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COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

SUFFOLK, SS.

DAR No. DAR - \_\_\_\_\_  
APPEALS COURT, No. 2023-P-1030

**COMMONWEALTH**

**v.**

**Z. M., A JUVENILE**

\_\_\_\_\_  
On Appeal from the Denial of a Post-Conviction  
Motion filed in the Boston Juvenile Court

\_\_\_\_\_  
**Application for Direct Appellate Review**

\_\_\_\_\_  
Matthew J. Koes, BBO No. 668682  
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Framingham, MA 01702  
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## **REQUEST FOR DIRECT APPELLATE REVIEW**

NOW COMES the Defendant/Appellant Z.M., a juvenile (“Z.M.”) and hereby requests, pursuant to Mass. R. App. P. 11(b)(1), direct appellate review of his appeal from the denial of his Second Motion for Relief from Unlawful Sentence in the Boston Division of the Juvenile Court.

### **INTRODUCTION**

In *Commonwealth v. Perez*, 477 Mass. 466 (2017) (*Perez I*), this Court declared that art. 26 of the Massachusetts Declaration of Rights prohibits a juvenile nonmurder defendant from serving an aggregate sentence with more than fifteen years of parole ineligible incarceration unless the Commonwealth meets its burden of demonstrating extraordinary circumstances. If the Commonwealth fails to meet that burden at a resentencing hearing, the juvenile nonmurder defendant must be resentenced to a new constitutional sentence.

There is a dearth of case law that addresses the constitutional parameters of a sentence that has been imposed after a *Perez I* resentencing hearing. The uncertain boundaries in this unique sentencing mechanism creates a risk that an unconstitutional sentence will be replaced with another constitutional sentence. This case addresses the constitutionality of a probation sentence following a *Perez I* resentencing hearing where the juvenile nonmurder defendant has already served

more fifteen years of parole-ineligible incarceration. Indeed, this case presents the same basic question that was addressed by this Court last year in *Commonwealth v. Rambert*, SJC-13270, but was ultimately left undecided.

Here, the Juvenile Court resentenced Z.M. to fifteen years of incarceration followed by five years of probation following his *Perez I* resentencing hearing. The fundamental problem with this new sentence is that Z.M.'s recent incarceration, which arose from an alleged probation violation, impermissibly extends his parole-ineligible incarceration far beyond the fifteen-year period that is allowable under *Perez I* and art. 26.

Because this case presents an important issue of first impression that is likely to impact juvenile nonmurder defendants who are eligible for resentencing under *Perez I*, Z.M. respectfully requests that this Court grant direct appellate review of the Juvenile Court's order denying his second motion for relief from unlawful restraint.

#### **STATEMENT OF PRIOR PROCEEDINGS & SHORT STATEMENT OF FACTS<sup>1</sup>**

On March 6, 2007, Z.M. tendered a plea and admitted to sufficient facts. App. 22. The Boston Division of the Juvenile Court (Murray, J.) found Z.M. to be a

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<sup>1</sup> Citations to the Appendix will be cited as "App. [page #]."

youthful offender on the following twelve charges: Home Invasion (G.L. c. 265, § 18C); Aggravated Rape (G.L. c. 265, § 22(a)) (three counts); Armed robbery (G.L. c. 265, § 17) (two counts); Kidnapping (G.L. c. 265, § 26) (two counts); Assault and battery with a dangerous weapon (G.L. c. 265, § 15A(b)) (two counts); Firearm use in felony (G.L. c. 265, § 18B); and Carrying a firearm without license (G.L. c. 269, § 10(a)). App. 22. Z.M. received a committed sentence at MCI Cedar Junction for a period of sixteen-to-twenty years and a ten-year term of probation to be served from and after his committed sentence. App. 23.

In July 2021, Z.M. moved, pursuant to Mass. R. Crim. P. 30(a), for relief from an unlawful sentence. App. 23. Relying heavily on *Perez I*, Z.M. argued that his sentence was presumptively disproportionate because he was not parole eligible after serving fifteen years of the incarcerated portion of his sentence. After the Commonwealth declined the opportunity to demonstrate extraordinary circumstances, the Court held a robust resentencing hearing. App. 24.

The Court (Coyne, J.) resentenced Z.M. to an aggregate sentence of fifteen-to-fifteen-years- and a day and five years of probation to run from and after release. App. 24-25. This revised sentence resulted in Z.M.'s immediate release from incarceration, leaving only the probationary portion of the sentence left. App. 24-25.

On August 3, 2022, Z.M. was arrested and charged in the Boston Municipal Court (Central Division) for various drug and gun charges. *See* Boston Municipal Court (Central), Docket No. 2201CR002401.<sup>2</sup> The new charges triggered probation violation proceedings in the Juvenile Court. App. 27. Z.M. was initially held committed without bail in the Boston Municipal Court but was later released on personal recognizance on March 2, 2023. At the time of the filing of his second motion for relief, Z.M. was being held solely on the probation detainer. App. 28.

Z.M. then filed a Second Motion for Relief from Unlawful Restraint in March 2022. App. 28. He argued in his motion that “[a]ny incarceration that results from the alleged probation violation violates art. 26 of the Massachusetts Declaration of Rights because it impermissibly extends his parole-ineligible incarceration for the underlying offenses.” *See* Second Motion for Relief from Unlawful Restraint, p. 1. The Commonwealth, on the other hand, opposed the motion by arguing that “[g]iven that the SJC has determined that sentencing a juvenile offender to life with the possibility of parole is not cruel and unusual punishment, it cannot follow that a from and after term of probation, though it may subject a juvenile offender to an additional period of incarceration, is so cruel or

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<sup>2</sup> He has since been indicted and the case has been transferred to the Suffolk Superior Court. *See* Suffolk Superior Court, Docket No. 2384CR00191.

unusual as to violate art. 26.” *See* Commonwealth’s Opposition to Defendant’s Second Motion for Relief from Unlawful Restraint, p. 4.<sup>3</sup>

On May 22, 2023, the Juvenile Court (Coyne, J.) denied the motion from the bench. App. 30. The Court offered the following rationale on the record:

Now, with regards to Zaquan Martin’s second motion for relief from unlawful restraint, after consideration of the pleadings, argument, and cases cited, the Court denies Z.M.’s motion for relief.

The cases cited are related to parole eligibility of non-murder juveniles. At this stage of the proceedings, the Court declines to accept the characterization of a possible sentence after a finding of being in violation of probation after a hearing that the sentence would become part of an aggregate sentence when added to the fifteen year sentence already served by Z.M..

The aggregate sentence in Perez were all sentences from different charges leading to consecutive served times of incarceration. The sentence addressed in Lutskov was a mandatory minimum 20 year sentence required by statute, which the court found the defendant would be eligible for parole after 15 years absent a finding of extraordinary circumstances.

The - - Z.M.’s argument goes to the heart of sentencing. It challenges the courts authority to impose a consecutive sentence and the court’s authority to impose a term of probation as a sentence. And, as such, with what’s before me I’m inclined to deny the motion for relief.

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<sup>3</sup> It is worth mentioning that the Commonwealth’s position in this case is at odds with the position it took in *Rambert*. In *Rambert*, the Commonwealth argued in its brief that Mr. Rambert’s probationary terms, ordered after the resentencing hearing, violated art. 26 and the principles of double jeopardy because “any committed sentence imposed for violating that probation – other than one that allows for immediate parole eligibility – would exceed the fifteen years of parole-excluded state prison time already served by this that defendant.” *See* Commonwealth v. Rambert, SJC-13270, Commonwealth’s Brief, pgs. 45-47.

Now, it's my intention to provide a written decision for all the parties as well in addition to just putting this on the record. All right?

App. 36.<sup>4</sup>

**STATEMENT OF ISSUES OF LAW AND  
PRESERVATION IN THE LOWER COURT**

This case presents this Court with the following novel question: Whether a sentencing court, who is resentencing a juvenile nonmurder defendant pursuant to this Court's holding in *Perez I* without a finding of "extraordinary circumstances," has discretion impose a term of probation that exposes a juvenile nonmurder defendant to additional parole-ineligible incarceration more than fifteen years in the event of a probation violation.

Z.M. preserved this issue by the filing of the Second Motion for Relief from Unlawful Restraint in the Boston Juvenile Court.

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<sup>4</sup> As of the date of filing, the Juvenile Court has not issued a written decision on Z.M.'s motion.

