

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

STATE OF MARYLAND

vs.

Case Number:  
115141032

CAESAR GOODSON,

DEFENDANT.

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REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS  
(Trial on the Merits - Verdict)

Baltimore, Maryland

Thursday, June 23, 2016

BEFORE:

HONORABLE BARRY G. WILLIAMS, Associate Judge

APPEARANCES:

For the State:

JANICE BLEDSOE, ESQUIRE  
MICHAEL SCHATZOW, ESQUIRE  
MATTHEW PILLION, ESQUIRE  
JOHN BUTLER, ESQUIRE  
SARAH AKHTAR, ESQUIRE

For the Defendant:

MATTHEW B. FRALING, III, ESQUIRE  
JUSTIN A. REDD, ESQUIRE  
ANDREW J. GRAHAM, ESQUIRE  
AMY E. ASKEW, ESQUIRE

\* Proceedings Digitally Recorded \*

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T A B L E   O F   C O N T E N T S

	P a g e
The Court's Ruling (Not Guilty)	3

1                                    P R O C E E D I N G S

2                                    ( 10:07:45 a.m.)

3                    THE CLERK: All rise. The Circuit Court for  
4 Baltimore City, Part 31, will start the morning session.  
5 The Honorable Barry G. Williams presiding.

6                    THE COURT: Good morning. You may be seated.  
7 Call the case, please.

8                    MR. SCHATZOW: Good morning, Your Honor. This  
9 is the case of the State of Maryland versus Caesar  
10 Goodson. Case number 115141032. Mike Schatzow appearing  
11 on behalf of the State together with Deputy State's  
12 Attorney, Janice Bledsoe and Assistant State's Attorneys  
13 Matthew Pillion, John Butler and Sarah Akhtar. Also with  
14 us on this side of the railing, Your Honor, our law  
15 clerk, Michael Fiarenso.

16                   THE COURT: Good morning.

17                   MR. SCHATZOW: Good morning, Your Honor.

18                   MR. GRAHAM: Good morning, Your Honor. Andrew  
19 Graham for Officer Goodson along with Matthew Fraling,  
20 Amy Askew and Justin Redd.

21                   THE COURT: Good morning.

22                   MR. GRAHAM: Good morning.

23                   THE COURT: Excuse me, one second.

24                                    (Pause in proceedings.)

25                   THE COURT: All right. In this matter, the

1 State has charged the defendant with murder, which  
2 includes second-degree depraved-heart murder; and  
3 involuntary manslaughter, grossly negligent act; assault;  
4 manslaughter by motor vehicle, grossly negligent driving;  
5 criminally negligent manslaughter; misconduct in office,  
6 by corruptly failing to do an act that is required by the  
7 duties of his office; and reckless endangerment.

8 Second-degree murder is the killing of another  
9 person while acting with an extreme disregard for human  
10 life. In order to convict the defendant of second-degree  
11 murder, the State must prove that the defendant caused  
12 the death of Freddie Gray; that the defendant's conduct  
13 created a very high degree of risk to the life of Freddie  
14 Gray; and that the defendant, conscious of such risk,  
15 acted with extreme disregard of the life endangering  
16 consequences.

17 To secure a conviction for the crime of  
18 involuntary manslaughter, the State must prove that the  
19 defendant acted in a grossly negligent manner and that  
20 this grossly negligent conduct caused the death of Freddy  
21 Gray. Grossly negligent means that the defendant, while  
22 aware of the risk, acted in a manner that created a high  
23 risk to, and showed a reckless disregard for, human life.

24 To secure a conviction for the crime of  
25 assault, the State must prove that the defendant caused

1 physical harm to Freddie Gray; that the contact was the  
2 result of an intentional or reckless act of the defendant  
3 and was not accidental; and that the contact was not  
4 legally justified.

5 To secure a conviction for the crime of  
6 manslaughter by motor vehicle, grossly negligent driving,  
7 the State must prove that the defendant drove a motor  
8 vehicle; that the defendant drove in a grossly negligent  
9 manner; and that this grossly negligent driving caused  
10 the death of Freddie Gray.

11 A driver's conduct is grossly negligent if he  
12 drives a motor vehicle in a way that creates a high  
13 degree of risk to, and shows a reckless disregard for,  
14 human life, and the driver is aware that his driving has  
15 created that risk.

16 To secure a conviction for criminally negligent  
17 manslaughter, the State must prove that the defendant  
18 drove a motor vehicle; that the defendant drove in a  
19 criminally negligent manner; and that this criminally  
20 negligent driving caused the death of Freddie Gray.

21 Criminally negligent means that the defendant  
22 should have been aware but failed to perceive that his  
23 manner of driving created a substantial and unjustifiable  
24 risk to human life. This failure to perceive the risks  
25 must have been a gross departure from the conduct of a

1 reasonable person under similar circumstances. Simple  
2 carelessness is insufficient to establish defendant's  
3 guilt.

4 To secure a conviction for the crime of  
5 misconduct in office, the State must prove that the  
6 defendant was a public officer; that the defendant acted  
7 in his official capacity; and that the defendant  
8 corruptly failed to do an act required by the duties of  
9 his office.

10 For this count, the State alleges that the  
11 defendant failed to ensure the safety of Freddie Gray, a  
12 detainee in the defendant's custody in his capacity as a  
13 police officer, by failing to secure Mr. Gray with a  
14 seatbelt during the process of Mr. Gray being transported  
15 in a police vehicle and by failing to provide Mr. Gray  
16 with appropriate medical care.

