RECEIVED FOR RECORD
CIRCUIT COURT FOR
BALTIMORE CITY
2015 DEC 30 P 3:24
CRIMINAL DIVISION

STATE OF MARYLAND * IN THE
* CIRCUIT COURT FOR
v. * BALTIMORE CITY
* CASE No. 115141032
CAESAR GOODSON *
* * * * * * * * * * * * *

STATE'S RESPONSE TO DEFENDANT'S MOTION *IN LIMINE* TO PRECLUDE TESTIMONY AND EVIDENCE CONCERNING BALTIMORE POLICE DEPARTMENT GENERAL ORDERS AND POLICIES RELATED TO THE USE OF SEATBELTS IN POLICE VEHICLES

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* to Preclude Testimony and Evidence Concerning Baltimore Police Department General Orders and Policies Related to the Use of Seatbelts in Police Vehicles.

I. Baltimore Police Department general orders and policies relating to the use of seatbelts in police vehicles are admissible as evidence to show criminal negligence and so should not be excluded from trial

The Defendant insists that the State should not be permitted to present evidence of the Baltimore Police Department's general orders and polices concerning the use of seatbelts in police vehicles in support of the charges of second degree murder, involuntary manslaughter, manslaughter by motor vehicle, reckless battery, and reckless endangerment (he does not list the misconduct charge in this part of his argument). He submits that *Pagotto v. State*, 361 Md. 528 (2000), precludes such evidence on the basis of those orders and policies being "geographically unique" to Baltimore and, therefore, supposedly irrelevant as to the Defendant's criminal

negligence. Alternatively, the Defendant suggests that such evidence is inadmissible under Rule 5-403 as being substantially more prejudicial than relevant.

On the contrary, the Court of Appeals has instructed that "[i]n determining whether an accused's actions were grossly negligent or criminally reckless, the standard against which a defendant's conduct must be assessed is typically the conduct of an ordinarily prudent citizen similarly situated," but "where the accused is a police officer, the reasonableness of the conduct must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated." *State v. Albrecht*, 336 Md. 475, 501 (1994). In *Albrecht*, a Montgomery County police officer had been convicted of involuntary manslaughter and reckless endangerment stemming from his unintentional discharge of a departmental shotgun into the chest of an unarmed suspect, killing her almost instantly. *Id.* at 481-82. At trial, the officer argued that he had acted reasonably under the circumstances, testifying that he "felt fairly threatened, because [he] had two [] people who had just been involved in a serious incident and [he] was told there might be a gun in the [suspects'] car." *Id.* at 495. Despite the State's evidence to the contrary, he insisted that his actions violated no "policy, practice, or directive of the Montgomery County Police Department." *Id.* at 502.

The officer renewed this argument on appeal, and in assessing whether there was insufficient evidence to support Albrecht's convictions, the Court of Appeals weighed the reasonableness of the officer's conduct using the standards set forth in the Departmental Directives of the Montgomery County Police Department's Field Operations Manual. *Id.* at 502-03. Those Directives provided "that an officer may draw a firearm when the officer has reason to fear for his safety or the safety of others" but stated "that officers must use caution when discharging a firearm to avoid endangering the lives of bystanders" and "must exercise extreme