

STATE OF MARYLAND

\* IN THE

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CIRCUIT COURT  
BALTIMORE CITY  
CRIMINAL DIVISION

\* CIRCUIT COURT

v.

\* FOR

OFFICER WILLIAM PORTER

\* BALTIMORE CITY

\* Case No.: 115141037

\* \* \* \* \*

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

Defendant, Officer William Porter, by undersigned counsel, pursuant to Maryland Rule 5-609, files this Motion in Limine to order the preclusion of any and all reference to or argument about Freddie Gray's initial detention not being supported by reasonable suspicion, Mr. Gray's arrest not being supported by probable cause, or Mr. Gray's arrest not being otherwise legally justified. In support, Defendant states the following:

The State may seek to introduce evidence and testimony as to Mr. Freddie Gray's initial detention and arrest on April 12, 2015. The State may also seek to make reference to or argue about the reasonable suspicion supporting that initial detention, when and what probable cause existed, or did not exist, to support Mr. Gray's arrest, and the overall legality of Mr. Gray's seizure by law enforcement. The decedent, Mr. Gray was briefly detained, then arrested by officers other than Defendant Officer Porter. The State does not allege, nor could it factually support, that Defendant Officer Porter was present at the point in which Mr. Gray was initially detained or at the point in which Mr. Gray was first arrested. Therefore, at the point of Defendant Officer Porter's interaction with Mr. Gray, Defendant Officer Porter would not have been aware nor would he have

been required to be aware of the totality of circumstances supporting Mr. Gray's detention or arrest.

MD. RULE 5-402 states that "evidence that is not relevant is not admissible." MD. RULE 5-401 defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." "Even reliable evidence is admissible only if it is relevant in the particular case, *i.e.*, if it has a tendency to make the existence of a fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." *State v. Smullen*, 380 Md. 233, 268 (2004). Because Defendant Officer Porter is not charged with any crime related to the legality of Mr. Gray's detention or arrest, evidence, testimony, and argument directed towards the legality of the arrest would not be relevant to the crimes for which Defendant Officer Porter stands accused. Moreover, MD. RULE 5-403 states that "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Even if evidence, testimony, and argument the Defendant is seeking to preclude in some small way made a fact that is of consequence to the determination of the crimes that the Defendant is charged with more or less probable, evidence and argument as to those issues would be certainly lead to "unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time."

In short, this motion should be granted under the same reasoning as the decision to sever the trials of the Defendant Officers. Evidence relevant to the determination of the innocence or guilt of one defendant may completely irrelevant to such determinations for another defendant. As

this Court has previously noted, there is no conspiracy charge in the case at bar, and thus said testimony would be inadmissible under MD. RULE 5-803(a)(5). Defendant Officer William Porter should be tried, and legally must be tried based upon his own actions, not those of any other officer or any other person.

WHEREFORE Defendant Officer William Porter respectfully requests this Honorable Court to order the preclusion of any and all reference to or argument about Freddie Gray's initial detention not being supported by reasonable suspicion, Mr. Gray's arrest not being supported by probable cause, or Mr. Gray's arrest not being otherwise legally justified.

Respectfully submitted,



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CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on the 26<sup>th</sup> day of October, 2015, a copy of the foregoing Motion was hand-delivered to Janice Bledsoe, Deputy State's Attorney for Baltimore City, 120 E. Baltimore Street, 9<sup>th</sup> Floor, Baltimore, Maryland 21202.

A handwritten signature in black ink, appearing to read "G. Proctor", is written over a horizontal line.

Gary E. Proctor