17 Finally, to secure a conviction for the crime  
18 of reckless endangerment, the State must prove that the  
19 defendant engaged in conduct that created a substantial  
20 risk of death or serious physical injury to another; that  
21 a reasonable person would not have engaged in that  
22 conduct and that the defendant acted recklessly.

23 The State has the burden of proving, beyond a  
24 reasonable doubt, each and every element of the crimes  
25 charged. If the State fails to meet that burden for any

1 element of a crime, the law compels acquittal with  
2 respect to that crime.

3 As the trier of fact, the Court has heard the  
4 closing arguments of counsel; read all relevant case law,  
5 rules, and statutes; reviewed all of the exhibits, some  
6 multiple times; and reviewed the Court's notes on the  
7 trial testimony of every witness. If a particular  
8 witness or exhibit is not mentioned in the Court's  
9 decision, it is not for lack of review. It is simply  
10 that the Court cannot mention every item.

11 The Court is aware of its role as the trier of  
12 fact in a criminal case. This Court has been called upon  
13 to determine if the alleged actions or inactions of the  
14 defendant rise to the level of criminal conduct, noting  
15 that the standard for gross negligence or criminal  
16 negligence is higher than that of the standard for simple  
17 civil negligence.

18 In order to properly assess the charges, the  
19 Court does find it helpful to go over certain facts and  
20 evidence.

21 Baltimore Police Department General order K-14  
22 requires whenever a member of the agency takes a person  
23 into custody that the member, when necessary, ensures  
24 that medical treatment for a prisoner is obtained. It  
25 also requires that an arrestee be secured with seat belts

1 when provided. An officer is vested with discretion to  
2 evaluate whether to seat belt an arrestee so not to place  
3 the officer in any danger.

4 The defendant is charged in certain counts with  
5 failing to provide appropriate medical care. In order to  
6 prove the required standard of criminal conduct, the  
7 State's burden was to show not only that Mr. Gray was in  
8 need of medical care, but that the defendant was aware  
9 that Mr. Gray had a need for medical care, and when Mr.  
10 Gray had a need for medical care.

11 The objective need for immediate medical  
12 treatment or care, retrospectively, was obvious at stop 6  
13 and, at that point, medical treatment was sought. The  
14 critical questions are whether, prior to stop 6 and after  
15 stop 2, were there sufficient indicators that an average  
16 officer in the position of the defendant would have known  
17 to seek medical treatment pursuant to K14 for Mr. Gray  
18 and, if so, whether the failure of the defendant to get  
19 treatment for Mr. Gray rose to the high level of  
20 negligence such that the defendant is criminally  
21 culpable.

22 In order to make this decision, the Court has  
23 reviewed all exhibits and testimony, including but  
24 limited to that of William Porter and the medical  
25 experts.



1                   During his testimony, Porter stated that when  
2                   he arrived at stop 4, he did not ask the defendant any  
3                   questions about why he was there. The defendant opened  
4                   the doors to where Mr. Gray was located and stood to  
5                   Porter's right. Mr. Gray was on the floor on his  
6                   stomach, feet to the rear, head to the front. Porter  
7                   said, "What's up?" And Mr. Gray responded by saying,  
8                   "Help." Porter said, "What do you need help with?" And  
9                   the response was, "Help me up."

10                  Based on this exchange, Porter, with the  
11                  assistance of Mr. Gray, placed Mr. Gray on the bench. At  
12                  that time, Mr. Gray was sitting on the bench, feet on the  
13                  floor. The Court will note that the information  
14                  concerning assistance by Mr. Gray was not given to  
15                  investigators during Porter's interview, but Porter  
16                  testified that he was never asked if Mr. Gray assisted  
17                  him.

18                  Porter describes Mr. Gray as calm and  
19                  lethargic, and when he asked him if he wanted to go the  
20                  hospital, Mr. Gray said, "Yes." Porter got out of the  
21                  van without seatbelting Mr. Gray.

22                  When Porter saw Mr. Gray at stop 5, he was  
23                  kneeling on the floor, leaning on the bench, facing  
24                  forward. He again asked Mr. Gray if he wanted to go to  
25                  the hospital, and the response was the same.

1           At stop 4 and 5, Porter did not see blood,  
2           contusions, nor did he smell feces. Gray's breathing  
3           pattern was normal.

4           At trial, Porter stated that after talking with  
5           Mr. Gray at stop 4, he told the defendant that he didn't  
6           think that Mr. Gray was going to pass booking, and they  
7           should take him to the hospital. The defendant agreed.  
8           Porter left without further discussion.

9           During cross-examination, Porter made it clear  
10          that the purpose of telling the defendant about going to  
11          the hospital was not to convey his belief that Mr. Gray  
12          was in medical distress. In fact, he stated that he did  
13          not believe, based on his observations of Mr. Gray at  
14          stop 4 and 5, that Gray was in need of immediate medical  
15          attention, nor was he in medical distress. Porter did  
16          not equate being lethargic with being in medical distress  
17          and at no point before stop 6, did he see a need for  
18          medical treatment.

19          Porter's information and impressions concerning  
20          the need for medical treatment at stops 4 and 5 are  
21          relevant for this analysis, because, depending on what  
22          was communicated to the defendant, it may go to the state  
23          of mind of the defendant at the time of the incident.

24          If Porter did not believe that Mr. Gray was in  
25          medical distress, then it strains credibility to believe

1       that he communicated anything to the defendant indicating  
2       a need. And since there is no evidence to show that the  
3       defendant spoke to Mr. Gray, the Court must, to some  
4       degree, rely on the testimony of Porter.

