

1 Plaintiffs' attorney in this case. This comes from a
2 thousand year tradition that we inherited from the
3 English.

4 That being said, counsel are prepared?

5 MR. HANSEL: Yes, Your Honor.

6 MS. MULLALLY: Yes, Your Honor.

7 THE COURT: Go right ahead, sir.

8 (At 3:40 p.m. closing argument was given by
9 Mr. Hansel on behalf of the Plaintiffs.)

10 CLOSING ARGUMENT

11 MR. HANSEL: Thank you, Your Honor. That's
12 exactly right. This is a thousand year tradition. You
13 sitting right now on the pointy edge of the top of the
14 spear that goes back a thousand years of history. I
15 mean that's amazing and it's true. It goes all the way
16 back to the Magna Carta and before where citizens are
17 invited in to sit in judgment of their government. And
18 I told you at the opening part of the case that our
19 founding fathers enshrined it in our system that the
20 jury is the strongest anchor you ever imagined to tie it
21 up into the principles of its constitution for a
22 thousand years.

23 And that is so true and it's so true in this case
24 because without your help, without your hard work,
25 without the week of your life -- I'm very sorry --

1 there's no justice. You sit in judgment and it's
2 important. I mean it's a beautiful thing. It's a
3 beautiful part of our (inaudible one word) and it means
4 the world to me and I want to say thank you. But more
5 importantly I want to say thank you on behalf of my
6 clients. Without this system, without people to stand
7 up and make a difference there wouldn't -- and there
8 would be no progress made in the world. So we need your
9 help to get it done.

10 And I want to talk to you a little bit about what
11 the evidence in this case showed. I want to talk to you
12 a little bit about what the evidence in this case shows.
13 Again, by introducing you to Daquan Wallace I told you
14 and the evidence has pointed out that he was a young,
15 healthy, vibrant man. He worked with the man he
16 considers his father and I do too, Mr. Carpenter. You
17 know, he contributed to his family. He was -- what did
18 his mom call it -- the shaker boy with the sign out in
19 front of the restaurant. And you'll have to forgive Mr.
20 Wallace for lapses in memory and maybe not remembering
21 how to spell everything and that kind of thing as a
22 result of his injury.

23 But what we heard about was a vibrant, young man
24 who loved his family, his family loved him, who worked
25 hard to help his family, who worked with Mr. Carpenter,

1 who worked with Larry and made a difference and
2 contributed to the family as he was growing up and
3 really had a full and quite beautiful life. We didn't
4 hear anything to the contrary about Mr. Wallace or who
5 he was.

6 We know from the evidence in this case that when he
7 found himself in charge of the State that he was there
8 as a pretrial detainee. That he has the same innocence
9 that all of us have under our system. That we are all
10 protected by the constitutional right to be innocent
11 until proven guilty. We heard that Mr. Wallace was not
12 convicted of any of those charges. So he was in fact an
13 innocent man.

14 Now this case comes down a very simple standard.
15 Remember -- he was a very brief witness, but I thought
16 he was important. The silver haired lawyer who sat
17 here, Michael Resnick. Maybe I asked him three
18 questions. He was the commissioner of the Division of
19 Pretrial Detention and Services. And during the case
20 the State had held him up as their representative to
21 talk about the legal requirements, the law, that type of
22 thing. And I asked him and he agreed that the health
23 and welfare of a prisoner is ultimately the
24 responsibility of the State when a prisoner is in the
25 custody of the State.

1 Major Moore who testified by deposition through Ms.
2 Boardman agreed that as a correctional officer their job
3 was to protect the offenders. And you heard the court
4 instruct you as to Article 24. Here in Maryland our
5 Declaration of Rights is our constitution. It's like
6 the Bill of Rights. And it has numbered articles and
7 Article 24 in the Declaration of Rights which is our
8 state constitution, those are our rights that protect
9 all of us, provides and guarantees that the detention
10 center officials had a duty to protect detainees like
11 Mr. Wallace from violence at the hands of other
12 detainees.

13 You've heard the judge instruct you that if you
14 find that the Defendants failed to protect Plaintiff,
15 Daquan Wallace from violence at the hands of the other
16 detainees, then the Defendants have violated the
17 Plaintiffs' rights. And those only naturally in the
18 case because we've heard the representative of the State
19 himself say that was the standard. So the standard is
20 clear. Was Daquan Wallace protected or not? That's
21 your -- that's the simple question and you get to the
22 most important claim which is Article 24. And it's the
23 standard that the State gave to us. Not just in Article
24 24, but from the stand through Commissioner Resnick who
25 came in and very bluntly said that was the standard.

1 In weighing that standard, think about what kind of
2 institution this was. Think about what we know even
3 before Mr. Wallace got there. Major Moore through Ms.
4 Boardman said it was another world. It's hard to
5 explain. Lieutenant Patterson told us the prisoners
6 cooperated with guards and guards cooperated with
7 prisoners to perform criminal conduct. Warden Johnson,
8 Major Moore talked about how correctional officers were
9 involved with gang members. Major Moore talked about
10 how the guards did things that gang members would ask
11 them to do. Officer Shurd told us that there were
12 consequences for prisoners who refused to join gangs and
13 that the gangs would attack them.

14 Major Moore -- and recall through Ms. Boardman, she
15 was the acting security chief and very high up. We're
16 talking about a major here. Said that officers -- she
17 was aware that officers allowed assaults to occur. She
18 talked about the fact that officers would sometimes open
19 doors to allow inmates to assault each other. She
20 talked about the fact that the problem was pretty bad.
21 So this isn't a one off or some bizarre thing that
22 happened to Mr. Wallace. This was the institution they
23 were running before it was shutdown. This is what was
24 commonplace. Almost every officer who testified told us
25 about these things. Major Moore even went so far in the

1 testimony that Ms. Boardman read to say that there were
2 -- she was aware of situations where inmates were harmed
3 as a result of guards cooperating with gang members and
4 others.

5 At one point she was asked in that testimony how
6 many of these types of complaints would you get and the
7 answer was as many as ten or 12 in a day, ten or 12 in a
8 day. So this was literally a place where the inmates
9 were running the asylum. I mean literally. This was
10 madhouse. And Mr. Wallace, an innocent man found
11 himself subjected to this.

12 And the State Defendants themselves told us what
13 happened when the few of them tried to do anything about
14 it, tried to fix things here. Remember Officer Porte
15 said that she had reported some misconduct up the chain
16 of command and got yelled at, you know, back and in
17 effect was told not to make those kind of reports when
18 she was reporting up that there was misconduct between
19 inmates and guards.

20 Ward Johnson said that when she found out about
21 these kinds of things she would make the report to
22 headquarters and I asked her was anyone ever terminated
23 as a result? I mean the testimony is about guards
24 opening doors, allowing assaults, guards cooperating
25 with gang members for illegal ends, guards cooperating

1 with other prisoners and she's reporting it up to
2 headquarters. And I asked her, was anybody ever
3 terminated as a result and she says no.

4 So we're starting with an institution that was an
5 absolute madhouse here. Into that is thrown Mr.
6 Wallace. He's a relatively slight built man, thin. He
7 was the victim of multiple attacks. His mother saw
8 physically wounds on him. Lieutenant Patterson saw
9 physically wounds on him, sent him to the infirmary she
10 said.

11 In addition, he talked to his mother and she called
12 the jail multiple times. You know, she said she's doing
13 what a mother should do and reached out and begged for
14 help for her son. Ms. Patterson admitted that Ms.
15 Wallace told her that inmates were trying to get Daquan
16 to join a gang, that he was refusing, that he was being
17 attacked. She talked repeatedly about how she told the
18 lieutenant -- we're talking about a high-up official.
19 She called multiple times, but finally got through at
20 one point to the lieutenant and said, look, my son is
21 being attacked. If you move him they'll kill him, but
22 do something. Protect him. And remember, that's their
23 duty. That's what Commissioner Resnick. That's what
24 the court has explained to you. The simple duty is,
25 protect Mr. Wallace.

1 And so, the question then becomes, did they meet
2 that standard? Was he protected under these
3 circumstances? And what we know is that he was not. He
4 was at the time housing at jail industries. We heard
5 from multiple witnesses how there was an attempt to move
6 the more dangerous prisoners to cells like where Mr.
7 Wallace ended up at MDC to move the higher security risk
8 people over to the men's detention center out of the
9 dormitories and jail industries.

10 And so, when Lieutenant Patterson is told that he's
11 being attacked, that his mother is scared for his life,
12 that if you move him they'll kill him. What does she
13 do? She moves him. And based on that, what happens?
14 Sergeant Porte who filled out the top part of the
15 transfer form and who wrote the detainee was extorting
16 other detainees for commissary and phone privilege says
17 it was Lieutenant Patterson who told her to fill this
18 out. And you'll remember Lieutenant Patterson took the
19 stand and repeatedly contradicted her deposition. I
20 think we were counting as she was going two and three
21 and four times repeatedly contradicted her prior sworn
22 statements. But Sergeant Porte told us this came from
23 Lieutenant Patterson.

24 Now what do we know about this charge that Daquan
25 was allegedly extorting someone? Every single officer

1 who took the stand, I asked, not the State, I asked,
2 were you aware personally of any misconduct on behalf of
3 Mr. Wallace? And every single person said no except at
4 one point Patterson said well, if it was on the form it
5 must have happened, but she had no personal knowledge of
6 it. Porte had no personal knowledge of it. Renee had
7 no personal knowledge of it. All of these officers,
8 Henderson today had no personal knowledge of it. Not a
9 single person ever told you who he was extorting, when,
10 how, what inmate was involved, who saw it, what guard
11 was involved. And we brought every single person in.
12 Not the Defense, the Plaintiff brought everybody in and
13 asked all of them, if this is true, where's the evidence
14 of it? And there was -- there's literally no evidence
15 and no witness whose told you that this was true.

16 With respect to the transfer itself, the decision
17 to make the transfer, it's obviously based on false
18 pretenses. One of the State's witnesses explains how
19 this type of extortion works. Mr. Wallace, if he
20 extorted somebody would have to call the mom or somebody
21 outside of the institution and say if you don't give me
22 money or whatever it is, put money on my account, then
23 I'm going to hurt your loved one who's in here. That
24 would be the way the extortion works.

25 Well, we heard phone calls that were made. They're

1 all recorded. Did the State play us even one phone call
2 when Mr. Wallace is calling anyone saying, you know,
3 please give me something, you know, or else -- please
4 give me phone privileges or commissary money or else
5 I'll hurt somebody? No. Because it didn't happen
6 because these charges aren't true.

7 Sergeant Porte who wrote them said she had no
8 evidence of them. Renee, Patterson, et cetera, everyone
9 said they had no evidence of these charges. And it
10 would have been the easiest thing in the world for the
11 State to print up one of these transcripts and play a
12 recording of Mr. Wallace calling somebody and saying,
13 you know, I'm calling to extort you or I'll beat up your
14 loved one or whatever. So if these charges were true
15 there would be evidence to find of that phone call. We
16 would know who the inmate was. We'd see the writeup.
17 Remember, every single witness who was asked about it
18 said that this kind of thing doesn't lead to a transfer,
19 does not lead to a transfer. It leads to a writeup.
20 And then the writeup or some called it a ticket or a
21 disciplinary ticket would mean that there would be
22 paperwork. We'd see a piece of paper that wrote Mr.
23 Wallace up for this misconduct. It would mean that
24 instead of going to the more dangerous situation at MDC
25 after his mother said he's going to get killed if you

1 moved him, that they would instead send Mr. Wallace to
2 segregation. The goal being that he'd be in a cell by
3 himself and safe.

4 So even if there were evidence that this is true,
5 and it's not, what it should have lead to is Mr. Wallace
6 never being in the line of fire on the day in question.
7 It should have led to Mr. Wallace being safe and being
8 put into segregation and protected.

9 And finally, the State argues well, Mr. Wallace
10 refused protective custody. Well, imagine the lunacy of
11 that order. It's not up to Mr. Wallace or any other
12 inmate to decide where to go in the institution. It's
13 up to the institution. And Commissioner Resnick also
14 told us that. I think that was the second of maybe two
15 or three questions I asked him. He testified that
16 ultimately where and how a prisoner is housed by nature
17 of the correctional system is in the hands of the State.

