to juror safety. *See* Committee Note following Rule 4-312(d)(4) ("When dealing with the issues of juror security or tampering, courts have considered a mix of five factors in deciding whether such information may be shielded: (1) the defendant's involvement in

organized crime, (2) the defendant's participation in a group with the capacity to harm jurors, (3) the defendant's past attempts to interfere with the judicial process, (4) the potential that, if convicted, the defendant will suffer a lengthy incarceration, and (5) extensive publicity that could enhance the possibility that jurors' names would become public and expose them to intimidation or harassment.”). In either situation, however, the Court must find “from clear and convincing evidence . . . that disclosure of the names . . . of prospective jurors will create a substantial danger that (i) the safety and security of one or more jurors will likely be imperiled, or (ii) one or more jurors will likely be subjected to coercion, inducement, other improper influence, or undue harassment.” Rule 4-312(d)(1). Not only has the Defendant so far provided nothing more than a bald suggestion of risk to justify his request, but, even if he meets his burden at some future hearing, the Rule still says nothing about crafting a special instruction to inform the jurors of any possible risk. Rather, such an instruction repeatedly emphasizing that jurors’ names will be screened from the outside world would serve only to *create* juror anxiety by openly placing the Court’s imprimatur on the idea that jurors might be subjected to intimidation or harassment. Accordingly, because Rule 4-312 already adequately protects venire members’ and jurors’ identities and because the Defendant has presented no evidence to even remotely support his assertions of juror safety concerns, his request for a special instruction should be denied. The State, however, agrees that jurors should remain anonymous and has no objection to jurors knowing their anonymity, provided that no great emphasis is placed on the fact of or need for anonymity.

