STATE OF MARYLAND	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
ALICIA WHITE	*	BALTIMORE CITY
Defendant	*	Case No. 115141036

* * * * * * * * * * * * *

2016 JAN 15 P 4:26

DEFENDANT'S MOTION FOR JURY QUESTIONNAIRE AND REQUEST FOR HEARING

Defendant, by undersigned counsel, respectfully requests, pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, Articles 16, 21, 23, 24, and 25 of the Maryland Declaration of Rights, and applicable federal and state law, that this Honorable Court allow the submission of a jury questionnaire to prospective jurors in sufficient time to allow counsel to receive the completed questionnaires at least one week prior to the commencement of trial, and in support thereof states the following:

1. Defendant is charged with manslaughter, second degree assault, reckless endangerment, misconduct in office, and related offenses in the above-captioned matter.

2. To ensure fairness and reliability in the fact finding and sentencing processes, it is vital that the information available to the prosecution and the defense concerning potential jurors is accurate and thorough. See, e.g., Coleman v. Kemp, 778 F.2d 1487, 1542 (11th Cir. 1985), cert. denied, 476 U.S. 1164 (1986) (voir dire procedures inadequate to uncover prejudice); Jordan v. Lippman, 763 F.2d 1265 (11th Cir. 1985) (jury selection procedures must be adequate to unearth prejudice; failure to expose potential prejudice of jurors requires reversal of conviction); Casey v. Roman Catholic Arch., 217 Md. 595, 605, 143 A.2d 627, 631 (1958) (defendants have a *right* to have voir dire questions propounded to prospective jurors which are directed to a specific cause

for disqualification, and failure to allow such questions constitutes reversible error).

5. The best avenue to achieve accurate and thorough information from prospective jurors is to submit private and sensitive voir dire questions to prospective jurors in the form of a jury questionnaire, in the form attached as **Exhibit A**.[1] A questionnaire submitted to the prospective jurors will inquire, among other things, into the attitudes of the prospective jurors with regard any biases a prospective juror may hold. Given the sensitive nature of these subjects, prospective jurors are more likely to answer fully and truthfully when asked privately about their views, via a questionnaire, as opposed to openly in court before a group of strangers, or before the Court and its officers. Exposing one's personal beliefs in an uninvited open forum is intimidating to a courtroom novice especially when the information requested from the prospective juror is highly personal and opinionated in nature.

6. Additionally, use of a questionnaire allows a prospective juror an adequate opportunity to reflect on very personal and complex issues. Not only does the use of a questionnaire permit prospective jurors to expend considerable time thinking about and formulating meaningful responses to the written questions posed, but prospective jurors who are pre-exposed to questions regarding their feelings and beliefs through questionnaires are more likely to give thoughtful, honest, and reflective answers to oral questions posed to them during the voir dire process.

---

[1] Defendant has requested the submission of a jury questionnaire to prospective jurors in sufficient time to allow counsel to receive the completed questionnaires at least one week prior to the commencement of trial. To submit the questionnaire but fail to give counsel adequate time to review the prospective jurors' responses would impinge on Defendant's ability to effectively use the questionnaires, and thus, would result in a denial of due process and a risk that an impartial jury would not be empaneled.

7. In Turner v. Murray, 476 U.S. 28, 35, 106 S. Ct. 1683, 1688, 90 L.Ed.2d 27 (1986), the United States Supreme Court held that the trial court's refusal to allow certain voir dire questions [relating to race] required reversal of a death sentence. However, the risk of empaneling a biased jury is not resolved merely by including race related voir dire questions. As noted by Justice Douglas in Ham v. South Carolina, 409 U.S. 524, 93 S. Ct. 848, 35 L.Ed.2d 46 (1973) (Douglas, J. concurring in part and dissenting in part):

> It is unquestioned that a defendant has the constitutional right to a trial by a neutral and impartial jury. Criminal convictions have been reversed when the limitations on voir dire have unreasonably infringed the exercise of this right. Aldridge v. United States, 283 U.S. 308, 51 S. Ct. 470, 75 L.Ed. 1054. Such reversals have not been limited to incidents where the defendant was precluded from inquiring into possible racial prejudice. . . . In Aldridge v. United States, supra, 283 U.S. 308, at 313, 51 S. Ct. 470, at 472, 75 L.Ed. 1054, this Court made it clear that voir dire aimed at disclosing 'prejudices of a serious character' must be allowed.

