

S.J.C. No. DAR-____
App. Ct. No. 26-P-1166

Commonwealth of Massachusetts

Supreme Judicial Court

COMMONWEALTH,

Appellee,

vs.

ANDRIAN D. HUGHES,

Defendant-Appellant.

ON APPEAL FROM A JUDGMENT OF THE
MIDDLESEX COUNTY SUPERIOR COURT

APPLICATION FOR DIRECT APPELLATE REVIEW

PATRICK LEVIN
BBO #682927

ATTORNEY FOR ANDRIAN D. HUGHES

COMMITTEE FOR PUBLIC COUNSEL SERVICES
Public Defender Division
75 Federal Street, Sixth Floor
Boston, Massachusetts 02110
(617) 482-6212
plevin@publiccounsel.net

August 28, 2026

TABLE OF CONTENTS

REQUEST FOR DIRECT APPELLATE REVIEW	3
FACTUAL AND PROCEDURAL HISTORY	4
ISSUES PRESENTED.....	7
ARGUMENT	
I. The nonresident firearm licensing scheme in effect at the time of Mr. Hughes’s conduct violated the constitutional rights to interstate travel and equal protection.....	7
II. Due process requires proof that a nonresident who could lawfully carry their gun in their home state knew they were not in compliance with the Commonwealth’s regulatory regime prior to the imposition of felony liability.	10
III. The exception to §10(m)’s mandatory minimum sentence for defendants who are partially compliant with regulatory requirements should apply to holders of valid licenses to carry firearms issued by other states.....	13
REASONS FOR DIRECT APPELLATE REVIEW	15
CONCLUSION	15
CERTIFICATE OF COMPLIANCE	16
CERTIFICATE OF SERVICE	16
DOCKET ENTRIES	17
ORDER ON MOTION TO DISMISS	38

REQUEST FOR DIRECT APPELLATE REVIEW

Andrian Hughes is a long-haul truck driver with a valid license to carry firearms from his home state of Tennessee. During a traffic stop, he handed that license to a Massachusetts State Police trooper and said that he had a handgun in the truck with him. He was subsequently convicted under G.L. c.269, §10(m), of possessing a large capacity feeding device without a temporary nonresident license to carry firearms issued pursuant to the 2022 version of G.L. c.140, §131F.¹

The validity of §10(m) under the Second Amendment is presently pending before this Court in *Commonwealth v. Shufelt*, No. SJC-13945. Mr. Hughes's appeal, however, presents novel questions regarding the statute's application to people with valid licenses to carry firearms from other states. Even if §10(m) does not violate the Second Amendment, Mr. Hughes contends that its application here (in tandem with the 2022 version of §131F) violated his Fourteenth Amendment rights to interstate travel, equal protection, and due process of law. Similar claims were presented in *Commonwealth v. Donnell*, 495 Mass. 471 (2025), but this Court did not address them because it held the relevant version of the regulatory scheme facially unconstitutional under the Second Amendment. *See id.* at 474 n.3. Following the abrogation of that holding in *Commonwealth v. Rodriguez*, 496 Mass. 627, 642 n.8 (2025), the Fourteenth Amendment claims must now be addressed.

Pursuant to Mass. R.A.P. II, Mr. Hughes respectfully requests that this Court grant direct appellate review to address them.

¹ All statutory references in this application are to the versions of the statutes in effect on April 25, 2022.

FACTUAL AND PROCEDURAL HISTORY

This case arises from a traffic stop of a box truck for driving in a lane that was restricted to non-commercial vehicles on I-93 in Wilmington. Trooper Patrick Scanlon made the stop at around eight o'clock on the morning of April 25, 2022. When he opened the truck's passenger side door, a bag containing rifle ammunition fell onto the ground. The truck driver, Andrian Hughes, said the ammunition was his; he explained that although he didn't have a rifle compatible with that ammunition with him in the truck, he did have a pistol in the cab. He handed Trooper Scanlon his Tennessee driver's license and a valid Tennessee "handgun carry permit."

Scanlon asked Mr. Hughes to step out of the truck, telling him that "just because you have a permit in Tennessee doesn't mean you can bring a firearm across state lines." In response to questions from the trooper, Mr. Hughes explained that he had left Tennessee for his trucking run the previous week, driven to Maryland, and then come to Massachusetts to deliver PVC piping material. He said that he had bought the gun from his brother in Tennessee before leaving.

Scanlon then entered the cab of the truck and recovered a handgun on the seat where Mr. Hughes had said it was. The gun was a Girsan nine-millimeter semiautomatic pistol. It contained a magazine capable of holding eighteen rounds of ammunition. When Scanlon found the gun, the magazine was fully concealed inside the grip of the pistol. He removed the magazine and found that it was loaded with four rounds of ammunition. The side of the magazine (visible once it was removed) clearly displayed its eighteen-round capacity.

Mr. Hughes was not arrested, but Trooper Scanlon informed him that “he would be issued a criminal citation for the firearm.” A complaint issued with a summons on May 3, 2022. Mr. Hughes was arraigned in the Woburn District Court on June 13, 2022, pleaded not guilty, and was released on \$2,500 bail.

Almost a year later, on March 2, 2023, a Middlesex County grand jury returned an indictment charging Mr. Hughes with carrying a firearm without a license, G.L. c.269, §10(a); carrying a loaded firearm, G.L. c.269, §10(n); possession of ammunition without an FID card, G.L. c.269, §10(h)(1); and possession of a large capacity feeding device, G.L. c.269, §10(m). Mr. Hughes was arraigned again on May 17, 2023, pleaded not guilty, and was again released on bail.

On November 20, 2023, Mr. Hughes filed a motion to dismiss the charges against him on Second Amendment grounds, arguing that the United States Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), had invalidated Massachusetts’s may-issue nonresident firearm licensing scheme. Mr. Hughes was subsequently granted leave to file a supplemental memorandum in support of his motion to dismiss. That memorandum, filed on April 25, 2024, raised additional claims under the United States Constitution, including equal protection and due process claims.

On July 5, 2024, after holding a non-evidentiary hearing and receiving a written opposition from the Commonwealth, Judge Haggan issued a memorandum and order dismissing the charges under §10(a), §10(h)(1), and §10(n), concluding that those statutes violated the Second Amendment as applied to Mr. Hughes. On the §10(m) charge, however, Judge Haggan “decline[d] to consider” Mr. Hughes’s Second

Amendment claim because this Court, in *Commonwealth v. Guardado*, 493 Mass. 1, 4 n.2 (2023), had “left for another day ... the question whether large capacity feeding devices are ‘arms’ protected by the Second Amendment following *Bruen*.” The judge rejected Mr. Hughes’s due process argument and denied the motion to dismiss the §10(m) charge without addressing his equal protection claim.

The Commonwealth moved for reconsideration of the partial dismissal. On March 11, 2025, this Court held that the nonresident licensing scheme under which Mr. Hughes had been charged was facially unconstitutional. *Donnell*, 495 Mass. at 473. Based on that decision, Judge Haggan denied the Commonwealth’s motion for reconsideration. The Commonwealth did not appeal.

Mr. Hughes waived his right to a jury trial on the §10(m) charge in a colloquy with Judge Sarrouf on October 20, 2025. The judge heard evidence that day and found Mr. Hughes guilty. Mr. Hughes requested a sentence of probation, arguing that the exception to §10(m)’s mandatory minimum sentence applicable to Massachusetts FID card holders should also apply to him, as the holder of a valid license to carry firearms from another state. Judge Sarrouf rejected Mr. Hughes’s legal argument and imposed the mandatory minimum sentence of one to two and one-half years in state prison, but stayed the execution of that sentence pending appeal.

Although trial counsel successfully obtained a stay of sentence pending appeal, he neglected to file a timely notice of appeal. On July 31, 2026, Justice Walsh granted leave for Mr. Hughes to file a late notice of appeal. That notice was docketed on August 6, and the case was entered in the Appeals Court on August 12, 2026.

ISSUES PRESENTED

1. Whether the version of Massachusetts's nonresident firearm licensing scheme in effect at the time of Mr. Hughes's conduct, which gave the State Police Colonel unfettered discretion to deny permission for residents of other states to bear arms in Massachusetts, violated the rights to interstate travel and equal protection.

2. Whether due process requires proof of a nonresident's awareness that a valid license to carry firearms issued by their home state will not be honored in Massachusetts prior to the imposition of felony liability for bringing their lawfully owned firearms across state lines.

3. Whether the exception to G.L. c.269, §10(m)'s mandatory minimum sentence for Massachusetts residents who possess a firearm identification card should also apply to Mr. Hughes by dint of his possession of a valid Tennessee license to carry firearms.

The first two issues were raised in Mr. Hughes's pretrial motion to dismiss, which was denied by Judge Haggan. The third issue was likewise raised by pretrial motion and also argued at sentencing; Judge Sarrouf stayed the execution of the mandatory minimum sentence pending appellate review of this claim. All three claims therefore are fully preserved for this Court's review.

ARGUMENT

I. The nonresident firearm licensing scheme in effect at the time of Mr. Hughes's conduct violated the constitutional rights to interstate travel and equal protection.

As noted, Mr. Hughes moved to dismiss all counts of the indictment, arguing that Massachusetts's nonresident firearm licensing scheme, G.L. c.140, §131F, violated both his Second Amendment right

to bear arms and his Fourteenth Amendment rights to interstate travel and equal protection of the laws.

Similar claims were presented to this Court last year in *Donnell*, *supra*, and *Commonwealth v. Marquis*, 495 Mass. 434 (2025). *Donnell* addressed the version of §131F at issue in this case, while *Marquis* dealt with an amended version calculated to address the constitutional problems identified by the Supreme Court in *Bruen*. This Court held that prior to its amendment, §131F violated the Second Amendment by giving the licensing authority “unfettered discretion” to deny licenses, *Donnell*, 495 Mass. at 482, but that the amendments remedied that constitutional infirmity, *Marquis*, 495 Mass. at 436. This Court also rejected the Fourteenth Amendment claims as to the amended statute. *Id.* But its holding that the prior statute was facially unconstitutional under the Second Amendment obviated the need to address the Fourteenth Amendment claims in *Donnell*. 495 Mass. at 474 n.3.