## ARGUMENT

1. ***Perez I* and art. 26 prohibit a juvenile nonmurder defendant from serving more than fifteen years of parole-ineligible incarceration absent a finding of extraordinary circumstances.**

In *Perez I*, this Court set forth a new, straightforward rule. It placed constitutional restrictions on the sentences of juvenile defendants, such as Z.M., who have been adjudicated of nonmurder offenses. *See Perez I*, 477 Mass. at 686. The new rule dictates that a juvenile nonmurder defendant cannot receive a harsher sentence than a juvenile defendant convicted of murder without a finding of “extraordinary circumstances.” *Id.* Because juvenile murder defendants become parole eligible after fifteen years, a sentence for a juvenile nonmurder defendant with a parole eligibility date after more than fifteen years is “presumptively disproportionate” under art. 26. *Id.* at 685-686.

The presumption of disproportionality “is conclusive, absent a hearing to consider whether extraordinary circumstances warrant a sentence treating the juvenile defendant more harshly for parole purposes than a juvenile convicted of murder.” *Id.* at 686. When the Commonwealth fails to demonstrate extraordinary circumstances, the juvenile nonmurder defendant must be resentenced to a new, constitutionally proportionate sentence. *See Commonwealth v. Lutskov*, 480 Mass. 575, 584-585 (2018). It is the *Perez I* hearing that conforms a juvenile nonmurder



defendant's sentence to art. 26 - not the mere achievement of parole eligibility. *See Commonwealth v. Washington*, 97 Mass. App. Ct. 598, 601 (2020).

At the original *Perez I* resentencing hearing in this case, the Commonwealth conceded that it could not meet its heavy burden of demonstrating that “there is no reasonable possibility of the juvenile’s being rehabilitated within the time after which a juvenile convicted of murder becomes eligible for parole.” *See Commonwealth v. Perez*, 480 Mass. 562, 572 (2018)(*Perez II*)(acknowledging the “difficulty and complexity” of the task). The Juvenile Court correctly resentenced Z.M. on the entire integrated sentencing package. *See Commonwealth v. Costa*, 472 Mass. 139, 143 (2015). Notwithstanding, for the reasons set forth below, the Court’s imposition of five years of probation from and after Z.M.’s incarcerated sentence resulted in another unconstitutional sentence.

2. **Z.M.’s sentence is illegal because an alleged probation violation or revocation of his probation will result in additional parole-ineligible incarceration far beyond the permissible fifteen years.**

*Perez I* was built on the foundation that it is the “aggregate time to be served prior to parole eligibility” that triggers the resentencing hearing. *See Perez I*, 477 Mass. at 679. In other words, this Court focused on the proportionality of the entire sentencing scheme in keeping with the general approach to resentencing and not the individual components. *See Costa*, 472 Mass. at 144 (“When an appellate court

determines that one component of an integrated sentencing package is illegal, the court generally vacates the sentence in its entirety, while leaving the underlying convictions intact, and remands for resentencing”). Following this analysis to its logic end produces the conclusion that a juvenile nonmurder defendant cannot serve more than fifteen years of parole ineligible incarceration regardless of whether the sentence is part of the original sentence or results from a probation violation.

Z.M.’s five-year term of probation makes his sentence unconstitutional because it unfairly increases the aggregate punishment far beyond what is permissible. *See Commonwealth v. Cumming*, 466 Mass. 467, 472 (2013). This is due the nature of probation itself. It is axiomatic that “straight probation” is tantamount to a sentencing deferral. *See Commonwealth v. Doucette*, 81 Mass. App. Ct. 740, 744 (2012). A judge who imposes a sentence after revoking probation “may impose any sentence that could have been imposed at the original hearing.” *Id.*, citing *Commonwealth v. Bruzzese*, 437 Mass. 606, 617-618 (2002). After revocation, the sentencing judge imposes a sentence punishing the underlying criminal offense and not for the probation violation. *See Commonwealth v. Goodwin*, 458 Mass. 11, 15 (2010). Stated another way,

Whether revocation of probation is predicated on the probationer’s conviction of a criminal offense or merely on a finding that he has

abused the opportunity given to him to avoid incarceration...in neither case do we view the imprisonment as punishment for the act or acts that prompted revocation of probation. Rather, the probationer is being punished for the underlying offense for which a probationary sentence was originally imposed.

*Commonwealth v. Odardi*, 397 Mass. 28, 30 (1986).

Applying this basic principle about the nature of probation to Z.M.'s case demonstrates that a probation revocation would result in more parole-ineligible incarceration beyond the permissible fifteen years. It, therefore, does not make a difference if that parole ineligible incarceration is imposed as result of the original sentencing or imposed after an alleged probation violation. Either way, the result is the same – Z.M. is continuing to serve an impermissible period of parole-ineligible incarceration.

The Juvenile Court had a difficult task in this case. It was charged with reconciling an unconstitutional sentence against public safety concerns. Probation gave the Court the opportunity to oversee a juvenile defendant, who grew up incarcerated, as he reintegrated back into society. While this may have been an important practical consideration for the Juvenile Court, the constitutionality of the sentence must trump all other considerations.

Contrary to the Juvenile Court's holding on his second motion for relief, Z.M.'s argument does not “challenge[] the court's authority to impose a

consecutive sentence” or a “challenge the court’s authority to impose a term of probation as a sentence.” Rather, Z.M. argues that, in the unique circumstances of this case, the term of probation, when added to the parole-ineligible incarceration that has already been served, results in an unconstitutional sentence. The Court is bound by art. 26 of the Massachusetts Declaration of Rights and it has no authority to impose an unconstitutional sentence regardless of how it is structured.

### **STATEMENT OF REASONS WHY DIRECT APPELLATE REVIEW IS APPROPRIATE**

This case presents issues of first impression. In *Perez I*, this Court identified a certain characteristic – a period more than fifteen years of parole-ineligible incarceration - that renders a sentence presumptively disproportionate under art. 26 for juvenile nonmurder defendants. *See Perez I*, 477 Mass. at 686. The mere existence of such a sentence triggers a resentencing hearing. If the Commonwealth cannot demonstrate “extraordinary circumstances” at the resentencing hearing, the juvenile nonmurder defendant must be resentenced to a constitutionally proportionate sentence. *See Lutskov*, 480 Mass. at 584. Because the Commonwealth faces a heavy burden at a *Perez I* resentencing hearing, most juvenile nonmurder defendants will qualify for resentencing.

There are no concrete parameters for resentencing juvenile nonmurder defendants when there has been no showing of extraordinary circumstances. Direct

appellate review by the Supreme Judicial Court would ensure that juvenile nonmurder defendants, like Z.M., receive new constitutionally proportionate sentence after a *Perez I* hearing. A decision in this case would also directly answer the question of whether a probationary term that exposes a juvenile nonmurder defendant to more than fifteen years parole-ineligible incarceration is constitutionally sound. This issue is likely to resurface, as it already has already been before this Court once before. Finally, and perhaps most importantly, this Court should allow direct appellate review to prevent a manifest injustice and to prevent Z.M. from serving an unconstitutional sentence.

Respectfully submitted,

Z. M.,  
By his attorney,



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Dated: September 11, 2023.

## **CERTIFICATE OF COMPLIANCE**

I, Matthew J. Koes, hereby certify that the foregoing Application for Direct Appellate Review complies with the rules of court including, but not limited to: Mass. R. App. P. 11; Mass. R. App. P. 16(a)(6); Mass. R. App. P. 16(e); Mass. R. App. P. 16(f); Mass. R. App. P. 16(h); Mass. R. App. P. 18 and Mass. R. App. P. 20.

Word Count: 2,504 non-excludable words of argument (Microsoft Word for Mac (Version 16.54), Word count function)  
Font: Equity, 14 pt.  
Margins: 1" top and bottom 1" left and right



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Matthew J. Koes, Esq.

## **CERTIFICATE OF SERVICE**

I, Matthew J. Koes, do hereby certify that on this 11th day of September, 2023, I served a true and accurate copy of the foregoing document upon the following counsel of record through electronic mail and/or through this Court's electronic filing system:

Andrew Shepard Doherty, Assistant District Attorney  
Benjamin Sabol, Assistant District Attorney  
Office of the District Attorney/Suffolk Co.  
One Bulfinch Place  
Boston, MA 02114



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Matthew J. Koes, Esq.

