

STATE OF MARYLAND

* IN THE

6 JAN 21 A 10: 52

v.

* CIRCUIT COURT FOR

CRIMINAL DIVISION

* BALTIMORE CITY

ALICIA WHITE

* Case No. 115141036

* * * * *

ORDER

On January 7, 2016, this Court granted the State's Motion to Compel a Witness to Testify Pursuant to Section 9-123 of the Courts and Judicial Proceedings Article. By this Court's order, Officer William Porter, D.O.B. 6/26/1989 is ordered to testify as a witness for the State in the above-captioned case and may not refuse to comply with this Court's order on the basis of his privilege against self-incrimination. This Court further ordered that no testimony of Officer William Porter, compelled pursuant to the Court's order, and no information directly or indirectly derived from the testimony of Officer Porter compelled pursuant to the Court's order, may be used against Officer Porter in any criminal case, except in a prosecution for perjury, obstruction of justice, or otherwise failing to comply with this Order.

On January 12, 2016, this Court received Witness William Porter's Motion for Injunction Pending Appeal, asking this Court to stay its ruling pending Officer Porter's interlocutory appeal in this matter.

Having reviewed the Defendant's motion, and in light of the Court of Special Appeals order of January 11, 2016, granting a stay in *Goodson v. State*, Case No. 115141032, pending the interlocutory appeal, and noting that the legal issues involved in the two cases are the

same, this Court finds that it is appropriate to grant a stay in the above-captioned matter.

Therefore, it is this 20th day of January, 2016, hereby

ORDERED that Witness William Porter's Motion for Injunction Pending Appeal is
GRANTED.

Judge Barry G. Williams

Judge's Signature appears on the
original document

BARRY G. WILLIAMS
JUDGE, CIRCUIT COURT FOR
BALTIMORE CITY

Clerk, please mail copies to the following:

Ivan Bates, Attorney for Alicia White

Joseph Murtha, Attorney for William Porter

Janice Bledsoe, Deputy State's Attorney, Office of the State's Attorney for Baltimore City

State v. Nero, Miller, Rice, White
January 20, 2016 BEFORE JUDGE BARRY G. WILLIAMS

STATE OF MARYLAND,	*	IN THE
	*	
	*	CIRCUIT COURT
v.	*	
	*	FOR
	*	
EDWARD MICHAEL NERO,	*	BALTIMORE CITY
	*	
Defendant.	*	115141033
	*	
* * * * *	*	* * * * *
	*	
STATE OF MARYLAND,	*	IN THE
	*	
	*	CIRCUIT COURT
v.	*	
	*	FOR
	*	
GARRETT EDWARD MILLER,	*	BALTIMORE CITY
	*	
Defendant.	*	115141034
	*	
* * * * *	*	* * * * *
	*	
STATE OF MARYLAND,	*	IN THE
	*	
	*	CIRCUIT COURT
v.	*	
	*	FOR
	*	
BRIAN RICE,	*	BALTIMORE CITY
	*	
Defendant.	*	115141035
	*	
* * * * *	*	* * * * *
	*	
STATE OF MARYLAND,	*	IN THE
	*	
	*	CIRCUIT COURT
v.	*	
	*	FOR
	*	
ALICIA WHITE,	*	BALTIMORE CITY
	*	
Defendant.	*	115141036
	*	
* * * * *	*	* * * * *

State v. Nero, Miller, Rice, White
January 20, 2016 BEFORE JUDGE BARRY G. WILLIAMS

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TRANSCRIPT OF OFFICIAL PROCEEDINGS
(Motions Hearing)

BEFORE: THE HONORABLE BARRY G. WILLIAMS, JUDGE

HEARING DATE: January 20, 2016

APPEARANCES:

For the State: MICHAEL SCHATZOW, Esquire
JANICE L. BLEDSOE, Esquire
MATTHEW PILLION, Esquire
JOHN BUTLER, Esquire

For Defendant Nero: MARC L. ZAYON, Esquire
ALLISON R. LEVINE, Esquire

For Defendant Miller: CATHERINE FLYNN, Esquire
BRANDON MEAD, Esquire

For Defendant Rice: MICHAEL J. BELSKY, Esquire
CHAZ R. BALL, Esquire

For Defendant White: IVAN I. BATES, Esquire

For Defendant Porter: JOSEPH MURTHA, Esquire

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State v. Nero, Miller, Rice, White
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1 PROCEEDINGS

2 (On the record - 02:06:52 p.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: The afternoon session, too.

