COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPREME JUDICIAL COURT
NO.

APPEALS COURT
NO. 2019-P-1491

COMMONWEALTH

V.

ALBERTO CORREA MARTINEZ

APPLICATION FOR FURTHER APPELLATE REVIEW

Now comes the Defendant in the above-entitled matter and applies, pursuant to Mass. R. App. P. 27.1, for leave to obtain further appellate review of his conviction on Hampden Superior Court complaint number 14-0586.

The grounds for this application are set forth in the accompanying memorandum.

Respectfully submitted,
Alberto Correa Martinez,
By his attorney,

"DJG"

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July 14, 2021

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS. SUPREME JUDICIAL COURT NO.

APPEALS COURT NO. 2019-P-1491

COMMONWEALTH

V.

ALBERTO CORREA MARTINEZ

MEMORANDUM IN SUPPORT OF APPLICATION FOR FURTHER APPELLATE REVIEW

STATEMENT OF THE CASE

On May 1, 2014, indictments were returned by the Hampden County Grand Jury charging Alberto Correa Martinez with: Possession with Intent to Distribute Cocaine (Subsequent Offense) in violation of M.G.L. c.94C, Section 32A(d), two counts of Distribution of Cocaine (Subsequent Offense) in violation of M.G.L. c.94C, Section 32A (c) and (d), Possession of a Large Capacity Firearm in violation of M.G.L. c.269, Section 10(m), Possession of a Firearm Without an FID Card in violation of M.G.L. c.269, Section 10(h), two counts of Possession of Ammunition Without an FID Card in violation of M.G.L. c.269, Section 10(h) and Possession of a Large Capacity Firearm During the

Commission of a Felony in violation of M.G.L. c.265, Section 18B. (R. 16-29).

On October 6, 2015, Mr. Correa Martinez pled guilty to Possession with Intent to Distribute Cocaine (Subsequent Offense), two counts of Distribution of Cocaine (Subsequent Offense), Possession of a Firearm Without an FID Card, and two counts of Possession of Ammunition Without an FID Card. (R. 12). The charges of Possession of a Large Capacity Firearm and Possession of a Large Capacity Firearm During the Commission of a Flory were nolle prosed. (R. 12). With respect to the narcotics offenses, the Court then sentenced Mr. Correa Martinez to not greater than 4 years and not less than 3 years and 6 months in state prison. (R. 12). As to the firearms offenses, the Court sentenced Mr. Correa Martinez to 2 years in the house of corrections. (R. 12). These sentences were ordered to be served concurrently. (R. 12).

On May 24, 2018, Mr. Correa Martinez filed a motion for new trial. (R. 14). On January 9, 2019, the motion judge denied Mr. Correa Martinez's motion for new trail. (R. 14). Mr. Correa Martinez filed a timely notice of appeal. (R. 15).

Mr. Correa Martinez's appeal was entered in the Appeals Court on October 11, 2019. The Appeals Court's "Memorandum and Order Pursuant to Rule 1:28," affirming the denial of the defendant's motion for new trial was issued on July 8, 2020. (R. 1).[1] A copy of the decision is attached hereto.

STATEMENT OF FACTS

Springfield Police Officer Greg Bigda participated in the execution of the search warrant which led to the charges against Mr. Correa Martinez. Officer Bigda allegedly recovered crack cocaine, a cell phone, United Sates currency and drug ledgers during the execution of the search warrant.

On February 27, 2016, Officer Bigda interrogated two juvenile suspects in the holding cells at the Palmer Police Station. These interrogations were recorded by the Palmer Police Station's video cameras. (Hereinafter referred to as the "Palmer Video"). The Palmer Video depicts Officer Bigda threatening to plant a kilo of cocaine on one of the juveniles and to put him away for 15 years. Officer Bigda also asserts to one of the juveniles that he could pin the Kennedy

[1] The Appendix is cited as "(R.)."

assassination on him and make it stick. Officer Bigda further states to one of the juveniles that he is not hampered by truth and that if he does not say that something happened then it did not happen.