Six months later, this Court “abrogated” its holding that the prior scheme was facially unconstitutional, concluding that it was only unconstitutional as applied to citizens who are eligible to exercise Second Amendment rights. *Rodriguez*, 496 Mass. at 642 n.8. Mr. Hughes’s as-applied Second Amendment challenge is not viable under *Marquis*, 495 Mass. at 439. The Fourteenth Amendment claims reserved in *Donnell* therefore must now be addressed. Unlike the statute upheld in *Marquis*, the licensing scheme under which Mr. Hughes was prosecuted violated the rights to equal protection and interstate travel.

Two aspects of the right to travel are implicated in this case: “the right of a citizen of one State to enter and to leave another State,” and “the right to be treated as a welcome visitor rather than an unfriendly

alien when temporarily present in the second State.” *Saenz v. Roe*, 526 U.S. 489, 500 (1999). See *Marquis*, 495 Mass. at 461.

As to the first, the 2022 version of §131F impermissibly forced residents of other states to choose between their right to travel here and their right to armed self-defense. In *Marquis*, this Court held that “no such constitutional dilemma exists” under the amended statute “[b]ecause [it] does not violate the Second Amendment.” 495 Mass. at 462. Prior to the amendments, however, that was not true; if a citizen of another state wished to travel to Massachusetts, he was unconstitutionally required to submit to the “unfettered discretion” of the licensing authority to exercise his rights. *Donnell*, 495 Mass. at 481.

As to the second, the differential treatment of nonresidents under the prior version of §131F did not accord them their rightful status as “welcome visitors,” *Saenz*, 526 U.S. at 500, or provide them with the equal protection of the laws. Although the licensing scheme in effect for residents of Massachusetts in 2022 also contained “may issue” language, it did not bestow the same “unfettered discretion” upon the licensing authority that existed under §131F. Rather, after enumerating various categories of “prohibited persons,” it contained a detailed definition of persons “unsuitable to be issued ... a license to carry.” G.L. c.140, §131(d). Although not as determinate as the statute analyzed in *Marquis*, 495 Mass. at 455-456, this provided at least some “definite standards” to guide the licensing authority’s decision-making. See *id.*, quoting *Bruen*, 597 U.S. at 38 n.9. Thus, unlike in *Marquis*, “the substantive eligibility criteria for residents and nonresidents” were *not* “identical” under the prior statute. *Id.* at 463.

A regulation that burdens the right to travel is subject to strict scrutiny. *Commonwealth v. Weston W.*, 455 Mass. 24, 26 (2009). And the Equal Protection Clause similarly requires strict scrutiny of statutes that implicate fundamental rights. See *Marquis*, 495 Mass. at 464.

The differential treatment of nonresidents under the prior version of §131F cannot withstand such scrutiny. None of the differences between residents and nonresidents identified in *Marquis*, 495 Mass. at 466-469, justify subjecting only nonresidents' exercise of their right of armed self-defense to the unfettered discretion of a licensing authority. Indeed, it is not clear that *any* conceivable difference between residents and nonresidents could justify this classification, given the unconstitutionality of the purely discretionary pre-amendment non-resident licensing scheme. As such, the statute under which Mr. Hughes was prosecuted cannot even survive rational basis review.

II. Due process requires proof that a nonresident who could lawfully carry their gun in their home state knew they were not in compliance with the Commonwealth's regulatory regime prior to the imposition of felony liability.

General Laws c.269, §10(m), "prohibits individuals from 'knowingly' possessing or having under their control a [large capacity magazine (LCM)] unless they possess a ... license to carry firearms." *Commonwealth v. Cassidy*, 479 Mass. 527, 532 (2018). "[C]ourts ordinarily read a phrase in a criminal statute that introduces the elements of a crime with the word 'knowingly' as applying that word to each element." *Id.* at 534. This rule of statutory construction reflects a "longstanding presumption, traceable to the common law, that [the Legislature] intends to require a defendant to possess a culpable

mental state regarding ‘each of the statutory elements that criminalize otherwise innocent conduct.’” *Rehaif v. United States*, 588 U.S. 225, 229 (2019). This Court should apply this “presumption in favor of scienter,” *id.*, and hold that someone who possesses a valid license to carry firearms in their home state cannot be convicted under §10(m) unless he knows that a separate license is required to bring a lawfully owned LCM into Massachusetts.

Such a holding would accord with this Court’s longstanding presumption that “criminal liability will not be imposed without some level of mens rea.” *Commonwealth v. Kelly*, 484 Mass. 53, 58 (2020). True, there is a class of “public welfare offenses” that dispense with such a requirement. *See id.* at 57, citing *Morissette v. United States*, 342 U.S. 246, 256-257 (1952). Offenses held to fall within that category, however, have “almost uniformly involved statutes that provided for only light penalties such as fines or short jail sentences.” *Id.* at 59, quoting *Staples v. United States*, 511 U.S. 600, 616 (1994). Section 10(m) creates a felony punishable by up to ten years’ imprisonment. This clearly takes it out of the “public welfare” category. *See id.* A showing of mens rea therefore should be required for conviction.

The essence of mens rea—“the conventional requirement for criminal conduct—[is] awareness of some wrongdoing.” *Morissette*, 342 U.S. at 260. A statute that requires “knowledge only of traditionally lawful conduct” does not satisfy this requirement. *Staples*, 511 U.S. at 618. This fairly describes the knowledge currently required for a conviction under §10(m): that a magazine is capable of holding more than ten rounds of ammunition. That is not a fact that “separat[es] wrongful from innocent acts.” *Rehaif*, 588 U.S. at 231. Across the United

States, “owning a gun”—even one that can hold eleven bullets—“is usually licit and blameless conduct.” *Staples*, 511 U.S. at 613. See generally *ANJRPC v. Attorney Gen. N.J.*, 183 F.4th 211, 249-250 (3d Cir. 2026) (en banc). Indeed, Mr. Hughes’s possession of his magazine, and his carrying of it in a gun in his truck, were perfectly lawful in his home state. It was only his failure to comply with Massachusetts’s uncommonly strict regulatory scheme that rendered his conduct wrongful. This Court should hold that some consciousness of the wrongfulness of that conduct was required to convict him of a felony.

This construction is required by the Fourteenth Amendment’s Due Process Clause, which “specially protects those fundamental rights and liberties which are, objectively, ‘deeply rooted in this Nation’s history and tradition.’” *Washington v. Glucksberg*, 521 U.S. 702, 720-721 (1997). Few rights are more deeply rooted than the protection against conviction of an “infamous” crime without proof of “conscious wrongdoing, the guilty mind accompanying the guilty act.” *Morissette*, 342 U.S. at 257. Indeed, that principle “is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty ... to choose between good and evil.” *Id.* at 250. It thus qualifies as a “principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental.” *Medina v. California*, 505 U.S. 437, 445 (1992).

A statute punishing someone as a felon and imposing a mandatory state prison sentence without any regard to the blameworthiness of their conduct is incompatible with that fundamental principle. Due process requires a citizen to know some fact that distinguishes his conduct from the wholly innocent behavior in which he regularly

lawfully engages in his home state before he may be imprisoned for it in the Commonwealth. *Cf. Lambert v. California*, 355 U.S. 225, 228 (1957) (holding felon registration ordinance unconstitutional unless construed to require knowledge of duty to register). Otherwise, such a visitor “on first becoming aware of [his] duty [would be] given no opportunity to comply with the law and avoid its penalty, even though [his] default was entirely innocent.” *Id.* at 229.

Because the evidence in this case did not establish that Mr. Hughes knew his Tennessee handgun carry permit would not be honored in Massachusetts, his conviction should be reversed.

III. The exception to §10(m)’s mandatory minimum sentence for defendants who are partially compliant with regulatory requirements should apply to holders of valid licenses to carry firearms issued by other states.

Section 10(m) generally imposes a mandatory minimum sentence of one to two and one-half years. But the statute contains an exception: a person “holding a valid firearm identification card shall not be subject to any mandatory minimum sentence.” This exception should be held to encompass defendants who hold valid “identification cards” permitting them to carry firearms in other states.

This Court has explained that the exception to §10(m)’s mandatory prison sentence for FID card holders is intended “to recognize that those who possess a valid FID card have at least attempted to be more compliant with the gun laws.” *Commonwealth v. Rodriguez*, 482 Mass. 366, 373-374 (2019). The Legislature has concluded that “such attempted compliance should count at sentencing, even though not as a defense to the felony charged.” *Id.* at 374.

Like a Massachusetts FID card holder, Mr. Hughes “at least attempted” to comply with the gun laws. Indeed, he *did* comply with the laws of his home state. That regulatory compliance permitted him lawfully to purchase his firearm and to possess it at home, but did not permit him to carry a gun around the Commonwealth of Massachusetts or to possess an LCM here. This is precisely what a holder of a Massachusetts FID card would have been permitted (and forbidden) to do, with one exception: while Mr. Hughes’s purchase and possession of his LCM were lawful in his home state—and in most of the other states he traversed on his trucking runs—a Massachusetts FID card holder cannot lawfully buy or own an LCM *at all*. See G.L. c.140, §§129B(6), 131M; c.269, §10(m). Mr. Hughes thus was actually *more* compliant with applicable regulatory requirements than the FID card holders to whom the exception clearly applies.

Notably, G.L. c.140, §129B(1), permits FID cards to be issued only to residents of Massachusetts. The exception to §10(m)’s mandatory minimum sentence for those who “have at least attempted to be more compliant with the gun laws,” *Rodriguez*, 482 Mass. at 373-374, thus was denied to nonresidents altogether, regardless of the extent of their compliance. *Contra Saenz*, 526 U.S. at 501-502.

Given the constitutional problems with such differential treatment—especially as to someone like Mr. Hughes, who *did* lawfully purchase and possess his LCM in his home state—this Court should hold that the statutory exception for FID card holders also applies to holders of valid licenses to carry firearms issued by other states.

