



State's Attorney for Baltimore County

SCOTT D. SHELLENBERGER

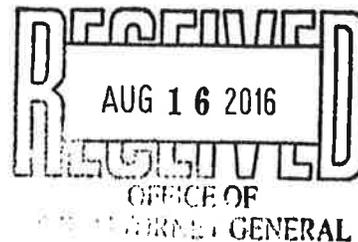
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August 10, 2016

The Honorable Brian E. Frosh
Attorney General
200 St. Paul Place
Baltimore, Maryland 21202



Dear Attorney General Frosh:

I am seeking an opinion on a Discovery issue that my office faces.

In October of 2011 a Detective with the Baltimore County Police Department was a witness in his own Workers' Compensation case. During the presentation of his case the Detective was asked if he had any problems with his back prior to the accident in question that occurred on October 21, 2010. The Detective testified under oath that he did not have any prior problems. He was then asked, "Have you had any accidents, injuries, medical treatment before - to your back before this accident?" The Detective answered, "No."

On November 3, 2010 the Detective was examined for his Workers' Compensation case by a doctor. During the course of that examination the Detective disclosed that he had injured his back in a motor vehicle accident ten years prior, but after treatment, had no further problems.

Documentation revealed the Detective previously had accidents on September 15, 2000 and February 22, 2003. The Detective underwent physical therapy for his back in one of the accidents. Neither accident involved a Workers' Compensation claim.

On May 4, 2012 the Detective was charged in a disciplinary action by the Police Department with, (1) Misrepresentation of facts while testifying under oath at a Workers' Compensation Commission hearing, and (2) Willfully misrepresenting material facts under oath at a Worker's Compensation Commission hearing...

The facts which gave rise to the disciplinary allegations would be exculpatory under the Maryland Rules and Brady.

On February 4, 2013 at his Trial Board Hearing, the Detective testified that he believed that the questions regarding prior accidents or injuries to his back were in regard to a Workers' Compensation situation. At the conclusion of the case, the Trial Board found the Detective not guilty of the above charges.

Despite the finding of not guilty the State's Attorney's Office has continued to make the disclosure based upon its belief that the underlying facts are exculpatory.

In February of 2016 the Internal Affairs case against the Detective was expunged.

The Detective is now inquiring if this office will continue to make the disclosure.

We are asking for your opinion on the following questions:

1. Are there any prohibitions against disclosing the facts known to the State of an expunged Internal Affairs case?
2. Does the State's Discovery obligation end with the expungement?

Sincerely,



SCOTT D. SHELLENBERGER
STATE'S ATTORNEY

SDS/dmh