

RECEIVED FOR RECORD
CRIMINAL DIVISION
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ORIGINAL DIVISION

STATE OF MARYLAND

IN THE
CIRCUIT COURT FOR
BALTIMORE CITY

v.

WILLIAM PORTER

CASE No. 115141037

* * * * *

STATE'S RESPONSE TO DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE VIDEO EVIDENCE

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 Exclude Video Evidence:

1. The Defendant's Motion *in Limine* to Exclude Video Evidence simply attempts to extend the relief he sought in his earlier Motion *in Limine* to Preclude Testimony and Evidence Concerning Information Not Personally Known by Defendant Officer Porter Prior to His Interaction with Mr. Freddie Gray on April 12, 2015. Once again the Defendant misleadingly suggests that evidence—this time video—about Mr. Gray's arrest and placement into the transportation wagon should be excluded because the Defendant never "interacted" with Mr. Gray until the wagon stopped near the intersection of Dolphin St. and Druid Hill Ave after Mr. Gray's arrest.

2. On the contrary, the Defendant *did*, in fact, interact with Mr. Gray prior to this point in the chronology. One of the videos the Defendant seeks to exclude shows the Defendant at Mount St. and Baker St. standing mere feet away from the transportation wagon and watching as Mr. Gray is shackled and placed into the wagon. Whether Mr. Gray's

detention by police at that time was legal or illegal is unquestionably not relevant in the Defendant's case—the State has previously addressed this issue—but evidence proving what the Defendant observed during this early interaction clearly factors into the analysis of the reasonableness of the Defendant's later actions, including his failure to obtain medical assistance for Mr. Gray.

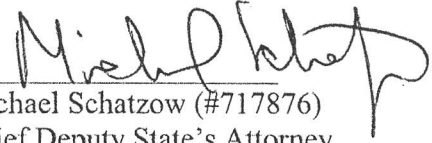
3. Moreover, given that the State's theory of the case is that Mr. Gray suffered a fatal spine injury in police custody during the transportation, evidence showing that Mr. Gray could lift his neck and walk on his own prior to Dolphin and Druid Hill is certainly relevant in considering the timing of the injury for purposes of proving causation for manslaughter. The jury must be able to see evidence that other police officers did not inflict the fatal injury on Mr. Gray during the arrest and placement into the wagon. Such evidence is precisely what is contained in the videos that the Defendant seeks to exclude.

4. Lastly, the Defendant avers that even if the video evidence is relevant, admitting four videos into evidence would be cumulative. The State only intends to offer two videos, one from Presbury St. and one from Baker St., which is the minimum number needed to prove necessary aspects of the State's case. Such evidence, therefore, would not be cumulative.

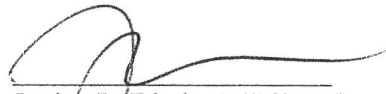
Wherefore, the State requests that this Court deny the Defendant's Motion in Limine to Exclude Video Evidence.

Respectfully submitted,

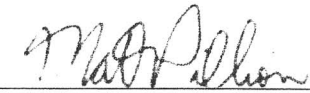
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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2015, a copy of the State's Response to the Defendant's Motion *In Limine* to Exclude Video Evidence was mailed and e-mailed to:

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Respectfully submitted,

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