STATE OF MARYLAND

2815 MOV*12 P 2: 43N THE

CIRCUIT COURT FOR BALTIMORE CITY

WILLIAM PORTER

ν.

CASE No. 115141037

STATE'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF, ARGUMENT ABOUT, OR REFERENCE TO IRRELEVANT OR INADMISSIBLE INFORMATION ABOUT THE VICTIM

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 pursuant to Rule 4-252(d) moves this Court *in limine* to issue a pretrial order precluding the Defendant in this case from offering evidence of, argument about, or reference to irrelevant or inadmissible information regarding the victim, Mr. Freddie Gray. In support of this Motion, the State submits the following:

1. Based on his counsel's prior actions and statements, the State has reason to believe that the Defendant will attempt at trial to offer evidence of, argument about, or reference to irrelevant or inadmissible information about the victim in this case in an attempt to confuse, mislead, and prejudice the jury. This offered information may cover such topics as Mr. Gray's criminal record, prior encounters with law enforcement or corrections officials, prior criminal cases and representation in those cases, prior hospitalizations, prior civil claims or settlements, and/or lead paint exposure as a child. All such information about Mr. Gray is not relevant to any legally consequential matter in this case.

- 2. "Evidence that is not relevant is not admissible" at trial. Rule 5-402. To be deemed relevant, the evidence must have a "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." Rule 5-401. A "consequential fact" is also called a "material proposition," and "[m]ateriality looks to the relation between the proposition for which the evidence is offered and the issues in the case." *Smith v. State*, 423 Md. 573, 590 (2011). Even when evidence is relevant, it "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury" Rule 5-403.
- 3. In this case, the issues that the jury will consider bear zero relation to the misleading, confusing, and prejudicial propositions for which the Defendant would offer evidence, argument, or reference to Mr. Gray's alleged criminal record, prior encounters with law enforcement or corrections officials, prior criminal cases and representation in those cases, prior hospitalizations, prior civil claims or settlements, and/or lead paint exposure as a child. Allowing the Defendant to offer information about any of these allegations would demonstrate no lesser probability that the Defendant's criminally negligent actions caused or risked Mr. Gray's injury or death or that the Defendant any less probably engaged in misconduct in office.

Wherefore, the State asks that this Court issue a pretrial order precluding the Defendant in this case from offering evidence of, argument about, or reference to irrelevant or inadmissible information regarding the victim, Mr. Freddie Gray, including but not limited to information about Mr. Gray's alleged criminal record, prior encounters with law enforcement or corrections

officials, prior criminal cases and representation in those cases, prior hospitalizations, prior civil claims or settlements, and/or lead paint exposure as a child.

Respectfully submitted,

Marilyn J. Mosby

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of November, 2015, a copy of the State's Motion *in Limine* to Preclude Evidence of, Argument about, or Reference to Irrelevant or Inadmissible Information Regarding the Victim was mailed and e-mailed to:

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