5               The State argues that it was obvious that Mr.  
6       Gray was in need of medical care. This was based on  
7       Porter's interactions with Mr. Gray at Stop 4 and 5  
8       where, after Porter asked Gray if he, "Wanted to go to  
9       the hospital," Gray said, "Yes."

10              If this was the standard, then every time one  
11       officer told another that a transportee wanted to go to  
12       the hospital, and was not transported, the person who  
13       failed to transport could be charged with a crime. There  
14       must be more than a failure to transport after being told  
15       of an interest in going to the hospital for the Court to  
16       find criminal conduct in the failure to secure medical  
17       treatment.

18              This Court is satisfied that the State has  
19       failed to show that Porter provided sufficient  
20       information to the defendant to prove that the defendant  
21       was aware, or should have been aware of, that Mr. Gray  
22       was in need of immediate medical care. But, of course,  
23       that is not the end of the analysis.

24              Of course, the Court must then look to see  
25       whether, based on the medical testimony, the defendant

1 was aware, or should have been aware, of the need for  
2 immediate medical care. For that, the Court will assess  
3 the testimony of the medical experts and note at the  
4 outset that all four doctors agreed that Mr. Gray  
5 sustained his injuries at the 4th and 5th vertebrae with  
6 the 4th displaced forward over the 5th. His spinal cord  
7 was compressed, and there was damage to the vertebral  
8 arteries with significant ligament damage.

9 Doctor Carol Allen, who testified during the  
10 State's presentation of evidence, was the medical  
11 examiner who performed the autopsy on Mr. Gray. Doctor  
12 Allen concluded that the cause of death was neck injury  
13 and manner of death was homicide. She also concluded  
14 that most likely the injury occurred between stops 2 and  
15 4. Doctor Morris Soriano, a neurosurgeon who testified  
16 on behalf of the state, opined that the injury occurred  
17 between stops 2 through 4. Both experts opined that the  
18 injuries were of the nature that symptoms could occur  
19 over time, and that the injuries were not of a nature  
20 that would have prohibited Mr. Gray from talking and  
21 moving his head and shoulders.

22 Doctor Jonathon Arden, a forensic pathologist  
23 and Dr. Joel Winer, a neurosurgeon, testified for the  
24 defense and concluded that, based on their review of the  
25 testimony and evidence, that the injuries were

1 catastrophic and likely occurred sometime after stop 5.

2 Doctor Arden considered the manner of death an  
3 accident because there was no evidence that the injury  
4 was inflicted by the volitional act of another person.  
5 He stated that, based on the injuries, the lower part of  
6 the body would be paralyzed and mobility diminished in  
7 the upper body.

8 He opined the injuries had to have occurred  
9 after stop 5 and before stop 6 because of the positioning  
10 of Mr. Gray at stop 4 and his ability to use his legs to  
11 get up on the bench. He notes that at stop 6 there was  
12 fresh fluid on Mr. Gray's face; he was not breathing; and  
13 there was the odor of feces that did not present until  
14 after stop 5. He noted that once Mr. Gray had the neck  
15 injury, he would have experienced paralysis, difficulty  
16 breathing, and incontinence. Dr. Arden opined that if  
17 Mr. Gray was talking and able to use his legs at all at  
18 stop 4, Mr. Gray could not have had the injury at stop 4.

19 Doctor Winer opined that the injuries occurred  
20 suddenly and instantaneously, would have required a  
21 significant amount of force, and most likely occurred  
22 after stop 5. He noted numerous injuries and stated that  
23 the ligaments are not connected to the muscles. They are  
24 for stability, and they hold the spinal cord. There are  
25 three, and Mr. Gray had injury to all three. With this

1 type of injury, Mr. Gray would not have control over head  
2 or neck movement and would not be able to hold his head  
3 upright.

4 According to Doctor Winer, the opinion of Dr.  
5 Soriano that Mr. Gray, or any individual who had that  
6 type of injury to the three ligaments, would be able to  
7 manipulate his neck due to other muscles that exist is  
8 inconsistent and incompatible with human anatomy or  
9 function.

10 Based on all of this medical information, the  
11 Court is presented with a number of equally plausible  
12 scenarios.

13 Scenario one, injury occurred after stop 2 but  
14 some time before the defendant made the right turn at  
15 Riggs and Fremont. When the defendant left stop 2, Mr.  
16 Gray had been placed prone on the floor. The fact that  
17 he was heard yelling and kicking before leaving stop 2  
18 leads the State to argue that Mr. Gray must have stood up  
19 at some point. That is certainly possible.

20 What is important to note is that, wherever the  
21 injuries occurred, according to the State's own  
22 witnesses, they were not complete; and, therefore, Mr.  
23 Gray could still talk, breath, move his shoulders, and  
24 possibly his limbs. There has been no evidence presented  
25 that the defendant knew or should have known of the

1       distress Mr. Gray may have been in at that time.

2               The Court notes that, according to Dr. Allan,  
3       the injury likely did not occur when Mr. Gray was in a  
4       prone position because the injury to the left side of the  
5       back of his head, which likely led to the neck injury,  
6       probably could not have happened while he was on the  
7       floor.

8               Scenario two, injury occurred after the right  
9       turn at Riggs and Fremont and prior to stop 3. The State  
10      alleges that before the defendant turned, he failed to  
11      come to a complete stop, and made a wide right turn. The  
12      State has argued that this is likely where the injury  
13      occurred. There is no evidence as to the position Mr.  
14      Gray was in at stop 3 when the defendant stopped on  
15      Fremont and went to the back of the van. The evidence  
16      does show that after this stop, at 8:59:51, the defendant  
17      called for assistance, and Porter showed up at stop 4.