409 U.S. at 529, 93 S. Ct. at 851-52 (Douglas, J. concurring in part and dissenting in part). See also id., at 531-32, 93 S. Ct. at 853 (Marshall, J. concurring in part and dissenting in part) ("We have never suggested that this right to impartiality and fairness protects against only certain classes of prejudice or extends to only certain groups in the population. It makes little difference to a criminal defendant whether the jury has prejudged him because of the color of his skin or because of the length of his hair.").

8. In light of the serious charges against Sergeant White, and the political and social issues at play, it is of prime importance to determine the total extent of biases and feelings of the prospective jurors regarding race, class, and other relevant issues raised in the case. Accordingly, voir dire questions aimed at exposing a juror's beliefs regarding law enforcement, race, class, and social issues must be carefully propounded.

9. The United States Supreme Court in Morgan recognized that while the Constitution

does not dictate a procedure for voir dire, part of the guarantee of a defendant's right to an impartial jury is affording the defendant an adequate voir dire to identify unqualified jurors. Morgan, 504 U.S. at 729, 112 S. Ct. at 2230. The Court specifically stated:

> '[v]*oir dire* plays a critical function in assuring the criminal defendant that his [constitutional] right to an impartial jury will be honored. Without an adequate *voir dire* the trial judge's responsibility to remove prospective jurors who will not be able to impartially follow the court's instructions and evaluate the evidence cannot be fulfilled.' Hence 'the exercise of [the trial court's] discretion, and the restrictions upon inquiries at the request of counsel, [are] subject to the essential demands of fairness.'

Id. at 729-30. 112 S. Ct. at 2230 (citations omitted). An adequate voir dire in a case of this magnitude calls for the use of a juror questionnaire in order to guarantee a defendant his constitutional right to an impartial jury.

11. Moreover, specific meaningful questions presented in a personal manner, such as in a pre-trial questionnaire, may reveal biases that the prospective juror does not even recognize as an impediment to jury service. This very situation was recognized by the United States Supreme Court in Morgan wherein the Court noted that "a juror could, in good conscience, swear to uphold the law," but nevertheless be unaware that his preexisting beliefs "would prevent him or her from doing so. A defendant on trial for his life must be permitted on *voir dire* to ascertain whether his prospective jurors function under such misconception. Morgan, 504 U.S. at 735-36, 112 S. Ct. at 2233 (regarding the death penalty).

12. A jury questionnaire will provide information necessary to ensure that no improper bias or prejudice undermine Defendant's rights to a fair trial. The benefit derived from the use of a jury questionnaire far outweighs any burden which may result from the employment of such a questionnaire in Defendant's case. Chief Justice Hughes, over 60 years ago, acknowledged that protection of Defendant's constitutionally protected right to an impartial jury must outweigh any

burden incurred as a result of exercising this constitutional right. Chief Justice Hughes stated: "it would be far more injurious to permit it to be thought that persons entertaining a disqualifying prejudice were allowed to serve as jurors and that inquiries designed to elicit the fact of disqualification were barred. No surer way could be devised to bring the processes of justice into disrepute." Aldridge v. United States, 283 U.S. 308, 315, 51 S. Ct. 470, 473, 75 L.Ed. 1054 (1931).

13. For these reasons and for further reasons to be stated at a hearing on this Motion, Defendant's Motion for Jury Questionnaire should be granted.

WHEREFORE, Defendant respectfully requests:

A. That a hearing be held on this Motion;

B. That this Court allow submission of the jury questionnaire attached as Exhibit A to prospective jurors in sufficient time to allow counsel to receive completed questionnaires at least one week prior to the commencement of trial; and

C. That this Court grant such additional relief as the nature of this case may require.

Ivan J. Bates, Esq.
Tony N. Garcia, Esq.
Mary M. Lloyd, Esq.
Bates & Garcia, LLC
Attorneys at Law
201 N. Charles Street, Suite 1900
Baltimore, Maryland 21201

REQUEST FOR A HEARING

Defendant Sergeant White respectfully requests a hearing on his Motion for Jury Questionnaire.