## **APPENDIX**

Commonwealth v. Zaquan Martin, Boston Juvenile Court, Docket No 06FIY0742BO.....	16
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**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

**06FIY0742BO Commonwealth v. Martin, Zaquan**

<b>CASE TYPE:</b> Youthful Offender	<b>FILE DATE:</b> 11/08/2006
<b>ACTION CODE:</b> 265/18C/A-0	<b>CASE TRACK:</b>
<b>DESCRIPTION:</b> HOME INVASION c265 §18C	
<b>CASE DISPOSITION DATE:</b> 03/06/2007	<b>CASE STATUS:</b> Closed
<b>CASE DISPOSITION:</b> Disposed	<b>STATUS DATE:</b> 03/06/2007
<b>CASE JUDGE:</b> Unassigned, Judge	<b>CASE SESSION:</b>

**PARTIES**

<p><b>Complainant</b> Det David Munroe, Det Boston Police Dept 91 E Concord Street BOSTON, MA 02118</p> <p><b>Defendant</b> Martin, Zaquan 151 Homestead Street APT # 4 ROXBURY, MA 02119</p> <p><b>Parent/Guardian</b> Miles, Gloria 151 Homestead Street APT # 4 ROXBURY, MA 02119</p>	<p><b>Appointed-Indigent Defendant</b> <b>667713</b> Jason Stelmack The Law Office of Jason M. Stelmack The Law Office of Jason M. Stelmack 1990 Centre St PO Box 320615 West Roxbury, MA 02132 Work Phone (617) 504-1648 Added Date: 07/18/2023</p> <p><b>Attorney</b> <b>668682</b> Matthew J Koes M. Koes Law, LLC M. Koes Law, LLC 340 Union Ave Framingham, MA 01702 Work Phone (508) 598-7060 Added Date: 07/08/2021</p> <p><b>YAD/Staff Attorney</b> <b>694233</b> Sarah Spofford Committee for Public Counsel Services, Youth Advoc Committee for Public Counsel Services, Youth Advoc 1515 Hancock St Suite 401 Quincy, MA 02169 Work Phone (508) 484-5938 Added Date: 08/03/2022</p>
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**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

**Parent/Guardian**

Miles, Warren  
151 Homestead Street  
Apt # 4  
ROXBURY, MA 02119



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

**PARTY CHARGES**

#	Offense Date/ Charge	Code	Town	Disposition	Disposition Date
1	11/14/2004 HOME INVASION c265 §18C Sentence Date: 01/18/2022 Probation Type: Probation	265/18C/A-0	Boston	Probation Start Date: 01/20/2022 Probation End Date: 01/19/2027 Found to be a youthful offender	03/06/2007
2	11/14/2004 RAPE, AGGRAVATED c265 §22(a) Sentence Date: 01/18/2022 <b>Not greater than Yrs 15 Mos 0 Days 1 Not less than Yrs 15 Mos 0 Days 0</b>	265/22/B-0	Boston	State Prison Sentence Found to be a youthful offender	03/06/2007
3	11/14/2004 RAPE, AGGRAVATED c265 §22(a) Sentence Date: 01/18/2022 <b>Not greater than Yrs 15 Mos 0 Days 1 Not less than Yrs 15 Mos 0 Days 0</b>	265/22/B-0	Boston	State Prison Sentence Found to be a youthful offender	03/06/2007
4	11/14/2004 RAPE, AGGRAVATED c265 §22(a) Sentence Date: 01/18/2022 <b>Not greater than Yrs 15 Mos 0 Days 1 Not less than Yrs 15 Mos 0 Days 0</b>	265/22/B-0	Boston	State Prison Sentence Found to be a youthful offender	03/06/2007
5	11/14/2004 ROBBERY, ARMED c265 §17 Sentence Date: 01/18/2022 Probation Type: Probation	265/17/A-0	Boston	Probation Start Date: 01/20/2022 Probation End Date: 01/19/2027 Found to be a youthful offender	03/06/2007
6	11/14/2004 ROBBERY, ARMED c265 §17 Sentence Date: 01/18/2022 Probation Type: Probation	265/17/A-0	Boston	Probation Start Date: 01/20/2022 Probation End Date: 01/19/2027 Found to be a youthful offender	03/06/2007
7	11/14/2004 KIDNAPPING c265 §26 Sentence Date: 01/18/2022 Probation Type: Probation	265/26/A-0	Boston	Probation Start Date: 01/20/2022 Probation End Date: 01/19/2027 Found to be a youthful offender	03/06/2007
8	11/14/2004 KIDNAPPING c265 §26 Sentence Date: 01/18/2022 Probation Type: Probation	265/26/A-0	Boston	Probation Start Date: 01/20/2022 Probation End Date: 01/19/2027	



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

					Found to be a youthful offender	03/06/2007
9	11/14/2004	265/15A/A-1	Boston	A&B WITH DANGEROUS WEAPON c265 §15A(b)		
				Sentence Date: 01/18/2022		
				Probation Type: Probation	Probation Start Date: 01/20/2022	Probation End Date: 01/19/2027
					Found to be a youthful offender	03/06/2007
10	11/14/2004	265/15A/A-1	Boston	A&B WITH DANGEROUS WEAPON c265 §15A(b)		
				Sentence Date: 01/18/2022		
				Probation Type: Probation	Probation Start Date: 01/20/2022	Probation End Date: 01/19/2027
					Found to be a youthful offender	03/06/2007
11	11/14/2004	265/18B/A-2	Boston	FIREARM USE IN FELONY c265 §18B		
				Sentence Date: 01/18/2022		
				Probation Type: Probation	Probation Start Date: 01/20/2022	Probation End Date: 01/19/2027
					Found to be a youthful offender	03/06/2007
12	11/14/2004	269/10/J-0	Boston	FIREARM, CARRY WITHOUT LICENSE c269 §10(a)		
				Sentence Date: 01/18/2022	State Prison Sentence	
				<b>Not greater than Yrs 3 Mos 0 Days 0</b>	<b>Not less than Yrs 2 Mos 6 Days 0</b>	
					Found to be a youthful offender	03/06/2007



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

EVENTS				
Date	Session	Event	Result	Resulting Judge
03/01/2007	Boston Session	Arraignment	Resulted	
03/02/2007	Boston Session	Jury Trial	Resulted	
03/06/2007	Boston Session	Jury Trial	Resulted	
11/08/2021	Boston Criminal Session	Motion Hearing	Held	Coyne
12/20/2021	Boston Criminal Session	Motion Hearing	Rescheduled	Coyne
01/05/2022	Boston Criminal Session	Motion Hearing	Rescheduled	Coyne
01/18/2022	Boston Criminal Session	Motion Hearing	Held	Coyne
01/20/2022	Boston Criminal Session	Report	Held	Coyne
02/03/2022	Boston Criminal Session	Motion Hearing	Held	Coyne
03/14/2022	Boston Criminal Session	Motion Hearing	Held	Coyne
05/02/2022	Boston Criminal Session	Motion Hearing	Held	Coyne
06/06/2022	Boston Criminal Session	Motion Hearing	Held	Coyne
08/03/2022	Boston Criminal Session	Violation 1st Appearance	Held	Coyne
08/03/2022	Boston Criminal Session	Violation Detention Hearing	Held	Coyne
09/14/2022	Boston Criminal Session	Violation of Probation Hearing		
11/07/2022	Boston Criminal Session	Violation of Probation Hearing		
01/18/2023	Boston Criminal Session	Violation of Probation Hearing		
02/09/2023	Boston Criminal Session	Violation of Probation Hearing		
02/13/2023	Boston Criminal Session	Violation of Probation Hearing		
04/20/2023	Boston Criminal Session	Report	Held	Coyne
05/02/2023	Boston Criminal Session	Report	Held	Unassigned



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

05/10/2023	Boston Criminal Session	Violation of Probation Hearing		
05/10/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
05/22/2023	Boston Criminal Session	Violation of Probation Hearing		
05/22/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
06/01/2023	Boston Criminal Session	Violation of Probation Hearing		
06/01/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
06/08/2023	Boston Criminal Session	Violation of Probation Hearing		
06/08/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
06/14/2023	Boston Criminal Session	Violation of Probation Hearing		
06/14/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
07/06/2023	Boston Criminal Session	Violation of Probation Hearing		
07/06/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
07/18/2023	Boston Criminal Session	Violation of Probation Hearing		
07/18/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
08/15/2023	Boston Criminal Session	Violation of Probation Hearing		
08/15/2023	Boston Criminal Session	Motion Hearing	Held	Coyne
09/20/2023	Boston Criminal Session	Violation of Probation Hearing		
09/20/2023	Boston Criminal Session	Motion Hearing		
01/19/2027	Boston Criminal Session	Report Final Date	Cancelled	Unassigned

**FINANCIAL SUMMARY**

	<b>Fees/Fines/Costs/Charge</b>	<b>Assessed</b>	<b>Paid</b>	<b>Dismissed</b>	<b>Balance</b>
<b>Total</b>		<b>52.00</b>	<b>52.00</b>	<b>0.00</b>	<b>0.00</b>