18 So it was not up to Mr. Wallace to say I don't want
19 to go to protective custody. Even if it was and even if
20 he was permitted to refuse to go somewhere in the jail,
21 but the jail wanted him to go, it still does not excuse
22 sending Mr. Wallace from the relative safety of jail
23 industries over to MDC where within hours of arriving
24 he's brutally attacked and ends up in the situation he's
25 in now.

1 And, in fact, in thinking about that, in thinking
2 about this argument that he refused protective custody,
3 recall that almost every single witness said to us that
4 inmates were afraid to ask for protective custody. All
5 the way down to Officer Henderson here today. Inmates
6 were afraid to ask for protective custody because they
7 didn't want to get labeled a snitch because the way this
8 madhouse was being run at the time with guards
9 cooperating with inmates, with guards opening doors,
10 with guards cooperating with gang members, it was very
11 dangerous to ask for protective custody.

12 So when the State tells you Mr. Wallace denied
13 protective custody. They are absolutely incorrect
14 because as his mother explained to Lieutenant Patterson,
15 if you move him, he's going to get killed. And after
16 that explanation and knowing as she did the risk to a
17 prisoner who is identified as having snitched, she
18 brings him in here office, talks to him. That goes out
19 in the prison world.

20 And knowing all of that, then what is the first
21 thing she does? She doesn't put him in segregation.
22 She doesn't even put him in protective custody. She
23 just transfers him in the institution to a place where
24 more dangerous people are kept. That is not an example
25 of keeping him safe, which was her duty.

1 In connection with the transfer, we know a couple
2 of other things. Officer Porte testified that it was
3 Patterson who gave her the grounds for the transfer. We
4 see that Lieutenant Patterson signed the transfer and we
5 know that it never received shift commander approval.
6 Now we have multiple jail witnesses talk about the fact
7 that shift commander approval is required, that without
8 it the transfer never should have happened. You don't
9 even really need to take their word for it because the
10 document says form void unless signed shift commander or
11 operations captain applicable. You can see that nobody
12 who's a captain signed this form. Sergeant and
13 lieutenant and sergeant and squiggle.

14 And so, there's no question at all and you don't
15 have to resolve the debate between the numerous State
16 witnesses who tried desperately to deny their sworn
17 deposition testimony. When you weigh this form you can
18 read on the form itself. And whoever created it had the
19 foresight to put void in all capital letters. It's not
20 like a real discussion or suggestion that this form
21 should have been accepted.

22 So in addition to that, as Sergeant Porte and
23 others told us, the traffic officer's signature was
24 required to be legible. We had multiple witnesses tell
25 us this one is not legible. We have the State's own

1 admission in evidence that it's not legible. In fact,
2 in connection with this the State has admitted that the
3 transfer form was not signed by a shift commander, that
4 a shift commander did not approve the transfer, whether
5 it was signed or not and the traffic officer's signature
6 is not legible.

7 And we heard witnesses tell us that during this
8 transfer without the shift commander was a violation of
9 policy. That not signing legibly with your name and
10 rank the way these other people did is a violation of
11 policy. So we know that the transfer form had multiple
12 violations of policy. We know if the policy had been
13 followed, Mr. Wallace never would have been sent from JI
14 into the lion's den over at MDC. Instead, even if these
15 allegations were true -- and I'm going to suggest to you
16 there is zero evidence that they are, but even if they
17 were, he would have been sent to segregation where he
18 would have been safe. Keep in mind there's no
19 allegation that Mr. Wallace was ever cited.

20 So we begin this transfer recognizing that these
21 are, as I said in the outset, false charges, that
22 they're made up. If they weren't you would have a
23 recording in front of you. We'd have an officer who
24 saw, you would have an inmate complaint, you'd have the
25 writeup that resulted from it, you'd have the hearing

1 that resulted from the writeup and we wouldn't be here
2 because Mr. Wallace would have been in segregation, not
3 over in MDC.

4 Now recall Sergeant Porte's testimony. She was
5 very frank with us and said this transfer should not
6 have happened. She was very frank with us and said this
7 transfer bothered her that it went through based on all
8 of the violations that we see here on the form. She
9 discuss the fact that Lieutenant Patterson could have in
10 keeping with her duty to protect detainees from violence
11 at the hands of other detainees simply checked
12 protective custody or segregation. And again, we
13 wouldn't be here and more importantly, Mr. Wallace
14 wouldn't be there.

15 But what else do we know about this? We know that
16 Renee, Officer Renee worked the morning shift when this
17 form was created. Officer Renee was another person who
18 told us he had no evidence to support these charges. So
19 we spoke to Porte, Renee, Patterson, all of whom were
20 there that day, all of whom said I didn't see anything
21 like this. He was not a problem for me. In fact, every
22 single officer who testified, Moore, the warden, all in
23 uniformity said they were not aware of any misconduct
24 Mr. Wallace had ever committed ever. Yet, these are the
25 charges.

1 We know that Renee worked at JI that morning. He
2 admitted to not putting that in his reports. He
3 admitted to not putting that -- not mentioning that in
4 his deposition. I'm going to suggest to you there's a
5 reason why he wanted to hide the fact that he was
6 working there that morning. And keep in mind, this is a
7 morning where during his rounds and during the count
8 he's told -- he told us he would have come face to face
9 with Mr. Wallace doing the count.

10 So on the day Mr. Wallace's is attacked in the
11 afternoon, Renee accepts him and signs the bottom of
12 that form. And in the morning he would have come face
13 to face with him and was working in that same section.
14 Yet, when he write a report about it, there's no mention
15 of him being over there in the morning. When he gives
16 the deposition there's no mention of him being over
17 there in the morning. That's a fact. We have to fare
18 it out later through documentation.

19 So an interesting question is, why wouldn't Renee
20 put that in his reports? Why wouldn't he admit that in
21 his deposition? I'm going to suggest to you it's
22 because when he was there when this idea came about, the
23 only way somebody making this unlawful transfer that
24 every witness admitted should never have happened, would
25 -- the only way they could have known it was going to

1 work is if they knew on the receiving end there was
2 going to be Renee receiving him into MDC at a place
3 where Renee was the only officer. That's my
4 interpretation of evidence. You don't have to accept
5 it. Why? Because the only question for you as it
6 relates to Article 24 is did they protect Daquan
7 Wallace? It's a very simple case in the final analysis,
8 very simple. Was he protected by this institution?

9 Now we know what happened when Mr. Wallace got to
10 Officer Renee. Shocking, here in trial Officer Renee
11 says he's the one -- remember when he highlighted G and
12 35 -- Officer Renee is the one who wrote on the form
13 that Mr. Wallace would be in his section that he
14 supervised alone. And Officer Renee is the one who
15 wrote the cell that Mr. Wallace would go into.

16 Now interestingly, among the other things we've
17 already thought about that Officer Renee did not
18 document. In addition to not documenting he worked with
19 Daquan in the morning and not mentioning that in his
20 deposition, he didn't document in his log book. And you
21 can read it and see it for yourself the minutia of the
22 comings and goings of every person who came and went is
23 in that log book until it comes to the acceptance onto
24 the section of Mr. Wallace. And he said very candidly
25 from the stand Renee did, that that was also a violation

1 of the procedure. That he should have recorded that
2 Renee came onto the section and he did not.

3 So you see here the gathering kind of snowballing
4 of evidence about Officer Renee not wanting to -- Mr.
5 Wallace's movements to be clear, not wanting his
6 involvement with Mr. Wallace to be clear. Remember,
7 Renee even told us at one point he had never worked with
8 Porte and had to admit to that the very morning, the
9 morning of these events that in fact he had.

10 Now Renee admitted knowing this form was wrong. I
11 asked him and he admitted that the shift commander
12 approval was supposed to be signed. Other officers all
13 testified that they wouldn't have accepted it if it had
14 come to them and Officer Renee admitted he violated
15 procedure when he accepted that form.

16 And recall that we had Major Moore testify and her
17 testimony through Ms. Boardman was critical in this
18 point because she identified herself as the shift
19 commander. So Major Moore is the person whose approval
20 was supposed to be sought on this form. And it was
21 Major Moore who told us in her testimony that if they
22 had done the right thing and brought the form to her for
23 her to sign, she would have refused. And instead, if
24 there was any backup for these allegations, Mr. Wallace
25 would have gone to segregation and nothing here would

1 have ever happened.

2 Knowing that -- and remember, every officer
3 testified that what happens if these things are true is
4 you go to segregation. Knowing that these allegations
5 would send Mr. Wallace to segregation, these officers:
6 Renee and Patterson made sure not to take him to Major
7 Moore who told us he wouldn't have been over at MDC.
8 That tells us that they're working to see that he ends
9 up at MDC. But again, that's not the test. You don't
10 need to go that far. The test is, did they protect Mr.
11 Wallace? And I'm going to suggest to you indeed they
12 did not.

13 Renee also knew when he received this form that
14 that traffic officer's signature is scribbled. Now he
15 admits that he wrote G35. And his claim is that he
16 called traffic to get G35. If true, ask yourself, how
17 did that scribble get there? Did the traffic officer
18 sign it without a G and a 35 there, just blank? And why
19 would they do that? And if they did that, how did the
20 transport officer, Cynthia know to bring Mr. Wallace to
21 G35? I'm going to suggest this is not a signature as
22 the State has all but admitted. Certainly not a legible
23 signature as the State agrees. And instead what
24 happened here was these officers made sure that Daquan
25 Wallace was in the care of Officer Renee.

1 Officer Renee testified that when Mr. Wallace got
2 to the tier there were no injuries on Mr. Wallace. He
3 said he would have turned him away, wouldn't have
4 accepted him if he was injured. So we know as he's
5 moving through the day that he's uninjured as he gets to
6 the tier. He doesn't record in his log book when he
7 gets there. So we don't have that piece of information
8 from Officer Renee.

9 But he gets to the tier. Where we have it is from
10 the cell mater, Joseph Beatty. Now Mr. Beatty is
11 unquestionably -- he's convicted. Okay. He's not in
12 the shoes of Mr. Wallace and the State will ask you I'm
13 sure not to pay any attention to what he says as a
14 result. But I want you to think very carefully about
15 Mr. Beatty and the position he was in coming here. This
16 is a man who has absolutely nothing to gain coming to
17 talk to you. He's in effect coming to break the no
18 snitching rule. The rule that had Mr. Wallace so
19 afraid, that had his mother telling the institution,
20 he'll get killed if he moves. Here's Mr. Beatty saying
21 -- and he said when he talked, listen, I'm putting
22 myself at risk being here.

23 So this is not somebody who had any motivation to
24 come in and misrepresent or mislead for any reason
25 whatsoever. He had every motivation to stay quiet,

1 pretend he saw nothing and keep his head down. But what
2 did he tell us? He said look, I have a mother too. I
3 have a mother too. I wouldn't want her to be in this
4 situation. But he was at and is at significant risk.
5 Every single witness told us if you come forward you put
6 yourself at risk. Every single witness. And Mr. Beatty
7 was in that situation.

8 So there is every reason to take him at his word
9 and no reason he would have to come in here and say
10 anything that wasn't accurate. And Mr. Beatty very
11 consistently said that Mr. Wallace was brought in and
12 they send Mr. Beatty away. That Mr. Wallace, Daquan was
13 not at dinner and that when he came back that Mr.
14 Wallace was injured in his cot. And with respect to the
15 question of (inaudible one word), the State has admitted
16 there are no records confirming that Daquan Wallace was
17 at feed-up for dinner on December 18th, 2014.

18 So we have Mr. Beatty's testimony that Mr. Wallace
19 was not at dinner and we have the State's admission that
20 there were no records confirming that Mr. Wallace was at
21 dinner. You've seen stacks and stacks of records on
22 almost every point in this case, but nothing to show Mr.
23 Wallace went to dinner and the State's admission that it
24 doesn't exist. In perfect keeping with what Mr. Beatty
25 told us.

1 Now let's talk a little bit about feed-up. All of
2 the officers, starting with Major Moore through Ms.
3 Boardman talked about the regulations during feed-up.
4 And in evidence is the policy that was posted and the
5 policy provides that as of August of 2014 MDC will no
6 longer conduct feed-up in specific housing units. All
7 housing units except specialized housing -- and that
8 wasn't this -- will utilize the dining room for their
9 daily meals. Detainees will no longer eat in their
10 cells.

11 And recall that Officer Renee was asked about this
12 policy which we have a stipulation and agreement between
13 the parties, was the policy -- and was actually bolted
14 up to the wall at the time. Officer Renee was asked
15 about that policy and he admitted that he violated it.
16 He told us that cells 47 and 48 were allowed to stay
17 back even though Major Moore through Ms. Boardman in her
18 deposition testimony testified that there were no
19 deviations allowed. And that's very important, these
20 two cells, 47 and 48 for a variety of reasons.