On January 24, 2017, The Republican newspaper published a story concerning former Springfield Police Officer Steven Vigneault. Mr. Vigneault was a member of the Springfield Police Department's narcotic unit and regularly worked with Officer Bigda. This article reveals that Mr. Vigneault asserted in recent filings associated with a lawsuit that Officer Bigda routinely drank beer and hard liquor while he was working as a narcotics officer and would go out into the field intoxicated. According to the article, Mr. Vigneault also stated in the filings that he was told by other officers to "keep his mouth shut" and that he "didn't see anything" regarding actions taken by Officer Bigda while on duty. An article appearing in The Republican on October 18, 2016, also quoted Mr. Vigneault as stating that members of the Springfield Police Department's narcotics unit drank alcohol on the clock and at the police station.

On March 24, 2018, Mr. Correa Martinez filed a motion for new trial which asserted that his plea must

be vacated due to newly discovered evidence. In support of this motion Mr. Correa Martinez filed an affidavit regarding his plea in this matter. In this affidavit Mr. Correa Martinez avers that following his guilty plea he learned that Officer Bigda had been captured on video stating that he was willing to plant evidence, falsify charges and hide the truth. Mr. Correa Martinez also states that he learned after his guilty plea that Officer Vigneault had stated in court filings that Officer Bigda drank alcohol while on duty and went out into the field while he was intoxicated. Mr. Correa Martinez further asserts that had he known of the above-stated exculpatory evidence at the time of his plea he would not have pled guilty and would have insisted on going to trial.

On January 9, 2019, the Court denied Mr. Correa Martinez's motion for new trial without conducting an evidentiary hearing. The motion judge ruled that Mr. Correa Martinez's claims was governed by the Ferrara-Scott framework which was established for purposes of reviewing claims involving Massachusetts State Crime Lab Chemist Annie Dookhan. The motion judge found that Mr. Correa Martinez failed to satisfy the Requirements of Ferrara-Scott because the misconduct

by Officer Bigda occurred after his plea and the misconduct was not connected to his case. The motion judge further held that since other police officers took part in the execution of the search warrant which yielded the evidence against Mr. Correa Martinez, it would not have been rationale for Mr. Correa Martinez to plead guilty despite the misconduct of Officer Bigda.

POINTS WITH RESPECT TO WHICH FURTHER APPELLATE REVIEW IS SOUGHT

1. Whether the motion judge erred in denying Mr. Correa Martinez's motion for new trial which asserted that newly discovered evidence has surfaced and, therefore, Mr. Correa Martinez's guilty plea was not made knowingly and voluntarily.

2. Whether the motion judge erred in denying Mr. Correa Martinez's motion for new trial which asserted that Officer Bigda's assertions that he plants evidence, falsifies charges and hides the truth, mandate that Mr. Correa Martinez's guilty plea be vacated because justice may not have been done.

ARGUMENT

I. MR. THE MOTION JUDGE COMMITTED AN ABUSE OF DISCRETION IN DENYING MR. CORREA MARTINEZ'S MOTION FOR NEW TRIAL, WHICH ASSERTED THAT NEWLY DISCOVERED EVIDENCE HAD SURFACED AND, THEREFORE, MR. CORREA MARTINEZ'S GUILTY PLEA WAS NOT MADE KNOWINGLY AND VOLUNTARILY.

"'Several constitutional rights are involved in a waiver that takes place when a plea of guilty is entered in a state criminal trial. First, is the privilege against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to the States by reason of the Fourteenth. Second, is the right to a trial by jury. Third, is the right to confront one's accusers.'" Commonwealth v. Fernandes, 390 Mass. 714, 715 (1984), quoting Boykin v. Alabama, 395 U.S. 238, 243 (1969). "Because a plea of guilty involves these constitutional rights, the plea is valid only when the defendant offers it voluntarily, with sufficient awareness of the relevant circumstances, and with the advice of competent counsel." Id. at 715-16; See also Hill v. Lockhart, 474 U.S. 52, 56 (1985) ("The longstanding test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the

defendant."). "[A] guilty plea is invalid if it is involuntary for any reason." Huot v. Commonwealth, 363 Mass. 91, 96 (1973).

In the present case, Mr. Correa Martinez was unaware at the time of his guilty plea that officer Bigda had been captured on video threatening to plant evidence, falsify charges and hide the truth. Mr. Correa Martinez was also not aware of the fact that a witness existed, Officer Vigneault, who could testify that Officer Bigda drank alcohol while on duty and would go out into the field in an intoxicated state. There can be no dispute that the above stated facts were not available to Mr. Correa Martinez, or his trial counsel, at the time of Mr. Correa Martinez's guilty plea. As such, the above stated facts are newly discovered. See Commonwealth v. Shuman, 445 Mass. 268, 271 (2005).