REASONS FOR DIRECT APPELLATE REVIEW

This case presents novel constitutional questions “of such public interest that justice requires a final determination by [this] Court.” Mass. R.A.P. II(a). This Court has already determined that the nonresident firearm licensing scheme violated the Second Amendment prior to its 2022 amendment. *Rodriguez* “abrogated” *Donnell* insofar as the two opinions were inconsistent, but did not clarify whether the United States Constitution actually permits people prosecuted under that scheme to be convicted and imprisoned. Such clarification would be appreciated by litigants and lower court judges.

The other issues raised by Mr. Hughes will be of ongoing significance to all prosecutions of nonresidents even under the amended statutory scheme. This Court should grant review to determine what is required for such a prosecution to succeed.

CONCLUSION

For the reasons explained above, Mr. Hughes requests that direct appellate review be allowed.

Respectfully submitted,

ANDRIAN D. HUGHES

By his attorney,

/s/ Patrick Levin

Patrick Levin, BBO #682927

COMMITTEE FOR PUBLIC COUNSEL SERVICES

Public Defender Division

75 Federal Street, Sixth Floor

Boston, Massachusetts 02110

(617) 482-6212

plevin@publiccounsel.net

August 28, 2026

Certificate of Compliance

I hereby certify that this application for direct appellate review complies with Mass. R.A.P. 11 and 20(a). The application is set in 14-point Athelas font and its argument section contains 1,998 words, as determined by using the “Word Count” feature in Microsoft Word for Office 365.

/s/ Patrick Levin

Patrick Levin

Certificate of Service

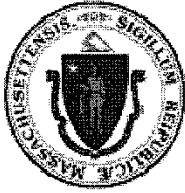
I hereby certify that in the matter of Commonwealth *vs.* Andrian D. Hughes, Supreme Judicial Court No. DAR-____, Appeals Court No. 26-P-1166, I have today served the Application for Direct Appellate Review of Defendant Andrian D. Hughes on the Commonwealth by directing a copy through the electronic filing service provider to:

Thomas D. Ralph
Middlesex DA's Office
15 Commonwealth Ave.
Woburn, MA 01801
(781) 897-6825
tom.ralph@mass.gov

/s/ Patrick Levin

Patrick Levin, BBO #682927
COMMITTEE FOR PUBLIC COUNSEL SERVICES
Public Defender Division
75 Federal Street, Sixth Floor
Boston, Massachusetts 02110
(617) 482-6212
plevin@publiccounsel.net

August 28, 2026



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

2381CR00098 Commonwealth vs. Hughes, Andrian Deshunn

CASE TYPE: Indictment	FILE DATE: 03/02/2023
ACTION CODE: 269/10/ZZ-0	CASE TRACK: A - Standard
DESCRIPTION: FEEDING DEVICE, POSSESS LARGE CAPACITY c269 §10(m)	
CASE DISPOSITION DATE: 10/20/2025	CASE STATUS: Open
CASE DISPOSITION: Disposed by Court Finding	STATUS DATE: 05/17/2023
CASE JUDGE:	CASE SESSION: Criminal 5 Rm 640

DCM TRACK

Tickler Description	Due Date	Completion Date
Pre-Trial Hearing	08/15/2023	10/20/2025
Final Pre-Trial Conference	10/30/2023	10/20/2025
Case Disposition	11/13/2023	10/20/2025
Under Advisement	05/29/2024	07/05/2024
Notice of Appeal Filed	02/02/2027	

PARTIES

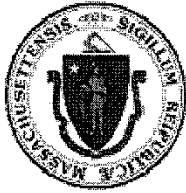
Prosecutor
Middlesex District Attorney
15 Commonwealth Avenue
Woburn, MA 01801

Defendant
Hughes, Andrian Deshunn
3234 TENA REA CV
Memphis, TN 38118

Attorney for the Commonwealth **706970**
Daniel Bolcun
Middlesex County District Attorney?s Office
Middlesex County District Attorney?s Office
15 Commonwealth Ave
Woburn, MA 01801
Work Phone (781) 897-8300
Added Date: 09/12/2025

Appointed - Indigent Defendant **266850**
Michael H Kelly
Law Office of Michael H. Kelly
Law Office of Michael H. Kelly
161 South Main St
Unit 106
Middleton, MA 01949
Work Phone (617) 387-6380
Added Date: 05/17/2023

Attorney **682927**
Patrick Levin
Committee for Public Counsel Services
Committee for Public Counsel Services
75 Federal St
Sixth Floor
Boston, MA 02110
Work Phone (617) 910-5729
Added Date: 03/30/2026



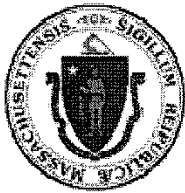
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Surety

Walker, Kija
1371 Kimberly Way
Atlanta, GA 30301

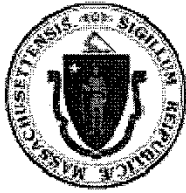
PARTY CHARGES

#	Offense Date/ Charge	Code	Town	Disposition	Disposition Date
1	04/25/2022 FEEDING DEVICE, POSSESS LARGE CAPACITY c269 §10(m) Sentence Date: 10/20/2025 Not greater than Yrs 2 Mos 6 Days 0 Not less than Yrs 1 Mos 0 Days 0	269/10/ZZ-0	Wilmington	Guilty Finding	10/20/2025
2	04/25/2022 FIREARM, CARRY WITHOUT LICENSE c269 §10(a)	269/10/J-1	Wilmington	Dismissed	07/05/2024
3	04/25/2022 FIREARM, CARRY WITHOUT LICENSE LOADED c269 s.10(n)	269/10/EE-0	Wilmington	Dismissed	07/05/2024
4	04/25/2022 AMMUNITION WITHOUT FID CARD, POSSESS c269 §10(h)(1)	269/10/TT	Wilmington	Dismissed	07/05/2024



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

EVENTS				
Date	Session	Event	Result	Resulting Judge
04/20/2023	Woburn Magistrate Session	Arraignment	Rescheduled	Flaherty
05/17/2023	Woburn Magistrate Session	Arraignment	Held as Scheduled	Sullivan
05/30/2023	Criminal 1 Rm 430	Scheduling Conference	Rescheduled	Pierce
08/11/2023	Criminal 1 Rm 430	Scheduling Conference	Held as Scheduled	Ellis
09/07/2023	Criminal 1 Rm 430	Filing of Motions	Not Held	Ellis
10/11/2023	Criminal 4 Rm 630	Scheduling Conference	Not Held	Tingle
10/13/2023	Criminal 1 Rm 430	Trial Readiness Conference	Rescheduled	Budreau
10/13/2023	Criminal 1 Rm 430	Hearing on Motion to Continue	Held via Video/Phone	Budreau
11/20/2023	Criminal 1 Rm 430	Filing of Motions	Held as Scheduled	Budreau
11/28/2023	Criminal 1 Rm 430	Jury Trial	Rescheduled	Budreau
12/21/2023	Criminal 1 Rm 430	Non-Evidentiary Hearing to Dismiss	Rescheduled	Budreau
03/15/2024	Criminal 1 Rm 430	Hearing on Motion to Continue	Held as Scheduled	Freniere
03/15/2024	Criminal 1 Rm 430	Trial Readiness Conference	Rescheduled	Pierce
03/15/2024	Criminal 1 Rm 430	Non-Evidentiary Hearing to Dismiss	Rescheduled	Pierce
04/09/2024	Criminal 1 Rm 430	Jury Trial	Rescheduled	Freniere
04/25/2024	Criminal 1 Rm 430	Filing of Motions	Held as Scheduled	Haggan
04/29/2024	Criminal 1 Rm 430	Non-Evidentiary Hearing to Dismiss	Held as Scheduled	Haggan
08/14/2024	Criminal 1 Rm 430	Hearing on Motion to Continue	Held as Scheduled	Haggan
08/14/2024	Criminal 1 Rm 430	Trial Readiness Conference	Not Held	Haggan
08/15/2024	Criminal 1 Rm 430	Trial Readiness Conference	Rescheduled	Haggan
09/16/2024	Criminal 1 Rm 430	Jury Trial	Not Held	Haggan
01/24/2025	Criminal 1 Rm 430	Conference to Review Status	Held as Scheduled	Ham
04/18/2025	Criminal 1 Rm 430	Conference to Review Status	Held via Video/Phone	Haggan
06/13/2025	Criminal 1 Rm 430	Lobby Conference	Rescheduled	Haggan
07/22/2025	Criminal 1 Rm 430	Lobby Conference	Held via Video/Phone	Rooney
09/12/2025	Criminal 1 Rm 430	Conference to Review Status	Held as Scheduled	Rooney
09/12/2025	Criminal 1 Rm 430	Trial Readiness Conference	Not Held	Rooney
10/06/2025	Criminal 1 Rm 430	Conference to Review Status	Held as Scheduled	Haggan
10/20/2025	Criminal 5 Rm 640	Jury Trial	Canceled	Sarrouf
10/20/2025	Criminal 5 Rm 640	Jury Waived Trial	Held as Scheduled	Sarrouf

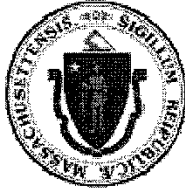


**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

04/27/2026	Criminal 5 Rm 640	Conference to Review Status	Rescheduled	Kazanjian
04/27/2026	Civil B Rm 720	Conference to Review Status	Held as Scheduled	Sarrouf
04/27/2026	Civil B Rm 720	Motion Hearing	Held as Scheduled	Sarrouf
11/19/2026	Criminal 5 Rm 640	Conference to Review Status		

FINANCIAL SUMMARY					
	Money on Deposit	Assessed	Paid	Dismissed	Balance
	Total	2,500.00	2,500.00	0.00	0.00

Deposit Account(s) Summary	Received	Applied	Checks Paid	Balance
Total	2,500.00			2,500.00