21 Per the evidence you'll have in this case is
22 documentary evidence. And I always imagined myself it's
23 frustrating to sit there and not have it in your hands,
24 but you'll have it in your hands soon enough. And I
25 want to talk to you a little bit about what it shows in

1 connection with these cells 47 and 48 that stayed back.
2 But first, let's think a little bit together about feed-
3 up. We know that Renee was the sole officer on the
4 team. That's not disputed. He was the only person
5 during feed-up. Obviously to move inmates in and out
6 there were teams, but during feed-up he was the sole
7 officer on the tier.

8 We know that he had the keys to the cell and he
9 testified that when he was the sole officer -- and
10 remember I had to remind him in his deposition, but when
11 he was the sole officer, the way the cells were operated
12 was with the keys at the cell door and that he had those
13 keys. Now both Officer Moore and Renee and everyone
14 else who touched on this topic talked about the fact
15 that during the time inmates were eating, those cells
16 were to remain closed and locked.

17 So step one, you know from Moore and the policy
18 that was on the wall is everyone was supposed to go to
19 eat. We know from Renee that he held back cells,
20 including 47 and 48. Very important. We know that he
21 was then the only officer during dinner at the cells.
22 We also know that they were all supposed to remain
23 closed and locked during dinner. Mr. Beatty tells us
24 that when he left Daquan was in the cell. When he came
25 back Daquan was injured.

1 We know that during feed-up Officer Renee conducted
2 two security rounds. One was just as inmates were
3 leaving and he went cell to cell to make sure all the
4 cells were closed and locked, including 47 and 48.
5 Another one was in the middle of feed-up he walks up and
6 down the cells at 7:34, two minutes after other jail
7 records show the assault had actually occurred. But at
8 that time in the middle of feed-up he does another
9 security round.

10 So we know that Officer Renee was not only the sole
11 officer in G section at the time, but that he made two
12 trips up and down those tiers during which he had the
13 opportunity to use that key. We also know that no one
14 else would have had access and that no one else would
15 have been able to open those doors or Officer Renee
16 being right there on the tier, making his two trips
17 during that brief -- remember, it was 25 minutes for
18 lunch -- during that brief period would have seen him.

19 Officer Renee also testifies that cells 47 and 48,
20 the cells he held back -- and there's no doubt about
21 that because it's been admitted -- that the inmates or
22 detainees of cells 3-47 and 48 did not go to feed-up and
23 that Officer Renee allowed those detainees not to go to
24 feed-up. Those facts are admitted. According to
25 Officer Renee, as soon as feed-up starts they're locked

1 in in 47 and 48. And the way he tells it and the way
2 the policy is, they're supposed to remain locked in,
3 remain locked in and he says they did until after Daquan
4 Wallace was discovered unresponsive. So if Renee is
5 right, 47 and 48 are locked the whole time and they have
6 no access to Mr. Wallace.

7 Now how do we know that's not how it happened?
8 When Mr. Wallace was discovered, he was discovered with
9 blood on his head. In evidence as Plaintiffs' Exhibit
10 15 is the report from Karen Moore. And it's hard to
11 see, but you'll be able to see it when you're looking at
12 it. There's a person standing here that seems to be
13 examining the back of Mr. Wallace's head in the exhibit.
14 And in the exhibit Karen Moore reports Offender Wallace
15 was found to have trauma to the right side of his head,
16 facial area, his bottom lip and the back of his head
17 contained sections of blood.

18 So we know from Exhibit 15 -- and you can see
19 somebody examining, believe it or not, the back of his
20 head. It's hard to see. That there was sections of
21 blood on the back of his head.

22 We know also from Exhibit 32 -- and these are Mr.
23 Wallace's clothes -- that the back of his jumpsuit --
24 and you'll recall the Detective Bonavega(sp) who came in
25 and told us about his investigation. And he told you he

1 talked to inmates. He listened to calls. He gathered
2 evidence. He did everything a good detective will do.
3 For months he visited Daquan Wallace. And ultimately,
4 he on behalf of the State came to the conclusion that
5 Daquan Wallace was attacked by inmates in G section on
6 December 18, 2014. That was the decision of the State's
7 investigator who that was his final report.

8 And he talked about the fact that on the back of
9 this jumpsuit that Mr. Wallace was wearing -- you can
10 see the back because you can see the pleats that come on
11 the back of the jumpsuit to allow your arm to move --
12 there was this blood splatter. And that he saw it on
13 the back of the jumpsuit, which makes perfect sense
14 because Mr. Wallace had sections of blood on the back of
15 his head.

16 So the attack did result in sections of blood.
17 There's not blood everywhere. I'm not suggesting. Some
18 witnesses I think missed it and they told you they
19 didn't see it. So I'm not here to tell you that the
20 room was splattered with blood or anything. What I am
21 here to tell you is that Major Moore's report says there
22 were sections of blood on the back of his head and his
23 clothing, as discovered by the officer shows those
24 speckles of blood to show it.

25 Now why is that so important? It's important

1 because the clothes that were then found in cells 47 and
2 48 that belongs to the inmates in those cells had blood
3 on them. So we go to Plaintiffs' Exhibit 22 which is
4 again, an e-mail report that involves -- remember
5 Detective Bonavega and it involves his work in the case.
6 In that report he says cell 47-48 on 12/19 -- and you'll
7 recall, right after this happens and common sense will
8 tell you, but there was evidence about it -- everybody
9 is locked in. It's not like they're going to allow
10 people to run around. It's a crime scene and they
11 immediately locked everybody in.

12 But in cells 47 and 48 the top bunk was searched
13 and it contained a t-shirt that contained what appeared
14 to be blood stains on the front of the shirt and it was
15 seized as evidence. In the same cell, the bottom bunk
16 was searched and then there was a search and it was
17 discovered in the same cell that one orange shirt
18 contained blood stains on the front and back and a pair
19 of blue jeans that had blood stains on the front leg
20 pants. And those were also seized.

21 Detective Bonavega has in evidence for your review
22 his chain of custody log involving the bloody clothes.
23 This one happens to be for the t-shirt that was found on
24 the top bunk, but the shirt and the pants that were
25 found on the other bunk, there's another chain of

1 custody log that is in evidence.

2 So what we know is this, that when Daquan Wallace
3 was attacked, he ended up with blood on the back of his
4 head and on the back of the jumpsuit he was wearing. We
5 also know that blood ended up in cells on the clothes of
6 the prisoners housed in 47 and 48. Those are the
7 prisoners Renee allowed to stay back. Now what kind of
8 a crazy coincidence would it be that the blood found on
9 the tier just happens to be on the bunk of the cells
10 that Renee -- Officer Renee held back in violation of
11 the policy.

12 In other words, that blood demonstrates that 47 and
13 48 were the cells that attacked Daquan Wallace. And as
14 the officer himself told you, the only way that could
15 have happened to the exclusion of all else, is if he
16 opened 47 and 48 and allowed the attack to occur.
17 Officer Renee testified that the only way they would
18 have come out is if I let them out and then the only way
19 they could have gotten into Mr. Wallace's cell is if he
20 unlocked that cell as well. And recall, as soon as
21 these events are over everything is locked down and
22 people are sent back.

23 So we know Renee violates policy and he admits it
24 by holding 47 and 48 back. We know that Daquan bled
25 during the attack. We know that the only articles of

1 clothing other than what Daquan was wearing that had
2 blood on them are discovered in the very same cells that
3 Renee held back. We know that the attack happens during
4 this dinner period because Beatty says, and in fact,
5 everybody says Daquan was fine before dinner and then
6 found unresponsive. And the State says as well as
7 Beatty that Daquan didn't go to dinner. Beatty told you
8 flat out he didn't go and the State says there are no
9 records confirming that Daquan went.

10 There is as Renee admitted no other explanation.
11 He was the sole officer on the tier. He was the sole
12 person with the key. It was his decision to accept
13 Wallace against -- in violation of the rules regarding
14 transfers. It was his decision to hold back cells 47
15 and 48 in violation of the policy posted on the wall.
16 It was he and only he who could have allowed 47 and 48
17 out to get to Mr. Wallace and that is the only way that
18 -- those blood stained items could have ended up in 47
19 and 48.

20 And Renee admitted and that is in perfect keeping,
21 in perfect keeping with exactly what every single
22 witness who described this facility described to you.
23 Every single witness who talked about it: Porte and
24 Patterson, prisoners cooperated with guards and guards
25 cooperated with prisoners to perform criminal conduct.

1 Major Moore, the acting security chief said officers
2 allowed assaults to occur. She said that they would
3 open doors to allow inmates to assault each other. She
4 said that problem was pretty bad. She said she was
5 aware of situations where inmates were harmed as a
6 result of guards cooperating with gang members.

7 And it is that pattern and practice of misconduct
8 that we see in this case because there is no other way
9 this could have occurred and no other explanation for
10 how Mr. Wallace was attacked. And there's no question
11 but that he was attacked. Recall that that was the
12 official result of the State's investigation in this
13 case from the detective who the State charged with
14 performing the investigation.

15 Also keep in mind Mr. Wallace was on this tier for
16 a very short period of time. These were inmates who
17 were waiting for Mr. Wallace. It wasn't like he had --
18 you haven't heard any evidence of him interacting with
19 cells 47 and 48 and the people in there. So this was a
20 situation where they were lying in wait for Mr. Wallace.
21 Again, there's no other explanation for why it is he
22 appears on the tier and in no time at all his being
23 assaulted.

24 Now there was some interesting evidence also about
25 the items that were recovered from the trash can. And

1 sometimes these things are very subtle when they come
2 into evidence, but I want to talk to you about them.
3 Plaintiffs' 16, back to that e-mail. There was a trash
4 can on the G section -- and you don't have to strain to
5 read it because you'll have this evidence, but there was
6 a trash can on the G section that contained letters and
7 pictures and other things belonging to Daquan Wallace.

8 Now recall that according to Renee 47 and 48 were
9 locked until after Wallace is discovered. The whole of
10 the tier is supposed to be locked down for the entirety
11 of the dinner period, yet somehow -- and then after
12 Wallace is discovered, obviously everything is locked
13 down. Everybody is put in their cells and the doors are
14 locked and there's testimony to that effect. Yet
15 somehow Mr. Wallace's material, his belongings end up in
16 the trash can which Officer Renee described as out and
17 down the stairs away from Mr. Wallace's cell.

18 Recall that Mr. Beatty said when he came he didn't
19 have his paperwork with him. That was the paperwork
20 that was discovered in the trash can. And you'll see it
21 on Plaintiffs' Exhibit 16. I would encourage you to
22 look at that. Let's see. Second or third paragraph up
23 from the bottom.

24 What does that tell us? One of two things. Either
25 the inmates who assaulted him took his paperwork and ran

1 it downstairs, which makes no sense to me. They would
2 be further exposing themselves. Or before he went into
3 the cell when Beatty said he didn't have any paperwork,
4 the officers threw it away. We already know that there
5 was a serious effort in this case on Renee's behalf
6 initially to hide the fact that this transfer was taking
7 place and what was going on with it. He didn't put it
8 in his log book. He didn't talk about having been in
9 the -- in his reports about having been in the earlier
10 section.

11 Now yes, later when he's forced to, when the
12 assault goes as far as it did and Mr. Wallace is
13 discovered unresponsive of course he talks about things
14 then because he has to. He has to say something about
15 it. But initially going into it he's doing everything
16 he can not to record this, not to put anything down, not
17 to note the times, that kind of thing. And one of the
18 things that Beatty says is Mr. Wallace shows up without
19 his paperwork. And what Bonavega finds, the State's
20 investigator is that that paperwork was down in the
21 trash can.

22 There is no reason whatsoever why that an inmate
23 after attacking Mr. Wallace would take his paperwork and
24 run it down to the trash can. It just doesn't make any
25 sense. It doesn't benefit the inmate in any way. The

1 person it would benefit would be the person who wanted
2 to obscure when Mr. Wallace got there, to maybe obscure
3 that he was there at all later and to hide that
4 paperwork from anybody's review. The only people in
5 that category, the only person in that category is
6 Renee. Ask yourself, who else puts his paperwork in the
7 trash can and why?

