

informed counsel for Officer Porter that if he invoked his privilege against self-incrimination when called to testify as a witness against Defendant Goodson, then the State would request that the Court issue an order compelling Officer Porter to testify in consideration of a grant of use and derivative use immunity for his testimony pursuant to Section 9-123 of the Courts and Judicial Proceedings Article (“CJP” hereinafter). This Court scheduled a hearing for January 6, 2015, to consider that requested immunity order.

Seeking to avoid testifying at Defendant Goodson’s trial, Officer Porter’s January 4 Motion asks this Court to quash the trial subpoena served on him, asserting as grounds for such relief an array of arguments set forth in a 38-page pleading that reduces to two main points: (1) that Officer Porter cannot be compelled to testify even with use and derivative use immunity because of his privilege against self-incrimination and (2) that the State’s prior assertion during his trial that Officer Porter lied about certain facts under oath prevents the State from compelling his testimony because such testimony could subject him to perjury charges despite immunity or could otherwise affect the fairness of Defendant Goodson’s trial. Officer Porter’s Motion, while replete with rhetorical efforts and arguments relevant toward his retrial, fails to set forth any meritorious basis to quash his trial subpoena in the case involving Defendant Goodson. Consequently, his Motion should be denied.

II. Officer Porter has failed to claim any proper grounds to quash his trial subpoena under

Rule 4-266

Before assessing the many arguments set forth in Officer Porter’s Motion, the Court should consider those arguments that Officer Porter has *not* set forth—namely, any of the proper grounds to quash a subpoena as provided in Rule 4-266. Specifically, Rule 4-266(c) provides

that “[u]pon motion of . . . a person named in the subpoena . . . the court, for good cause shown, may enter an order which justice requires to protect the . . . person from annoyance, embarrassment, oppression, or undue burden or expense . . . including . . . [t]hat the subpoena be quashed.” The Court of Special Appeals, construing Rule 4-266’s substantively identical civil corollary, Rule 2-403, described that a person seeking to quash a subpoena by requesting

an order that will protect . . . a person from annoyance, embarrassment, oppression, or undue burden or expense . . . has the burden of making a particular and specific demonstration of fact, as distinguished from general, conclusory statements, revealing some injustice, prejudice, or consequential harm that will result if protection is denied. Even if the court agrees that some protection is necessary, a protective order is not a blanket authorization for the court to prohibit disclosure of information whenever it deems it advisable to do so, but is rather a grant of power to impose conditions on discovery in order to prevent injury, harassment, or abuse of the court’s processes.

Forensic Advisors, Inc. v. Matrixx Initiatives, Inc., 170 Md. App. 520, 530-31 (2006) (internal citations and quotations marks removed). Nowhere in Officer Porter’s Motion does he even cite Rule 4-266, much less particularly and specifically demonstrate how good cause exists to quash his trial subpoena based on annoyance, embarrassment, oppression, or undue burden or expense. At best (and as fully set forth below), his Motion presents an erroneous interpretation of the effect of an immunity order under CJP § 9-123 and a litany of speculative, conclusory assertions about the impact his compelled testimony may have on his future retrial or other criminal liability. As such, the Motion fails to set forth proper grounds for relief and should be denied.

III. CJP § 9-123 permits this Court to lawfully compel Officer Porter’s statement, notwithstanding his privilege against self-incrimination

Aside from failing to claim any grounds for relief recognized under Rule 4-266, Officer Porter’s Motion likewise fails to distinguish the settled legal principles underlying and embodied in CJP § 9-123: this Court’s order to compel his testimony upon the grant of use and derivative