In denying Mr. Correa Martinez's motion for new trial the motion judge did not address whether the evidence concerning Detective Bigda constituted newly discovered evidence which warranted vacating his guilty plea. Instead the motion judge applied the Ferrara-Scott framework which was established by the Supreme Judicial Court to address motions for new

trial raising claims regarding misconduct by Massachusetts State Crime Lab Chemist Annie Dookhan. See Commonwealth v. Resende, 475 Mass. 1, 3 (2016). Pursuant to the Ferrara-Scott framework, the alleged misconduct must have occurred before the defendant's plea. The motion judge found that since Mr. Correa Martinez's plea occurred after the statements made by Officer Bigda on the Palmer Video and after the assertions by Officer Vigneault, his motion did not satisfy the requirements of the Ferrara-Scott framework and, therefore, the motion must be denied.

The motion judge committed and abuse of discretion and a significant error of law in analyzing Mr. Correa Martinez's claim under the Ferrara-Scott framework. See Commonwealth v. Grace, 397 Mass. 303, 307 (1986) (The standard governing review of the denial of a motion for new trial is "whether there has been a significant error of law or other abuse of discretion."). The Ferrara-Scott framework was established specifically to address claims regarding misconduct by Annie Dookhan. The motion judge should have analyzed Mr. Correa Martinez's claim under the legal framework established for claims of newly discovered evidence. Commonwealth v. Cinelli, 389

Mass. 197, 210 (1983). ("There is no question that new evidence that investigating officers falsified warrant applications or lied in testimony is an appropriate ground for a new trial."); See also Commonwealth v. Conaghan, 433 Mass. 105, 110 (2000). As established above, the evidence Mr. Correa Martinez raises in his motion regarding Officer Bigda constitutes newly discovered evidence under that framework. See Shuman, 445 Mass. at 271.

In addition, Officer Bigda's threat to plant evidence, falsify charges and hide the truth, along with the evidence that he drank alcohol while on duty and went out into the field intoxicated, would have been a real factor in the jury's deliberations. See Davis v. Boston Elevated Ry., 235 Mass. 482, 495-96 (1920). Contrary to the findings of the trial judge in denying the motion for new trial, the powerful impeachment value of this evidence cannot be questioned. Faced with the evidence of Officer Bigda's threats to plant evidence, falsify charges and hide the truth, a jury very likely would have been unable to find that the Commonwealth had established beyond a reasonable doubt the charges against Mr. Correa. See United States v. Martinez-Medina, 279

F.3d 105, 126 (1st Cir. 2002) (Impeachment evidence can warrant a new trial "where the evidence is highly impeaching."). The fact that Officer Bigda routinely drank alcohol and was intoxicated while on the job also would have factored into the jury's deliberations.

Mr. Correa Martinez acknowledges the effect that the evidence concerning Officer Bigda would have had if he had gone to trial and states in his affidavit that had he known of this powerful exculpatory evidence he would not have pled guilty and would have insisted on going to trial. His decision to go to trial and refuse to plead guilty would have been entirely rational and reasonable under these circumstances. The trial judge's finding to the contrary was erroneous. Despite the fact that other police officers participated in the execution of the search warrant and allegedly seized some of the evidence which was the basis of the charges against Mr. Correa Martinez, the fact remained that one of the officers who took part in the search had stated a willingness to plant evidence, falsify charges and conceal the true facts of a case. See Conley v. United States, 415 F.3d 183, 189 (1st Cir., 2005), citing

United States v. Agurs, 427 U.S. 97, 112-13 (1976). ("The effective impeachment of one eyewitness can call for a new trial even though the attack does not extend directly to others."). In addition, an officer who worked with Officer Bigda has acknowledged that Officer Bigda would go into the field intoxicated and that other police officers had told him keep his mouth shut regarding Officer Bigda' actions. Given this scenario, alerting to these facts would have certainly cast doubt on the evidence against Mr. Correa Martinez at a trial.