8 Now there's been a suggestion of some alleged
9 distraction in the hallway. It lasted less than a
10 minute. Do you recall that from the log 13 book that's
11 in evidence. And in his deposition Renee says he's on
12 the G tier standing by the box and not out in the
13 hallway. He tried to confuse that and say maybe he
14 could see both from position. But in any event, there's
15 no dispute about the fact -- and Renee admitted that
16 whatever happened out in the hallway had nothing to do
17 with Mr. Wallace. And instead -- and, in fact, it only
18 lasted a minute and we haven't heard anything else about
19 it. A minute or less I should say. And so, as a result
20 I'm going to ask you not to be distracted by that issue
21 when it comes up.

22 Renee and the State had every chance to give you
23 any other time during these events when this assault
24 occurred to give you any other witnesses about how it
25 occurred, to give you any other explanation other than

1 what is obvious, which is 47 and 48 are held back.
2 Renee is the only one there with the keys. We know he
3 walks up and down the hall. We know he's the only one
4 with access. And the blood ends up in 47 and 48, so we
5 know they performed the attack during the period of time
6 that only Renee was in charge.

7 And the State has not provided any alternative
8 theory or explanation as to how this might have
9 happened. You'll recall Daquan is not involved in the
10 fight in the hall. Recall Renee says he's looking up
11 and watching as the inmates are gathering to go back in
12 after feed-up and he doesn't see any fighting. There
13 are inmates, you know, lazily leaning on the rail and
14 just standing around. He doesn't see anybody swinging.
15 Nobody was excited or jumping up and down. I asked him
16 all of those questions. So there's no other time during
17 which this fight could occur. And we know for that
18 reason that this was an example of the failure to
19 protect Mr. Wallace.

20 Now does Mr. Wallace need to prove every single
21 thing I just told you to win his case? No, he does not.
22 And you have not been instructed that he needs to prove
23 that. I'm suggesting to you where I think the evidence
24 points. In fact, I think irrefutably it points to the
25 fact that the blood ends up in 47 and 48. There's no

1 other way it gets over there unless they're the ones who
2 attack. And it would be the coincidence of all
3 coincidences that Renee violated the policy to hold only
4 those cells back and that they were the ones that
5 happened to end up with the blood in them. And so --
6 and he's the only one there and the only one with the
7 key.

8 So I think it's pretty clear what happened. But
9 keep in mind the standard. There's a duty to protect
10 detainees from violence at the hands of other detainees.
11 That is the Article 24 standard that you're being asked
12 to judge in this case. So it is not necessary for Mr.
13 Wallace to prove every single element of exactly how
14 this happened. Instead, it's only necessary to prove
15 that he was not protected.

16 And this right is a right that is critically
17 important. It's a right of all of us. This is one of
18 our most important constitutional rights because anyone
19 or any one of our sons or any one of our daughters can
20 find themselves in the position that they're
21 incarcerated and awaiting trial on claims that have not
22 been proven, that are mere allegations. And the
23 constitution provides the protection as part of our
24 critical rights, there wouldn't be kept safe during that
25 time period. And this was an institution that utterly

1 and repeatedly and continuously failed to keep people
2 safe and was simply unable to do so. And very clearly,
3 very clearly above and beyond all else failed to keep
4 Daquan Wallace safe. That's what you have to find in
5 order to find in his favor.

6 The judge has explained to you that there's no
7 immunity on the part of the State in this case. It has
8 been waived by statute. That there -- that these ideas
9 of assumption of the risk and contributory negligence
10 that are in the statements don't apply to this
11 constitutional claim. This is the most important claim
12 in the case, Article 24. And the simple question is,
13 was Mr. Wallace protected or not? Did the State give
14 him the protections it owed him?

15 After you decide that question -- and I'm going to
16 ask that you decide he was not given the protections
17 that he was due and instead, that he was not protected
18 from this attack, you'll be called on to assign damages
19 in this case. And I think the testimony of Mr. Wallace
20 and his mother and Larry was incredible. I think you
21 did not see a man who is, you know, wallowing or a
22 family whose given up or people who, you know, were
23 doing anything other than the absolute level best they
24 could do. I think it's utterly commendable and amazing
25 and that these people should be proud of everything that

1 they have done.

2 His mother described Mr. Wallace as basically
3 starting over, as having a second infancy and childhood
4 and having to relearn everything that he learned to do.
5 Mr. Wallace, if you'll recall, spent that time hooked up
6 to the ventilator, spent that time with the feeding
7 tube. You'll recall that once he was conscious and
8 aware that he testified about not being able to
9 communicate for maybe a year or more. Not being able to
10 speak with people and only being able to shake his head
11 a little. Okay. And I was struck by the fact that when
12 I said to Mr. Wallace, well, what happened if your mom
13 didn't know to ask are you hungry or do you need to go
14 to the bathroom or, you know, she doesn't know the
15 specific question and all you can give is a yes or no,
16 what happened? And it blew me away. Mr. Wallace said
17 my mom knew. She knows. And that I think shows the
18 strength of this family. And I was amazed by that. He
19 could have said, oh, it was awful, you know, I didn't
20 have any help, but instead he made it very clear, my mom
21 knows me. She knew what I needed and when I needed it.

22 Even so, the horror during that year or so of not
23 being able to communicate with your loved ones even when
24 they know you. I think especially when they know you is
25 something that you're entitled to consider when you

1 think about the damages in this case. You're entitled
2 to consider Mr. Wallace struggling to learn to
3 communicate. His little sister, Dayshure(sp) eventually
4 teaches him how to type on his phone. And you saw the
5 struggle that that was before. I don't have to describe
6 it to you or walk you through it. You saw Mr. Wallace's
7 difficulty in communicating with people other than
8 himself. Even though when he learned to do that that
9 was, you know, a moment of pride and joy for his family.
10 You know, they're working back up from his infancy.

11 Mr. Wallace is a very proud man and has every right
12 to be. And because of the way he has (inaudible one
13 word) back when I asked him, you know, about friends.
14 He said he was waiting to walk again. He wants to learn
15 to walk again. He wants to get there. He wants to
16 work. He wants to be a productive member of society.
17 And I thought it was a great answer. I asked him well,
18 what about dating? Are you waiting for that? He gets a
19 big smile on his face. It's kind of infectious and he
20 says no, I'm not going to wait for dating. I'm not
21 going to wait for girls.

22 So what does that tell us though about Mr. Wallace,
23 right? This tells us this is a normal, 25-year-old man
24 with the type of emotion and joy and love and needs that
25 we all have inside of us. It's so easy, you know, to

1 walk by somebody in Mr. Wallace's circumstance and not
2 think about them and not know that this is, you know, a
3 human being who's capable of everything that I'm capable
4 of. But he's locked in. He's trapped inside of this
5 body as a result of this attack.

6 And you have every right and I will implore you as
7 a jury to think about what that means to him. This is a
8 person with normal desires and dreams and likes and
9 hopes who now has to fight through this body and fight
10 through to try to get where he needs to be in life. And
11 he's doing amazing things to do it and he's got a family
12 that's doing amazing things to help him. We heard about
13 his ten-year-old siblings helping stretch and move Mr.
14 Wallace. We heard about the fact that when he was first
15 home he's got -- (inaudible) family was up against.
16 He's here in this house and the whole family is pitching
17 in and making sure Mr. Wallace can eat and breathe.

18 This is a family that needs help. This is not what
19 should be happening. And you are the ones that can
20 provide that help and only you. Mr. Wallace is in a
21 situation where he has people around him who have
22 devoted their lives. And think about what a beautiful
23 thing that is where Mr. Carpenter said, you know, they
24 wanted to put him in a home. Not the family, but the
25 hospital wanted -- told us we should, you know, file him

1 away somewhere. And this entire family from the
2 youngest kids up to Mr. Carpenter who God bless you, God
3 bless them, is not even this man's biological father.
4 This entire family has undertaken to do everything
5 within their care and power to keep him at home.

6 They explained to you how they're working around
7 the clock with this man. When he first came home -- and
8 you're entitled to take this into consideration --
9 they're literally suctioning him out, pulling out that
10 trach and doing the suction work the way they described
11 it, every 20 minutes or so and that went on for a month
12 or two until he got enough built up where he could start
13 to clear his own throat and clear his own passages.

14 So -- and when I asked his mother, you know, what
15 did you do at that night? Did that have to be done at
16 night and she says yeah, we took turns sleeping. His
17 mother and this man who isn't even his biological
18 father, but is his father in every other way literally
19 took turns every other night for 20 minutes at a time
20 suctioning out Mr. Wallace for months during that period
21 of time.

22 His little siblings literally helped with the
23 feeding tube during that period of time. You heard
24 about the fact that this family had to learn -- and God
25 bless them, they're amazing, but they don't have medical

1 training and they had to learn about the trach and the
2 feeding tube and cleaning it and suctioning it out.
3 They had to learn and they're still engaged in how to
4 work on Mr. Wallace's limbs, how to stretch them, how to
5 work with resistance. Mr. Carpenter talked about trying
6 to build him up.

7 So this is a family that for 24-hours a day for the
8 last five years -- this happened in 2014 -- has worked
9 hard to bring this man back and they need your help.
10 Mr. Wallace when I asked him -- imagine this, you know,
11 you ever thought about what your dreams were in life,
12 what might be your dream? This man's dream is just to
13 get up and walk across the room. Just to be able to
14 walk. That's his dream. That's what he told us he
15 wants to be able to do. He needs your help if he's
16 going to get there. He needs your help to overcome
17 what's happened to him.

18 We all need your help to make sure this doesn't
19 happen to the next person. At the end of the verdict
20 sheet you're going to be asked to award a significant
21 amount of damages that will make a difference for this
22 family, that will mean -- that will compensate him for
23 the last five years of pain and suffering that they've
24 been through for all of the things that they told you
25 about. And, you know, anything we all do in that regard

1 is going to be insufficient, but I'm going to suggest to
2 you an award in the many millions of dollars is the only
3 appropriate answer for what happened here. It's the
4 only appropriate answer to compensate this family for
5 what they've been through for the last five years and
6 it's the only way to protect our rights and to make sure
7 that this doesn't happen again.

8 I thank you very much for your time and for your
9 service and for your efforts. I know it's been a long
10 week and day, but without that week and a day none of us
11 gets any rights. So thank you very much. I'll be back
12 with you shortly.

13 THE COURT: Thank you.

14 MS. WILSON: Yes, Your Honor. I wanted to
15 just get the exhibits together.

16 THE COURT: Go right ahead.

17 MS. WILSON: But I would have no objection if
18 the jury just needed to stand up and stretch their legs
19 or.

20 THE COURT: Do you need to stand up and
21 stretch your legs?

22 MS. MULLALLY: I need more than that.

23 THE COURT: Go for it. Do you need more than
24 that? Yeah, okay. Let's take five.

25 MS. MULLALLY: Five.

1 MR. HANSEL: Understood.

2 THE CLERK: All rise.

3 (The jury entered the courtroom.)

4 THE COURT: Please everybody have a seat. The
5 State is prepared with its closing.

6 (At 4:54 p.m. closing argument was given by
7 Ms. Wilson on behalf of the Defendants.)

8 CLOSING ARGUMENT

9 MS. WILSON: Good afternoon. Once again, my
10 name is Michelle Wilson. This is Laura Mullally and we
11 are here on behalf of the State of Maryland. To be
12 clear in this case we are representing the State. We
13 are Defendants in this case. That is really important
14 because throughout this entire process Plaintiffs'
15 counsel has said State's witnesses, the State didn't
16 call, the State didn't do. It's very important.

17 As the State our job is not to prove anything.
18 That is the job and the burden of the Plaintiff. Our
19 job is poke holes, to ask questions to figure out what
20 was going on and to gather and elicit information if we
21 choose to. If we sat on our hands, if we spoke too
22 loud, if you didn't like our shoes or our dress, please
23 forgive us because that's not what this is about. And
24 I'm a loud talker, so sorry. I'll say that in advance.
25 But that's not what this is all about.

1 We don't have the burden. We don't have to prove
2 anything in this case. We don't have to prove any
3 single thing. As much as the Plaintiff will try to tell
4 you the State's witnesses, the State didn't call. We
5 called three witnesses at the close of the Plaintiffs'
6 case because it is their burden, not ours. So we want
7 to be very, very clear that we didn't have to call any
8 witnesses. And there were times when we sat on our
9 hands because we don't have to prove anything.

