

2016 FEB 16 P 3:41

STATE OF MARYLAND

\* IN THE  
CRIMINAL DIVISION CIRCUIT COURT FOR  
\* BALTIMORE CITY

v.

EDWARD NERO

\* CASE No. 115141033  
\*

\* \* \* \* \*

**STATE'S RESPONSE TO DEFENDANT'S MOTION *IN LIMINE* TO PRECLUDE  
REFERENCE TO OR ARGUMENT ABOUT MR. GRAY'S INITIAL DETENTION NOT  
BEING SUPPORTED BY REASONABLE SUSPICION, MR. GRAY'S ARREST NOT  
BEING SUPPORTED BY PROBABLE CAUSE, OR MR. GRAY'S SEIZURE NOT  
BEING OTHERWISE LEGALLY JUSTIFIED**

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 as follows to the Defendant's Motion *in Limine* to Preclude reference to or argument about Mr. Gray's initial detention not being supported by reasonable suspicion, Mr. Gray's arrest not being supported by probable cause, or Mr. Gray's seizure not being otherwise legally justified:

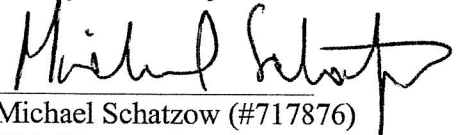
1. The Defendant's Motion *in Limine* seeks to exclude reference to or argument about Mr. Gray's initial detention not being supported by reasonable suspicion, Mr. Gray's arrest not being supported by probable cause, or Mr. Gray's seizure not being otherwise legally justified. In a bizarre display of circular reasoning and disregard for the fact-finding process, the sole basis on which the Defendant brings this Motion is "[b]ecause Defendant Officer Nero *had* legal authority to seize Mr. Gray throughout the encounter on April 12, 2015," or, alternatively, because "Defendant Officer Nero, as an assisting officer, acted in *reasonable reliance*" on the belief that other officers had such legal authority. Def. Motion at 1, 8 (emphasis supplied).

2. As fully set forth in the State's Response to the Defendant's Motion to Dismiss the assault charge against him (which the State incorporates as if fully stated in relevant part herein), central factual questions in this case will be whether the Defendant had legal authority or, alternatively, whether he acted in reasonable reliance on the belief that another officer had legal authority to detain Mr. Gray. Unlike a civil case or a criminal motion to suppress, these are matters that the finder of fact must decide at the conclusion of the evidence under the instructions this Court will provide as to the applicable law. Consequently, precluding the State from referencing or arguing about the Defendant's legal justification for his actions toward Mr. Gray would be tantamount to barring the State from prosecuting certain counts of the indictment in the first place. Legal justification is a proper question here for the finder of fact, not a matter for disposition in a pretrial motion.

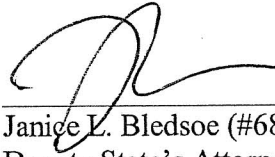
Wherefore, the State requests that this Court deny the Defendant's Motion in Limine to Preclude reference to or argument about Mr. Gray's initial detention not being supported by reasonable suspicion, Mr. Gray's arrest not being supported by probable cause, or Mr. Gray's seizure not being otherwise legally justified.

Respectfully submitted,

Marilyn J. Mosby



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of February, 2016, a copy of the foregoing State's Response to the Defendant's Motion *In Limine* to Preclude reference to or argument about Mr. Gray's initial detention not being supported by reasonable suspicion, Mr. Gray's arrest not being supported by probable cause, or Mr. Gray's seizure not being otherwise legally justified was mailed and e-mailed to:

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