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

INFORMATIONAL DOCKET ENTRIES			
Date	Ref	Description	Judge
11/08/2006		Attorney, Suffolk Law School Appointed for MARTIN, Zaquan	
11/08/2006		Released to DYS.	
11/08/2006		Temporary Mit to Dept of Youth Services \$600,000.00 CASH BAIL (TIMED WAIVED).	
11/08/2006		Habeas Corpus for MARTIN, Zaquan from DYS	
11/08/2006		Continued to 03/02/07 for Jury Trial	
03/02/2007		Temporary Mit to DYS/Plymouth Hse of Corr \$600,000.00 cash bail .	Limon
03/02/2007		Ordered see FIY06B0742 and 743 for bail	Limon
03/02/2007		Continued to 03/06/07 for Jury Trial	Limon
03/06/2007		Tender of Plea Filed	Murray
03/06/2007		Colloquy with MARTIN, Zaquan conducted	Murray
03/06/2007		Judge advises child, pursuant to G.L. c.278, s.29D, in course of plea/admission colloquy, of possible deportation/exclusion/denial of naturalization if non-citizen.	Murray
03/06/2007		Jury Waived	Murray
03/06/2007		Admits to Sufficient Facts	Murray
03/06/2007		Found Facts Sufficient to Warrant a Finding	Murray
03/06/2007		Tender of Plea Accepted	Murray
03/06/2007		Found to be a Youthful Offender FIY06B0742 Charge# 1 HOME INVASION c265 §18C FIY06B0743 Charge# 2 RAPE, AGGRAVATED c265 §22(a) FIY06B0744 Charge# 3 RAPE, AGGRAVATED c265 §22(a) FIY06B0745 Charge# 4 RAPE, AGGRAVATED c265 §22(a) FIY06B0746 Charge# 5 ROBBERY, ARMED c265 §17 FIY06B0747 Charge# 6 ROBBERY, ARMED c265 §17 FIY06B0748 Charge# 7 KIDNAPPING c265 §26 FIY06B0749 Charge# 8 KIDNAPPING c265 §26 FIY06B0750 Charge# 9 A&B WITH DANGEROUS WEAPON c265 §15A(b) FIY06B0751 Charge# 10 A&B WITH DANGEROUS WEAPON c265 §15A(b) FIY06B0752 Charge# 11 FIREARM USE IN FELONY c265 §18B FIY06B0753 Charge# 12 FIREARM, CARRY WITHOUT LICENSE c269 §10(a)	Murray
03/06/2007		Ordered youthful offender sentencing colloquy given re: DNA sample ot state database requirement	Murray
03/06/2007		Ordered pre-sentencing report waived	Murray
03/06/2007		Ordered sentencing hearing waived	Murray
03/06/2007		Victim Witness Fee Waived	Murray
03/06/2007		Probation Fee Waived	Murray



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
Public Docket Report**

03/06/2007	Committed to MCI Cedar Junction for the period of 2 1/2 to 3 years with credit for 838 days time served awaiting trial.	Murray
03/06/2007	Committed to MCI Cedar Junction for the period of 16 to 20 years with credit for 838 days time served awaiting trial.	Murray
03/06/2007	Sentence(s) on docket number(s) FIY06B0743, 744, 745 and 753 shall be served concurrently.	Murray
03/06/2007	Ordered ten years probation from and after sentences (on FIY06B0743-745 & 753) served	Murray
03/06/2007	Conditions of Probation ordered	Murray
01/25/2013	This case was consolidated at conversion from cases: FIY06B0742, FIY06B0743, FIY06B0744, FIY06B0745, FIY06B0746, FIY06B0747, FIY06B0748, FIY06B0749, FIY06B0750, FIY06B0751, FIY06B0752, FIY06B0753	
10/14/2020	Notice of Limited Appearance filed.	
	Attorney: Spofford, Esq., Sarah	
10/16/2020	Notice of Withdrawal filed.	
	Attorney: Tassinari, Esq., Elaine	
07/08/2021	Motion filed for Release from Unlawful Restraint Under Commonwealth v. Perez.	
	Attorney: Koes, Esq., Matthew J	
07/08/2021	Motion filed Memorandum of Law in Support for Release from Unlawful Restraint Under Commonwealth v. Perez.	
	Attorney: Koes, Esq., Matthew J	
07/08/2021	Filed On this date Matthew J Koes, Esq. added as Attorney for Defendant Zaquan Martin	
10/15/2021	Habeas corpus for child/defendant from North Central Correctional Center issued. [FORM]	Coyne
	Judge: Coyne, Hon. Peter M	
11/03/2021	Sentencing Memorandum filed.	
	Attorney: Koes, Esq., Matthew J	
11/08/2021	Commonwealth's Resentencing Memorandum filed.	
	Attorney: Rollins, Esq., Rachael Splaine	
11/08/2021	Habeas corpus for child/defendant from North Central Correctional Center issued. [FORM]	Coyne
	Judge: Coyne, Hon. Peter M	



**MASSACHUSETTS  
SUFFOLK COUNTY JUVENILE COURT  
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11/08/2021	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
11/08/2021	Mother present in Court. Judge: Coyne, Hon. Peter M	Coyne
11/08/2021	Motion for Release from Unlawful Restraint Under Commonwealth v. Perez. taken under advisement.	Coyne
	Attorney: Koes, Esq., Matthew J	
11/08/2021	CPCS, Social Worker-Olivia Dubois and Victim Witness Advocate-Stephanie Hunter present in court.	Coyne
11/08/2021	Court issues order Court informed the parties of his prior appointment as an Assistant Clerk, Supreme Judicial Court Rules, Rule 3:09, Canon 2, Rule 2.11-disqualification.	Coyne
	After private consultation with his client, counsel informed the court that there was "no reason for the court to disqualify himself".	
12/20/2021	Habeas corpus for Zaquan Martin from North Central Correctional Center returnable 01/05/2022 10:00 AM Motion Hearing. *virtual request Meeting ID: 160 739 6817 Passcode: 719884	Coyne
12/20/2021	Child/defendant's presence excused.	Coyne
	Judge: Coyne, Hon. Peter M	
01/05/2022	Child/young adult present in court by Zoom.	Coyne
	Judge: Coyne, Hon. Peter M	
01/05/2022	Alison Spofford present in court.	Coyne
	Judge: Coyne, Hon. Peter M	
01/05/2022	Alison Jenkins present in court.	Coyne
01/05/2022	Habeas corpus for Zaquan Martin from North Central Correctional Center returnable 01/18/2022 12:00 PM Motion Hearing. Meeting ID: 161 604 0107 Passcode: 941023	Coyne
	Judge: Coyne, Hon. Peter M	
01/18/2022	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
01/18/2022	Court issues order sentence imposed on 3.6.07 vacated; new sentence entered.	Coyne
01/18/2022	Sentencing Hearing Findings and Sentencing Order filed.	Coyne





**MASSACHUSETTS  
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01/18/2022	Court issues order Counts 2, 3, & 4: 15 years to 15 years and one day, commitment to state prison MCI Cedar Junction; 838 days credit for time served; count 12: 2 1/2-3 years, commitment to state prison, MCI Cedar Junction, to be served concurrently with counts 2, 3, & 4, 838 days credit for time served; counts 1,5,6,7,8,9,10,&11: Probation for 5 years to be served concurrently, to begin on the date of release from the Department of Corrections.	Coyne
01/18/2022	Mother present in Court. Judge: Coyne, Hon. Peter M	Coyne
01/18/2022	Court issues order Commonwealth objects to decision and sentencing.	Coyne
01/18/2022	Disposition/sentence imposed:: Sentence Date: 01/18/2022 Judge: Hon. Peter M Coyne  Charge #: 2 RAPE, AGGRAVATED c265 §22(a) State Prison Sentence Not Less Than: 15 Years, 0 Months, 0 Days Not More Than: 15 Years, 0 Months, 1 Days  Charge #: 3 RAPE, AGGRAVATED c265 §22(a) State Prison Sentence Not Less Than: 15 Years, 0 Months, 0 Days Not More Than: 15 Years, 0 Months, 1 Days Served Concurrent Case FIY06B0744  Charge #: 4 RAPE, AGGRAVATED c265 §22(a) State Prison Sentence Not Less Than: 15 Years, 0 Months, 0 Days Not More Than: 15 Years, 0 Months, 1 Days Served Concurrent Case FIY06B0745  Committed to MCI - Cedar Junction (at Walpole) Credits 838 Days	
01/18/2022	Correction Date: 01/18/2022 Judge: Hon. Peter M Coyne  Charge #: 12 FIREARM, CARRY WITHOUT LICENSE c269 §10(a) State Prison Sentence Not Less Than: 2 Years, 6 Months, 0 Days Not More Than: 3 Years, 0 Months, 0 Days Served Concurrent Charge # 2 Case FIY06B0753BO  Credits 838 Days	
01/18/2022	Motion allowed for release from unlawful restraint under Commonwealth v. Perez, 477 MASS.677 (2017).  Attorney: Koes, Esq., Matthew J	Coyne