10 One of the most important things about this case is
11 language. Is the language we use, the words that we
12 use, the things that we say. It's really, really
13 important the language. And I'll give you a perfect
14 example. Much has been made about what Defense put into
15 evidence, Defense Exhibit 4 which was the instructions
16 that were posted on the wall for feed-up. Much has been
17 made. And please if we -- if I use slang or some
18 localized term, please forgive me. That's what you
19 heard for the last week or so. So feed-up, dinnertime,
20 lunchtime, breakfast time.

21 And Plaintiffs' counsel has repeatedly said
22 everyone must go to chow, everyone must go to chow
23 right. That's the rule. That's the policy. That is
24 what it says. That's not what the form -- that's not
25 what this says. Language is important. As of August

1 4th, 2014 MDC, men's detention center will no longer
2 conduct feed-up in specific housing units. All housing
3 units except specialized housing will utilize the dining
4 room for their daily meals. Detainees will no longer
5 eat in their cells. Detainees will no longer eat in
6 their cells. Why is that important? Because I don't
7 want to go and eat. I don't have to. You're not
8 bringing me a tray. If I was a detainee and I say I
9 don't want to eat, I don't have to eat. What would be
10 the purpose if we made, if the Department made every
11 single detainee who said I am not hungry and I don't
12 want to eat go to lunch? No, you must go to lunch right
13 now. How much more conflict, friction, angst, anger
14 would that cost among the detainees?

15 We have one correctional officer in a tier with 96,
16 approximately 96 inmates and someone doesn't want to go
17 to lunch. Someone doesn't want to have breakfast.
18 Someone doesn't want to have dinner. They don't --
19 detainees will no longer eat in their cells. Eat their
20 meals in their cells. That's what the policy was about.
21 The policy was about -- and a few officers testified:
22 Officer Shurd, all of them testified, Officer Renee all
23 testified that originally prior to August 14, 2014 they
24 would do mealtime, feed-up, they would bring it to the
25 inmates. But after August 14th what did they do? They

1 did a mass movement down the hall and took them to the
2 dining hall. Took them to the dining hall.

3 But even as we say that there are exceptions and
4 there was an exception. According to Officer Shurd,
5 Westbottom was on restrictions. They couldn't eat, so
6 food was brought to them. It was documented here.
7 According to Officer Renee Westbottom was on
8 restrictions, so their food was brought to them. They
9 weren't starved. They weren't forced not to eat.
10 Because they were on restrictions.

11 But if you are a regular detainee and you did not
12 want to eat, show me where in this policy, where in this
13 policy does it say you must eat? That you -- it says
14 detainees will no longer eat in their cells. Okay. But
15 Plaintiffs' counsel has made such a big deal about that.
16 Language means something.

17 Throughout this entire case there have been
18 alternating theories about what happened, alternating.
19 This happened and that happened. It was an assault. It
20 was this. Cells 47, 48, cell three. It was on the
21 floor. It was over here. It was to the left. It was
22 to the right. And Plaintiffs' counsel -- again
23 language. Think back and count to yourself how many
24 times he said I'm going to suggest to you. I am going
25 to suggest to you. Not I know, not the facts, the

1 witnesses, the evidence showed this, not we call
2 somebody and they said this. I'm going to suggest to
3 you. I'm going to suggest to you.

4 That's not -- a suggestion is not evidence and
5 that's the problem here. That's why you are here.
6 That's why you have spent and we have spent the last
7 week together in this extremely cold room. Because this
8 -- a suggestion is not enough. If a suggestion was
9 enough, I'd be in my flat shoes right now in my office
10 ready to go home because a suggestion is not enough.
11 That's the problem.

12 When we called -- excuse me, not we. When
13 Plaintiffs' counsel called the doctors, they're doctors,
14 not one of them a State employee, their doctors over and
15 over and over again what did the doctors say? We can't
16 say definitively what happened to him except it was a
17 traumatic brain injury. How did he get it? How did he
18 get it? Was it cell 47 and 48 that -- cell 47 and 48.

19 Let's deal with 47 and 48 right away. Did one
20 person in here come in here and say that individuals in
21 cell -- first of all, do you even know their names?
22 Cell 47 and 48, has anybody said their names to you
23 other than it's written on a piece of paper? They're
24 individuals. They're human beings. Everybody in the
25 facility, we acknowledge that, we honor -- we hope to

1 try to honor that that these are men in a facility we
2 had nothing to do with.

3 That's the other thing I want to make very clear
4 up-front. The Department of Public Safety and
5 Correctional Services has nothing to do with what
6 happens on the streets of Baltimore City and has nothing
7 to do with outcomes and sentences. That is not our
8 responsibility. That's not something we control. And I
9 say we in terms of the Department has no control over
10 who's arrested, has no control over who's convicted or
11 not convicted. We have no control over that.

12 They come to us as they are, men or woman if you're
13 in the women's side. Men and women, individuals.
14 Individuals. And we are taxed with holding them until
15 the court -- a court like this one makes a determination
16 as to what to do next. We don't do that. That is not
17 our responsibility. Let us be clear about that right
18 now. That is not our responsibility. We are about the
19 detention. That's what we're here for.

20 And so, we say -- I say all that to say here we
21 have someone who was in custody. We have cells 47 and
22 48 -- I'm going to be moving around some papers. Forty-
23 seven and 48, Brandon Miller, Tyrell Fields. I'll say
24 their names. You've never heard their names mentioned
25 before to you. Why? Because not one person has ever

1 said either of those men were convicted of injuring Mr.
2 Wallace and that's important. Not one person in this
3 court who has come here with us since last Monday you've
4 been hearing testimony, for a week we've hearing
5 testimony -- not one person has come in here and said
6 Brandon Fields -- that Brandon Fields or -- excuse me --
7 Tyrell Fields or Brandon Miller ever left cell 47 and
8 48. Not one person. It was suggested to you. It was
9 inferred. You received suggestions about it. But what
10 did Officer Renee tell you? What did Renee tell you?
11 They did not leave their cells.

12 What do we have? There was a big deal made about
13 blood, all of these things. Did one person ever tell
14 you that the blood found in cells 47 and 48 matched Mr.
15 Wallace? Did one person tell you that? Plaintiffs'
16 case. Did one person tell you that? It was suggested.
17 It was inferred, but no one has told you that in a week,
18 in a week of many, many witnesses not one person said,
19 not one person said and it's important.

20 We do not know after a week of being together can
21 you go back in that jury room and say you know what
22 happened to Daquan Wallace other than he had a traumatic
23 brain injury? Do you know who caused it? Was he
24 shaken -- was he shaken -- shaken? Was he shaken? Was
25 he hit? Was he punched? Was he kicked?

1 The physician's assistant -- Plaintiff called the
2 physician's assistant. Physician's assistant said no
3 blood. Physician's assistant said there was pooling of
4 blood underneath the skin. All of the evidence says
5 that Daquan Wallace frequently got into fights,
6 frequently. So when the Plaintiffs' counsel says there
7 was blood on the back of his jumpsuit, you don't see --
8 there's no mass pool of blood. They want to show you
9 this picture. There's no mass pool of blood there.
10 He's being examined and looked at.

11 We have speckles of blood, speckles of blood.
12 Detective Bonavega was here. Detective Bonavega was
13 here. We don't have the burden so we sit on our hands.
14 Plaintiffs' counsel doesn't have to sit on his hands,
15 doesn't have to do it. Can say to you whatever -- ask
16 questions and he did.

17 I would like to talk about Officer Renee for just a
18 moment. Officer Renee -- and the other thing -- one
19 other thing I want to make clear is that the State here
20 today does not represent a single officer. We are here
21 on behalf of the State of Maryland. So when people talk
22 about the State's witnesses or the State, we're here on
23 behalf of the State, the entity in and of itself.

24 And we have witness after witness who gave
25 depositions at different points in time. And when

1 Plaintiffs' counsel found that the witness didn't agree,
2 he quickly pulled out the deposition. If they said
3 something he thought was contrary, he quickly pulled out
4 the deposition and said, didn't you say earlier.

5 So remember I said this is about language, how
6 important language is. If I say to you did you beat
7 your husband or your wife? What's the problem with that
8 question? It doesn't allow you to say no. You either
9 did -- excuse me -- if I said, did you beat your wife or
10 your husband yesterday? That question doesn't allow you
11 to say no because it's not -- the way it was framed,
12 it's assuming you're already guilty.

13 So when you ask a question over and over and over
14 again and you change just a word or you say -- instead
15 of saying someone was injured, they were assault, they
16 were beaten, they were these things. When was any of
17 that proven to you? When was it?

18 And Officer Renee he hid, he hid from you, he lied,
19 he -- his whole deposition he never once said the word A
20 shift. This deposition was taken July 3rd of 2018, July
21 3rd of 2018. He hid from you what? Officer T. Renee, B
22 shift. His name is right here. He said when he worked
23 the A shift -- if I can pull up the right one somewhere
24 over here. You will look and you will see -- here we
25 go. Officer Renee, Officer Broadnock. Broadnock I

1 believe it is. Both of them -- he his from you what?
2 That he worked in the JI building 500? It says assume
3 the duties and responsibilities of post JI 500. What
4 was hidden from you? Counsel forgot to ask in the
5 deposition and now that becomes Officer Renee's fault.

6 That's the problem. That's the problem. Officer
7 Renee says he worked. Again, names were disclosed.
8 Officer -- and misrepresentations throughout because
9 throughout this entire case -- and you have it in your
10 evidence -- counsel just said in his closing argument
11 that Carey Moore was the major. It went for the
12 transfer form. Plaintiff put it in evidence as
13 Plaintiffs' 3 hoping you didn't look. The shift
14 commander was N. Maddock, N. Maddock. Karen Moore was
15 working 3:00 to 11:00. Karen Moore was there when
16 Daquan Wallace was recovered. Officer Maddock was there
17 in the room.

18 But it's just another way to create confusion
19 because we would suggest that Plaintiffs' counsel -- no
20 one knows what happened to Daquan Wallace. And so, it
21 must be the big, bad State's fault. It must be.

22 So Officer Renee worked two shifts. So the
23 suggestion now is that the State was in cahoots to get
24 Daquan Wallace. And Officer Renee hid that he worked in
25 the morning, but he wrote it on his sheet. Officer

1 Renee hid that he worked in the evening, but he wrote it
2 on his sheet and he wrote it down and he logged it. And
3 Officer Renee hid that the transfer came in. So he
4 signed the transfer form. So he signed the transfer
5 form because he wanted to hide it all from you. And
6 this is all in evidence. So what did Officer Renee hide
7 from you? What did he hide from you?

8 So the other thing is the form. Several witnesses:
9 Lieutenant Patterson, Porte testified. Lieutenant
10 Patterson said she ordered Lieutenant -- excuse me --
11 Sergeant Porte to fill out the form. Lieutenant
12 Patterson signed her name as the supervisor. What did
13 Lieutenant Patterson say happens next? They're in the
14 JI building. Across the street they have to take a gang
15 -- what do they call it -- the walkway across to get to
16 the other side, right. So they're in a different
17 building. She is having Mr. Wallace transferred.

18 Transfer officer -- what did Lieutenant Patterson
19 tell you? Transfer officer would pick up and did pick
20 up Mr. Wallace and take him where? Not to G section.
21 They take him to traffic, traffic. Then traffic says
22 this is where you go. Lieutenant Patterson said I don't
23 know where he went. Traffic took him. I don't know
24 where he was going.

25 So now Plaintiffs' counsel wants you to believe

1 that everyone was in cahoots to get beat up. That the
2 traffic officer was in cahoots to transfer Mr. Wallace
3 to G section. So first we have to assume that
4 Lieutenant Patterson who worked 7:00 to 3:00 knows where
5 Jenkins Renee was going to be transferred at 3:00
6 o'clock. He didn't even know. He said he had to go
7 because was working until 3:00. He worked until 3:00
8 p.m. When his relief came on G section -- and you see
9 the next shift signs in. It looks like it was Officer
10 Idaho and Pardon sign-in at 3:00. He can't leave where?
11 He can't leave the JI building until the count is done.

12 He then goes over to the men's detention center
13 side to find out where he is working. Officer after
14 officer said they don't have assigned shifts. He told
15 you he didn't have an assigned shift. He could have
16 been anywhere they wanted to put him and they frequently
17 change where they're going to put you.

18 Officer Renee, on the job for a year, no Baltimore
19 City connections, no gang connections that anyone has
20 established or proved, no connections to any corrections
21 officers before he became a correctional officer, left
22 the Department on good terms and is now working for
23 Baltimore County Police. They did a complete background
24 investigation and that is where he's currently working.