Ivan J. Bates, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January 2016, a copy of the foregoing paper was mailed, first-class postage prepaid to:

Michael Schatzow, Chief Deputy State's Attorney
Office of the State's Attorney for Baltimore City
120 East Baltimore Street
Baltimore, Maryland 21202

_____
Ivan J. Bates

STATE OF MARYLAND	*	IN THE
Plaintiff	*	CIRCUIT COURT
v.	*	FOR
ALICIA WHITE	*	BALTIMORE CITY
Defendant	*	Case No. 115141036

* * * * * * * * * * * *

PROPOSED JUROR QUESTIONNAIRE

This proposed questionnaire supplements general voir dire that will be separately submitted to this Honorable Court.

GENERAL INFORMATION

1. Juror Badge Number _____ Age _____ Sex_____ Race_____

2. Birthplace _____ Where were you raised? _____

3. Single Married__ Divorced __Separated __ Widowed __ Living with another _____

4. City or area of residence (not actual address/zip code) _____

5. Years there? _____Own or rent? _____ How long in Baltimore City? _____

6. Do you have friends or relatives that live in Baltimore City? _____ If yes, explain ____

_____

7. What do you like best about your neighborhood? _____

_____

8. What do you like least about your neighborhood? _____

_____

EMPLOYMENT

9. What is your current employment status? _____

10. If you are employed outside the home:

    a. Your present employer _____

    b. Your job title and duties _____

_____

c. How long have you had this job? _____

11. If retired or disabled, what was your occupation? _____

12. Have you ever owned your own business? If yes, explain _____

_____

HOUSEHOLD

13. What is the education of your spouse or significant other? _____

14. 14. Do you have children? _____ If yes, please state the age, sex, and occupation/education status for each child _____

_____

15. How many persons live with you? _____

16. For other adult members of your household, please state their relationship to you and their occupations _____

_____

EDUCATION

17. Did you attend high school in Baltimore City? ___ If yes, did you graduate and if so, when did you graduate? _____ If no, did you receive a GED? _____

18. Did you attend College? _____If yes, please answer the following questions:

a. Name of school _____

b. Years attended _____

c. Major Degree(s) _____

19. Did you attend Postgraduate School? _____ If yes, please answer the following questions

a. Name of school _____

b. Years attended _____

c. Field of study Degree(s) _____

20. Professional or vocational training _____

21. Have you received training in law enforcement, the law, or the court system? _____

If yes, please explain _____

22. Do you plan to attend school in the future? _____If yes, explain _____

_____

23. Have you had training or education in psychology, psychiatry, or counseling? _____

If yes, explain _____

MILITARY SERVICE

24. Have you ever served in the military? _____ If yes, explain _____

Your rank and duties Combat experience? _____

Were you ever in the military police? ___ If yes, explain _____

POLITICAL, RELIGIOUS AND OTHER AFFILIATIONS

25. Are you registered to vote? _____

26. Are you involved or active in a political party or politics in general? _____

If yes, explain _____

27. If you participate in any religion, will your religious principles affect your ability to serve as a juror? ___ If yes, please explain _____

28. Please list all civic, political, fraternal, charitable organizations with which you are affiliated _____

_____

29. Have you or anyone close to you ever participated in any crime prevention, victims' rights or civil rights groups or organizations? __ If yes, please explain _____

_____

30. Have you or any members of your family or close friends been involved with any organization to combat crime or help victims of crimes, such as Neighborhood Watch, The Stephanie Roper Committee, Operation Identification, Mothers Against Drunk

Driving, Marylander's For Handgun Control, or similar organizations? ____ If yes, please explain _____

31. Have you or any members of your family or close friends ever belonged, to or contributed, money to any special interest organizations such as Amnesty International, American Civil Liberties Union, Handgun Control, Incorporated, National Rifle Association, or NAACP? _____

32. Have you or any members of your family or close friends ever contributed money to the political campaign for State's Attorney Marilyn Mosby? _____

CASE SPECIFIC QUESTIONS

33. Do you have concerns about sitting as a member of this jury? __ If yes, please explain _____

34. Has anyone spoken to you about sitting as a member of this jury? _____ If yes, please explain _____

35. Do you own property in Baltimore City? __ If yes, do you have strong feelings about how the verdict in this case could affect your property and/or your property value? _____

_____

36. Do you own a business in Baltimore City? _____ If yes, was your business affected by the weeklong curfew and/or the civil unrest following the death of Freddie Gray? ____

_____

37. Do you have strong feelings about how the verdict in this case could affect your business and/or financial livelihood? _____