18              Scenario 3, injury occurred after stop 3 but  
19      prior to stop 4. At stop 4, we have the testimony from  
20      Porter stating that Mr. Gray was on the floor in a prone  
21      position that was consistent with the position he was in  
22      at stop 2. Certainly, there is the possibility that Mr.  
23      Gray stood up at some point between stops 2 and 3 and  
24      fell down in the same position.

25              The Court notes that this is a confined area

1 and that there are a finite number of ways that a person  
2 could end up while on the floor, but again the evidence  
3 shows that he was in a similar position. Porter was able  
4 to place Mr. Gray on the bench, and the only evidence the  
5 Court was presented with was that Mr. Gray was able to  
6 maintain the seated position.

7 The Court has already noted that the testimony  
8 was Mr. Gray was talking and moving on his own. This  
9 leads the defense experts to note that the injury could  
10 not have occurred at this point and for the State's  
11 experts to say that it could have happened because there  
12 may be a slower onset of full paralysis and quadriplegia.  
13 The State's experts offer that Mr. Gray would still be  
14 able to speak and move his head due to secondary muscles.  
15 Again, no evidence was presented that the defendant knew  
16 or should have known of the acute distress Mr. Gray may  
17 have been in at that time.

18 Scenario 4, injury occurred after stop 4 but  
19 prior to stop 5. At stop 5, Mr. Gray is found on his  
20 knees, facing forward and slumped over, leaning on the  
21 bench. Again, there is evidence that he was talking and  
22 turning his head and breathing. There was no evidence  
23 presented at this or any of the previous stops that there  
24 was any blood, lacerations, or observable trauma to Mr.  
25 Gray. Porter stated that Mr. Gray, when prompted, still



1 wanted to go to the hospital. It was, according to  
2 Porter, a normal conversation.

3 This, again, according to the State's expert,  
4 is entirely consistent with the injury occurring earlier  
5 because the secondary muscles are working to keep the  
6 head and shoulders moving, and the spinal cord has been  
7 compressed, but there is not necessarily a complete  
8 shutdown. Again, the State presented no evidence that  
9 the defendant knew or should have known of the acute  
10 distress Mr. Gray may have been in at that time.

11 Scenario 5, injury occurred after stop 5 but  
12 before stop 6. All experts agree that by the time Mr.  
13 Gray is seen at the western district, stop 6, the  
14 traumatic injuries have occurred, and there are obvious  
15 outward symptoms. The testimony is that he was in the  
16 same or similar position from stop 5 but, at this time,  
17 was unconscious, not breathing, and had blood and sputum  
18 on his upper lip. At this point, officers sought medical  
19 assistance.

20 When asked about her opinion as to how or why  
21 the injury occurred, Doctor Allan stated: "Since there  
22 are no witnesses or a camera inside the van, there's no  
23 objective evidence inside the van about how it occurred.  
24 Since I was presenting my opinion as to when it occurred  
25 in the sequence of events, I have to offer the

1 possibilities. I can't say that one or the other is  
2 true, because there isn't any evidence of it. But based  
3 on the medical condition or the condition as described at  
4 each stop that it was describable, and the fact of --  
5 that this particular type of injury he sustained, Mr.  
6 Gray, and that there's only a few ways that that can  
7 happen, I offered those possibilities in my opinion as to  
8 what may have occurred. There's no way, as I said --  
9 there's not a camera in the van, so we don't know exactly  
10 how it happened. But this injury could have occurred in  
11 any one of those ways. We don't have any evidence one  
12 way or the other," end quote.

13           Unlike in a shooting or stabbing, where there  
14 is usually blood or an obvious injury to the body, or a  
15 car accident where the person is removed from the vehicle  
16 complaining of observable injuries or has a dislocated  
17 arm or leg that is at an obviously different angle, this  
18 injury manifested itself internally. The Court notes the  
19 dispute between the medical experts concerning degree of  
20 injury and whether symptoms would manifest themselves  
21 immediately or not. That is one of the key issues here.  
22 If the doctors are not clear as to what would be  
23 happening at this point in time, how would the average  
24 person or officer without medical training know? Not one  
25 medical expert indicated that the type of injury Mr. Gray

1 suffered was one that would have any outward physical  
2 manifestations that, before stop 6, would have alerted  
3 the average officer to the fact that Mr. Gray was in  
4 medical distress.

5 This Court is constrained by the law to base  
6 its decisions on the facts presented in Court. While  
7 certainly possible, the evidence presented at this trial,  
8 even if looking at only the State's witnesses, does not  
9 lead this Court to the conclusion that the State has  
10 proven beyond a reasonable doubt that Mr. Gray was in  
11 need of medical treatment between stops 2 and 5 and that  
12 the defendant, or an officer similarly situated, would  
13 have or should have known that Mr. Gray was necessarily  
14 in need of medical treatment at stops 2 through 5.

15 The Court next looks to see if any of the  
16 actions or inactions of the defendant lends themselves to  
17 the "rough ride" theory posited by the State. While the  
18 State has argued that it is not required to prove a  
19 "rough ride," the State used the term in its opening  
20 statement as the center piece of its argument that the  
21 defendant is criminally responsible for the injuries to  
22 Mr. Gray due to the "rough" ride. The term "rough ride"  
23 is an inflammatory term of art first requiring definition  
24 and then observable evidence that it occurred. When  
25 uttered, it is not to be taken lightly for, at a minimum,

1       it means there are actions and intent on the part of the  
2       individual driving the vehicle.