Accordingly, Mr. Correa Martinez's guilty plea was not "a voluntary and intelligent choice among the alternative courses of action open to the defendant." Hill, 474 U.S. at 56. As such, the plea was not knowing and voluntary and must be vacated. See Commonwealth v. Chetwynde, 31 Mass. App. Ct. 8, 12 (1991), and Commonwealth v. Clarke, 460 Mass. 30, 49, n.20 (2011).

II. THE MOTION JUDGE ERRED IN DENYING MR. CORREA MARTINEZ'S MOTION FOR NEW TRIAL WHICH ASSERTED THAT OFFICER BIGDA'S ASSERTIONS THAT HE PLANTS EVIDENCE, FALSIFIES CHARGES AND HIDES THE TRUTH, MANDATE THAT MR. CORREA MARTINEZ'S PLEA BE VACATED BECAUSE JUSTICE MAY NOT HAVE BEEN DONE.

A judge may order a new trial under Rule 30(b) on

a showing that newly discovered evidence "casts real doubt on the justice of the conviction." Commonwealth v. Lykus, 451 Mass. 310, 325-26 (2008). In the Palmer Video, Officer Bigda is seen and heard stating that he is willing and able to plant evidence, falsify charges, and hide the truth. The charges against Mr. Correa Martinez stem in large part from evidence which Officer Bigda allegedly seized during the execution of a search warrant. Thus, there is a substantial risk that the evidence in this case was planted by Officer Bigda. Accordingly, the justice of Mr. Correa Martinez's conviction is in doubt and his plea must be vacated.

CONCLUSION

For the reasons set forth above, further appellate review is appropriate.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Dana J. Gravina, certify that the foregoing brief complies with the rules of court that pertain to the filing of briefs, including, but not limited to:

Mass. R. A. P. 16 (a)(13) (addendum);

Mass. R. A. P. 16 (e) (references to the record);

Mass. R. A. P. 18 (appendix to the briefs);

Mass. R. A. P. 20 – Courier New, 12, 10 CPI (form and length of briefs, appendices, and other documents); and

Mass. R. A. P. 21 (redaction).

"DJG"
Dana J. Gravina, Esq.
BBO# 660270

July 14, 2020

APPENDIX

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APPEALS COURT DECISION.....R.1

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

19-P-1491

COMMONWEALTH

vs.

ALBERTO CORREA-MARTINEZ.

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

In 2015, the defendant, Alberto Correa Martinez, pleaded guilty to possession with intent to distribute cocaine, a Class B substance (subsequent offense) (G. L. c. 94C, § 32A [a], [b]), two counts of distribution of cocaine (subsequent offense) (G. L. c. 94C, § 32A [c], [d]), one count of possession of a firearm without a firearm identification card (FID) (G. L. c. 269, § 10 [h]), and two counts of possession of ammunition without an FID (G. L. c. 269, § 10 [h]). The charges stemmed from evidence seized during a 2014 search of his home yielding firearms, ammunition, drug trafficking materials, cell phones, and currency. The defendant filed a motion to vacate his plea because, in 2016 (four months after his plea), Officer Gregg Bigda, one of the officers who executed the search warrant of his home, engaged in misconduct, and in 2017, a witness came

forward with accusations that Bigda consumed alcohol and was intoxicated while on duty. Applying the Ferrara-Scott standard,[1] a Superior Court judge denied the defendant's motion. We affirm.

Discussion. We treat a motion to vacate a guilty plea as a motion for a new trial pursuant to Mass. R. Crim. P. 30 (b), as appearing in 435 Mass. 1501 (2001), and review a denial of the motion for a significant error of law or other abuse of discretion. Commonwealth v. Grace, 397 Mass. 303, 307 (1986). On appeal, the defendant contends that the judge abused his discretion because "newly discovered" evidence concerning Bigda's misconduct renders his plea unknowing and involuntary.

We begin by addressing the defendant's contention that the judge erred in analyzing his motion in light of Ferrara-Scott, which he maintains exclusively applies to cases involving misconduct by former forensic chemist Annie Dookhan.[2] To meet the Ferrara-Scott standard, the defendant must show that (1) there was "egregiously impermissible conduct . . . by government

[1] See Ferrara v. United States, 456 F.3d 278 (1st Cir. 2006); Commonwealth v. Scott, 467 Mass. 336, 344 (2014).