**MASSACHUSETTS  
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01/18/2022	Disposition/sentence imposed:: Revision Date: 01/18/2022 Judge: Hon. Peter M Coyne Charge #: 5 ROBBERY, ARMED c265 §17 Charge #: 6 ROBBERY, ARMED c265 §17 Charge #: 7 KIDNAPPING c265 §26 Charge #: 8 KIDNAPPING c265 §26 Charge #: 9 A&B WITH DANGEROUS WEAPON c265 §15A(b) Charge #: 10 A&B WITH DANGEROUS WEAPON c265 §15A(b) Charge #: 11 FIREARM USE IN FELONY c265 §18B Charge #: 1 HOME INVASION c265 §18C	
	Probation: Probation Duration: 5 Years, 0 Months, 0 Days Start Date: 01/20/2022 End Date: 01/19/2027	
01/19/2022	Order on Vacated Sentence filed.	Coyne
01/20/2022	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
01/20/2022	Court issues order court set probation conditions and informs youthful offender of sentences of charges he is on probation for.	Coyne
01/20/2022	Mother and Juvenile present in court. Attorney Spofford present via zoom  Judge: Coyne, Hon. Peter M	Coyne
01/26/2022	Motion for funds pursuant to G.L. c. 261, § 27B filed.  Attorney: Koes, Esq., Matthew J	
01/26/2022	Motion filed for relief from sex offender registration  Attorney: Koes, Esq., Matthew J	
01/26/2022	Memorandum of Law in support of motion for relief from sex offender registration and Affidavit of Counsel filed.  Attorney: Koes, Esq., Matthew J	
02/03/2022	Motion for funds pursuant to G.L. c. 261, § 27B allowed. Judge: Coyne, Hon. Peter M  Attorney: Koes, Esq., Matthew J	Coyne
02/03/2022	Child/defendant's presence excused. Judge: Coyne, Hon. Peter M	Coyne
02/03/2022	Released on personal recognizance. Judge: Coyne, Hon. Peter M	Coyne
03/14/2022	Child/defendant's presence excused. Judge: Coyne, Hon. Peter M	Coyne
03/14/2022	Released on personal recognizance. Judge: Coyne, Hon. Peter M	Coyne



**MASSACHUSETTS  
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05/02/2022	Child/defendant's presence excused. Judge: Coyne, Hon. Peter M	Coyne
05/02/2022	Released on personal recognizance. Judge: Coyne, Hon. Peter M	Coyne
06/02/2022	Motion filed to withdraw pending motion to relief from sex offender registration  Attorney: Koes, Esq., Matthew J	
06/06/2022	Motion allowed to withdraw pending motion to relief from sex offender registration.  Attorney: Koes, Esq., Matthew J	Coyne
06/06/2022	Child/defendant's presence excused.  Judge: Coyne, Hon. Peter M	Coyne
06/06/2022	Released on personal recognizance.  Judge: Coyne, Hon. Peter M	Coyne
08/03/2022	Violation of probation notice as a result of a new arrest issued for child/defendant..	
08/03/2022	Violation of probation notice served in hand.	
08/03/2022	Notice of Probation Detention Hearing filed.	
08/03/2022	Filed On this date Jeffrey Thomas Richards, Esq. added as YAD/Staff Attorney for Defendant Zaquan Martin	
08/03/2022	Probable cause found Judge: Coyne, Hon. Peter M	Coyne
08/03/2022	Temporary mittimus to Suffolk County Jail, no bail. [FORM]	Coyne
08/03/2022	Filed On this date Sarah Spofford, Esq. added as YAD/Staff Attorney for Defendant Zaquan Martin	
09/14/2022	Child/defendant's presence excused.  Judge: Coyne, Hon. Peter M	Coyne
09/14/2022	Temporary mittimus to Suffolk County Jail, no bail. [FORM] Time Period Waived - ZOOM HEARING	Coyne
11/07/2022	Child/defendant's presence excused. Judge: Coyne, Hon. Peter M	Coyne
11/07/2022	Temporary mittimus to Suffolk County Jail, no bail. [FORM] Time Period Waived - ZOOM HEARING  Judge: Coyne, Hon. Peter M	Coyne
01/18/2023	Child/defendant's presence excused. Judge: Coyne, Hon. Peter M	Coyne



**MASSACHUSETTS  
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01/18/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] via zoom	Coyne
02/09/2023	Child/defendant's presence excused. Judge: Coyne, Hon. Peter M	Coyne
02/09/2023	Court issues order hearing on 02/13/23 IN PERSON.	Coyne
02/09/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] *** IN PERSON HEARING ***	Coyne
02/13/2023	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
02/13/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] *** IN PERSON HEARING ***	Coyne
02/13/2023	Court issues order ** Hearings on 04/20/23 and 05/10/23 IN PERSON **.	Coyne
02/13/2023	Motion for funds pursuant to G.L. c. 261, § 27B allowed.  Attorney: Richards, Esq., Jeffrey Thomas  Judge: Coyne, Hon. Peter M	Coyne
02/13/2023	Brother and Friend present in court.  Judge: Coyne, Hon. Peter M	Coyne
03/21/2023	Notice of appearance filed.  Attorney: Spofford, Esq., Sarah	
03/21/2023	Motion filed for relief from unlawful restraint (Second)  Attorney: Koes, Esq., Matthew J	
03/21/2023	Memorandum of law in support of second motion for relief from unlawful restraint filed.  Attorney: Koes, Esq., Matthew J	
04/13/2023	Motion filed To stay further execution of sentence and release from probation detainer pending ruling on juvenile's second motion for relief from unlawful restraint  Attorney: Koes, Esq., Matthew J	
04/20/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] IN PERSON PLEASE TRANSPORT	Coyne
04/20/2023	Child/young adult present in court.  Judge: Coyne, Hon. Peter M	Coyne
04/20/2023	Motion denied Without Prejudice to Release from Probation Detainer  Attorney: Spofford, Esq., Sarah  Judge: Coyne, Hon. Peter M	Coyne



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04/20/2023	Motion denied To stay further execution of sentence and release from probation detainer pending ruling on juvenile's second motion for relief from unlawful restraint *without prejudice*	Coyne
	Attorney: Koes, Esq., Matthew J	
	Judge: Coyne, Hon. Peter M	
04/27/2023	Commonwealth's prospective Witness List for Violation of Probation Hearing filed.	
	Attorney: Sabol, Esq., Benjamin	
05/01/2023	Commonwealth's opposition to defendant's 2nd motion for relief from unlawful restraint filed.	
05/02/2023	Motion filed to dismiss probation violation proceedings	
	Attorney: Richards, Esq., Jeffrey Thomas	
05/02/2023	Commonwealth's memorandum in opposition of the defendant's motion to suppress and dismiss filed.	
	Attorney: Sabol, Esq., Benjamin	
05/02/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] *** IN PERSON HEARING ***	Coyne
	Judge: Coyne, Hon. Peter M	
05/02/2023	Motion to suppress evidence at probation violation hearing filed.	
	Attorney: Richards, Esq., Jeffrey Thomas	
05/02/2023	Child/young adult present in court. Judge: Unassigned, Judge	Unassigned
05/02/2023	Motion filed for relief from unlawful restraint (Second) taken under advisement.	Unassigned
	Attorney: Koes, Esq., Matthew J	
05/09/2023	Motion to suppress filed to suppress evidence at probation violation hearing.	
	Attorney: Koes, Esq., Matthew J	
05/09/2023	Motion filed to dismiss probation violation proceedings	
	Attorney: Koes, Esq., Matthew J	
05/10/2023	Massachusetts probation service's response to probationer's motion to suppress evidence at probation violation hearing filed.	
	Attorney: White, Esq., Fabiola	
05/10/2023	Motion filed Defendant's motion for discovery	
	Attorney: Richards, Esq., Jeffrey Thomas	