3               According to Exhibit 31, the KGA tape, the  
4       defendant clears Mount and Baker, which is known as stop  
5       2, at 8:53:59. State's Exhibit 36 is a video which  
6       purports to show the defendant running a stop sign at  
7       Riggs and Fremont at approximately 8:56:50 in the  
8       morning. The Court reviewed the video approximately 15  
9       times to assess every aspect of it to see whether one  
10      could determine that the defendant actually ran the stop  
11      sign.

12             To assist with that determination, the Court  
13      also viewed Exhibit 37, which is a series of still  
14      pictures that show a larger and broader view of the area.  
15      D and E are notable because it is clear that a driver  
16      coming from the direction of the defendant has an  
17      unobstructed view of traffic on their left for almost a  
18      block before one would reach the corner.

19             While Exhibit 73 shows the view from Riggs  
20      looking to Fremont, it does not help to determine where  
21      the defendant may or may not have come to a stop.  
22      Furthermore, the view presented in the video does not  
23      show the entire block so it is impossible to know whether  
24      the defendant stopped before he came into view. The  
25      Court notes that there was no excessive speed presented

1 in the video. As far as the turn into the other lane,  
2 the Court did note that there was a van on the right side  
3 of the road and no traffic coming toward the defendant.  
4 The Court cannot conclude that the defendant ran the stop  
5 sign at the intersection of Riggs and Fremont.

6 Exhibit 36 also shows what is considered stop 3  
7 where the defendant pulls over, gets out, goes to the  
8 back of the van, and comes back and gets in and pulls  
9 off. He is at the back of the van for fewer than 11  
10 seconds, gets back in the van, and calls for a unit at  
11 8:59:51. He wants the unit to meet him at Druid Hill and  
12 Dolphin, which becomes what is considered stop 4, to  
13 check out the prisoner. Porter responded to the call.

14 Earlier, the Court went into depth concerning  
15 the interaction with Porter, Mr. Gray, and the defendant.

16 At 9:07:19, there is a call for a wagon to 1600  
17 North Avenue, and the defendant responds by saying "Hang  
18 on, I'm gonna have to turn around and come back up  
19 there." He arrives at what again has been referred to as  
20 stop 5. The Court earlier outlined the interaction at  
21 this stop.

22 At 9:15:41, the defendant states that he is at  
23 North and Pennsy headed to the District with two males on  
24 board, and he arrives at the Western district at 9:18:40  
25 for the final stop.

1           The actions, inactions, and interactions, and  
2           observations between stops 2 and 6 are the sum total of  
3           all the evidence that has been presented to the Court to  
4           make the determination that the defendant intended to  
5           give Mr. Gray a "rough ride." Of course, in order to  
6           show a rough ride, there must be evidence.

7           Seemingly, the State wants this Court to simply  
8           assume that because Mr. Gray was injured, and the  
9           defendant failed to seat belt him after stop 2, allegedly  
10          ran a stop sign, and made a wide right turn, that the  
11          Defendant intentionally gave Mr. Gray a rough ride. As  
12          the trier of fact, the Court cannot simply let things  
13          speak for themselves.

14          A thorough review of all of the State's  
15          witnesses shows that not one was able to state a  
16          definition of a rough ride with the exception of Mr.  
17          O'Neill, who indicated his opinion of what a rough ride  
18          was, but was unsure if one occurred here. The  
19          investigator for the police department, Officer Boyd  
20          indicated that after his review of all of the evidence,  
21          he did not see any indication of a rough ride.

22          The State argued in closing that, by failing to  
23          seat belt Mr. Gray and then driving, the defendant knew  
24          what would happen, and that he intended for Mr. Gray to  
25          be injured, but possibly not to the degree Mr. Gray was

1       injured.

2               This Court finds no evidence that was presented  
3       that would support that specific argument. There was no  
4       evidence presented of any animosity between the defendant  
5       and Mr. Gray. In fact, the State did not present  
6       evidence that they even knew each other. As the State  
7       has pointed out repeatedly, there was no evidence that  
8       Mr. Gray bit, kicked, spit, or attacked any of the  
9       officers. In short, the State presented no evidence that  
10      the defendant had a reason to specifically intend Mr.  
11      Gray.

12              The State argued that it was likely the injury  
13      occurred when the defendant turned on to Fremont, and the  
14      evidence of that is that the defendant stopped just  
15      seconds after turning. It is possible that right after  
16      making the turn with the intent to injure Mr. Gray, the  
17      defendant stopped, went to the back of the van, got back  
18      in, and called for a check on his prisoner because Mr.  
19      Gray was more injured than intended. The Court notes  
20      that few, again, that fewer than 11 seconds at the back  
21      of the van is an insufficient period of time to determine  
22      that Mr. Gray was injured, much less injured more than  
23      intended.

24              The Court acknowledges the injuries to Mr. Gray  
25      and notes that they occurred while he was in police

1 custody in the back of the van that the defendant was  
2 driving. However, the Court finds that there is  
3 insufficient evidence that the defendant gave or intended  
4 to give Mr. Gray a "rough ride."

5 Finally, there is the duty to seat belt  
6 detainees. General Order K-14 imposes upon officers a  
7 duty to ensure that detainees are secured with seat belts  
8 provided. However, an officer does have the discretion  
9 to not seat belt if there is a safety concern.

