

RECEIVED

STATE OF MARYLAND

* IN THE

2015 SEP 11 AM 3:05

v.

* CIRCUIT COURT

CIRCUIT COURT
BALTIMORE CITY
CRIMINAL DIVISION

OFFICER EDWARD NERO

* FOR

Defendant

* BALTIMORE CITY

* CASE NO. 115141033

* * * * *

MOTION TO DISMISS FOR FAILURE TO CHARGE A CRIME

Defendant Officer Edward Nero, by respective undersigned counsel, hereby moves pursuant to Maryland Rule 4-252(d) to dismiss Count IV (Reckless Endangerment) for failure to charge a crime. In support thereof, Defendant states the following:

1. On May 21, 2015, a grand jury sitting in the Circuit Court for Baltimore City returned an indictment against the Defendant. The indictment included the following counts: Count I – Assault in the Second Degree; Count II – Misconduct in Office; Count III – Misconduct in Office; and Count IV – Reckless Endangerment.
2. On June 8, 2015, and in Response to Defendant’s Demand for Bill of Particulars, the State indicated that Count IV (reckless endangerment) was based solely on the Defendant’s failure to seatbelt Mr. Gray in a police transport van.
3. Reckless endangerment, based solely upon the alleged failure of a police officer to seatbelt a prisoner during transport, is not a crime in the State of Maryland. In support, Defendant incorporates by reference, as if fully stated herein, Defendant Lt. Brian Rice’s Motion to Dismiss for Failure to Charge a Crime.

WHEREFORE, Defendant respectfully requests this Honorable Court, pursuant to Maryland Rule 4-252(d), to dismiss Court IV (Reckless Endangerment) for failure to charge a crime.

Respectfully submitted,



Marc L. Zayon, Esquire
Roland Walker & Marc L. Zayon, P.A.
201 North Charles Street
Suite 1700
Baltimore, Maryland 21201
(410) 727-3710

Attorneys for the Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September, 2015, a copy of Defendant Officer Edward Nero's Motion to Dismiss for Failure to Charge a Crime was hand delivered to Janice Bledsoe, Deputy State's Attorney, Office of the State's Attorney for Baltimore City, 120 East Baltimore Street, 9th Floor Baltimore, Maryland 21202.



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REQUEST FOR HEARING

Defendant Officer Edward Nero respectfully requests a hearing on his Motion to Dismiss for Failure to Charge a Crime.



Marc L. Zayon, Esquire

STATE OF MARYLAND

v.

OFFICER EDWARD NERO

Defendant

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CIRCUIT COURT

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ORDER

Upon consideration of Defendant Officer Edward Nero's Motion to Dismiss for Failure to Charge a Crime, it is this _____ day of _____, 2015, pursuant to Maryland Rule 4-252(d), hereby **ORDERED** that the Defendant's Motion is **GRANTED**, and it is further **ORDERED** that Charge Number Four of Reckless Endangerment is **DISMISSED**.

Judge