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05/10/2023	Motion filed To compel Pretrial Production of Records by third parties - Criminal History Systems Board	
	Attorney: Richards, Esq., Jeffrey Thomas	
05/10/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] IN PERSON	Coyne
	Judge: Coyne, Hon. Peter M	
05/10/2023	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
05/10/2023	Motion allowed to compel production of records by third party.	Coyne
	Attorney: Richards, Esq., Jeffrey Thomas	
05/10/2023	Motion allowed in part as to #4 & #5 for discovery	Coyne
	Attorney: Richards, Esq., Jeffrey Thomas	
05/22/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] ** ZOOM HEARING **	Coyne
	Judge: Coyne, Hon. Peter M	
05/22/2023	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
05/22/2023	Motion denied for relief from unlawful restraint (Second)	Coyne
	Attorney: Koes, Esq., Matthew J	
05/22/2023	Defendant's motion for discovery taken under advisement.	Coyne
	Attorney: Richards, Esq., Jeffrey Thomas	
05/22/2023	Summons ordered for Keeper of the Records, Criminal History Systems Board to produce privileged inquiries by Boston Police Officers pertaining to Zaquan Martin * See Order Attached pursuant to Dwyer. [FORM]	Coyne
05/24/2023	Supplemental Affidavit of Counsel in Support of Probationer's Motion for Discovery filed.	
	Attorney: Spofford, Esq., Sarah	
06/01/2023	Child/young adult present in court. Judge: Coyne, Hon. Peter M	Coyne
06/01/2023	Court issues order Assistant District Attorney and Defense submit additional information; court reopens argument on discovery motion.	Coyne
06/01/2023	Defendant's motion for discovery taken under advisement.	Coyne
06/01/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] *** ZOOM HEARING ***	Coyne



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06/01/2023	Exhibits A-D in relation to Supplemental Affidavit of Counsel in Support of Probationer's Motion for Discovery filed.	
	Attorney: Spofford, Esq., Sarah	
06/01/2023	Letter from the Office of the Attorney General re: Civil Rights Review of Boston Police Department's Youth Violence Strike Force filed.	
	Attorney: Sabol, Esq., Benjamin	
06/08/2023	Child/defendant's presence excused.	Coyne
	Judge: Coyne, Hon. Peter M	
06/08/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] ZOOM HEARING	Coyne
06/08/2023	Criminal Justice Information System record(s) received from Department of Criminal Justice Information Services.	
06/09/2023	Court issues order in person hearing 06/14/2023.	Coyne
	Judge: Coyne, Hon. Peter M	
06/09/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] IN PERSON PLEASE TRANSPORT	Coyne
	Judge: Coyne, Hon. Peter M	
06/14/2023	Child/young adult present in court.	Coyne
	Judge: Coyne, Hon. Peter M	
06/14/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] **** IN PERSON HEARING ****	Coyne
06/14/2023	Court issues order hearing on 07/06/2023 IN PERSON.	Coyne
07/06/2023	Court issues order for release of Rule 17 DCJIS records to Assistant District attorney and Defense counsel.	Coyne
07/06/2023	Court issues order Hearing on 7/18/23 to be in person.	Coyne
	Judge: Coyne, Hon. Peter M	
07/06/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] IN PERSON HEARING	Coyne
07/06/2023	Child/young adult present in court.	Coyne
	Judge: Coyne, Hon. Peter M	
07/13/2023	Motion filed to deem notice of appeal timely filed	
	Attorney: Koes, Esq., Matthew J	
07/18/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] VIRTUAL HEARING	Coyne
	Judge: Coyne, Hon. Peter M	



**MASSACHUSETTS  
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07/18/2023	Notice of Appeal to Appeals Court filed by child/defendant.	
	Attorney: Spofford, Esq., Sarah	
07/18/2023	Motion for funds pursuant to G.L. c. 261, § 27B filed.	
	Attorney: Spofford, Esq., Sarah	
07/18/2023	Motion for funds pursuant to G.L. c. 261, § 27B allowed.	Coyne
	Attorney: Spofford, Esq., Sarah	
	Judge: Coyne, Hon. Peter M	
07/18/2023	Child/young adult present in court.	Coyne
	Judge: Coyne, Hon. Peter M	
07/18/2023	Motion allowed to deem notice of appeal timely filed.	Coyne
	Attorney: Spofford, Esq., Sarah	
	Judge: Coyne, Hon. Peter M	
07/18/2023	Court issues order granting leave to file late notice of appeal.	Coyne
	Judge: Coyne, Hon. Peter M	
07/18/2023	Filed On this date Jeffrey Thomas Richards, Esq. dismissed/withdrawn as YAD/Staff Attorney for Defendant Zaquan Martin	
07/18/2023	Filed On this date Jason Stelmack, Esq. added as Appointed-Indigent Defendant for Defendant Zaquan Martin Appointed for the purpose of Case in Chief by Judge Hon. Peter M Coyne.	
07/18/2023	Motion allowed in part for discovery as to numbers 1-3	Coyne
	Attorney: Spofford, Esq., Sarah	
08/15/2023	Child/defendant's presence excused.	Coyne
	Judge: Coyne, Hon. Peter M	
08/15/2023	Temporary mittimus to Suffolk County Jail, no bail. [FORM] ** ZOOM HEARING **	Coyne
09/06/2023	Notice of assembly of the record sent to the Appeals Court.	



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

JUVENILE COURT DEPARTMENT

DOCKET NO: 06FIY0742BO

COMMONWEALTH )

VS. )

ZAQUAN MARTIN )

**MOTION HEARING**

**May 22, 2023**

Before the Honorable Peter Coyne

**APPEARANCES:**

**For the Commonwealth:**

Suffolk County District Attorney's Office

1 Bulfinch Place

Boston, MA 02114

By: Benjamin Sobal, Assistant District Attorney

Andrew Doherty, Assistant District Attorney

**For the Defendant:**

Sarah Spofford, Esquire

Jeffrey Richards, Esquire

Committee for Public Counsel Services

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Quincy, MA 02169

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Framingham, MA 01702

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**D I S C L A I M E R**

-- Interrupted speech, unfinished sentences, or lengthy pauses are designated by two [2] dashes where the interruption occurs. Resumption of interrupted speech is also indicated by two dashes.

[ ] Brackets are also used to designate transcriber comments. For example the words [END OF SIDE ONE, TAPE ONE], [SIDEBAR], etc., are shown in brackets as they are transcriber comments and not part of the actual litigation audio record.

When the transcriber is unable to ascertain a spoken word or words, the word is typed as it sounds phonetically followed by the word "phonetic" in brackets.

If a speaker uses a term or word that is known to be incorrect, the term shall be typed as spoken followed by "sic" in brackets after the term or word.

1 [Case called at 9:36:55 a.m.]

2 THE COURT: Zaquan Martin, 06FIY742. The matter is  
3 scheduled for a violation of probation hearing and motions.

4 And, A.D.A. Granatino, good morning.

5 Good morning, Attorney Mc -- Officer McNamara.

6 Good morning, Mr. Richards. And, that's scheduled for two  
7 o'clock, Mr. Richards, right?

8 MR. RICHARDS: That's right.

9 THE COURT: And, good morning to you, Mr. Kirby. So, a  
10 second call until two o'clock. Thank you.

11 MR. RICHARDS: See you then.

12 [Matter in Recess at 9:37:37 a.m.]

13 [Back on Record at 2:56:47 p.m.]

14 THE CLERK: And, good afternoon. We are on the record for  
15 Zaquan Martin matter, 06FIY0742BO, scheduled for a violation of  
16 probation hearing.

17 THE COURT: And, good afternoon to you, Mr. Martin.

18 Good afternoon, A.D.A. Sobol [sic].

19 Good afternoon, Attorney Koes, Attorney Spofford, Attorney  
20 Richards.

21 And, the matter is on today for a couple of things. The  
22 main thing being the Court's decision on the second motion for  
23 relief from unlawful restraint. And, once I put that on the  
24 record, we'll go from there with other -- the other matters  
25 that are before the Court.

1        Now, with regards to the Zaquan Martin's second motion for  
2 relief from unlawful restraint, after consideration of the  
3 pleadings, argument, and cases cited, the Court denies Mr.  
4 Martin's motion for relief.

5        The cases cited are related to parole eligibility of non-  
6 murder juveniles. At this stage of the proceedings, the Court  
7 declines to accept the characterization of a possible sentence  
8 after a finding of being in violation of probation after a  
9 hearing that the sentence would become part of an aggregate  
10 sentence when added to the 15 year sentence already served by  
11 Mr. Martin.