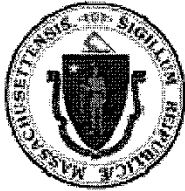
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

INFORMATIONAL DOCKET ENTRIES			
Date	Ref	Description	Judge
03/02/2023	1	Indictment(s) returned	
03/29/2023	2	Summons returned to court: SERVED Via mail, 3234 Tena Rea Cove, Memphis TN 38118, March 23rd, 2023	
04/19/2023		Event Result:: Arraignment scheduled on: 04/20/2023 10:00 AM Has been: Rescheduled For the following reason: Request of Defendant Daniel Flaherty, Presiding Staff: Mary T Aufiero, Assistant Clerk Dennis Collins, Assistant Clerk Magistrate	Flaherty
04/24/2023	3	Summons returned to court: SERVED Via mail, 3234 Tena Rea Cove, Memphis TN 38118, April 20th, 2023	
05/17/2023		Attorney appearance On this date Nicholas Pisegna, Esq. added as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
05/17/2023		Attorney appearance On this date Michael H Kelly, Esq. added as Appointed - Indigent Defendant for Defendant Andrian Deshunn Hughes Appointment made for the purpose of Case in Chief by Judge Michael A Sullivan.	
05/17/2023		Event Result:: Arraignment scheduled on: 05/17/2023 11:00 AM Has been: Held as Scheduled Comments: Po Lauranzano Michael A Sullivan, Presiding Appeared: Prosecutor Nicholas Pisegna, Esq., Attorney for the Commonwealth Richard Langweber stood in Defendant Andrian Deshunn Hughes Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Mary T Aufiero, Assistant Clerk FTR: K. O'Kelly	Sullivan
05/17/2023		Defendant arraigned before Court. Judge: Sullivan, Michael A	Sullivan
05/17/2023		Defendant waives reading of indictment Judge: Sullivan, Michael A	Sullivan
05/17/2023		Plea of not guilty entered on all charges. Judge: Sullivan, Michael A	Sullivan



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

05/17/2023		Court inquires of Commonwealth if abuse, as defined by G.L. c. 209A, § 1, is alleged to have occurred immediately prior to or in connection with the charged offense(s). Judge: Sullivan, Michael A	Sullivan
05/17/2023		Bail set at \$25,000.00 Surety, \$2,500.00 Cash. SET WITHOUT PREJUDICE BAIL IS TO BE TRANSFERRED CONDITIONS: 1) NOT TO POSESS ANY FIREARMS IN ALL 50 STATES 2) SIGN WAIVER OF RENDTION.	Sullivan
05/17/2023		Bail warnings read Judge: Sullivan, Michael A	Sullivan
05/17/2023		Case assigned to: DCM Track A - Standard was added on 05/17/2023	
05/17/2023	4	Finding and Order on Bail: Judge: Sullivan, Michael A	Sullivan
05/30/2023		Event Result:: Scheduling Conference scheduled on: 05/30/2023 09:00 AM Has been: Rescheduled For the following reason: Joint request of parties Hon. Laurence D Pierce, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Pierce
08/09/2023	5	Commonwealth's Notice of Discovery I	
08/11/2023		Scheduled: Event: Trial Readiness Conference Date: 10/13/2023 Time: 03:00 PM Result: Rescheduled	
08/11/2023		Scheduled: Event: Jury Trial Date: 11/28/2023 Time: 09:00 AM Result: Rescheduled	
08/11/2023		Event Result:: Scheduling Conference scheduled on: 08/11/2023 09:00 AM Has been: Held as Scheduled Comments: via email Hon. Sarah Weyland Ellis, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Ellis



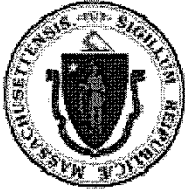
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

09/07/2023		Event Result:: Filing of Motions scheduled on: Ellis 09/07/2023 09:00 AM Has been: Not Held For the following reason: Request of Defendant Comments: Defense counsel did not appear on this date Hon. Sarah Weyland Ellis, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Apriel Jordan, Assistant Clerk Magistrate
09/08/2023	6	Defendant 's Motion To Suppress
09/08/2023	6.1	Affidavit of Affidavit In Support Of Motion To Suppress
10/10/2023		Event Result:: Scheduling Conference scheduled on: Tingle 10/11/2023 09:00 AM Has been: Not Held For the following reason: Request of Defendant Comments: Not on record. Hon. Brent A Tingle, Presiding Staff: Lucille Pasquale, Assistant Clerk Magistrate
10/10/2023	7	General correspondence regarding Email correspondence received from Atty. Michael Kelly informing the Court that he is withdrawing the defendant's motion to suppress. Attest: LP/ACM
10/11/2023	8	Defendant 's Motion to Continue Trial
10/11/2023	9	Defendant 's Motion to Waive Personal Appearance and Appear by Zoom
10/13/2023		Scheduled: Event: Trial Readiness Conference Date: 03/15/2024 Time: 09:30 AM Result: Rescheduled
10/13/2023		Scheduled: Event: Jury Trial Date: 04/09/2024 Time: 09:00 AM Result: Rescheduled
10/13/2023		Event Result:: Trial Readiness Conference scheduled on: Budreau 10/13/2023 03:00 PM Has been: Rescheduled For the following reason: Request of Defendant Hon. James Budreau, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Apriel Jordan, Assistant Clerk Magistrate



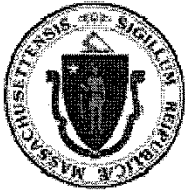
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

10/13/2023		Event Result:: Hearing on Motion to Continue scheduled on: 10/13/2023 03:00 PM Has been: Held via Video/Phone Comments: FTR: K. O'Kelly Hon. James Budreau, Presiding Appeared: Prosecutor Nicholas Pisegna, Esq., Attorney for the Commonwealth - Appeared VIA ZOOM Defendant Andrian Deshunn Hughes - Appeared VIA ZOOM Michael H Kelly, Esq., Appointed - Indigent Defendant - Appeared IN PERSON Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Budreau
10/13/2023		Event Result:: Jury Trial scheduled on: 11/28/2023 09:00 AM Has been: Rescheduled For the following reason: Request of Defendant Hon. James Budreau, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Budreau
10/13/2023		Endorsement on Motion to Continue Trial, (#8.0): ALLOWED Rule 36 is waived to April 9, 2024 (trial). (Budreau, J.) Judge: Budreau, Hon. James	Budreau
10/13/2023		Endorsement on Motion to Waive Personal Appearance and Appear by Zoom, (#9.0): ALLOWED Judge: Budreau, Hon. James	Budreau
11/20/2023		Event Result:: Filing of Motions scheduled on: 11/20/2023 09:00 AM Has been: Held as Scheduled Comments: MTD filed and date for hearing selected with both parties in person. Hon. James Budreau, Presiding Appeared: Prosecutor Nicholas Pisegna, Esq., Attorney for the Commonwealth Defendant Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Budreau
11/20/2023	10	Defendant 's motion to dismiss	
11/20/2023	10.1	Affidavit filed by Defendant Andrian Deshunn Hughes in support of motion to dismiss	
12/15/2023	11	Opposition to Defendant's Motion to Dismiss filed by Middlesex District Attorney	



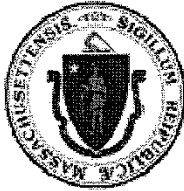
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

12/21/2023		Event Result:: Non-Evidentiary Hearing to Dismiss scheduled on: 12/21/2023 10:30 AM Has been: Rescheduled For the following reason: Request of Defendant Hon. James Budreau, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Budreau
02/28/2024		Attorney appearance On this date Nieve Anjomi, Esq. added as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
02/28/2024		Attorney appearance On this date Nicholas Pisegna, Esq. dismissed/withdrawn as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
03/14/2024	12	Defendant 's Motion to continue	
03/14/2024	13	Defendant 's Motion to waive personal appearance and appear by zoom.	
03/14/2024		Endorsement on Motion to waive personal appearance and appear by zoom., (#13.0): ALLOWED as to 3/15/24 only, subject to defendant physical appearance at hearing on MTD; Which will be heard on 3/15/24.	Pierce
03/15/2024		Scheduled: Event: Jury Trial Date: 09/16/2024 Time: 09:00 AM Result: Not Held	
03/15/2024		Scheduled: Event: Trial Readiness Conference Date: 08/15/2024 Time: 09:00 AM Result: Rescheduled	
03/15/2024		Endorsement on Motion to continue, (#12.0): ALLOWED Rule 36 waived. Dates so indicated are agreeable to court and to Commonwealth & so ORDERED.	Freniere
03/15/2024		Event Result:: Trial Readiness Conference scheduled on: 03/15/2024 09:30 AM Has been: Rescheduled For the following reason: Request of Defendant Hon. Laurence D Pierce, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Pierce
03/15/2024		Event Result:: Non-Evidentiary Hearing to Dismiss scheduled on: 03/15/2024 09:30 AM Has been: Rescheduled For the following reason: Request of Defendant Hon. Laurence D Pierce, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Pierce



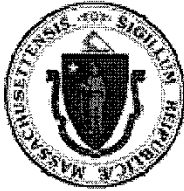
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