7 THE CLERK: Say it again?

8 THE COURT: Maybe the afternoon session, too.
9 Everyone can be seated.

10 You said morning.

11 THE CLERK: Oh, I did? Okay.

12 THE COURT: Call the case, please.

13 MR. SCHATZOW: Good afternoon, Your Honor. Call
14 the case of State versus Alicia White, Number 115141036.
15 Present on behalf of the State is myself, Michael
16 Schatzow, Deputy State's Attorney Janice Bledsoe and
17 Assistant State's Attorney Matthew Pillion and John
18 Butler.

19 THE COURT: Good afternoon.

20 MR. SCHATZOW: Good afternoon, Your Honor.

21 MR. PILLION: Good afternoon.

22 MR. BATES: Good afternoon, Your Honor. My name
23 is Ivan Bates. I represent Sergeant Alicia White
24 standing to the left of me at the trial table.

25 THE COURT: Good afternoon. And you're here,

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1 too, so say --

2 MR. MURTHA: Good afternoon, Your Honor. Joseph
3 Murtha on behalf of Officer Porter.

4 THE COURT: All right. Good afternoon to all.
5 Mr. Bates filed a motion to strike the Court's order
6 compelling Officer Porter's testimony during Alicia
7 White's trial. Court has had an opportunity to review
8 it. I've seen the response from the Defense.

9 Mr. Bates, do you want to be heard at all, sir?

10 MR. BATES: Yes, I do, Your Honor. First of
11 all, Your Honor, I would like to state that I do feel
12 that we do have standing. Do feel at this moment in time
13 this case is a little different in the sense that the
14 State wishes to introduce evidence that we feel is not
15 admissible in the trial.

16 One of the issues we look at, Your Honor, with
17 this order, it states that under subsection D, Your
18 Honor, D-1, the testimony or other information from an
19 individual may be necessary to the public interest.
20 Well, Your Honor, one of the things we have to do --
21 before we were judges, prosecutor or defense attorneys we
22 were lawyers, brand new lawyers. In looking at the
23 preamble, what it states is that a lawyer shall aid the
24 legal profession in pursuing these objectives and should
25 help the bar regulate itself in the public interest.

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1 What is important, Your Honor, is to sit down
2 and look at the rules of professional candor, 3.3.

3 THE COURT: Well, actually, Mr. Bates, what I'm
4 more concerned about is whether or not when the Goodson
5 matter was called, and Mr. Murtha made it clear to this
6 Court that his client wasn't going to testify and that he
7 made it clear, because there was a subpoena in your case
8 also, that he wasn't going to testify in your case also,
9 whether it was appropriate for me to allow basically the
10 State and Mr. Murtha to make the same arguments that he
11 made in Goodson which were appropriate to make, to make
12 them in your case. I believe that it was appropriate,
13 but what I will acknowledge that it was inappropriate for
14 me not to allow you to be there. So for that, I will
15 apologize.

16 MR. BATES: Yes, sir.

17 THE COURT: So --

18 MR. BATES: But Your Honor, we do feel that it's
19 inappropriate -- we do feel that we have standing to make
20 the arguments, some of which that Mr. Murtha may have
21 made to the Court, Your Honor.

22 THE COURT: Well, what do you mean you have
23 standing to make the -- what do you -- I don't understand
24 what you're saying.

25 MR. BATES: Well, we feel that because the State

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1 wishes to call Officer Porter, that as an officer of the
2 court, when we sit down and we see something that we view
3 as unethical in terms of the rules of professional
4 candor, that we must bring those issues to the Court.
5 However, these issues directly affect my client. When
6 you sit down and look, the rules are clear. You
7 cannot -- in reference to false evidence, when evidence
8 that a lawyer knows to be false is provided by a person
9 who is not the client, the lawyer must refuse to offer it
10 regardless of the client's wishes. Here --

11 THE COURT: So basically, Mr. Bates, what I
12 understand is you're saying --

13 (Loud noise)

14 THE COURT: That's my cane falling. Don't worry
15 about it. I'll probably blame that on you, too, though.

16 MR. BATES: That's fine. I'm used to it.

17 THE COURT: I know you are. What you're saying
18 is that the State is offering information and would be
19 offering information in your case that they can't offer.
20 Is that effectively what you're saying?