12        The aggregate sentence in Perez were all sentences from  
13 different charges leading to consecutive served times of  
14 incarceration. The sentence addressed in Lutskov was a  
15 mandatory minimum 20 year sentence required by statute, which  
16 the court found the defendant would be eligible for parole after  
17 15 years, absent a finding of extraordinary circumstances.

18        The -- Mr. Martin's argument goes to the heart of  
19 sentencing. It challenges the Court's authority to impose a  
20 consecutive sentence and the Court's authority to impose a term  
21 of probation as a sentence. And, as such, with what's before  
22 me, I am inclined to deny the motion for relief.

23        Now, it's my intention to provide a written decision for  
24 all the parties as well in addition to just putting this on the  
25 record. All right?

1           The -- That brings us to a couple of things. One is, in  
2 going through the material, I realized, Madam Clerk, that I  
3 know we discussed the order for the production of records the  
4 last time that we were in, but I never gave an order to the  
5 Clerk to send out with regards to the MDT information. So,  
6 I'll give that to her today, and that'll be sent out with -- as  
7 -- with a summons.

8           And, with respect to the motions to suppress the evidence  
9 and the vo -- probation violation hearing, the -- what I'm  
10 suggesting is that, you know, we wait and see what information  
11 the parties get back from the Criminal History Systems Board,  
12 and we can proceed more fully with the arguments about the  
13 evidence that you're seeking to suppress at the hearing.

14           I -- Just for the record, the suppression of evidence, I  
15 didn't clearly -- as we all know, the motion to suppress, the  
16 term is usually used in a pretrial sense rather than in a post  
17 or a violation of probation hearing ma -- posture. But the  
18 Court recognizes what it is that you're trying to accomplish by  
19 framing it that way.

20           And, to that point, there were a couple of decisions that  
21 just came down. Was it last week, Robinson, Van Rader and  
22 Cuffee that both dealt with -- you may say -- some of you may  
23 have even been on them. I mean, I don't know. But they dealt  
24 with the prospects of using information garnered consistent  
25 with Long for non-motor vehicle stops. And, I think there's

1 language in there that it doesn't limit it to motions to  
2 suppress even. I -- That -- Having read it, just been through  
3 it once, that's one of the things I took away from it. So,  
4 that it would be a -- the evidence or the motion to limit that  
5 evidence would be available for consideration in any other kind  
6 of a hearing that's without going further.

7 So, what was the date I put on that? On the return date?  
8 I think I went out about three weeks.

9 THE CLERK: June 12th.

10 THE COURT: June 12th. Do you want to come back and see  
11 what that looks like for everybody? And, then, you can have an  
12 opportunity to figure out how you want to proceed once we get  
13 that information? Is that helpful or is it not helpful or --

14 MS. SPOFFORD: Judge, I think in the interim, we would  
15 like to be heard today on Items 1 through 3 on Mr. Martin's  
16 motion for discovery, if possible.

17 THE COURT: Hang on for a minute.

18 MS. SPOFFORD: Those are essentially the Long items which  
19 the Commonwealth opposed and had planned, I think, to file an  
20 opposition.

21 THE COURT: I'm sorry. So, say that again?

22 MS. SPOFFORD: Items 1 through 3 on --

23 THE COURT: Yeah.

24 MS. SPOFFORD: -- on Mr. Martin's motion for discovery to  
25 the extent the Court is willing, we'd like to be heard on those

1 today. And, that way when we return on the CJIS material, we  
2 would have --

3 THE COURT: Oh, all right. I see.

4 MS. SPOFFORD: -- the benefit of more information.

5 THE COURT: And, as to that, A.D.A. Sabol?

6 MR. SABOL: I'm prepared to go forward.

7 THE COURT: In terms of the time, 12 months. When was the  
8 stop? August 3rd, the duration of a --

9 MS. SPOFFORD: It was August 2nd, 2022.

10 THE COURT: -- at the time.

11 MR. SABOL: Okay.

12 THE COURT: Commonwealth. So you want be heard on that?

13 MR. SABOL: Yes. So, Your Honor, the Commonwealth's  
14 argument for the -- this discovery is also sort of inextricably  
15 linked with the Commonwealth's argument. First, that Mr.  
16 Martin is not entitled to a motion to suppress hearing where  
17 this is in anticipation of or in furtherance of a hearing at  
18 the probation surrender side of things.

19 THE COURT: Well, let -- to that point, Mr. Sabol, let me  
20 ask you, Attorney Spofford.

21 The -- When the -- With the characterization of the motion  
22 to suppress, I don't expect that you characterized it that way  
23 so that you might -- it might be treated as a pretrial motion  
24 to dismiss procedurally. I am assuming it's just a  
25 characterization of a heading and it might just as easily have

1    been a motion to limine.

2           MS. SPOFFORD:   That's correct, Your Honor.

3           THE COURT:   Or something along those lines.

4           MS. SPOFFORD:   Yes.   Thank you for your generous reading.  
5   Yes.

6           THE COURT:   That wouldn't warrant and -- you know, a right  
7   to a interlocutory review of the motion.   So, just to address  
8   that first, but go ahead.

9           MR. SABOL:   Notwithstanding, I suppose, that argument from  
10   the Commonwealth, the Commonwealth would still ask that the  
11   Court, in looking at this motion, evaluate whether or not  
12   there's relevancy, namely that is whether the defendant has  
13   shown a reasonable inference of racial discrimination or an  
14   equal protection claim.

15           This particular case, as the Court may be aware, is a  
16   motor vehicle stop on Massachusetts Avenue and -- Mass. and  
17   Cass.   It's a nighttime stop where the police report indicates  
18   that essentially a registration plate was randomly queried.  
19   The query from the MDT computer showed that the registration  
20   itself was revoked and, therefore, the vehicle was driving in  
21   violation of a criminal law, driving violation law, and  
22   therefore subject to not only probable cause for a stop, but  
23   potentially an arrest as well.

24           With that being the case, the Commonwealth would  
25   respectfully ask this Court to, number one, I suppose in



1 determining whether or not this discovery is relevant and  
2 material at this stage and this where we're going, take an  
3 examination of whether or not there's sufficient indicia or any  
4 other facts that would suggest a reasonable inference of racial  
5 discrimination. At best, it would appear that the officers  
6 were informed of a name, Diamond Johnson, and that's  
7 illustrated in the police report, of who is the registered  
8 owner of the vehicle.

9 But this is a nighttime stop, random registration inquiry  
10 on Mass. Ave., in the Mass. and Cass area, that resulted,  
11 essentially, a probable cause stop for a revoked registration.  
12 And, where that is the case, the Commonwealth is asking that  
13 the Court review the affidavit that was filed by counsel and  
14 make a determination of whether or not there's really any  
15 reasonable inference to be made that even the officers knew who  
16 was in the car.

17 And, furthermore, whether or not the officers had -- if  
18 there's any facts or indicator that this stop happened as a  
19 result of any sort of racial discrimination implicit or  
20 otherwise. So, the Commonwealth is asking that the Court deny  
21 this discovery motion, both for relevancy and materiality for  
22 the affidavit not meeting the burden set out in Potansas  
23 [Phonetic at 3:08:56 p.m.].

24 And, also, in -- would -- The Commonwealth would ask the  
25 Court also deny the motion insomuch as the previous arguments

1 made that the defendant wouldn't be entitled to basically a  
2 motion to suppress to be litigated prior to this violation of  
3 probation hearing. If the Court ultimately does allow the  
4 discovery of this motion or some discovery, the Commonwealth  
5 would respectfully ask that it be limited. It appears that the  
6 request in these first three items include the three officers  
7 that were present and part of the stop. But it does seem to  
8 include a timeframe from August 2nd, 2021 to August 3rd, 2022,  
9 to have every traffic citation for that 12 month period.

10 And, then, additionally, for number three, it seems to  
11 include all FIOs from that same period. And, I would ask that  
12 the Court, if the Court is inclined to allow this motion,  
13 narrow the scope of that to something less burdensome. Thank  
14 you.

15 THE COURT: Thank you.

16 And, as to -- Mr. Richards, I know you're the one that  
17 submitted the affidavit. Do you want to --

18 MS. SPOFFORD: I'm going to go ahead and argue it --

19 THE COURT: -- offer -- And, that's the only reason I had  
20 mentioned Mr. Richards.

21 MS. SPOFFORD: -- this afternoon --

22 THE COURT: Attorney Spofford?

23 MS. SPOFFORD: Thank you, Judge. Respectfully, the  
24 Commonwealth is conflating our burden at a Long hearing on a  
25 motion versus our burden at this stage for discovery. And, I

1 completely understand why since we filed both motions. But our  
2 burden at -- to -- for discovery to be produced is explicitly  
3 not a prima facie case of discrimination. And, it's certainly  
4 not to raise the reasonable inference, that's to be entitled to  
5 a hearing. And, that was elucidated in Cuffee citing  
6 Bernardo B, 453 Mass. at 169.

