

2016 FEB 10 P 2: 14

CRIMINAL DIVISION

STATE OF MARYLAND

\* IN THE

v.

\* CIRCUIT COURT FOR

\* BALTIMORE CITY

EDWARD NERO

\* Case No. 115141033

\* \* \* \* \*

**ORDER**

On September 15, 2015, the State notified this Court that it intended to try the above-captioned case and related cases in a certain order. The State indicated that the order was preferable because Officer William Porter was a material witness in the cases against Sergeant Alicia White and Officer Caesar Goodson. On December 16, 2015, Officer Porter's trial ended in a mistrial. His retrial is currently scheduled for June 13, 2016.

On January 7, 2016, this Court granted the State's Motion to Compel Officer Porter to testify in the *Goodson* and *White* trials. Officer Porter appealed this Court's decision and the *Goodson* and *White* trials are stayed pending a decision by the Court of Special Appeals.

Shortly after the *Goodson* and *White* trials were stayed, this Court notified all parties that it planned to proceed with the *Nero*, *Miller*, and *Rice* trials, with Nero's scheduled to begin on February 22, 2016. It was only then, four months after the State identified Officer Porter as a material witness in two other trials, and one month after Officer Porter's mistrial, that the State notified this Court, in a January 16, 2016 letter, that Officer Porter may be a material witness in the *Nero*, *Miller*, and *Rice* cases and that it wished to postpone all five cases until after Officer Porter's retrial. One of the reasons

the State requested the Court grant the postponement was so that the State could avoid a *Kastigar* hearing and the need to put together a “clean team.”

On January 20, 2016, this Court heard arguments on the State’s Motion to Compel the testimony of Officer Porter in the *Nero*, *Miller*, and *Rice* trials and denied the State’s motion. This Court found that the State was using Md. Code, Cts. & Jud. Proc. § 9-123 in an attempt to control the schedule and order of the trials and to circumvent this Court’s ruling that postponement in these cases was not appropriate.

This Court agrees that its role is not to impose its opinion upon the State’s determination that a witness’ testimony is in the public interest. This Court believes, however, that rather than become a rubber-stamp for the State’s Attorney, there should be a two-step process in granting immunity under § 9-123 when, and only when, the motives of the requesting party are called into question. The denial of the State’s motion to compel was not based upon an imposition of the Court’s opinion on the State’s determination that a witness’ testimony was in the public interest under § 9-123, but rather based upon the Court finding that the State’s motion was simply an attempt at subterfuge because they did not agree with the Court’s order to continue with the other trials. It is this action of the State that this Court found was not in the public interest.

For these reasons, this Court finds that its denial of the State's motion to compel was appropriate. Therefore, it is this 10<sup>th</sup> day of February, hereby

**ORDERED** that the State's Motion to Stay Proceedings Pending trial in the above-captioned case is **DENIED**.

**Judge Barry G. Williams**

Judge's Signature appears on the  
original document

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BARRY G. WILLIAMS  
JUDGE, CIRCUIT COURT FOR  
BALTIMORE CITY

Clerk, please mail copies to the following:

Marc Zayon, Attorney for Edward Nero

Janice Bledsoe, Deputy State's Attorney, Office of the State's Attorney for Baltimore  
City