38. The City of Baltimore announced a civil settlement for the Gray family as a result of Freddie Gray's death. Do you have knowledge of this civil settlement? _____

39. Does knowledge of this civil settlement affect your ability to listen to evidence presented in the criminal case arising out of the same incident from which the settlement arose? _____

40. Because there is a civil settlement, do you believe the Baltimore City Police Officer charged in the criminal case is guilty? _____

41. Do you understand there is a difference between a civil settlement and this pending criminal case against Caesar Goodson? _____

42. Do you have an opinion about the civil settlement? _____

43. Do you have strong feelings about the civil settlement such that you believe the amount paid by the city was too much, not enough, or appropriate? _____ If yes, explain _____

44. Did you know about the civil settlement prior to today? _ If yes, did you form any opinions about this criminal case prior to being picked as a member of this jury pool? ___

_____

45. Were you, a relative, or close friend involved in the civil unrest and/or the peaceful protests which followed the death of Freddie Gray? ___ If yes, do you have strong feelings about the way in which law enforcement interacted with those involved in the protests? _____

46. Were you, a relative, or close friend involved in the "Black Lives Matter" movement? _____ If yes, do you have strong feelings about the way in which that movement is affected by the death of Freddie Gray and/or the way in which the death of Freddie Gray affected that movement? _____

47. Do you believe that the way in which the State's attorney's office handled the charges directly affected the decrease in civil unrest/riots/protests? ___ If yes, please explain ____

_____

48. Were you, a relative, or close friend affected, as either a victim or witness, by the spike in violence in Baltimore City following the death of Freddie Gray? __ If yes, did you report the criminal activity to law enforcement? __ Were you satisfied with the Baltimore City Police Department response? _____

49. Have you, a relative, or close friend been the victim of police brutality? _____ If yes, please explain _____

Did you, a relative, or close friend file a complaint or internal affairs complaint arising out of the incident? _____ If yes, were you satisfied with the way in which law enforcement handled the complaint or report? _____

50. Do you believe that race affects the likelihood of someone being a victim of police brutality? ___ Do you believe that the Baltimore City Police Department treats black citizens different than white citizens? _____

51. Do you have strong feelings about police brutality? _____

52. Do you have an opinion about what should be the verdict in this case? _____

PRE-TRIAL PUBLICITY

54. Have you heard, read, or seen any information relating to these events? _____ If yes, please tell us what this information is, and the source _____

_____

55. Have you formed any impressions or opinions that would influence your ability to be fair to both sides in this case? ____ If yes, please explain _____

_____

56. If you have formed impressions or opinions about this case, can you set them aside and decide the case based solely on the evidence presented in court? _____ If no, please explain _____

57. Have you seen, heard or read anything about the Baltimore City Police Department or the Baltimore City Police Department's response to this case? _____ If yes, please explain _____

59. Please describe the extent to which you are familiar with the area of Sandtown, Gilmor Homes and/or Pennsylvania and North Avenue in Baltimore City _____

_____

CRIMINAL JUSTICE SYSTEM

53. Have you, friends, or relatives ever worked for any law enforcement agency, or any security agency including a police department, a sheriff's office, the state police, a border patrol agency, the FBI, or any law enforcement agency? _____ If yes, please state who, when, and what agency _____

54. Have you ever considered working in law enforcement? _____ If yes, please

explain _____

55. Have you, friends, or relatives ever been employed by any prosecutor's office or any Attorney General's Office? _____ If yes, please explain _____

CRIME VICTIMS/CHARGES

56. Have you or anyone close to you ever been the victim of a crime or witness to a crime? _____

If yes, explain _____

If you contacted the police, were you satisfied with the police response? _____

_____

57. Have you, friends or relatives ever been involved in confrontation with a law enforcement officer? _____

58. Have you, friends or relatives ever been arrested by a Baltimore City Police Officer? _____ If yes, have you been placed in a transport vehicle (either van or patrol type vehicle)? _____

59. Have you or anyone close to you ever been accused of, arrested, or prosecuted for a crime? _____ If yes, explain _____

What was the outcome? _____ Were you satisfied? _____

60. What is your opinion of the level of criminal activity in Baltimore City? _____

_____

61. Do you think or believe that the death of Freddie Gray is directly related to the increase of criminal activity in Baltimore City? _____ Despite this belief, do you believe you can render a fair and impartial verdict? _____