10 This Court is satisfied that the defendant, who  
11 is a Field Training Officer and had been handed a copy of  
12 K-14 in October of 2014 by officer Burke, was aware of  
13 the duty to seat belt detainees in a transport wagon.  
14 The Court also heard evidence from the law enforcement  
15 experts that there is a level of discretion when it comes  
16 to seatbelting detainees, and that the assessment  
17 required by K-14 could come from personal observations or  
18 from information from other officers.

19 Against these factual findings, the Court can  
20 assess the charges and will add facts as they become  
21 appropriate and necessary to the individual charges.

22 Again, the defendant is charged with the crime  
23 of second-degree depraved-heart murder.

24 In order to convict the defendant of second-  
25 degree murder, the State must prove that the defendant



1 caused the death of Mr. Freddie Gray; that the  
2 defendant's conduct created a very high degree of risk to  
3 the life of Freddie Gray; and that the defendant,  
4 conscious of such risk, acted with extreme disregard of  
5 the life endangering consequences.

6 Based on the evidence presented, the Court  
7 finds that Mr. Gray was injured while riding in the van  
8 that the defendant was driving. If there was evidence  
9 that the defendant intended to give Mr. Gray a rough ride  
10 as alleged, it may have been sufficient to show that the  
11 defendant caused his death but, as noted, this Court does  
12 not find that the evidence showed that was the intended  
13 action of the defendant while transporting Mr. Gray.

14 As an alternate theory, the State alleges that  
15 the defendant had a legal or contractual duty to Mr.  
16 Gray. If that duty was to get medical treatment, this  
17 Court has already determined that the evidence does not  
18 show beyond a reasonable doubt that the defendant knew or  
19 should have known that Mr. Gray was in medical distress  
20 before stop 6.

21 This Court is satisfied that even if the  
22 defendant had the duty to seatbelt and failed in this  
23 duty, based on the medical testimony of the experts,  
24 there is insufficient evidence to show that this failure  
25 created a "very high degree of risk to the life of Mr.

1       Gray," and that it caused the death of Mr. Gray.

2               Even assuming the failure to seat belt caused  
3       the death of Mr. Gray, and this Court has already  
4       determined there is insufficient evidence concerning that  
5       issue, the State is required to show that the defendant  
6       was aware of the risk this would, not could, cause and  
7       acted with extreme disregard for the life endangering  
8       consequences. Those facts have not been presented to  
9       this Court.

10              The next charge under murder is involuntary  
11       manslaughter. In order to convict the defendant of  
12       involuntary manslaughter, the State must prove that the  
13       defendant acted in a grossly negligent manner and that  
14       this grossly negligent conduct caused the death of Mr.  
15       Gray.

16              Because the State has charged the defendant  
17       with other forms of manslaughter involving the use of a  
18       motor vehicle, this count is specific to the allegations  
19       not involving motor vehicles, specifically the failure to  
20       render medical aid.

21              Grossly negligent means that the defendant,  
22       while aware of the risk, acted in a manner that created a  
23       high risk to, and showed a reckless disregard for human  
24       life.

25              As noted earlier, this Court has already

1 determined the State has failed to prove beyond a  
2 reasonable doubt that the defendant knew or should have  
3 known that Mr. Gray was in need of medical treatment  
4 before stop 6.

5 For the reasons listed, this Court is satisfied  
6 that the State has failed to meet its burden to prove  
7 each and every element of the crime of murder beyond a  
8 reasonable doubt and so the verdict is not guilty on  
9 second degree murder and Involuntary Manslaughter.

10 The next charge is assault. In order to  
11 convict the defendant of assault, the State must prove  
12 that the defendant caused physical harm to Freddie Gray,  
13 that the contact was the result of an intentional or  
14 reckless act of the defendant and was not accidental and  
15 that the contact was not legally justified.

16 The State is alleging that the physical  
17 injuries of Mr. Gray were caused by the actions of the  
18 defendant. The only intentional act alleged for this  
19 count is purposefully causing injury to Mr. Gray by  
20 making his body come into contact with the inside of the  
21 wagon. The State presented no credible evidence to  
22 support that allegation.

23 The next theory from the State is that the  
24 defendant's failure to seatbelt Mr. Gray led to his  
25 injuries. The State must show that the defendant, while

1       aware of the risk, acted in a manner that created a high  
2       risk to, and showed a reckless disregard for, human life.

3               The analysis this Court used in determining the  
4       defendant was not guilty of the involuntary manslaughter  
5       is the same because, for this count, the law requires the  
6       same level of criminal culpability minus the proof of  
7       death. The facts that were presented failed to show  
8       beyond a reasonable doubt that the failure to seatbelt  
9       met the required burden. Therefore, the verdict on  
10      assault is not guilty.

11              The next charge is manslaughter by motor  
12      vehicle. In order to convict the defendant, the State  
13      must prove that the defendant drove a motor vehicle, that  
14      the defendant drove in a grossly negligent manner and  
15      that the grossly negligent driving caused the death of  
16      Freddie Gray.

17              A driver's conduct is grossly negligent if he  
18      drives a motor vehicle in a way that creates a high  
19      degree of risk to, and shows a reckless disregard for  
20      human life, and the driver is aware that his driving has  
21      created that risk.

22              The State acknowledges that in order to convict  
23      the defendant of this charge, the defendant's driving  
24      must be directly linked to the cause of Mr. Gray's death.  
25      The State's theory of grossly negligent driving is

1 encompassed in defendant's alleged failure to stop at the  
2 stop sign at Riggs and Fremont and his driving over the  
3 yellow line when he turned onto Fremont.

