



Legal Update

Commonwealth v. Boger

December 10, 2020

The Supreme Judicial Court holds that a public park for purposes of MGL c. 94C sec. 32J must be owned or maintained by a government entity.

Commonwealth v. Boger, SJC-12878

Relevant Facts

Undercover detective arranged by email and text to purchase an amount of cocaine. The detective met up with the defendants at the parking lot for the Cathedral of the Pines in Manchester-by-the-Sea. After the detective purchased the cocaine, the defendants left the parking lot and were arrested. Cathedral of the Pines consists of several thousand acres of land, some of which is owned by the towns of Essex and Manchester-by-the-Sea. There was no evidence presented regarding where the government-owned land was located in relation to the parking lot.

Issue

Was Cathedral of the Pines a “public park” for purposes of MGL c. 94C sec 32J?

Conclusion

No, it was not a public park. There was no question that Cathedral of the Pines was a park, the issue was whether it was public. The court found that “public” in this context means government-owned or maintained. According to the court, a “public park” under MGL c. 94C sec 32J, is land that is (1) set apart or dedicated for public enjoyment or recreational use, and (2) owned or maintained by a government entity.

For specific guidance on the application of these cases or any law, please consult your supervisor or your department’s legal advisor or prosecutor.