03/15/2024		Event Result:: Jury Trial scheduled on: 04/09/2024 09:00 AM Has been: Rescheduled For the following reason: Request of Defendant Hon Diane Freniere, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Freniere
03/15/2024		Event Result:: Hearing on Motion to Continue scheduled on: 03/15/2024 09:00 AM Has been: Held as Scheduled Hon Diane Freniere, Presiding Appeared: Prosecutor Nieve Anjomi, Esq., Attorney for the Commonwealth Defendant Andrian Deshunn Hughes Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Steve Mattos, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Freniere
03/15/2024		Rule 36 waived re: from now until 9/16/24. Judge: Freniere, Hon Diane Applies To: Hughes, Andrian Deshunn (Defendant); Kelly, Esq., Michael H (Attorney) on behalf of Hughes, Andrian Deshunn (Defendant)	Freniere
03/15/2024		Endorsement on Motion to Dismiss, (#10.0): After hearing, Defendant wishes to brief his MTD more fully & will do so, along with supporting affidavit by 4.25.24. Argument on MTD will take place on 4.29.24 at 2 pm. (Freniere, J.)	Freniere
04/25/2024		Event Result:: Filing of Motions scheduled on: 04/25/2024 09:00 AM Has been: Held as Scheduled Comments: Memo in Support of Motion to Dismiss and Affidavit filed in person. Matter not called on the record. Hon. Patrick Haggan, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Haggan
04/25/2024	14	Defendant 's Motion to Waive Personal Appearance and Appear by Zoom	
04/25/2024		Endorsement on Defendant 's Motion to Waive Personal Appearance and Appear by Zoom, (#14.0): ALLOWED Judge: Haggan, Hon. Patrick	Haggan
04/25/2024	15	Defendant 's Adrian D. Hughe's Addendum Memorandum in Support of Motion to Dismiss	
04/25/2024	15.1	Affidavit of Adrian D. Hughes in Support of Motion to Dismiss (Exhibits attached NOT scanned)	



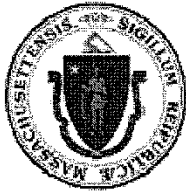
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

04/29/2024		Matter taken under advisement: Non-Evidentiary Hearing to Dismiss scheduled on: 04/29/2024 02:00 PM Has been: Held - Under advisement Comments: FTR: L. Fortune Hon. Patrick Haggan, Presiding Appeared: Prosecutor Nieve Anjomi, Esq., Attorney for the Commonwealth Defendant Andrian Deshunn Hughes Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Haggan
05/09/2024	16	Commonwealth's Submission of Supplemental Opposition to Defendant's Motion to Dismiss	
07/05/2024	17	MEMORANDUM & ORDER:	Haggan
		On Defendant's Motion to Dismiss ORDER: For the foregoing reasons, Hughes's motion to dismiss is DENIED as to indictment 001 charging him with violating G.L. c. 269, § 10(m), and ALLOWED as to the remaining indictments charging him with violating G.L. c. 269, § 10(a), (h), and (n). DATE: July 5, 2024. Judge: Haggan, Hon. Patrick	
08/08/2024	18	Commonwealth's Motion for Reconsideration on Partial Allowance of Defendant's Motion to Dismiss	
08/14/2024		Scheduled: Judge: Ham, Hon. Catherine Event: Trial Readiness Conference Date: 08/14/2024 Time: 02:30 PM Result: Not Held	Ham
08/14/2024		Event Result: Trial Readiness Conference scheduled on: 08/15/2024 09:05 AM Has been: Rescheduled For the following reason: Joint request of parties Hon. Patrick Haggan, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Haggan
08/14/2024		Event Result: Trial Readiness Conference scheduled on: 08/14/2024 02:30 PM Has been: Not Held For the following reason: Other event activity needed Hon. Patrick Haggan, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Haggan



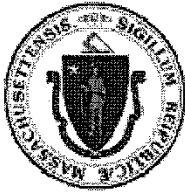
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

08/14/2024	Event Result:: Hearing on Motion to Continue scheduled on: 08/14/2024 02:00 PM Has been: Held as Scheduled For the following reason: Joint request of parties Hon. Patrick Haggan, Presiding Appeared: Prosecutor Nieve Anjomi, Esq., Attorney for the Commonwealth Defendant Andrian Deshunn Hughes Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Steve Mattos, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Haggan
08/14/2024	Rule 36 waived re: from now until new date of 1/24/25.	
08/14/2024	Event Result:: Jury Trial scheduled on: 09/16/2024 09:00 AM Has been: Not Held For the following reason: Other event activity needed Hon. Patrick Haggan, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Haggan
01/24/2025	Event Result:: Conference to Review Status scheduled on: 01/24/2025 02:00 PM Has been: Held as Scheduled Hon. Catherine Ham, Presiding Appeared: Prosecutor Nieve Anjomi, Esq., Attorney for the Commonwealth Defendant Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Steve Mattos, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Ham
04/18/2025	Offense Disposition:: Charge #2 FIREARM, CARRY WITHOUT LICENSE c269 §10(a) On: 07/05/2024 Judge: Hon. Patrick Haggan By: Other Court Event Dismissed Charge #3 FIREARM, CARRY WITHOUT LICENSE LOADED c269 s.10(n) On: 07/05/2024 Judge: Hon. Patrick Haggan By: Other Court Event Dismissed Charge #4 AMMUNITION WITHOUT FID CARD, POSSESS c269 §10(h)(1) On: 07/05/2024 Judge: Hon. Patrick Haggan By: Other Court Event Dismissed	
04/18/2025	Rule 36 waived re: by defendant from 4/18/25 through 10/20/25	



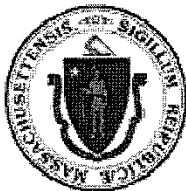
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

04/18/2025	Event Result:: Conference to Review Status scheduled on: 04/18/2025 09:05 AM Has been: Held via Video/Phone Comments: FTR: K. O'Kelly Hon. Patrick Haggan, Presiding Appeared: Prosecutor Nieve Anjomi, Esq., Attorney for the Commonwealth Defendant Andrian Deshunn Hughes Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Michelle Goldman, Assistant Clerk Magistrate Apriel Jordan, Assistant Clerk Magistrate	Haggan
04/18/2025	Endorsement on Motion for Reconsideration on Partial Allowance of Defendant's Motion to Dismiss, (#18.0): DENIED After hearing, and pursuant to Commonwealth v. Donnell (SJC), and for the reasons stated in that decision, the motion is DENIED. (Haggan, J.) 4/18/25	Haggan
06/06/2025	Event Result:: Lobby Conference scheduled on: 06/13/2025 03:00 PM Has been: Rescheduled For the following reason: Request of Defendant Hon. Patrick Haggan, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Apriel Jordan, Assistant Clerk Magistrate	Haggan
07/14/2025	Attorney appearance On this date Kailey V Steblovskiy, Esq. added as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
07/14/2025	Attorney appearance On this date Kailey V Steblovskiy, Esq. dismissed/withdrawn as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
07/22/2025	Event Result:: Lobby Conference scheduled on: 07/22/2025 10:30 AM Has been: Held via Video/Phone Comments: FTR: K. O'Kelly Hon. Lynn C Rooney, Presiding Appeared: Prosecutor Nieve Anjomi, Esq., Attorney for the Commonwealth, in person Defendant Andrian Deshunn Hughes, via zoom Michael H Kelly, Esq., Appointed - Indigent Defendant, via zoom Staff: Michelle Goldman, Assistant Clerk Magistrate Apriel Jordan, Assistant Clerk Magistrate Defense to file submission to the Court regarding similar cases being challenged, by 9/5/25.	Rooney
08/19/2025	19	Commonwealth 's Motion to Respond to Defendant's Brief RE: Sentencing



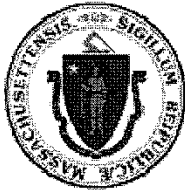
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

08/19/2025		Endorsement on Motion to Respond to Defendant's Brief RE: Sentencing, (#19.0): ALLOWED ALLOWED (Rooney, J.) 8.19.25	Rooney
09/05/2025	20	Defendant 's Second Addendum Memorandum In Support of Motion to Dismiss	
09/05/2025	20.1	Affidavit of Counsel In Support of Defendant Andrian D. Hughes' Second Addendum Memorandum In Support of Motion to Dismiss	
09/12/2025		Attorney appearance On this date Nieve Anjomi, Esq. dismissed/withdrawn as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
09/12/2025		Attorney appearance On this date Daniel Bolcun, Esq. added as Attorney for the Commonwealth for Prosecutor Middlesex District Attorney	
09/12/2025		Event Result:: Trial Readiness Conference scheduled on: 09/12/2025 03:00 PM Has been: Not Held For the following reason: Event Changed Hon. Lynn C Rooney, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate	Rooney
09/12/2025		Event Result:: Conference to Review Status scheduled on: 09/12/2025 02:00 PM Has been: Held as Scheduled Comments: PO B. Lepage Hon. Lynn C Rooney, Presiding Appeared: Prosecutor Daniel Bolcun, Kailey Verni, and Ryan Rall, Esq., Attorney for the Commonwealth (Counsel for the Commonwealth all appearing in person) Defendant Andrian Deshunn Hughes (appearing on Zoom) Michael H Kelly, Esq., Appointed - Indigent Defendant (appearing in person) Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate Robin Petrucci, Assistant Clerk Magistrate FTRA. Bresnahan	Rooney



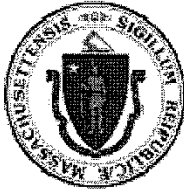
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

10/06/2025		Event Result:: Conference to Review Status scheduled on: 10/06/2025 02:00 PM Has been: Held as Scheduled Hon. Patrick Haggan, Presiding Appeared: Prosecutor Daniel Bolcun, Esq., Attorney for the Commonwealth Defendant Andrian Deshunn Hughes (appeared via Zoom) Michael H Kelly, Esq., Appointed - Indigent Defendant Staff: Dennis Collins, Assistant Clerk Magistrate FTR: Vanessa Nogueira	Haggan
10/14/2025		Event Result:: Jury Trial scheduled on: 10/20/2025 09:00 AM Has been: Canceled For the following reason: Event Changed Camille Sarrouf, Presiding Staff: Christina Lucci, Assistant Clerk	Sarrouf
10/15/2025		Order for the transmittal of Bail sent to the clerk of the Woburn District Court. Transfer was not sent at time of arrangement. Transfer emailed to Woburn DC on 10/15/2025	Sullivan
10/16/2025	21	Witness list	
		Applies To: Middlesex District Attorney (Prosecutor)	
10/16/2025	22	Commonwealth 's Motion in Limine to Admit In-Court Identification by Witnesses	
		Applies To: Middlesex District Attorney (Prosecutor)	
10/16/2025	23	Commonwealth 's Motion in Limine to Qualify State Police Ballistician as Expert	
		Applies To: Middlesex District Attorney (Prosecutor)	
10/16/2025	24	Commonwealth 's Motion in Limine to Admit Testimony and Documentary Evidence from the Department of Criminal Justice Information Services Consistent with Commonwealth v. Guardado	
		Applies To: Middlesex District Attorney (Prosecutor)	
10/16/2025	25	Commonwealth 's Certificate of Discovery Compliance	
		Applies To: Middlesex District Attorney (Prosecutor)	
10/17/2025	26	Defendant 's Motion for Suggested Questions to the Jury Asked on an Individual Basis	
10/20/2025	27	Witness list	
		Updated	
		Applies To: Middlesex District Attorney (Prosecutor)	