[2] Instead, the defendant maintains that his motion is governed by the standard in Commonwealth v. Shuman, 445 Mass. 268, 271 (2005) (motion for new trial based on new expert information must show that evidence [i] was unknown and not reasonably discoverable at the time of trial and [ii] casts real doubt on justice of conviction in that it is material and credible, and carries measure of strength in support of defendant's position). Shuman did not address a claim of government misconduct.

agents . . . [that] antedated the entry of his plea," and (2) such misconduct "influenced his decision to plead guilty or, put another way, that it was material to that choice." Scott, 467 Mass. at 346. Because the defendant's motion is based on accusations of government misconduct that came to light after he pleaded guilty, the motion is governed by the Ferrara-Scott rubric.[3] See id. (Ferrara-Scott analysis governs motions "to vacate a guilty plea as a result of underlying government misconduct, rather than a defect in the plea procedures"). Far from limiting the analysis to Dookhan cases, the court explained that the difference between the Dookhan cases, on the one hand, and other cases involving alleged government misconduct, on the other, is that, in the former, the defendant is entitled to a conclusive presumption with respect to the first prong of the Ferrara-Scott test, whereas in the latter, the defendant will have the burden to establish each prong. Id. at 352-354.

Turning to the first prong, the defendant has not established that the government misconduct preceded the entry of his guilty plea. The defendant pleaded guilty in October 2015.

[3] Contrary to the defendant's contention, the Ferrara-Scott rubric has been applied outside the contexts of the Dookhan scandal. See, e.g., Commonwealth v. Cotto, 471 Mass. 97 (2015) (different chemist's misconduct); United States v. Fisher, 711 F.3d 460 (4th Cir. 2013) (officer's false statement in search warrant application); Ferrara, 456 F.3d at 292 (prosecutor's misrepresentation regarding testimony anticipated from key witness).

The defendant's alleged government misconduct consisted of: (a) a video from February 2016 -- after the defendant's plea -- depicting an interrogation of two juveniles during which Bigda threatened "to plant a kilo of cocaine," asserted "he could pin the Kennedy assassination on [one of them] and make it stick," and declared that "he is not hampered by the truth," and (b) two newspaper articles, one published in 2016, in which a former officer alleged Springfield Police Department officers drank on duty, and the other published in 2017, in which the same former officer alleged Bigda routinely drank alcohol and became intoxicated while on duty and was told to "keep his mouth shut" about Bigda's actions.[4] There was no apparent connection between the two juveniles depicted in the video and the defendant. Nor was there evidence that Bigda engaged in misconduct while working on the defendant's case. Absent some nexus between the misconduct and the defendant's case, the defendant's motion failed to satisfy the first prong of the Ferrara-Scott analysis. See Scott, 467 Mass. at 351 (to meet burden under first prong, defendant must show nexus between government misconduct and his particular case). See also Commonwealth v. Ellis, 432 Mass. 746, 764-765 (2000).

[4] In its brief, the Commonwealth asserted that the defendant did not provide either the video or the newspaper articles with his motion. At oral argument, however, the Commonwealth conceded that it does not challenge that each of these exists.

Even if we assume arguendo that the defendant met his burden under the first prong, his motion falters on the second prong because he did not show a reasonable probability that he would not have pleaded guilty had he known of the government misconduct. See Scott, 467 Mass. at 355-356. In assessing the defendant's motion under the second prong, the judge looks at the totality of the circumstances, considering inter alia, "(1) whether evidence of the government misconduct could have detracted from the factual basis used to support the guilty plea, (2) whether the evidence could have been used to impeach a witness whose credibility may have been outcome-determinative, (3) whether the evidence was cumulative of other evidence already in the defendant's possession, (4) whether the evidence would have influenced counsel's recommendation as to whether to accept a particular plea offer, and (5) whether the value of the evidence was outweighed by the benefits of entering into the plea agreement." Id. See Ferrara, 456 F.3d at 294. The defendant must "convince the court that a decision to reject the plea bargain would have been rational under the circumstances." Scott, 467 Mass. at 356, quoting Padilla v. Kentucky, 559 U.S. 356, 372 (2010).