25 But now we're supposed to believe today that these

1 -- filling out these forms was not enough. So then it
2 becomes oh, wait a minute, him writing his name here at
3 the bottom is not good enough because there's a -- no,
4 we can't read the name of the person above.

5 So what do we have? Sergeant Scipio brings over
6 Mr. Wallace to G section. Officer -- Sergeant Scipio
7 brings him over at 4:00 o'clock. And that's in Sergeant
8 Scipio report.

9 This incident everyone agreed -- there was hours of
10 testimony about the exact time this happened. Was it
11 within this minute or that minute? But everyone agrees
12 it was after 7:00 o'clock, three hour window when Daquan
13 Wallace was -- go to the G section, three hours, three
14 hour window.

15 Then who threw away his papers? Who threw away his
16 papers? Officer Renee threw his papers in the trash to
17 hide that he was there. Does that even make sense to
18 hide that he was there? He was carried out of his cell.
19 It says he was in G35. He was carried from then G35.
20 Why would you need to hide -- why would he need to hide
21 his papers? And we have the photograph that says items
22 were brought with him. Medication here, t-shirt. See
23 it in the picture. One thing it has. We have a t-shirt
24 on the top bed. We have items here.

25 There are clearly two sides to every story and

1 maybe even three sometimes people say. We don't know
2 what happened. Right now all we have is speculation.
3 We have a transfer form which Plaintiffs' counsel says
4 form void unless signed by shift commander or operations
5 captain when applicable. What does the word applicable
6 mean? Applicable according to the Merriam Webster's
7 Dictionary; relevant or appropriate. Merriam Webster's
8 Dictionary. Opposite of applicable, impractical,
9 nonpractical. This is according to the dictionary.

10 What did Lieutenant Porte -- Patterson say? First
11 of all, she said her job is here up until this point, up
12 until this point. Then the form goes with the detainee
13 with the transport officer who is working with traffic.
14 The shift commander is not located -- everyone has
15 testified to that -- the shift commander is not located
16 where? He's not located in the JI building. So the
17 form would have left with Officer Patterson's signature.

18 It would have then have gone to traffic. And
19 Lieutenant Patterson -- did I say officer? Lieutenant
20 Patterson says that the traffic officers are supposed to
21 get a lieutenant to sign. I'm sorry, a shift commander
22 to sign. What if the shift commander is not available?
23 Does the detainee just sit? Officer Shurd and Officer
24 Renee said they would call and Officer Shurd -- and we
25 know -- one thing we do know and I asked. If you look

1 at the sheets for when Officer Shurd worked her shift
2 and then you look at the sheets from when Officer Renee
3 worked his shift in G section, both of them at some
4 point in time received and inmates came in and left at
5 some point in time. And not all of those transfers --
6 there was definitely a transfer on Officer Shurd's shift
7 and that was not noted in the log book. But I bet if
8 you pulled her transfer -- the transfer form, the
9 signature is there.

10 They said not everything was written on the form in
11 the book. That they're working. This is an active --
12 imagine a room full of 90 plus inmates, 75 approximately
13 are moving for dinner, coming back, noise in the
14 hallway, fighting in the hallway, activities going on.
15 Imagine that. Picture what it was like. Do you think
16 you would every two seconds I got to write down there's
17 a shift, got to write this down. You're going to try to
18 make notes of all the most important things that you
19 can, but if you sign this form -- who did the transfer
20 that night? Officer Renee. He admits it. He admits
21 it. He admits it. There's no lies. There's no lies.

22 And, you know, counsel suggested that we would call
23 Mr. Beatty a liar because he's a convicted individual.
24 I'm not going to -- we don't have to do that. We're not
25 going to do that. Mr. Beatty says that there were four

1 to five officers who transported Mr. Wallace. Officer
2 Scipio said he did it. Officer Renee said it was
3 Officer Scipio. Officer Renee said he walked him down
4 the hall. He walked him down the hall by himself. Mr.
5 Beatty says they ordered me out of my cell. They
6 ordered me out and I didn't get back until after I went
7 to feed-up, but I know Mr. Wallace was there. We never
8 met before. I didn't know him, but you look for your
9 cellies. In a room full of 75 individuals and you get
10 20 minutes to eat. He looked for him because that was
11 going to be his new buddy. I don't know. Did he?
12 Didn't he?

13 And where was Mr. Wallace for three hours? We
14 don't know. Because what did we admit to? Words
15 matter. We admitted that we don't know whether or not
16 Mr. Wallace went to feed-up. We don't know. That's the
17 difference from he didn't go. We don't know. We don't
18 have a camera that shows it. There was only one camera
19 in that hallway. We don't know. For three hours that
20 Mr. Beatty says he never saw him.

21 Mr. Beatty says I told my -- I told the CO that
22 there was something wrong. He was laying in his bed.
23 And he said -- Lieutenant Almiroudis this. He's up --
24 check him out up there. Check him out up there. And if
25 you believe everything Mr. Beatty said he said he had

1 blood -- Mr. Wallace had blood coming out of his nose.
2 Not blood splatter, not blood everywhere, not -- there
3 was maybe a trickle of blood out of his nose, but the
4 physician's assistant said there was no. The medical
5 person that they tried to admit as an expert said there
6 was no blood. It was pooled was what she said.

7 Mr. Beatty said he carried Mr. Wallace down the
8 hall and took him to medical. That's not what
9 Lieutenant Almiroudis said. So there's inconsistencies.
10 There's really big inconsistencies, which is part of the
11 problem.

12 So there are so many alternate theories about what
13 happened. Was it 40 -- the men in 47, 48? Was it the
14 men in -- was it Mr. Beatty? Was it -- I don't know.
15 We don't know. But let me ask you this? Mr. Wallace --
16 let me -- Mr. Wallace's mom -- Mr. Wallace's attorney
17 said his mom called the jail and said if you move my son
18 he will get hurt and that created the duty. The duty
19 for us to protect him. Everyone -- I haven't heard
20 anyone disagree that Officer Patterson called --
21 Lieutenant Patterson, excuse me, called Mr. Wallace into
22 her office to talk to him and he said, I don't want to
23 be on PC. I'm not telling you anything. I'm not giving
24 you any information.

25 So under the theory of Plaintiffs' counsel, if

1 someone's mother calls the jail -- because Mr. Wallace
2 does not -- did not have the right to control where he
3 went. According to Plaintiffs' theory Mr. Wallace had
4 no control. The jail had the control, right. The jail
5 had the control. He -- it was and is a man. He was a
6 20-year-old man on the day this -- when this happened.
7 He could speak for himself. He could think for himself.
8 He could talk for himself. He could act for himself.
9 And he says I don't want help. They didn't even ask him
10 for a name. They didn't ask him -- they asked him what
11 was going on. But what did Lieutenant Patterson say?
12 All he had to do was write on a piece of paper I need
13 help, that I don't feel safe. That's all he had to do
14 was write on a piece of paper, I need help. I don't
15 feel safe.

16 But call after call that you heard -- and we only
17 played three of them -- he said I don't want to go. Mom
18 said why didn't you talk to them? Why didn't you tell
19 them what was going on? I don't want to go. I don't
20 want to do this. He didn't want to say.

21 And then this whole thing about Lieutenant
22 Patterson and everyone in the facility made this whole
23 thing up. Plaintiffs' counsel wants you to believe that
24 on -- when they met with Daquan Wallace, Lieutenant
25 Patterson and Sergeant Henderson met with him, they

1 immediately as retaliation for the mother calling did
2 what? Sent him to the men's detention center. It was
3 December 3rd when they met with him. December 3rd when
4 they put him on the speaker phone with his mother. She
5 said it never happened until the jail call showed. She
6 said that's my voice. It did happen because she said,
7 why didn't you tell those people? Why didn't you tell
8 those people?

9 So on December 3rd is when that conversation
10 happened. How do we know that? Because you will have
11 -- it's somewhere in all of these papers -- you will
12 have the report of -- you will have the report of
13 Lieutenant Patterson and that report lays out exactly
14 what happened. And in that report -- actually I just
15 want to find that report. Court's indulgence for just
16 one moment.

17 THE COURT: Yes, ma'am.

18 MS. WILSON: On Wednesday, December 3rd, 2014
19 at approximately 8:15 hours Ms. Nicole Wallace calls in
20 reference to her son, detainee, Daquan Wallace. Okay.
21 We -- if we go through this form, she said her son was
22 assaulted on December 2nd, 2014 in the bullpen, MDC
23 bullpen after returning from court and that his sneakers
24 were taken from him. Okay. Now at that point in time
25 it is -- Mr. Wallace had a black eye and this report

1 says she wanted to know if he was transferred and if
2 not, she was requesting him to be transferred because
3 she was worried about his safety.

4 Now the whole entire argument here that you've
5 heard for the last week is that they shouldn't have
6 transferred him. The JI building was a dorm; bed after
7 bed after bed. Forty-five men sleeping in one section.
8 Forty-five men sleeping in another which made up the 500
9 dorm. Ninety plus men, no doors, no cells, no -- no
10 separating you. You've got the bathroom and the doggone
11 movement.

12 Daquan Wallace was in the dorm. It was supposed to
13 be a place for medium security. But all inmates
14 actually we heard that inmates could have been housed
15 there, more maximum. But essentially in a dorm-like
16 setting you don't -- you're not going to put a bunch of
17 people who are going to be fighting fisticuffs, doing
18 all that because what? There's no place to separate 45
19 -- imagine if just the second of you were trapped in the
20 jury room with bunk beds with nowhere to go and you
21 tasked to get along with each other.

22 Sometimes people didn't get along. Sometimes there
23 were problems. Mr. Wallace said -- and if you read
24 through this form they talk about the shoes he took to
25 court didn't belong to him. The letter talks about the

1 fact that when he was on the phone with his mother, he
2 wasn't using his card. He said it. He wasn't using his
3 phone privileges. He said I have no money. I have no
4 money. I had to use somebody else's and the voice
5 doesn't match. That's what the jail calls told you.

6 So he's using other people's privileges. And it's
7 very interesting, Lieutenant Almiroudis, the last
8 officer -- one of the last officers we called,
9 Lieutenant Almiroudis said word was Mr. Wallace was
10 beaten up for stealing.

11 MR. HANSEL: Objection, Your Honor.

12 MS. WILSON: But --

13 MR. HANSEL: I would ask that that be
14 disregarded. That was -- an objection was sustained in
15 that testimony.

16 MS. WILSON: It was not, Your Honor. It was
17 not. No objection was actually made, Your Honor.

18 THE COURT: I think there was an objection
19 made and I'm trying to remember my ruling on it.
20 Forgive me. Let me consult my notes.

21 MS. MULLALLY: Your Honor, it was the answer
22 given in response to Mr. Hansel's question.

23 THE COURT: It was allowed.

24 MS. WILSON: It was allowed. He was beaten.
25 So the fact that they said there were no testimony was

1 given that Mr. Wallace was stealing or taking privileges
2 from another detainee is not true. Lieutenant
3 Almiroudis was here. We called him. He was here.

4 Now it is within the Department's rights to move a
5 detainee, to transfer them. We wish in a perfect -- in
6 a perfect, perfect world we would have all of Lieutenant
7 Patterson's paperwork. But they were moved. The men's
8 detention center as you can see from the many, many
9 pictures that we put into evidence has long since
10 closed. JI building is now closed. And so we don't
11 have them. But that does not mean that when these
12 witnesses came in here and testified and answered
13 questions, that these things didn't happen.

14 And I just want to make a note of the testimony of
15 Karen Moore. Ms. Former Major Moore is no longer here.
16 And her testimony was read to you. And one of the
17 things that was read to you was the question: 'And did
18 those types of allegations we talked about the 2011-2012
19 period, did those types of allegations that officers
20 allowed assaults to occur continue after that, say 2013,
21 2014? Did you hear these same types of allegations
22 again? Not as frequently as when I first arrived.'
23 Further questioning: 'All right. The type -- but the
24 type of situations where officers would allow inmates to
25 assault each other, there were -- I guess your

1 description is that there were a lot of these in 2011-
2 2012 and fewer in 2013 and '14; is that fair? Yes.
3 They started and they started seeing discipline was done
4 and people were removed from their jobs for sometimes.
5 I'm not going to say for making a mistake, but not
6 following rules as per policy. So once they saw a
7 difference in the changing of the staff and the
8 supervision, a lot of that slowed down from what it was
9 when I first started.'