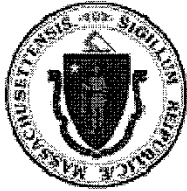
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

10/20/2025	28	Waiver of trial by jury	
10/20/2025		Defendant oral motion for Required Finding of Not Guilty at Close of Commonwealth's Evidence. DENIED, J. Sarrouf	
10/20/2025		Defendant oral motion for Required Finding of Not Guilty at the Close of All Evidence. DENIED, J. Sarrouf	
10/20/2025		Offense Disposition:: Charge #1 FEEDING DEVICE, POSSESS LARGE CAPACITY c269 §10(m) On: 10/20/2025 Judge: Camille Sarrouf By: Jury Waived Trial Guilty Finding	
10/20/2025		Disp for statistical purposes	
10/20/2025		Defendant sentenced:: Sentence Date: 10/20/2025 Judge: Camille Sarrouf Charge #: 1 FEEDING DEVICE, POSSESS LARGE CAPACITY c269 §10(m) State Prison Sentence Not Less Than: 1 Years, 0 Months, 0 Days Not More Than: 2 Years, 6 Months, 0 Days Committed to Souza Baranowski Correctional Center Further Orders of the Court: The defendant does not have a license. The sentence is stayed pending Appeals Court/SJC Decisions	
10/20/2025		Defendant oral motion to stay the sentence. ALLOWED, sentence stayed until Appeals Court/SJC decisions on 10(m), J. Sarrouf	
10/20/2025	29	Finding by Court: Count 1: Guilty offense as charged Judge: Sarrouf, Camille	Sarrouf
10/20/2025	30	List of exhibits for Jury Waived Trial	
10/20/2025	31	Witness list for Jury Waived Trial Applies To: Middlesex District Attorney (Prosecutor)	
10/20/2025	32	As required by statute, the Court orders transfer or forfeiture of the following exhibit(s) 1, 1A and 1B (Black firearm and magazine in evidence box) Judge: Sarrouf, Camille	Sarrouf
10/20/2025	33	The following exhibit(s) 1, 1A and 1B (black firearm and magazine in evidence box) have been transferred to Massachusetts State Police	



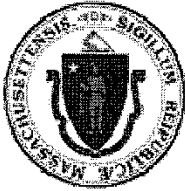
**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

10/20/2025	Endorsement on Commonwealth's Motion in Limine to Admit In-Court Identification by Witnesses, (#22.0): Allowed without objection	Sarrouf
	Judge: Sarrouf, Camille	
10/20/2025	Endorsement on Commonwealth's Motion in Limine to Qualify State Police Ballistician as Expert, (#23.0): Reserved	Sarrouf
	Judge: Sarrouf, Camille	
10/20/2025	Endorsement on Commonwealth's Motion in Limine to Admit Testimony and Documentary Evidence from the Department of Criminal Justice Information Services Consistent with Commonwealth v. Guardado, (#24.0): Allowed without objection	Sarrouf
	Judge: Sarrouf, Camille	
10/20/2025	Conditions of release on bail: Other Special Condition The defendant is to remain on the same bail and conditions as previously posted and ordered.	Sarrouf
	Judge: Sarrouf, Camille	
10/20/2025	Event Result:: Jury Waived Trial scheduled on: 10/20/2025 09:00 AM Has been: Held as Scheduled Camille Sarrouf, Presiding Appeared: Prosecutor Daniel Bolcun, Esq., Attorney for the Commonwealth Defendant Andrian Deshunn Hughes Michael H Kelly, Esq., Appointed - Indigent Defendant APO Bruna Silva Staff: Christina Lucci, Assistant Clerk Court Reporter FTR Vanessa Nogueira	Sarrouf
11/19/2025	Attorney appearance On this date Nancy Ann Dolberg, Esq. added for Defendant Andrian Deshunn Hughes	
03/13/2026	Docket Note: Exhibits in Room 207A 1 Envelope	
03/30/2026	Attorney appearance On this date Patrick Levin, Esq. added for Defendant Andrian Deshunn Hughes	
04/14/2026	Attorney appearance On this date Nancy Ann Dolberg, Esq. dismissed/withdrawn for Defendant Andrian Deshunn Hughes	
04/24/2026	34 Defendant's Motion for Stay of Sentence	



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

04/27/2026	Event Result:: Motion Hearing scheduled on: 04/27/2026 09:00 AM Has been: Held as Scheduled Camille Sarrouf, Presiding Staff: Debra J Newman, Assistant Clerk	Sarrouf
04/27/2026	Event Result:: Conference to Review Status scheduled on: 04/27/2026 09:00 AM Has been: Rescheduled For the following reason: Transferred to another session Hon. Helene Kazanjian, Presiding Staff: Christina Lucci, Assistant Clerk	Kazanjian
04/27/2026	Event Result:: Conference to Review Status scheduled on: 04/27/2026 09:00 AM Has been: Held as Scheduled Camille Sarrouf, Presiding Staff: Debra J Newman, Assistant Clerk	Sarrouf
04/27/2026	EDocument sent: Notice to Appear was generated and sent to: Defendant: Michael H Kelly, Esq. mhk@northbostonlegal.com Defendant: Patrick Levin, Esq. plevin@publiccounsel.net Prosecutor: Daniel Bolcun, Esq. danbolcun@yahoo.com Sent On: 04/27/2026 10:36:47	
04/27/2026	Endorsement on Defendant 's Motion for Stay of Sentence, (#34.0): Allowed. Per Rule 31 and the appropriate legal standards applied. A six (6) month date to be set. Judge: Sarrouf, Camille	Sarrouf

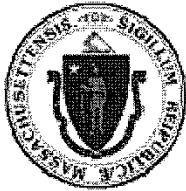


**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

07/30/2026 35 Notice of docket entry received from Appeals Court
COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT CLERK'S OFFICE
RE: No. 2026-J-0726
 Lower Court No. 2381CR00098
 COMMONWEALTH vs. ANDRIAN DESHUNN HUGHES
NOTICE OF DOCKET ENTRY
Please take note that on July 29, 2026, the following entry was made on the
docket of the above-referenced case:
Motion to file late notice of appeal filed for Andrian Deshunn Hughes by
Attorney Patrick Levin.
Very truly yours,
The Clerk's Office
Dated: July 30, 2026
To: Thomas D. Ralph, Assistant District Attorney
Daniel Bolcun, Assistant District Attorney
Patrick Levin, Esquire
Michael H. Kelly, Esquire
Middlesex Superior Court Dept.

Appeals Court Clerk's Office
Address: John Adams Courthouse
One Pemberton Square, Suite 1200
Boston, Massachusetts 02108-1705
Website: www.mass.gov/orgs/appeals-court

Phone: (617) 725-8106



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

07/31/2026

36

Notice of docket entry received from Appeals Court
-COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE

July 31, 2026

RE: No. 2026-J-0726
Lower Ct. No.: 2381CR00098

COMMONWEALTH
vs.
ANDRIAN DESHUNN HUGHES

NOTICE OF DOCKET ENTRY

Please take note that on July 31, 2026, the following entry was made on the docket of the above-referenced case:

Order (RE#1): The motion to file a late notice of appeal from the defendant's 10/20/2025 conviction in Middlesex County Superior Court docket no. 2381CR00098 is allowed. The defendant may file a notice of appeal on or before 08/13/2026. (Walsh, J.). *Notice/Attest/Sarrouf, J.

REGISTRATION FOR ELECTRONIC FILING. Every attorney with an appeal pending in the Appeals Court must have an account with eFileMA.com. Registration with eFileMA.com constitutes consent to receive electronic notification from the Appeals Court and e-service of documents. Self-represented litigants are encouraged, but not required, to register for electronic filing.

ELECTRONIC FILING. Attorneys must e-file all non-impounded documents. Impounded documents and submissions by self-represented litigants may be e-filed. No paper original or copy of any e-filed document is required. Additional information is located on our Electronic Filing page: <http://www.mass.gov/courts/court-info/appealscourt/efiling-appeals-faq-gen.html>

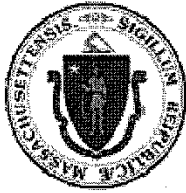
FILING OF CONFIDENTIAL OR IMPOUNDED INFORMATION. Any document containing confidential or impounded material must be filed in compliance with Mass. R. App. P. 16(d), 16(m), 18(a)(1)(A)(iv), 18(d), and 21.
Very truly yours,

The Clerk's Office

Dated: July 31, 2026

To:
Thomas D. Ralph, Assistant District Attorney Daniel Bolcun, Assistant District Attorney Patrick Levin, Esquire Michael H. Kelly, Esquire Middlesex Superior Court Dept.

If you have any questions, or wish to communicate with the Clerk's



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

		Office about this case, please contact the Clerk's Office at 617-725-8106. Thank you.
08/05/2026		CD of Transcript of 04/29/2024 02:00 PM Non-Evidentiary Hearing to Dismiss, 09/12/2025 02:00 PM Conference to Review Status, 10/20/2025 09:00 AM Jury Waived Trial received from Jill Kourafas. (Transcripts received via email)
08/06/2026	37	Notice of appeal filed. Applies To: Hughes, Andrian Deshunn (Defendant); Levin, Esq., Patrick (Attorney) on behalf of Hughes, Andrian Deshunn (Defendant)
08/12/2026	38	Notice to Clerk of the Appeals Court of Assembly of Record- Notice of Appeal (P#37), Notice of Docket Entry from Appeals Court (P#36), List of Exhibits (P#30) and Transcripts dates of 4/29/24, 9/12/25, & 10/20/25 (Appeal was sent via electronically, this day to the Appeals Court)
08/12/2026	39	Notice of assembly of record sent to Counsel Applies To: Middlesex District Attorney (Prosecutor); Levin, Esq., Patrick (Attorney) on behalf of Hughes, Andrian Deshunn (Defendant)
08/12/2026	40	Appeal: Statement of the Case on Appeal (Cover Sheet).