62. Do you believe police officers lie? _____ If yes, why? _____

_____

LEGAL PRINCIPLES

63. Do you understand the charges are not evidence? _____

64. Do you understand the defendant is entitled to the presumption of innocence? _____

65. Do you understand the State is required to prove the guilt of the defendant? _____

66. Do you understand the State must prove the case beyond a reasonable doubt? _____

67. Do you understand the defendant is not required to prove he is innocent? _____

68. Do you understand the defendant has a constitutional right not to testify and that as a juror you would not be permitted to make any inference from a defendant's decision not to testify in his own defense? _____

69. Do you agree to follow these principles and apply them in this case? _____

70. Do you have any questions about these principles? _____ If yes, explain _____

_____

EXPERIENCES WITH LAW ENFORCEMENT

71. Have you ever had any positive experience(s) with Baltimore City police officers or other law enforcement agents? ___ If yes, please explain _____

72. Have you ever had any negative experience(s) with Baltimore City police officers or other law enforcement agents? ___ If yes, please explain _____

_____

73. Have you ever witnessed the police use force on someone? ____ If yes, please explain _____

a. Did you feel the police officer(s) acted appropriately? ____ If no, pleaseexplain

_____

b. Did you believe the force was necessary? ___ Please explain _____

_____

74. Have you ever seen a police officer act inappropriately? _____ If yes, please explain _____

75. Have you or any close friend or relative ever been mistreated by the police? _____ If yes, please explain _____

a. Describe what happened _____

b. Was the incident reported to officials? _____

c. Was anyone prosecuted or disciplined? _____Please explain _____

_____

76. Have you ever filed a complaint about a police officer? _____ If yes, please explain _____

77. Do you have any knowledge of police procedures or methods from any source? ____ If yes, please explain _____

78. Do you personally know anyone who was killed while in police custody? _____

_____

79. Do you have any associations with law enforcement that will make it difficult for you to serve as a juror for this case? ____ If yes, please explain _____

_____

80. Do you have any feelings about the prosecution of police officers who are charged with committing crimes? _____ If yes, please explain _____

_____

81. Should police officers be treated differently than civilians if they break the law? ____ If yes, please explain _____

82. Do you believe that because the defendant was a police officer and is now charged with a crime, that he is probably guilty? Yes __ No __ Maybe _____ Don't Know _____

ATTITUDES REGARDING RACE

83. Defendant Caesar Goodson is African American. The alleged victim, Freddie Gray, was African-American. Can you judge this case fairly without consideration of the race of the persons involved? _____ If no, please explain _____

_____

84. Do you believe police officers tend to treat criminal suspects differently in low income neighborhoods than they do in middle or high income neighborhoods? ___ If yes, please explain _____

85. Do you believe it is more dangerous for police officers to work in low income neighborhoods than it is for them to work in middle or high income neighborhoods? ____ Please explain _____

JURY DUTY

86. Would you like to serve on **this** jury? _____ Why? _____

87. Have you ever served on a jury? ___ How many times? _____

For each case state: the type of case (civil or criminal), the year, the nature of the case, and if there was a verdict _____

_____

88. If you are selected as a juror in this case, do you anticipate any negative reactions by friends or family if you find the defendant not guilty? _____ If you find the defendant guilty? _____ If yes to either question, please explain _____

89. Have you formed any opinion about the guilt or innocence of Caesar Goodson? ____ If yes, please explain _____

90. Is there anything you would like to bring to the Court's attention that might affect or ability to be a fair and impartial juror in this case? ____ If yes, please explain _____

_____

MISCELLANEOUS

91. What newspapers, web sites, periodicals or magazines do you read on a regular basis? _____

92. What television and radio programs do you watch or listen to regularly? _____

_____

93. What types of books do you read? _____

94. List any subject matter or genre in reading materials, television programs or movies that you try to avoid _____

95. How often do you watch television shows involving the police, crime, or justice? ___

_____

96. How often do you follow the news on crime on the radio, TV, internet or newspapers? _____

97. Please identify the most important sources of news for you:

Newspaper _ TV _ Radio _____ Internet ____ Magazines _____ Friends/Family ___

98. Have you written a letter to an editor? ____ If yes, what was it about? _____

_____

99. What hobbies/activities do you enjoy in your spare time (now or in the past)? _____

_____

100. Do you consider yourself an expert on any subject? ____ If yes, please explain ____

_____