As set forth supra, the defendant failed to show a nexus between Bigda's misconduct in 2016 and the allegations in 2016 and 2017 of alcohol consumption, on the one hand, and the

defendant's case and his decision to plead guilty in 2015, on the other. Additionally, Bigda's testimony regarding the items he seized, while not entirely cumulative,[5] would not have been outcome-determinative. See Scott, 467 Mass. at 360, quoting Grace, 397 Mass. at 305. Six other officers participated in the search leading to the charges against the defendant and independently collected evidence supporting each of the firearm charges, including two handguns and ammunition; they also collected sufficient evidence regarding the cocaine-related charges, including drug trafficking paraphernalia (packaging materials, papers, cutting agents, a scale, and tools with cocaine residue), two cell phones, and currency. See Commonwealth v. LaPerle, 19 Mass. App. Ct. 424, 429 (1985) (evidence, consisting of two bottles of cutting powder, wrapping papers, and scale with cocaine residue, sufficient to show possession with intent to distribute). Moreover, the defendant proffered no evidence from his trial counsel regarding whether the evidence would have influenced counsel's recommendation as to whether to accept a particular plea offer. See Commonwealth v. Goodreau, 442 Mass. 341, 354 (2004) ("When weighing the

[5] Bigda seized one bag of "crack" cocaine, drug ledgers, one cell phone, and currency. However, the traces of cocaine found as residue on the tools seized from the defendant's home, together with the other incriminating circumstantial evidence, can be sufficient for convictions. See Commonwealth v. Brzezinski, 405 Mass. 401, 409-410 (1989).

adequacy of the materials submitted in support of a motion for a new trial, the judge may take into account the suspicious failure to provide pertinent information from an expected and available source"). The judge was not required to credit the defendant's affidavit that he would have rejected the plea bargain had he known of the possible impeachment evidence against Bigda. Cf. Commonwealth v. Gilbert, 94 Mass. App. Ct. 168, 178-179 (2018). As the Commonwealth notes (and the defendant does not dispute), given the charges against the defendant, he faced a mandatory minimum of eight years and a maximum of ninety-five years (or life sentence) if he was found guilty on all original charges;[6] under the plea deal, the defendant received a maximum of four years' incarceration. See Commonwealth v. Grant, 426 Mass. 667, 671 (1998). Finally, even if, as the defendant argues, he could have offered the alleged misconduct to impeach Bigda if called as a Commonwealth witness, without more, "[n]ewly discovered evidence that tends merely to impeach the testimony of a witness does not ordinarily warrant a new trial." Commonwealth v. Simmons, 417 Mass. 60, 72 (1994).[7]

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[6] These included possession of a large capacity firearm, G. L. c. 269, § 10 (m), and possession of a large capacity firearm during the commission of a felony, G. L. c. 265, § 18B, for which the Commonwealth filed a nolle prosequi as part of the plea agreement.

[7] The defendant's reliance on Conley v. United States, 415 F.3d 183, 188-189 (1st Cir. 2005), and United States v. Martinez-Medina, 279 F.3d 105, 126 (1st Cir. 2002), both of which

Accordingly, the judge did not abuse his discretion in denying the defendant's motion for a new trial.[8]

Order denying motion for new trial affirmed.

By the Court (Maldonado, Henry & Wendlandt, JJ.[9]),

Joseph F. Stanton

Clerk

Entered: July 8, 2020.

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involved the "more generous" standard of materiality under Brady v. Maryland, 373 U.S. 83, 87 (1963), is misplaced.

[8] Contrary to the defendant's argument, the judge did not abuse his discretion by failing to hold an evidentiary hearing. See Commonwealth v. DeVincent, 421 Mass. 64, 67 (1995). "A judge may make the ruling [on a motion for a new trial] based solely on the affidavits and must hold an evidentiary hearing only if the affidavits or the motion itself raises a 'substantial issue' that is supported by a 'substantial evidentiary showing'" (citation omitted). Scott, 467 Mass. at 344. As discussed supra, the defendant failed to make a substantial evidentiary showing.

[9] The panelists are listed in order of seniority.

CERTIFICATE OF SERVICE

Date: July 14, 2020

COMMONWEALTH

v.

ALBERTO CORREA MARTINEZ

I certify that I have made service of a copy of the foregoing Application for Further Appellate Review to the District Attorney of Hampden County, Hall of justice, 50 State Street, Springfield, MA 01103.

"DJG"
Dana J. Gravina, Esq.