IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

STATE OF MARYLAND

vs. Case Number: 115141032

CAESAR GOODSON,

DEFENDANT.
_____/

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 *

Transcribed by:
Christopher W. Metcalf
Deputy Court Reporter
Circuit Court for Baltimore City
111 N. Calvert Street
Suite 515, Courthouse East
Baltimore, Maryland 21202

T A B L E O F C O N T E N T S

P R O C E E D I N G S

(10:07:45 a.m.)

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

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

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

THE COURT: Good morning.

MR. SCHATZOW: Good morning, Your Honor.

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

THE COURT: Good morning.

MR. GRAHAM: Good morning.

THE COURT: Excuse me, one second.

(Pause in proceedings.)

THE COURT: All right. In this matter, the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

catastrophic and likely occurred sometime after stop 5.

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

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

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

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

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

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

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

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

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

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

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

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

The Court notes that this is a confined area

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

injured.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As noted earlier, this Court has already

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

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

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

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

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

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

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

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

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

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

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

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

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

Given the van on the right side of the street,

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

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

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

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

count, the verdict is not guilty.

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

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

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

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

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

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

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

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

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

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

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

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

benefit.

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

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

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

this aspect of the charge is not guilty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE CLERK: All rise.

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

REPORTER'S CERTIFICATE

I, Christopher W. Metcalf, Deputy Court Reporter of the Circuit Court for Baltimore City, do hereby certify that the proceedings in the matter of State of Maryland vs. Caesar Goodson, Case Number 115141032, on June 23, 2016, before the Honorable Barry G. Williams, Associate Judge, were duly recorded by means of digital recording.

I further certify that the page numbers 1 through 38 constitute the official transcript of the morning session of these proceedings as transcribed by me or under my direction from the digital recording to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have affixed my signature this 23rd day of June, 2016.

_____

Christopher W. Metcalf
Deputy Court Reporter