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CRIMINAL ACTION
NO. 2023-00098

COMMONWEALTH

vs.

ANDRIAN HUGHES

**MEMORANDUM OF DECISION AND ORDER ON
DEFENDANT'S MOTION TO DISMISS**

A Middlesex County grand jury indicted defendant Andrian Hughes (“Hughes”) with possession of a large capacity feeding device (G.L. c. 269, § 10(m)), possession of a firearm without a license (G.L. c. 269, § 10(a)), possession of a loaded firearm without a license (G.L. c. 269, § 10(n)), and possession of ammunition without a license (G.L. c. 269, § 10(h)). This case is before the court on the defendant’s motion to dismiss these charges as violating his rights under the United States Constitution. For the following reasons, the defendant’s motion is **ALLOWED** in part and **DENIED** in part.

DISCUSSION

Andrian Hughes is a Tennessee resident with a “Handgun Carry Permit” issued in that state (“Tennessee permit”). He does not have a license to carry a firearm (“LTC”) or a firearms identification card (“FID”) in Massachusetts. A trooper of the Massachusetts State Police stopped Hughes’s vehicle on Route 93 on April 25, 2022. In Hughes’s vehicle, the trooper discovered an eighteen-round capacity magazine, a loaded 9 millimeter semi-automatic pistol, and ammunition. Hughes seeks to dismiss the charges against him as violating the full faith and credit clause of the United States Constitution, denying him due process and equal protection of

#17

the law, and violating his Second Amendment rights pursuant to New York State Rifle & Pistol Ass’n, Inc. v. Bruen, 142 S. Ct. 2111 (2022) (“Bruen”).

I. Full Faith and Credit

Hughes’s argument that Massachusetts’s failure to recognize the Tennessee permit does not comply with the full faith and credit provision in Article IV, § 1, of the United States Constitution fails. That clause provides, “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.” The full faith and credit clause, however, “‘does not compel a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate’.” Commonwealth v. Harris, 481 Mass. 767, 774-775 (2019), quoting Baker v. General Motors Corp., 522 U.S. 222, 232 (1998). As the Commonwealth points out, the Supreme Judicial Court has already applied this concept to firearms laws, holding that Massachusetts “is not required to substitute its [firearms] statutes for those of” other states. Id. at 776. Hughes’s motion to dismiss on this basis is therefore **DENIED.**

II. Due Process

Hughes’s first asserts a due process violation arguing that G.L. c. 269, § 10(a) and (h) are unconstitutionally vague. See Commonwealth v. Cassidy, 479 Mass. 527, 539 (2018) (holding that ignorance of the law defense “is unrelated to a facial vagueness challenge”). This argument fails. “‘A statute violates due process and is void for vagueness when individuals of normal intelligence must guess at the statute’s meaning and may differ as to its application, thus denying them fair notice of the proscribed conduct.’ . . . A vague statute also offends due process because

of ‘its lack of reasonably clear guidelines for law enforcement and its consequent encouragement of arbitrary and erratic arrests and prosecutions.’” Commonwealth v. McGhee, 472 Mass. 405, 414 (2015) (citations omitted). The licensing requirements are not ambiguous and, as noted below, are based on objective criteria.

Further, to the extent Hughes argues that G.L. c. 269, § 10(a) and (h) are overbroad, that argument fails as well. See Schoeller v. Board of Registration of Funeral Dirs. & Embalmers, 463 Mass. 605, 611-612 (2012) (“Vagueness and overbreadth are related concepts, but implicate distinct constitutional rights. The vagueness doctrine is a function of due process, which requires that a law provide fair notice of what it prohibits or requires so that persons of common intelligence may conform their conduct to the law. . . . Overbreadth, on the other hand, relates to protections provided by the First Amendment; a law may be declared overbroad, and thus unconstitutional, if it prohibits a substantial amount of constitutionally protected speech.”). See, e.g., Commonwealth v. Davie, 46 Mass. App. Ct. 25, 27 n.5 (1998) (“The vagueness asserted in this case does not implicate the overbreadth doctrine because . . . [the challenged statute] is not the kind of statute that ‘appears to trench on First Amendment (or similar) rights.’” (citation omitted)).

Hughes also argues that G.L. c. 269, § 10(a) and (h) violate the due process clause of the United States Constitution because those provisions do not give notice to nonresidents that they can be subject to prosecution for transporting firearms through Massachusetts without a Massachusetts LTC. “The rule that ‘ignorance of the law will not excuse’ . . . is deep in our law . . .” Lambert v. People of the State of Cal., 355 U.S. 225, 228 (1957). “[I]gnorance of the law may be a defense, where proscribed conduct is completely passive and a defendant has no reason to know of the requirements of the law.” Commonwealth v. Cassidy, 479 Mass. 527, 539

(2018), citing Lambert, 355 U.S. at 228-230. See United States v. Denis, 297 F.3d 25, 29 (1st Cir. 2002) (“[A] defendant seeking to avoid prosecution on the ground of ignorance of the law must satisfy two requirements. First, his conduct must have been ‘wholly passive.’ . . . Second, there must be an absence of ‘circumstances that should alert the doer to the consequences of his deed.’” (quoting Lambert, 355 U.S. at 228)). Hughes cannot make this showing.

First, the First Circuit has held that possession of firearms is active conduct, Denis, 297 F.3d at 29, and this court agrees. See, e.g., Commonwealth v. Norling, 2003 WL 21781388 at *3 (Mass. Super. Ct. June 25, 2003) (McCann, J.) (“[P]ossession of firearms is active. . . . [moreover] the very act of possessing a weapon is an ‘active and potentially dangerous’ one.” (quoting Denis, 297 F.3d at 29; United States v. Hancock, 231 F.3d 557, 564 (9th Cir. 2000))). This court takes that conclusion a step further in the context of this case and holds that transporting a weapon into another state is active conduct. Contra Norling, 2003 WL 21781388 at *4 (holding that defendant’s “continued possession of his weapons after a change in the gun control laws was an entirely passive omission”).

The second element considers whether a nonresident would be on notice that transporting a firearm into Massachusetts without a Massachusetts LTC is unlawful. Courts “presume an individual has knowledge if reasonable persons in the defendant’s position would have appreciated the risk of the challenged conduct. . . . A defendant should be aware that his conduct might violate the law when it involves a questionable and highly-regulated activity.” Norling, 2003 WL 21781388 at *3. Moreover, a defendant “‘knowingly subject[s] himself to a host of state and federal regulations’ when he purchase[s] a firearm.” Denis, 297 F.3d at 29 (citation omitted). Indeed, Hughes demonstrated he was aware of those regulations by obtaining the Tennessee permit. The question, however, is whether a defendant with an out-of-state LTC

should be aware that he would need some sort of license to travel through another state with his firearm. Hughes has not convinced the court that that a firearms owner, aware of his own state's regulations, would not be on alert that possession of his firearm in other states would trigger obligations under those states' laws.

Hughes's motion on this basis is accordingly **DENIED**.

III. **Equal Protection**

For equal protection claims, where a statute “burdens the exercise of a fundamental right protected by our State Constitution, . . . the statute is subject to strict judicial scrutiny. . . . All other statutes . . . are subject to a rational basis level of judicial scrutiny’.” Commonwealth v. Roman, 489 Mass. 81, 86 (2022) (alteration and ellipses in original) (citation omitted). See Commonwealth v. Weston W., 455 Mass. 24, 30 n.9 (2009) (“The standard for equal protection analysis under [the Massachusetts] Declaration of Rights is the same as under the Federal Constitution.” (citation omitted)). Gun ownership is a fundamental right. See McDonald v. Chicago, 561 U.S. 742, 778 (2010) (“[T]he Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.”). Strict scrutiny therefore applies, requiring the State action to “be narrowly tailored to further a legitimate and compelling governmental interest and . . . [to] be the least restrictive means available to vindicate that interest’ . . .” Roman, 489 Mass. at 86.

As the court decides this case on Second Amendment grounds, infra, the court takes no action on Hughes's equal protection claim.¹

¹ For this same reason, the court does not address Hughes's argument regarding his right to travel. See Sylvester v. Commissioner of Revenue, 445 Mass. 304, 310 (2005) (noting “that the constitutional right to travel is protected by the equal protection clause of the Fourteenth Amendment”).

IV. Second Amendment

Finally, Hughes argues that the charges against him violate his right “to keep and bear Arms,” under the Second Amendment to the United States Constitution pursuant to Bruen where the United States Supreme Court held “that the Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home.” 142 S. Ct. at 2122.

A. G.L. c. 269, § 10(m)

Hughes has been charged with possession without a license of a large capacity feeding device, in violation of G.L. c. 269, § 10(m).² The Supreme Judicial Court “[left] for another day . . . the question whether large capacity feeding devices are ‘arms’ protected by the Second Amendment following Bruen.” Commonwealth v. Guardado, 493 Mass. 1, 4 n.2 (2023). Accord Commonwealth v. Shakespeare, 493 Mass. 67, 96-97 (2023). This court therefore declines to consider Hughes’s argument that G.L. c. 269, § 10(m), on its face and as applied to him, violates the Second Amendment. See District of Columbia v. Heller, 554 U.S. 570, 626 (2008) (“[T]he right secured by the Second Amendment is not unlimited. From Blackstone through the 19th century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.”). Accord Bruen, 142 S. Ct. at 2162 (Kavanaugh, J., concurring). Therefore, the motion to dismiss indictment 001, charging possession of a large capacity feeding device is **DENIED.**

² Any person who “knowingly has in his possession, or knowingly has under his control in a vehicle, a . . . large capacity feeding device . . . who does not possess a valid license to carry firearms issued under section 131 or 131F of chapter 140, . . . shall be punished” under G.L. c. 269, § 10(m).