10 So Plaintiffs' counsel wants you to believe that
11 the jail was overrun and nothing was being done and the
12 inmates controlled everything. That's not true. The
13 Department was actively working, actively working to
14 correct and to take care of the detainees that were
15 there.

16 Plaintiffs' counsel wants you to believe that
17 Daquan Wallace would have been hurt if he said that he
18 was threatened or injured -- that he was threatened in
19 any way. The problem with that is what else was the
20 Department supposed to do? What else -- if you refuse
21 to say as a grownup, as a grown individual, use your
22 words and say I don't want to be here or I need to be
23 someplace else or I am scared, what should we have done?
24 Rather, they said moving him was the harm, but keeping
25 him in JI where he was fighting was the better answer.

1 Would that have kept him safe, keeping him in the place
2 where he was fighting?

3 So then the argument then, we should have put him
4 in protective custody. Why? Because his mother says.
5 Do every single mother call up a jail and say put my son
6 in protective custody? You can't be a man on one day
7 and then say you got to listen to his mother on another
8 day. When do you take responsibility? When do you do
9 that? When do you do that? If something was going
10 on --

11 And so there's this whole theory that you can't say
12 anything because if you do -- again, we're not saying
13 it's perfect, but one of the things that was noted and
14 passed over on Detective Renee's report -- and so they
15 said nothing was going on. But if you look at Detective
16 -- I mean excuse me -- Officer Renee's report, detainee,
17 Paul Pulley and Joseph Tillman in cells 27 and 28 came
18 out for recreation with their belongings and stated they
19 were scared on the section. Detainees were -- and then
20 it says that they were escorted out.

21 So the theory that asking for help gets you hurt
22 means what? This was clearly glossed over. If they
23 don't know you need help -- everyone said that Daquan
24 Wallace was not on anyone's radar before December 3rd,
25 2014. But get this, what if -- if we're going to do --

1 if we're going to make all these suggestions, what if
2 someone did complain about detainee, Wallace? And what
3 if that individual was also scared? What if he was also
4 scared? He's stealing my shoes. He's stealing my phone
5 privileges. He's taking my stuff and we're in a dorm-
6 like setting.

7 So the right answer would be to write an infraction
8 against detainee, Wallace. But what's the problem with
9 that? In order to have a hearing on the infraction, who
10 would have to testify? The person who says he's
11 stealing my stuff. Why not then instead move detainee,
12 Wallace to a more restricted place? Because testimony
13 after testimony after testimony said men's detention
14 center was more restricted. You were in cells. Your
15 movement was limited. You didn't have freedom to come
16 and go and do all those things.

17 So we're talking about suppose and this could have
18 happened and all these alternative theories. Doesn't
19 that make sense that maybe someone did complain about
20 detainee, Wallace? But -- and it was easier to move him
21 to men's detention center? Because -- so no one got
22 hurt.

23 The goal of the Department was not to hurt
24 detainee, Wallace. No one wants to see him in this
25 condition. We're thankful that he is better than he was

1 on December 18th, 2014. But no one wants -- we in no way
2 want to see him in this condition.

3 Just to be clear, Plaintiffs' counsel likes to read
4 to you -- actually I want to go through these very, very
5 quickly. Assault and battery -- very, very quickly --
6 assault and battery; a specific intent crime. Very
7 clearly, assault and battery is specific intent. That
8 means some officer -- if you wanted -- and it looks like
9 Officer Renee is being blamed -- some officer has to
10 intend to either assault, cause some injury by words,
11 intentional threat or acts, attempt to physically harm
12 Mr. Wallace or battery. Actually, physically harm him.
13 Has to intend to do that.

14 You don't have any evidence, any evidence that any
15 one of the correctional officers who testified here, any
16 State employee at the time or that the State intended to
17 assault and batter Mr. Wallace. Not one bit of evidence
18 to say to you or any proof given to you that says that
19 -- because again, right now the theory is 47/48, those
20 two, unknown individuals are the ones who did it.
21 Forty-seven and 48, no one has been outside of their
22 cell. No one. So assault and battery, there's a
23 problem with that.

24 Going backwards. Negligence, negligence; a duty
25 breached -- a duty has to be breached. The State has to

1 be the cause or the proximate cause of the harm. What
2 happens is the Plaintiff was also negligent? One could
3 clearly argue that in this case Daquan Wallace had a
4 duty, had a duty to let someone know if he was scared.
5 Not his mother. Because once his mother notified them,
6 they called him into the office. And Lieutenant
7 Patterson said, she had to pretend like they were going
8 to medical and she actually had him go to medical first.
9 He went to medical. So if the whole thing is people
10 would see him going in and see him going out and go into
11 the lieutenant's office. She sent him to medical first.
12 So anyone who's looking, he would have been going to
13 medical before he even came to her office.

14 His failure. What was his role in this event -- in
15 these events? And remember, we're dealing with December
16 3rd, 2014. Mr. Wallace was not transferred until
17 December 18th, 2014. It was not the next day or the day
18 after and that's important, okay. He did not advocate
19 for his own safety. He did not tell anyone. His
20 lawyers, his -- anyone other than his mother. And when
21 they called, when his mom called and they pulled him in
22 and say, what's going on? He said, I don't want to go.
23 I'm not going anywhere. And he said he fussed at her
24 and he gave her a hard time. So there's a problem with
25 the negligence claim as well.

1 Then there's an allegation of negligent training
2 and supervision. What was -- what -- the standard is
3 reasonable care, okay. I'm going to say this over and
4 over again. It would be great if we can look at this
5 case from today and move backwards. Doctors do that.
6 You know, when they have -- if you watch a medical show,
7 what they do is after something happens in a hospital,
8 if there's some issue or some problem, they do an
9 examination and they do what? They sit and they look at
10 each step of the process. If the person came in through
11 the emergency room, if they came in -- how they came in,
12 what happened during surgery. All of those different
13 things they look at.

14 The thing is you cannot look backwards. Looking
15 backwards -- of course none of us want Daquan Wallace to
16 be injured. That benefits no one. There's no benefit
17 for us. There's no benefit to him, to his family. We
18 would -- why would anybody want to put that on him? But
19 we can't look back like this. We instead have to look
20 at what the officers knew at the time. Did they use
21 reasonable care? Okay.

22 Maybe -- you know, if my stomach hurt and I think
23 maybe I shouldn't have eaten that tuna sandwich for
24 lunch. That's not enough. Maybe I shouldn't have drove
25 that route. You can't do that. You have to look at

1 what you did -- what did you know at the time? Did I
2 have knowledge that that tuna sandwich had been sitting
3 on somebody's counter for three hours before I picked it
4 up and bought it? No. Or when I open a refrigerator to
5 take it out of that refrigerator, did I know, did I feel
6 that the refrigerator was warm? Did I know that there
7 was -- that it was unplugged? No light came on when I
8 came -- when I opened it. Was I aware of that. Or did
9 everything appear to be normal? When I opened it up and
10 the light was on and it felt cold. It was reasonable to
11 assume that this refrigerator is working and my sandwich
12 is safe. Right.

13 So what did they know at the time? Okay. We have
14 to look at what these officers and the supervisors knew
15 at the time they made their decisions. Officer Renee
16 says that he called transportation -- that he called
17 traffic, excuse me, to make sure Wallace was supposed to
18 be there. He says he wrote the room -- the location on
19 the form. Why would he -- if he had some nefarious,
20 scheming, trying to get by way, he didn't want anybody
21 to know he was there, why would he testify to that? Why
22 would he testify to that?

23 It could have been the person with the circular
24 handwriting, the scribble as its been described. He
25 could have just blamed on somebody else. What benefit

1 was that to him?

2 That form essentially, ladies and gentlemen, is an
3 administrative form. It's a piece of paper. You have
4 to ask yourself as we move forward, did that piece of
5 paper, did this transfer form, did that piece of paper
6 decide whether or not Daquan Wallace was going to be
7 transferred? No, no. It was a form. They moved him
8 about. It was an administrative form signed by a
9 lieutenant. Officer after officer after officer said a
10 lieutenant signed it. That was good enough. And I mean
11 hours of testimony about whether or not a shift
12 commander -- and I've already gone through that. If
13 applicable and what that means. If someone is not
14 available, it doesn't mean the transfer didn't happen.
15 If applicable.

16 You have to ask yourself -- and then counsel makes
17 a big deal about whether or not under Article 24 that an
18 inmate -- we have a duty to protect. And that sounds so
19 basic; right? We have a duty to protect. So then what
20 does that mean? You have to really ask yourself, was
21 Mr. Wallace punished and what would punishment be? If
22 he was punished, was punishment moving him? Was that
23 the punishment? Was he punished because we moved him?
24 Because movement was a normal part of the process.

25 It's amazing how hot it got during this part of the

1 day. Because that's a part of the process. Excuse me.
2 There's not one person that said detainees could not be
3 moved. Not one person. Said traffic -- I think Officer
4 Renee said they move all the time. In fact, when the
5 men's detention center closed, when MDC closed, all of
6 those detainees were moved. All of them were moved.
7 They can be moved at any point.

8 So movement alone is not punishment and that's the
9 argument here; that moving him was punishment. Movement
10 is not punishment. Sometimes the needs of the location,
11 the needs of the facility dictate that individual must
12 be moved. The benefit of one cannot outweigh the
13 benefit of 45 to 90 others. Was he punished when they
14 moved him from medical care? That was an argument.
15 Everyone said he was unresponsive. At some point they
16 moved him right away from cell -- from G35. Lieutenant
17 Almiroudis said they decided not to wait because he was
18 unresponsive.

19 So movement is not enough. Now a movement is not
20 punishment. I want to show you one last thing before I
21 depart from there. Counsel has said over and over again
22 that under Article 26 it was our duty to protect. And
23 again, I want to draw your attention back to the jury
24 instruction on the same page -- you'll get this -- on
25 page nine where it says standard of conduct. And

1 factors that should be considered in determining
2 reasonableness include what the officer believed at the
3 time of the incident. That's important. What did the
4 officers believe on December 18th, 2014? Okay.

5 And so, officers are often tasked to make split-
6 second judgments in circumstances that are uncertain.
7 Therefore, in examining Plaintiffs' claims you should
8 look at the situation from the perspective of the
9 Defendant on the scene, taking into consideration all of
10 the circumstances that you find to have existed at the
11 time the Defendant knew them. So the question is,
12 Lieutenant Patterson should have put Mr. Wallace in
13 protective custody. That's what they say. Well, first
14 it was they shouldn't move him.

15 November we have he was fighting. December we have
16 that he was in fights all while in the JI building. All
17 while in the JI building. Could it be -- he was adamant
18 about not going to protect custody. And yes, the
19 Department could have put him there. And every mother
20 -- if they took every mother's call and every mother
21 said move my son to protective custody, then maybe the
22 whole facility would be -- everyone would be on complete
23 lockdown. But ask yourself this and consider this,
24 maybe the JI building with the open dorms and everyone
25 open and moving about was not the right place for Mr.

1 Wallace, but a more restrictive place was. And that
2 restriction can be short of protective custody or
3 segregation.

4 Who wants to be segregated? Maybe he needed
5 someplace where there is not freedom of movement all the
6 time, but not to be locked down all the time. And that
7 would be the men's detention center. Over and over
8 again counsel asked about that.

9 So at the end of the day -- I'm closing my notes
10 and my papers -- at the end of the day we don't get the
11 last word. Why don't we get the last word? The court
12 said it to you in the very beginning, we don't have the
13 burden. We don't have the burden. It's not our burden.
14 I'm going to keep saying it to you, it's not our burden.

15 We don't know what happened to Daquan Wallace. We
16 don't know. And it's so easy to say that the State
17 should be liable. The State -- somebody should be
18 punished because of what happened to Daquan Wallace.
19 You're right. The person who hurt him or the persons
20 who hurt him should be held liable, but that's not us.
21 That's not the State of Maryland.

22 And listen to the words very carefully. And we
23 will ask -- we ask that you do not hold the State liable
24 for the injuries that Daquan Wallace suffered. We ask
25 that you not hold the State liable for retaliation

1 against his mother because that's clearly not the case.
2 That's not the case. And so, I thank you very much for
3 your time.

4 THE COURT: Thank you, Ms. Wilson. Is there
5 any rebuttal, Mr. Hansel.

6 (At 5:53 p.m. rebuttal closing argument was
7 given by Mr. Hansel on behalf of the Plaintiffs.)

