STATE OF MARYLAND	*	IN THE
v.	*	CIRCUIT COURT
LT. BRIAN RICE	*	FOR
Defendant	*	BALTIMORE CITY
	*	CASE NO. 115141035

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MOTION TO DISMISS FOR FAILURE TO CHARGE A CRIME

Defendant Lieutenant Brian Rice, by respective undersigned counsel, hereby moves pursuant to Maryland Rule 4-252(d) to dismiss Count V (Reckless Endangerment) for failure to charge a crime. In support thereof, Defendant states the following:

INTRODUCTION

Reckless endangerment, based solely upon the alleged failure of a police officer to seatbelt a prisoner during transport, is not a crime in the State of Maryland. Under Maryland law, the failure of a police officer to seatbelt a prisoner does not even constitute evidence of mere civil negligence, let alone the requisite gross criminal negligence needed to support a charge of reckless endangerment. Moreover, the failure of a police officer to seatbelt a prisoner has never been held to constitute criminal recklessness in any federal court in the country. To the contrary, every federal court to address the issue has held that the failure to seatbelt a prisoner, by itself, does not rise to the level of a constitutional violation.

In this case, the State is seeking to create criminal liability where none exists. By charging Defendant Lt. Rice with reckless endangerment solely for the failure to utilize a seatbelt, the State is creating a strict liability standard whereby any police officer, regardless of the outcome, is *per*