4 The Court reviewed Exhibits 37 and 73 and was  
5 unable to see a clearly marked stop line or cross walk at  
6 the intersection on Riggs and Fremont. Section 21-707 of  
7 the Transportation Article states, in part, where there  
8 is stop sign without a crosswalk, unless otherwise  
9 directed by a police officer or traffic control signal,  
10 the driver of a vehicle approaching a stop sign at an  
11 intersection shall stop at the near the side of an  
12 intersection and, if there is no crosswalk, at the  
13 nearest point before entering the intersection that gives  
14 the driver a view of traffic approaching on the  
15 intersecting roadway.

16 As noted earlier, the view to the left, as one  
17 approaches Fremont on Riggs, is a particularly broad  
18 view. There are no building on the left, and one has an  
19 unobstructed view for at least a block down Fremont.  
20 Exhibit 37 does not show when the defendant turned on to  
21 Riggs, and it only shows a second or so before he turns  
22 onto Fremont. That would be Exhibit 36. This Court notes  
23 that there was insufficient evidence to show that the  
24 defendant did not stop at the stop sign.

25 Given the van on the right side of the street,

1 this Court is also satisfied that the brief moment that  
2 the defendant crossed the line, combined with the lack of  
3 evidence of excessive speed or movement, does not rise to  
4 the level of reckless driving the statute requires.

5 Next would be the defendant having operated the  
6 vehicle without seatbelting Mr. Gray in the back of the  
7 van. The Court was presented with expert testimony  
8 stating that once someone who has been combative calms  
9 down, it does not mean that they cannot immediately  
10 return to a higher level of hostility and danger. The  
11 State presented no evidence to the Court specific to the  
12 defendant's knowledge of the dangers of having unbelted  
13 individuals in the back of police transport vans.

14 Furthermore, the Court will note that it  
15 sustained the State's objection to allowing testimony on  
16 the various practices across the State from police  
17 departments concerning rules and regulations centered on  
18 the role of seat belts in transport wagons.

19 This Court allowed the focus to be on the  
20 General Orders and policies in place for Baltimore City  
21 Police department. Without more, this Court finds that  
22 the State has failed to meet its burden that the  
23 defendant was aware, or should have been aware, that  
24 failing to seat belt Mr. Gray created a high risk to, and  
25 disregard for human life. Thus, with regard to this.

1 count, the verdict is not guilty.

2 The next charge is criminally negligent  
3 manslaughter. In order to convict the defendant, the  
4 State must prove that the defendant drove a motor  
5 vehicle, that the defendant drove in a criminally  
6 negligent manner, and that this criminally negligent  
7 driving caused the death of Freddie Gray.

8 Criminally negligent means that the defendant  
9 should have been aware but failed to perceive that his  
10 manner of driving created a substantial and unjustifiable  
11 risk to human life. This failure to perceive the risks  
12 must have been a gross departure from the conduct of a  
13 reasonable person under similar circumstances. Simple  
14 carelessness is insufficient to establish the defendant's  
15 guilt.

16 Again, The State acknowledges that in order to  
17 convict the defendant of this charge the defendant's  
18 driving must be directly linked to the cause of Mr.  
19 Gray's death.

20 Whereas for manslaughter by motor vehicle, the  
21 State needed to show the defendant was aware of the risks  
22 his driving created, this count requires only that he  
23 should have known of the risks. Again, without more, the  
24 State has failed to show beyond a reasonable doubt that  
25 the defendant drove in a negligent manner and even if the

1 failure to seat belt was negligent that he should have  
2 known of the risks that it may have entailed.

3 The State alleges that the failure of the  
4 defendant to provide appropriate medical care to Mr. Gray  
5 and to seat belt Mr. Gray while he was in the van rises  
6 to the level of reckless endangerment.

7 In order to convict the defendant of reckless  
8 endangerment, the State must prove that the defendant  
9 engaged in conduct that created a substantial risk of  
10 death or serious physical injury to another, that a  
11 reasonable person would not have engaged in that conduct,  
12 and that the defendant acted recklessly

13 Reckless endangerment focuses on the action of  
14 the defendant and whether or not his conduct created a  
15 substantial risk of death or injury to another. The  
16 crime occurs when the actions are found to be  
17 unreasonable under the circumstances presented. It does  
18 not focus on the end result which can be, and has been in  
19 this case, charged as a separate crime.

20 This Court has already stated that the State  
21 has failed to prove beyond a reasonable doubt that the  
22 defendant knew or should have known that Mr. Gray needed  
23 medical care between stops 2 and 5. Therefore, the  
24 conduct alleged of failing to provide appropriate medical  
25 care does not meet the standard of proof required for



1 finding the defendant guilty of this charge. The State  
2 further alleges that the defendant failed to seat belt  
3 Mr. Gray. A conviction on this count using the failure  
4 to seat belt is precluded by the statute concerning  
5 reckless endangerment. The statute specifically states  
6 that the conduct concerning use of a motor vehicle is not  
7 applicable to these facts therefore the verdict for this  
8 charge must be not guilty.

9 While this Court has already determined that  
10 the defendant is not guilty of reckless endangerment  
11 based on the facts presented, I still must determine  
12 whether he corruptly failed to do an act that is required  
13 of his office.

