



Written by [C. Mitchell Shaw](#) on July 6, 2016

Freddie Gray Case: Prosecution Continues Despite Facts

As the pretrial motions began Tuesday in the case of the fourth Baltimore police officer to be charged in the 2015 death of Freddie Gray, at least one thing was glaringly obvious: State's Attorney Marilyn Mosby (shown, center) doesn't know when to say when. She is pressing forward in her persecution by prosecution of police officers even when this case has clearly run out of steam.



In the pretrial hearing, Lieutenant Brian Rice opted for a bench trial, meaning his case will be decided by Baltimore City Circuit Court Judge Barry Williams. Of the three trials so far, two of the accused officers — [Edward Nero](#) and [Caesar Goodson](#) — elected for bench trials and were acquitted by Judge Williams. The first trial in this case was that of Officer William Porter which [ended in a mistrial](#) when the jury informed Judge Williams that it would not be able to reach a unanimous verdict.

Lieutenant Brian Rice, 42, was the highest ranking officer of the six involved in the events leading up to the death of Freddie Gray. Gray was arrested on April 12, 2015 after he ran from officers after making eye contact with one of them. When he was arrested, he was in possession of an illegal switchblade knife. While being transported to the police station for booking, Gray suffered a spinal cord injury which caused his death one week later.

The day before Gray's death — April 18, 2015 — the protests began. One week into the protests, riots and looting rocked Baltimore as protesters turned violent, setting fires and throwing rocks. More rioting and looting followed Gray's funeral two days later. Before the violence died down, at least six officers were seriously injured and nine others suffered less serious injuries, two patrol cars were destroyed, a CVS pharmacy was burned down, the National Guard was called in, and a city-wide curfew was put in place.

On May 1, 2015, Baltimore City State's Attorney Marilyn Mosby announced that the medical examiner had ruled the death a homicide and that her office had charged all six officers involved. The charges varied from officer to officer and included everything from false arrest to second-degree depraved-heart murder. A grand jury indicted the officers on all of the original charges except false arrest and illegal imprisonment. The grand jury also added charges of reckless endangerment and misconduct in office against all six officers.

The prosecution claims that Gray's fatal injury was caused by a "rough ride" when the officers deliberately left Gray unrestrained by a seatbelt and then drove in such a way to cause him to be tossed around in the back of the van. The officers have said that while resisting arrest, Gray was so violent that they could not restrain him without risking officer safety and that the ride to the police station was not a "rough ride." What is now known for certain is that [prosecutors withheld witness statements which supported the officers' claims](#) and that [at least one of the investigators in the case has said that the testimony offered to the grand jury to gain the indictments was misrepresented](#). As a direct result of the actions of her office, [Baltimore City State's Attorney Marilyn Mosby is facing possible disbarment](#).



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What is also known for certain is that the prosecution has failed three times so far to get a conviction. In fact, in the cases of the two officers who were acquitted, Judge Williams has said the officers acted reasonably. Williams also excoriated prosecutors for withholding evidence.

Even before the trials began, the politics of the city appeared to have already decided to sacrifice the officers by siding with the rioters and creating an environment where a fair trial would be difficult, if not impossible.

In September — in an obvious attempt to discourage more riots and looting — Baltimore Mayor Stephanie Rawlings-Blake [announced a payment of \\$6.4 million](#) to the family of Freddie Gray, calling it a settlement for all civil claims in his death while in the custody of Baltimore police, even though no lawsuit had ever been filed. As *The New American* reported at the time, the mayor hinted that the “settlement” was a way to pacify the city’s angriest residents in order to avoid “harm to the community” and “divisiveness.” In announcing the payoff, she said:

We must weigh the potential financial cost of defending the lawsuits in court and the potential exposure to the citizens of the city of Baltimore if we are unsuccessful in court — and for that matter if we are successful in court. In this case, faced with the prospect of significant legal expenses involved in an extended federal lawsuit as well as the potential liability that could come with an unfavorable jury verdict, our city’s attorneys came to the conclusion that the six-point-four million dollars settlement is in the best interests of protecting taxpayers.... The purpose of the civil settlement is to bring an important measure of closure to the Gray family, to the community, and to this city, and to avoid years and years of protracted civil litigation *and the potential harm to the community and the divisiveness which might result.* [Emphasis added.]

“Settlement” is not the word to describe doling out money under circumstances where there is no lawsuit pending but there is the looming threat of more violence. The word Mayor Rawlings-Blake was searching for is “payoff.” And there is no doubt that her actions influenced the jury pool. Even so, Baltimore City State’s Attorney Marilyn Mosby failed to get a conviction in the only jury trial so far.

When Officer William Porter faced a jury from that pool, he was able — by the grace of God — to avoid a guilty verdict. After hearing all the evidence and deliberating for more than 15 hours over three days, the jury was unable to decide on a verdict. The judge dismissed the jury after saying that though it had “clearly been diligent,” he could see that “It is clear you will not come to a unanimous agreement on any of the four charges.” Because the trial ended in a hung jury, Porter is still under indictment. His retrial is scheduled for September 6.

Lieutenant Brian Rice— who is facing charges of involuntary manslaughter, second-degree assault, two counts of misconduct in office, and reckless endangerment — has decided not to take his chances with a jury. He has elected to have Judge Williams hear the evidence and hand down a verdict.

Judge Williams rejected a motion on Tuesday to drop the charges. The actual trial will begin on Thursday. Considering that the evidence against Rice is the same as that offered by the prosecution in the other cases, and will be heard by the same judge, the verdict will not likely favor the prosecution. Mosby — who has played this trial for all the career-building it is worth — is pressing forward anyway, oblivious to the facts.

The other officers’ trials are scheduled to begin as follows:

- Garrett Miller, July 27



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- William Porter (retrial), September 6
- Alicia White, October 13

Of course, whether those trials will ever take place depends — at least in part — on Mosby wiggling out of her own charges and avoiding being disbarred.

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