7 The threshold showing is merely that the material sought  
8 is relevant to a selective enforcement claim. And, in Cuffee,  
9 the SJC made clear that it's not enough just to say the  
10 defendant is a member of a protected class, essentially, that  
11 our client is black and the police were white. That's not  
12 enough. But it's cited -- that case cites approvingly to Van  
13 Rader in saying that not that much more is required.

14 In the Van Rader affidavit, which suffice for the  
15 production of two years of Boston Police data, essentially the  
16 affidavit of counsel cited Warren and the ACLU report, which  
17 would apply to Mr. Martin's case as well, along with an AP  
18 article and the count -- attorney's own experience that the  
19 Gang Unit conducts racially disparate stops.

20 I would be happy to file a supplemental affidavit as soon  
21 as tomorrow. I was honestly waiting on the Commonwealth's  
22 opposition, which I understand his schedule made not  
23 forthcoming, but sort of incorporating that content along with  
24 the Boston Globe's recent coverage of the Attorney General's  
25 Office investigation of the Gang Unit for potentially racist

1 and discriminatory practices.

2 But our affidavit in the motion to suppress does  
3 incorporate material that the Gang Unit's purpose is not  
4 traffic enforcement. And, that's particularly relevant here,  
5 Judge, where Attorney Richards' affidavit does incorporate his  
6 review of bodycam footage, which, elsewhere, in our motion to  
7 suppress affidavit, shows the inconsistencies between the  
8 bodycam and the report in a way that suggests pretext and  
9 certainly satisfies a threshold showing that what we're looking  
10 for is not only relevant but essential to making out a select  
11 enforcement claim.

12 That's insofar as Mr. Martin was charged with an insurance  
13 violation. But we've produced proof of active insurance. The  
14 police report writes that Mr. Martin produced no paperwork for  
15 the vehicle he was operating. But the bodycam shows a police  
16 officer holding an RMV document. And, just this afternoon Mr.  
17 Sabol did provide discovery consistent with the -- with item  
18 number five in our request from the RMV showing that the  
19 insurance was renewed on July 30th, consistent with what we  
20 produced, and that the registration was, therefore, reinstated  
21 on August 3rd.

22 All that is to say, given that there is some evidence of  
23 pretext, and there is certainly some concern about the  
24 disproportionate practices of the Gang Unit and the Boston  
25 Police in general, as has been documented, that Mr. Martin is

1 entitled to this discovery. And, again, I would be happy to  
2 file a supplemental affidavit if that would be helpful to the  
3 Court.

4 THE COURT: Did you say the discovery that was provided  
5 today showed that the insurance was in place when the stop  
6 occurred?

7 MS. SPOFFORD: So, it's a little confusing, Judge. It  
8 showed -- So, it was reinstated on July 30th. He was arrested  
9 on August 2nd, and it seems that there was some delay in the  
10 communication betwe -- I don't honestly know how the RMV  
11 receives notice of reinstated insurance, but it appears that  
12 the registration was reinstated on August 3rd. But it also --  
13 the RMV documents also show the registration was active from  
14 its issue date of March, 2022 to January, 2024.

15 MR. SABOL: So, that sounds a little -- So, what I would  
16 agree with is that the registration was revoked, and that the  
17 insurance was, essentially, reactivated or renewed the day  
18 after the stop.

19 MS. SPOFFORD: Well, --

20 MR. SABOL: In other words, the registration -- revoked  
21 registration was the basis of the stop from the query. And,  
22 that was, in fact, revoked at the time he was stopped.

23 THE COURT: Okay. All right. And, anything else you want  
24 to add, Attorney's Spofford?

25 MS. SPOFFORD: Is the Court interested in argument

1 concerning the broader substance as to whether he's entitled to  
2 this information in a probation violation proceeding? Because  
3 I think that's a bit putting the cart before the horse, but  
4 since the Commonwealth --

5 THE COURT: No, let's just stick with discovery today.

6 MS. SPOFFORD: Nothing further, really, Judge, other than  
7 your point that I think both the Van Rader and the Cuffee cases  
8 are helpful to Mr. Martin in broadening the SJC's application  
9 of Long and indicating the intent that they not be limited only  
10 to traffic citations, but that the Court is generally concerned  
11 with racial disparity and willing to see it applied to all  
12 street level police investigations, of which this certainly is  
13 one, and of which they make clear that street level police  
14 investigations prior to charge do not enjoy any presumption of  
15 regularity. And, that the standard for a selective enforcement  
16 claim, the threshold showing is a minimal standard.

17 THE COURT: Okay. Thank you, Attorney Spofford.

18 Anything further, A.D.A. Sabol?

19 MR. SABOL: No, thank you.

20 THE COURT: All right. You know what, I'm going to take  
21 the discovery issues under advisement. Give me about a week,  
22 and I'll have that. I'm out a couple of days at the end of the  
23 week. I don't think I'll be able to do it by Wednesday.

24 MS. SPOFFORD: And, Judge, may I --

25 THE COURT: Yeah.

1 MS. SPOFFORD: -- file a supplemental affidavit to that  
2 end?

3 THE COURT: Yeah, sure.

4 MS. SPOFFORD: Thank you.

5 [Discussions Regarding Scheduling]

6 THE COURT: 6/1, 10:30.

7 MS. SPOFFORD: Your Honor, I understand --

8 THE COURT: Yep.

9 MS. SPOFFORD: I'm sorry. I understand that Mr. Martin  
10 would like to appear virtually, if that's possible. I don't  
11 know the Court's practice.

12 THE COURT: That's fine. Does everyone want to appear  
13 virtually, or? We can do it that way as well.

14 MR. SOBAL: That's fine with the Commonwealth.

15 MS. SPOFFORD: That's fine.

16 THE COURT: All right. So, remote at 10:30 on 6/1.

17 [Discussion with Clerk re Schedule for Remote]

18 THE COURT: All right. That looks good. 6/1, 10:30  
19 remote. That morning, the Clerk will send out a link to  
20 everybody.

21 MR. SOBAL: Thank you.

22 MS. SPOFFORD: Thank you, Your Honor.

23 THE COURT: All right?

24 MS. SPOFFORD: And, just --

25 THE COURT: And South Bay?

1 MS. SPOFFORD: Nashua Street.

2 THE COURT: Nashua Street. I'm sorry.

3 MS. SPOFFORD: And, just one clarification.

4 THE COURT: Yeah.

5 MS. SPOFFORD: Just one clarification that --

6 THE COURT: Yeah.

7 MS. SPOFFORD: -- sort of, I missed the boat on and we got

8 into scheduling, but Mr. Martin points out that although the

9 Commonwealth repeatedly characterized the stop as occurring at

10 Mass. and Cass, which carries lots of baggage and --

11 THE COURT: Yeah.

12 MS. SPOFFORD: -- connotes heavy drug use and crime and

13 all of that, that the stop occurred at Mass. Ave. and

14 Washington Street, which is just an entirely different

15 neighborhood. And, I just wanted to set the record straight on

16 that matter.

17 THE COURT: And, the police report indicates 616 Mass.

18 Ave. and it -- they were traveling Mass. and Harrison. And,

19 I'll be attentive to that as I go through the --

20 MS. SPOFFORD: Thank you.

21 THE COURT: -- police report.

22 Thank you, Mr. Martin.

23 All right. Anything further?

24 MS. SPOFFORD: Nothing, Your Honor.

25 MR. SABOL: No.



1 THE COURT: Great.

2 MR. SABOL: Thank you, Your Honor.

3 THE COURT: Thank you all very much.

4 [End of Hearing at 3:22:11 p.m.]

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**C E R T I F I C A T I O N**

I, Pamela Borges DosSantos, an Approved Court Transcriber,  
do hereby certify that the foregoing is a true and accurate  
transcript from the audio recording provided to me by The  
Office of Transcription Services for the Suffolk County  
Juvenile Court proceedings in the above-entitled matter.

I, Pamela Borges DosSantos, further certify that the  
foregoing is in compliance with the Administrative Office of  
the Trial Court Directive on Transcript Format.

I, Pamela Borges DosSantos, further certify that I neither  
am counsel for, related to, nor employed by any of the parties  
to the action in which this hearing was taken, and further that  
I am not financially nor otherwise interested in the outcome of  
the action.

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