14 The comments to the Maryland Pattern Jury  
15 Instructions note that the committee chose not to define  
16 or explain "corrupt" or "corruptly" believing that the  
17 words communicate their meaning better than a definition  
18 would. A review of relevant case law shows that a police  
19 officer corruptly fails to do an act required by the  
20 duties of his office if he willfully fails or willfully  
21 neglects to perform the duty. A willful failure or  
22 willful neglect is one that is intentional, knowing and  
23 deliberate. A mere error in judgment is not enough to  
24 constitute corruption, but corruption does not require  
25 that the public official acted for any personal gain or

1 benefit.

2 Misconduct in office is corrupt behavior by a  
3 public official in the exercise of his duties of office  
4 or while acting under color of law. In order to convict  
5 the defendant the State must prove that the defendant was  
6 a public officer, that he acted in his official capacity,  
7 and that he corruptly failed to do an act required by the  
8 duties of his office.

9 On the date of the incident, there is no  
10 question that the defendant was a police officer, on duty  
11 and acting in his official capacity. There has been no  
12 credible evidence presented at this trial that the  
13 defendant intended for any crime to happen.

14 The State's theory from the beginning has been  
15 one of negligence, recklessness and disregard for duty  
16 and general orders by this defendant. Here the State is  
17 alleging that the obligation to seat belt and provide  
18 medical care are duties required by his office. Again  
19 this Court has noted that there is insufficient evidence  
20 to show that the defendant, or an officer similarly  
21 situated would have or should have known that Mr. Gray  
22 was necessarily in need of medical treatment at stops 2  
23 through 5. Therefore, for this count, the State has  
24 failed to meet the burden to show that the defendant was  
25 aware of a medical need before stop 6, so the verdict for

1       this aspect of the charge is not guilty.

2               That then leads to the failure to seat belt.  
3       The Court is satisfied that pursuant to General Order K-  
4       14, the defendant had a duty to assess whether or not to  
5       seat belt Mr. Gray in the back of the van. The law  
6       enforcement experts who testified for both sides noted  
7       that that an officer has discretion to seat belt a  
8       detainee and that decision can be based on information  
9       personally observed or provided by another officer.

10              While this Court notes there is an assumed  
11      duty, the State was required to present evidence that the  
12      defendant corruptly failed to follow his duty, not that  
13      he made a mistake and not that he committed an error in  
14      judgment. Rather, the State was required to show the  
15      defendant corruptly failed to follow his duty. The law  
16      is clear that that standard is higher than mere civil  
17      negligence.

18              At stop 1, where there was a crowd of people  
19      forming and the evidence shows that the defendant was  
20      told to meet other officers at stop 2, there is the  
21      argument that he reasonably relied on the actions and  
22      assessment of the arresting officers. The same can be  
23      said for stop 2 where there is testimony that Mr. Gray  
24      was placed in the van on the floor by Lt. Rice. Rice, a  
25      senior officer, made an assessment and there was no

1 reason for the defendant to question those actions. The  
2 Court will also note that there is testimony that Mr.  
3 Gray was belligerent while inside the van at stop 2.

4 At stop 3, there is insufficient information to  
5 show that the defendant went into the van. Noting the he  
6 was at the back for fewer than 11 seconds the Court shall  
7 find that there was insufficient time to check and  
8 assess. The Court will also note that it could be  
9 dangerous for the defendant to open the door to the van  
10 while he was alone on the street.

11 At stop 4, when Porter placed Mr. Gray on the  
12 seat, there was no testimony that Mr. Gray was a threat  
13 or aggressive or that Porter communicated any concern  
14 about Mr. Gray being a threat. Certainly based on K-14,  
15 the defendant, as the one who had custody of Mr. Gray,  
16 had a duty to assess the situation. If Porter left the  
17 area, the defendant could have called for another unit to  
18 assist with seat belting.

19 At stop 5, there is no evidence that the  
20 defendant either assessed or did not assess the  
21 situation. As always, the burden rests with the State to  
22 present evidence that satisfies the elements of all  
23 crimes prosecuted. At stops 4 and 5, the defendant could  
24 have been concerned for his safety based on what he  
25 observed and was told at stops 1 and 2.

1           This Court finds that the only time that the  
2           State has proven beyond a reasonable doubt that the  
3           defendant failed in his duty to seat belt Mr. Gray is at  
4           stop 4.

5           Again, in order for there to be a conviction,  
6           the state must show, not that the defendant failed to do  
7           an act required by the duties of his office, but that the  
8           defendant corruptly failed to do an act required by the  
9           duties of his office.

10          Here the duty stems from K-14 a Baltimore City  
11          Police Department General Order. The Court notes that  
12          the duty does not stem from a federal, state or local  
13          statute or law. Case law makes it abundantly clear that  
14          a violation of a general order may be an indicator that  
15          there is a violation of criminal law, but failing to seat  
16          belt a detainee in a transport van is not inherently  
17          criminal conduct.

18          As stated at the outset, the burden is on the  
19          State to prove the elements of each charge.  
20          Constitutionally speaking, the defendant bears no  
21          obligation to disprove or to prove the elements of any  
22          crime with which he is charged.

23          Here, the failure to seatbelt may have been a  
24          mistake or it may have been bad judgment, but without  
25          showing more than has been presented to the Court

1 concerning the failure to seatbelt and the surrounding  
2 circumstances, the State has failed to meet its burden to  
3 show that the actions of the defendant rose above mere  
4 civil negligence.

5 For the aforementioned reasons, the verdict on  
6 all counts is not guilty. This Court is in recess.

7 THE CLERK: All rise.

8 (Whereupon, the trial concluded at 10:49:35.)  
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