B. G.L. c. 269, § 10(a), (h), (n)

Hughes has also been charged with possession without a license of a loaded pistol and of ammunition. “Whoever . . . knowingly has under his control in a vehicle” a firearm without a license shall be punished under G.L. c. 269, § 10(a)(2). The individual is “further punished” if he violates G.L. c. 269, § 10(a), “by means of a loaded firearm . . .” G.L. c. 269, § 10(n). Additionally, “[w]hoever owns, possesses or transfers . . . ammunition without” a firearm identification card shall be punished under G.L. c. 269(h)(1). Hughes seeks to dismiss the indictments charging him under both provisions, arguing that requiring nonresidents with an out-of-state LTC to obtain a Massachusetts LTC as a precondition to traveling through Massachusetts with a firearm violates the Second Amendment because it constitutes a ban on the possession of firearms. See Bruen, 142 S. Ct. at 2122. While the court finds that the Massachusetts licensing scheme is constitutional on its face, the court agrees that the licensing scheme is unconstitutional as applied to Hughes because it effectively bars him from transporting a handgun through Massachusetts under any circumstances that could be applicable at the time of his arrest.

1. *Facial Challenge*

With respect to Hughes’s facial challenge to the licensing scheme, this court finds persuasive and adopts here Commonwealth v. Edwards, Crim. No. 19-00353, slip op., at 1-7 (Norfolk Super. Ct. July 17, 2023) (Freniere, J.), where the nonresident defendant challenged G.L. c. 269, § 10(a) and (h), as violating the Second Amendment. In summary, the court in that case held that Massachusetts’s licensing scheme “provides a mechanism for Massachusetts residents to obtain a License to Carry . . . based on . . . objective criteria,” in compliance with Bruen, “or for out-of-state residents to obtain a temporary license or to travel through the state

carrying unlicensed firearms legally.” Edwards, slip op. at 4. This court agrees with that analysis. Hughes’s motion to dismiss on this basis is therefore **DENIED**.

2. *As Applied Challenge*

“Generally, ‘when the constitutionality of a statute is challenged, the question to be decided is whether the statute is unconstitutional as applied in the particular case.’” Commonwealth v. Feliz, 481 Mass. 689, 696 (2019) (citation omitted). “Often, . . . those who do not apply for a Massachusetts firearm license are not entitled to assert as-applied challenges to the licensing laws because they cannot demonstrate that they sought, and were denied, a Massachusetts firearm license.” Harris, 481 Mass. at 771 n.5. Cf. Massachusetts Gen. Hosp. v. C.R., 484 Mass. 472, 488 (2020) (holding that courts do not “decide constitutional questions unnecessarily or prematurely”). Here, the licensing scheme does enable nonresidents to transport a firearm into Massachusetts under certain circumstances, pursuant to G.L. c. 140, §§ 129C, 131F, and 131G, but Hughes does not fall within any of those circumstances.

First, G.L. c. 140, § 129C(h), permits the “[p]ossession of *rifles and shotguns and ammunition therefor* by nonresidents traveling in or through the commonwealth, providing that any rifles or shotguns are unloaded and enclosed in a case[.]” (emphasis added). See G.L. c. 269, § 10(a)(4) (making it unlawful to carry a firearm without complying with G.L. c. 140, § 129C). Hughes, however, had a pistol, therefore G.L. c. 140, § 129C, does not apply.³ See G.L.

³ The Federal statute concerning the interstate transportation of firearms does include pistols:

“Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: *Provided*, That in the case of a vehicle without a compartment separate from the driver’s compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.”

c. 140, § 121 (including “pistol” within definition of “firearm” and defining “rifle” and “shotgun” separately).

Second, G.L. c. 140, § 129C(j), exempts from the licensing requirement “any *new resident* moving into the commonwealth, with respect to any firearm, rifle or shotgun and any ammunition therefor then in his possession, for 60 days after such . . . entry into the commonwealth[.]” (emphasis added). Hughes was not a new resident but was merely driving through Massachusetts, therefore G.L. c. 140, § 129C(j), does not apply. See Commonwealth v. Paul, 96 Mass. App. Ct. 263, 270 (2019) (“The language of the exemption in question refers to a ‘new resident moving into the commonwealth.’ This language expresses a legislative intent to exclude persons who are merely passing through or visiting the Commonwealth without any intention of remaining in the Commonwealth.”).

Third, under G.L. c. 140, § 131F, “[a] temporary license to carry firearms, rifles or shotguns or feeding devices or ammunition therefor, within the commonwealth, shall be issued . . . to a nonresident or any person not falling within the jurisdiction of a local licensing authority or to an alien that resides outside the commonwealth *for purposes of firearms competition* if it

18 U.S.C. § 926A. See 18 U.S.C. § 921 (defining “firearm” as “(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device”). It is unclear from the facts whether Hughes violated this statute. See Harris, 481 Mass. at 778 (“This provision consistently has been construed to ‘allow[] a person to transport a firearm and ammunition *from one state through a second state to a third state*, without regard to the second state’s gun laws, provided that the traveler is licensed to carry a firearm in both the state of origin and the state of destination and that the firearm is not readily accessible during the transportation.’” (alteration in original) (emphasis added) (citation omitted)). For that reason, and as the Commonwealth has not charged Hughes under this statute, the court does not consider the constitutionality of the requirement that the firearm remain unloaded and not readily accessible. See Bruen, 142 S. Ct. at 2122 (“[T]he Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home.”). Also, as neither statute apparently applies to Hughes’s circumstances, the court also does not consider whether 18 U.S.C. § 926A preempts G.L. c. 140, § 129C(h). See Consumer Data Indus. Ass’n v. Frey, 26 F.4th 1, 5 (1st Cir. 2022) (“Conflict preemption takes place when state law imposes a duty that is ‘inconsistent – i.e., in conflict – with federal law.’” (citation omitted)); Wright’s Case, 486 Mass. 98, 108 (2020) (“The Supremacy Clause unambiguously provides that if there is any conflict between federal and state law, federal law shall prevail.”).

appears that the applicant is not a prohibited person and is not determined unsuitable to be issued a license as set forth in section 131.” (emphasis added). See G.L. c. 269, § 10(a)(3) (making it unlawful to carry a firearm without having a license under G.L. c. 140, § 131F). Hughes was not transporting his firearm for purposes of a competition, therefore G.L. c. 140, § 131F, does not apply.

Fourth, G.L. c. 140, § 131G, provides, “[a]ny person who is not a resident of the commonwealth may carry a pistol or revolver in or through the commonwealth *for the purpose of taking part in a pistol or revolver competition or attending any meeting or exhibition of any organized group of firearm collectors or for the purpose of hunting*” provided that person has a license from his state. See G.L. c. 269, § 10(a)(4) (making it unlawful to carry a firearm without complying with G.L. c. 140, § 131G). Hughes was not attending a firearms-related competition, meeting, or exhibition, and he was not going hunting, therefore G.L. c. 140, § 131G, does not apply.

Consequently, no provision of the firearms licensing scheme enabled Hughes, a nonresident with a valid handgun carry permit from his home state, to lawfully travel through Massachusetts with his pistol.⁴ Cf. Calabrese v. Foxx, 338 F. Supp. 3d 775, 786 (N.D. Ill. 2017) (holding that where statute “renders [plaintiff] categorically ineligible for a [Firearm Owners Identification] card” he “need not make the futile gesture of applying for a . . . card to establish ripeness”); Plummer v. United States, 983 A.2d 323, 340-341, 341 n.18 (D.C. 2009) (holding

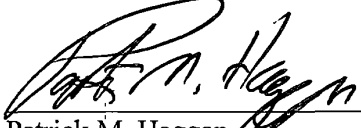
⁴ Apparently, the Massachusetts House of Representatives recognized this deficiency in the statute, proposing “An Act modernizing firearm laws” on October 18, 2023. 2023 House Bill No. 4135. In relevant part, the House proposed repealing G.L. c. 140, § 129C, 2023 House Bill No. 4135, § 54, and adding § 127A(d), which would provide: “A nonresident may carry a firearm on their person while in a vehicle lawfully traveling through the commonwealth; provided, however, that the firearm shall remain in the vehicle and if the firearm is outside its owner’s direct control it shall be stored in the vehicle in accordance with section 126C.” 2023 House Bill No. 4135, § 48, section 127A(d). The Massachusetts Senate’s amendments do not contain a similar proposal. See, generally, 2024 Senate Bill No. 2572 (Jan. 25, 2024); 2024 Senate Bill 2584 (Feb. 1, 2024).

that there was arguably support for plaintiff's futility argument because "[i]n light of the handgun registration and licensing scheme in effect at the time of the incident in this case, [plaintiff] could not have registered his handgun, but registration was a prerequisite to obtaining a license, despite the Second Amendment right to keep a handgun in his home for defensive purposes"). Therefore, it would have been futile for Hughes to attempt to comply with the Massachusetts licensing requirements because as applied to his circumstances, there was no provision that would allow him to lawfully possess a pistol while traveling through the state. This licensing scheme, as applied to Hughes, is therefore unconstitutional as it violates Hughes's Second Amendment right to carry a pistol outside the home. See Bruen, 142 S. Ct. at 2122.

Hughes's motion to dismiss the indictments charging him with violations of G.L. c. 269, § 10(a), (h), and (n) is therefore ALLOWED.

ORDER

For the foregoing reasons, Hughes's motion to dismiss is DENIED as to indictment 001 charging him with violating G.L. c. 269, § 10(m), and ALLOWED as to the remaining indictments charging him with violating G.L. c. 269, § § 10(a), (h), and (n).


Patrick M. Haggan
Justice of the Superior Court

DATE: July 5, 2024