21 MR. BATES: That is effectively, Your Honor.
22 Under the professional rules --

23 THE COURT: But isn't that a trial issue? And
24 that would be for the Court to make a determination
25 whether it's appropriate to allow the evidence in or not,

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1 not for you, as a lawyer -- you're talking about when we
2 started out -- as a lawyer looking at the canons of
3 ethics? Isn't that more appropriate?

4 MR. BATES: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. BATES: Well, because what it states under
7 the 9-123 that it must be for the public interest. And
8 one of the problems we have with the public interest, the
9 State has already called Officer Porter a liar. Based on
10 that, it's important that the judicial system is not seen
11 as caving in to the State's wishes in which they try to
12 manipulate the system. What we have --

13 THE COURT: I'll take that as a jab at me but go
14 ahead. Here's what I'm going to say. The Court granted
15 the motion from the State in the Goodson matter based on
16 the arguments that were presented, and I granted the
17 motion in the White matter based on the arguments that
18 were presented on that day. Goodson was here because it
19 was pretrial motions. You were not here, as I noted,
20 because didn't expect, candidly speaking, the Court of
21 Special Appeals to take this case in the manner in which
22 they did. They did. Otherwise, you would have had an
23 opportunity at your trial to make the arguments that you
24 wanted to make wherever I believed it would be
25 appropriate to do so.

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1 Under the circumstances as presented here,
2 again, I've already apologized to you for not allowing
3 you to be at the hearing, but I do not believe that
4 necessarily you had a right to make any arguments at all.
5 But also, I do not believe that it would be appropriate
6 to grant your motion given the circumstances that we find
7 ourselves in where the Court of Special Appeals has
8 accepted the Goodson matter, and they're going to have
9 hearings in March and that I do believe that the factual
10 scenario and the legal issues presented in the White case
11 are extremely similar. So for those reasons, I'm going
12 to deny your motion.

13 And if at the appropriate time, when you are
14 before me for a trial, I'm going to kind of guess that
15 you're going to have a number of arguments that you want
16 to make. Am I right in that?

17 MR. BATES: Yes, Your Honor.

18 THE COURT: I kind of figured that. Okay. So
19 for this moment --

20 MR. BATES: I do have one --

21 THE COURT: Every time you talk --

22 MR. BATES: That was my fault.

23 THE COURT: -- every time you talk that thing
24 falls.

25 MR. BATES: Well, that's because --

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1 THE COURT: Every single time.

2 MR. BATES: -- the cane is telling you that
3 you're wrong on the ruling, Your Honor.

4 THE COURT: Is that what the cane is telling me?

5 MR. BATES: So it falls because you're wrong.

6 THE COURT: Okay. I'll accept that.

7 MR. BATES: Respectfully. Respectfully.

8 THE COURT: And you know I hate when lawyer say
9 "respectfully" because it means the exact opposite.

10 MR. BATES: I know. I know.

11 THE COURT: The exact opposite. So your motion
12 is denied.

13 MR. BATES: Yes, sir. I do have one question.
14 I guess we'll deal with scheduling at a later time
15 period, correct?

16 THE COURT: Absolutely.

17 MR. BATES: Thank you, Your Honor. May I be
18 excused?

19 THE COURT: You don't want to stick around?

20 MR. BATES: I'm going to stick around but just
21 excused from the trial table.

22 THE COURT: You can move on. Thank you.

23 MR. BATES: Thank you.

24 THE COURT: All right. And as long as we're
25 still on this particular issue, I do note that,

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1 Mr. Murtha, you filed a request for injunction pending
2 appeal in the White case. Clearly, the matter is already
3 before the Court of Special Appeals in the Goodson
4 matter. Based on the Court's rulings, I do believe that
5 under the circumstances it would be appropriate for me to
6 grant your request. I note there's no objection from the
7 State. So the injunction in the Alicia White matter,
8 that will be granted.

9 MR. MURTHA: Thank you, Your Honor.

10 THE COURT: All right. You can call the other
11 three now.

12 MR. SCHATZOW: Your Honor, just with regard to
13 that, just so I -- you're staying not just your order in
14 the case, but you're staying the trial as well?

15 THE COURT: Well, given the fact that the Court
16 of Special Appeals --

17 MR. SCHATZOW: Yes.

18 THE COURT: -- kind of told me that they wanted
19 that in the Goodson matter -- oh, sit down.

20 MR. BATES: Your Honor, just for the record, I
21 want it to be clear that we object on behalf of Alicia
22 White. We invoke our speedy trial rights.

23 THE COURT: How about I assume that you object
24 to everything I do?

25 MR. BATES: That would be perfect, Your Honor.