8 REBUTTAL CLOSING ARGUMENT

9 MR. HANSEL: Thank you, Your Honor. Counsel
10 started by telling you there's two or three sides to
11 every story. The thing is there's only one truth.
12 There's only one truth. There's two sides to every
13 story if you sit in my office and take the oath and
14 swear to tell the truth in your deposition and tell one
15 version there and then you come here in front of the
16 jury and swear to tell the truth and tell another
17 version there. That's when there's two versions of the
18 story. And you heard that repeatedly from State
19 witnesses and you have every right to take that into
20 account when you're judging on credibility.

21 There was an argument made about tuna sandwiches
22 and beating your wife and all that. I'm not going to
23 address any of that. I'm going to be very brief with
24 you.

25 With respect to what happened here in this case,

1 you start with Lieutenant Patterson who knew, who knew
2 this man was being beaten. He didn't have to tell her.
3 He didn't have to beg for protective custody. She saw
4 the injuries on him. She sent him out to get medical
5 care. She knew he was being beaten. She knew his
6 mother had called and said, he's being attacked, help my
7 son, do something, protect him, that was her duty, but
8 please don't transfer him because they'll kill him. She
9 knew that.

10 The suggestion has been made to you that maybe he
11 was transferred to save him from the people at JI. The
12 transfer is based on an absolute fraud. You didn't hear
13 any argument that anything on that transfer form was
14 true. Every officer who had any contact with him at JI
15 told you he never did anything wrong. He never broke
16 the rules. They never saw him do anything illegal.
17 There's no report of it from an inmate. There's no
18 writeup as there should have been against Mr. Wallace.
19 Instead, the form was fraudulently based on false
20 grounds. Otherwise he would have had an officer here to
21 tell you I saw him. Otherwise we would have had a
22 recording of him calling somebody to engage in the
23 conduct that's alleged and say, you know, and extort
24 from somebody on the phone. There would be evidence of
25 that. The State's witnesses said so. If he had done it

1 then he should have been in segregation and safe and
2 this should not have happened.

3 So the simple question for you is under Article 24;
4 did the State meet its duty to protect Mr. Wallace? You
5 don't protect somebody by fraudulently and falsely
6 charging them to -- and then ignoring your own rules
7 that require that they be put someplace safe in
8 segregation. All after seeing the injuries on Mr.
9 Wallace and hearing his pleading mother over the
10 telephone telling you that he's being attacked, telling
11 you that he's been harmed.

12 There was a stipulation early in this case you'll
13 remember that his injuries were visible when he went to
14 court one day. And so, it should have been evidence to
15 everyone at that facility that this was a man who needed
16 help. He didn't have to ask for it.

17 And if you think about the victim blaming that's
18 going on, it's really unbelievable. These people were
19 running an institution where the guards -- and even
20 counsel read to you -- where the guards were cooperating
21 with inmates to let them attack each other, where the
22 guards were doing the bidding of inmates. And their
23 best defense is to read to you the part that says maybe
24 it was slowing down a little bit by the time it happened
25 to Mr. Wallace. Well, maybe he was one of the last

1 victims.

2 Well, I'm here to make sure and I'm going to ask
3 you to help me make sure he's the absolute last. And
4 the only way to do that is through your verdict. So we
5 have an absolute fraud on the form.

6 The suggestion was made that he should have been
7 moved because of some type of misconduct, but everybody
8 said they had no issues with him. Everybody said that
9 he had done nothing wrong.

10 Then we get to this -- his receipt by Officer
11 Renee. Everybody said the form was incorrect. It
12 should not have been accepted even with the fraudulent
13 basis because it didn't have the right approvals. Renee
14 said he broke the policy. That's a policy designed to
15 protect people like Mr. Wallace to make sure that a move
16 like this is approved and confirmed and the safe and
17 proper move -- and we did hear from Major Moore and the
18 suggestion was made she was the wrong person. She
19 worked from 3:00 to 4:00. If you read Scipio's report,
20 Mr. Wallace is transferred at -- she worked from 3:00 to
21 11:00. If you read Scipio's report Mr. Wallace is
22 transferred up to MDC at 4:00 o'clock. It's in the
23 report in evidence. So she was the right person and she
24 did tell you through Ms. Boardman's testimony that she
25 would not have approved this transfer and every witness

1 it shouldn't have been accepted. Is that protecting an
2 inmate? No, that is not protecting an inmate. That's
3 putting an inmate in harm's way.

4 As to this policy of sending everyone to feed-up,
5 Major Moore said everyone goes. She doesn't allow
6 exceptions. You go to feed-up. There's a sign on the
7 wall that says everyone goes. Now counsel tried to
8 parse those words, but remember Renee himself testified.
9 I said did you violate that policy when you held 47 and
10 48 back and he didn't try to lawyer the words. He said
11 yes, I guess I did when I held 47 and 48 back.

12 This isn't a question of the whole cell being on --
13 the whole tier being on restriction. That's a different
14 set of rules. We're here to talk about 47 and 48 being
15 held back.

16 The evidence in this case, which was almost
17 untouched by the Defense -- the critical thing that
18 happened here is 47 and 48 are held back. Beatty says
19 Mr. Wallace was also held back. The evidence in the
20 case the State tells you, they don't know if he went to
21 lunch or not. Well, guess what, it's their duty to
22 know. It's their duty to keep him safe. They admitted
23 in response to their admissions they have no written
24 evidence, nothing that shows he went to lunch. They
25 didn't bring a single officer in to say he went to

1 lunch. They didn't bring any of the lunch people in.
2 They didn't bring in video from that call out where
3 there is a video camera to show that he went to lunch.
4 Instead we have uncontroverted testimony of Mr. Beatty
5 who told you himself he was here at great risk, a great
6 risk because he also has a mother like Nicole.

7 So we know that these policies were violated when
8 Mr. Wallace was accepted onto the tier. And we know
9 what happened once he did because 48 -- 47 and 48 are
10 held back. They're supposed to be locked down. And
11 according to Renee that cell should have been locked
12 until after Mr. Wallace is discovered. Therefore, there
13 is no way blood articles of clothing get into that cell.

14 We know Mr. Wallace had blood on him. There is
15 evidence in about the blood on the back of his head.
16 I've already cited to you. There are pictures of the
17 blood on the back of the uniform he wasn't wearing. It
18 wasn't a lot. It was enough that it could have been
19 missed and apparently some people did miss it, but that
20 doesn't mean it wasn't there because there's other
21 evidence that it was there and you can see the picture
22 on the back of his shirt.

23 And it's critical that there's no other explanation
24 for why there are bloody articles of clothing in 47 and
25 48 or how it got there. The Defense offered you nothing

1 on those points. The only way it's there -- those are
2 the cells that stayed back -- is if Renee allows those
3 cells into Mr. Wallace's cell to engage in this attack.

4 And that is the only logical explanation. And you
5 are invited to apply logic and common sense to this
6 case. That's why we rely on a collection of souls like
7 yourself who are full of logic and common sense. That's
8 why we chose you. That's why we trust you as the jury
9 and that's why this system trusts you.

10 There was an argument made about there's no assault
11 and battery here. Well, Mr. Wallace on this day is
12 locked in his cell, according to Mr. Beatty and the lack
13 of evidence that shows he went to lunch and the
14 admission in that regard. Forty-seven and 48 are down
15 the hall locked in their cell. And Mr. Beatty being --
16 I'm sorry -- Mr. Wallace locked in his must have seen
17 Renee come down with those keys and heard him unlock 47
18 and 48. He must have seen Renee come back with 47 and
19 48 and stick the key in the door. And just like this
20 bar in front of you, imagine Mr. Wallace being behind
21 those bars and seeing these men from 47 and 48 and Renee
22 there at the door. That is a battery. That is an
23 assault when he assists in opening that door.

24 Imagine the moments before that happened and the
25 position Mr. Wallace was in. The assault occurs. Those

1 men return and are locked back in. After lunch they're
2 locked in and they're locked in there until the bloody
3 clothing is discovered in their cells. One man has
4 blood on his t-shirt. The other one has on both items
5 of clothing. And those are in evidence as Exhibit,
6 looks like, 34. And also, there's another chain of
7 custody log that's also in evidence. This shows the
8 shirt and the pants, the orange shirt and pants and the
9 bloody clothing, the patch of blood is mentioned in
10 Plaintiffs' Exhibit 15 by Major Moore.

11 So we know there was blood involved in the attack.
12 We know the blood ends up in the very same cells the
13 State has admitted Renee allows to stay back. There's
14 literally no other way that this attack occurs.

15 The suggestion has been made that maybe if you
16 blame the victim, Mr. Wallace should have done more to
17 ask for help. Well, this was an institution that every
18 witness has explained to us, if you ask for help you're
19 attacked. And it was their job, the State's job to stop
20 that from happening. The State's job to run an
21 institution where guards aren't cooperating with inmates
22 to open doors to allow attacks. To run an institution
23 where inmates can speak up. But every State witness and
24 even the piece that counsel tried to find in her closing
25 argument suggest this wasn't that place. This wasn't

1 the place where you could speak up.

2 And Daquan told him mom, don't tell them to move
3 me. I'll get killed. And she didn't know what to do so
4 she called and begged for help.

5 So we're in a situation where these facts really
6 weren't addressed during the talk about tuna sandwiches
7 and beating your spouse that you heard from counsel.

8 There was no explanation of how the blood could
9 have possibly gotten over into those other cells.
10 There's no explanation of why the charges on that form
11 weren't fraudulent or why it would have been appropriate
12 to write false charges for which there was no write-up,
13 for which there are no witnesses, that none of the
14 relevant officers saw or experienced or had anything to
15 testify about. No explanation at all.

16 As to -- counsel went through some of the counts
17 and points out correctly that reasonable care has to be
18 taken in the negligence counts. And I'm going to
19 suggest to you as it results to the training and
20 supervision claims, this is not something that happens
21 if reasonable care is being taken to train and supervise
22 officers. If the State was taking reasonable care to
23 run this institution, you don't have a place where the
24 inmates are running the asylum. You don't have an
25 institution where witness after witness after witness

1 told us at the time even the piece that counsel
2 struggled to find some excuse in all that testimony,
3 again and again, that this was a place where inmates
4 were cooperating with guards and guards were allowing
5 things like this to occur.

6 Now finally -- counsel sort of derisively says to
7 Mr. Wallace, use your words, use your words, speak up.
8 I think she said that two or three times. Well, the
9 thing about that is Mr. Wallace can't use his words and
10 he can't use his words because of what happened in this
11 case. He can't use his words and hasn't been able to
12 use those words for five years. Instead, you are his
13 words. You are his only words. You are the only words
14 to speak as to conscious of the community and to tell
15 the State that what happened here is not acceptable,
16 that the madhouse they were running cannot go on. The
17 other innocent sons, daughters cannot be subjected to
18 this kind of thing. He can't use his words, so I'm
19 going to ask you to use yours and speak loudly and
20 clearly in a verdict that would teach the State that
21 this cannot happen. Please use your words. Thank you.

22 THE COURT: Thank you, Counsel, for your
23 arguments. Ladies and gentlemen, it's about six after
24 6:00. I'm not going to ask you to begin deliberations
25 tonight. Rather tomorrow at about 9:30 if you could all

1 gather. Again, punctuality pays. And once you all are
2 gathered you can begin deliberations. You've had the
3 instructions. You will have the evidence back there for
4 you and you'll have a verdict sheet ready for your
5 collective discernment.

6 Alternate one, now formerly alternate two, you're
7 free to leave because only six can deliberate at a time.
8 You were here as an insurance policy. As we saw,
9 somebody had a family emergency and we needed to sub in
10 somebody. Thank you, alternate one, for subbing in for
11 number two. But you can't go back and deliberate with
12 these folks. You can talk about it, not with them, with
13 other folks now if you so choose, but just not with
14 these individuals.

15 What I will ask is that you get here as promptly
16 tomorrow as you can, 9:30. Once you are all gathered,
17 then and only then can you begin your deliberations. We
18 will check in on you and discern when you are all here
19 and then give you the thumbs-up to go ahead and go and
20 have it, okay.

21 In the meanwhile, you still can't talk amongst
22 yourselves or with anybody else. Nor do any independent
23 research. I look forward to seeing you tomorrow. I
24 hope you get home safe. Have a pleasant evening as much
25 as you can and I'll see you manana.