

S.J.C. No. DAR-____
App. Ct. No. 22-P-0676

Commonwealth of Massachusetts Supreme Judicial Court

COMMONWEALTH,
Appellee,
vs.

DAVID E. CANJURA,
Defendant-Appellant

ON APPEAL FROM A JUDGMENT OF THE
BOSTON MUNICIPAL COURT

DEFENDANT'S APPLICATION FOR DIRECT APPELLATE REVIEW

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March 13, 2023

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REQUEST FOR DIRECT APPELLATE REVIEW

Pursuant to Mass. R. A. P. II, defendant David Canjura requests that this Court allow direct appellate review of the trial court's denial of his motion to dismiss the charge of carrying a dangerous weapon. The appeal presents a question of first impression under Massachusetts law, namely, whether the statutory prohibition against carrying a switchblade violates the Second Amendment to the United States Constitution, as construed in the United States Supreme Court's recent decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022). This case represents this Court's first opportunity to construe the contours of the standard outlined in *Bruen*, a decision that directly affects not only Mr. Canjura's constitutional rights, but the rights of many other similarly situated defendants.

STATEMENT OF PRIOR PROCEEDINGS

On July 6, 2021, the defendant, David Canjura, was charged by complaint in the Boston Municipal Court with two counts: (1) assault and battery on a family or household member, G. L. c. 265, § 13M(a), and (2) carrying a dangerous weapon, G. L. c. 269, § 10(b) (R. 9).¹ On April 28, 2022, the defense filed a motion to dismiss count 2 (R. 10-16).

On May 19, 2022, the day when the matter was scheduled for trial, the Commonwealth answered not ready for trial on count 1, and that count was dismissed at its request (R. 7). The defense asked to be heard

¹ The record appendix filed with the defendant's brief in the Appeals Court is cited as "(R.)." The transcript of the hearing on the motion to dismiss is cited as "(Tr.)."

on its motion to dismiss count 2. The judge (Stanton, J.) heard argument and orally denied the motion (R. 7; Tr. 6-11).

The parties then submitted a plea agreement by which count 2 would be continued without a finding for six months (R. 17). The plea was conditional, reserving the defendant's right to appeal the denial of the motion to dismiss (R. 17, 19; Tr. 11). Pursuant to the agreement, the defendant admitted to sufficient facts, the judge accepted the admission, and the judge imposed the agreed sentence, with administrative probation (R. 7; Tr. 16-19).

The defendant's notice of appeal was timely filed on June 7, 2022 (R. 19). The appeal was entered in this Court on July 20, 2022. The defense filed its brief on January 20, 2023. The Commonwealth has not yet filed its response.

STATEMENT OF FACTS

On the motion to dismiss, the sole question at issue was whether the statutory prohibition on carrying a switchblade violates the Second Amendment to the United States Constitution. The pertinent facts are those stated in the motion, which were drawn from the police report of the incident. Those facts are set forth below.

At about 4:06 AM on July 3rd, 2020, Officers Roca and Kennedy responded to a call for a fight between a couple at 49 Temple Place, Boston. When they arrived, they found Maria Torres standing against a wall appearing to be in distress. The officers noted Mr. Canjura was standing in front of her and appeared to be preventing her from walking away. The officers separated the two and attempted to talk to them, though neither were cooperative. Officers believed both Ms. Torres and Mr.

Canjura appeared to be under the influence of alcohol. Officers spoke with Ms. Torres, who stated she just wanted to get her phone and order an Uber home. She also reported that Mr. Canjura had her phone and would not return it. Officers then retrieved the phone and returned it to Ms. Torres. Mr. Canjura reported that he had not seen or heard from Ms. Torres, his girlfriend, all day and had just found her walking into a bar with another man. Mr. Canjura reported that he grabbed her and pulled her back. He also reported that everything was fine between the two of them and they would order an Uber and go home together. Two witnesses reported that they saw Mr. Canjura grab Ms. Torres and push her up against a wall and take her phone from her. They also reported that Ms. Torres yelled at Mr. Canjura that she didn't want to be with him and to go away.

Officers advised Ms. Torres of her rights under 209A and provided her with a copy. They then placed Mr. Canjura under arrest without incident and searched him pursuant to the arrest. At this time, they recovered a knife from Mr. Canjura's waist. Officers call the knife a "switchblade," but describe it as orange, in the shape of a firearm, and having a spring-assisted blade. (R. 11)

The motion facts added: "[T]here is no allegation that the knife was ever used in any way" (R. 11). Nor was there any allegation that the knife was ever drawn or brandished during the incident.

ISSUE PRESENTED

Whether G. L. c. 269, § 10(b), which creates an absolute ban on carrying a switchblade knife, violates the Second Amendment of the United States Constitution.

This issue was squarely presented, and therefore fully preserved, by the defendant's motion to dismiss Count 2 in the trial court. Although the *Bruen* decision was released a month after the motion hearing in

this case, it is retroactive here because it was decided while this case was pending on direct appeal, and because the Second Amendment issue was preserved on the motion to dismiss below. *Commonwealth v. Bembury*, 406 Mass. 552, 558 (1990). And because the motion presented a pure question of constitutional law, the standard for this Court’s review is de novo. *Commonwealth v. Johnson*, 470 Mass. 300, 307 (2014).

ARGUMENT

THIS COURT SHOULD GRANT DIRECT APPELLATE REVIEW TO CONSIDER WHETHER G. L. C. 269, §10(b), CREATES AN ABSOLUTE BAN ON CARRYING A SWITCHBLADE KNIFE, IN VIOLATION OF THE DEFENDANT’S SECOND AMENDMENT RIGHT TO BEAR ARMS IN SELF-DEFENSE.

The Second Amendment provides that “the right of the people to keep and bear Arms shall not be infringed.” It “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008), quoted in *New York State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111, 2127 (2022). The Amendment applies to the states through the Fourteenth Amendment. *McDonald v. Chicago*, 561 U.S. 742, 791 (2010).

Although the right to bear arms may be regulated in certain instances, regulation may not constitute an “absolute prohibition.” *Heller*, at 636. *Ramirez v. Commonwealth*, 479 Mass. 331, 337 (2018). That, however, is exactly what G. L. c. 269, § 10(b), creates as to certain classes of arms—whole categories of knives, including the switchblade (“spring loaded knife”) charged in this case (R. 9).

The statute renders it a crime punishable by up to five years in state prison to carry a switchblade or other knives. In relevant part, § 10(b) of the statute applies to:

Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, any . . . *switch knife, or any knife having an automatic spring release device by which the blade is released from the handle, having a blade of over one and one-half inches* (emphasis added).

The statute provides for no licensing and allows no exception. It thus constitutes an “absolute ban” on carrying a switchblade. *Heller*, at 632. Such a ban is impermissible.

Regarding the standard for analysis, the *Bruen* decision expressly rejected both the “intermediate” and “strict” scrutiny standards previously applied by lower courts. *Bruen*, at 2126-2127, 2129. Instead, it stated that “the standard for applying the Second Amendment” consists of two steps: “[1] When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. [2] The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of [weapons] regulation.” *Id.* at 2129-2130. These steps are addressed in turn below.

- I. Carrying a switchblade knife for self-defense falls within the plain text reach of the Second Amendment.

“[T]he Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *Heller*, 554 U.S. at 582, quoted in *Bruen*, 142 S. Ct. at 2132. In *Heller*, the Supreme Court defined “Arms” as it was defined in the

18th century: “any thing that a man wears for his defense, or takes into his hands, or useth in wrath to cast at or strike another.” 554 U.S. at 581 (citation omitted). While firearms are one category of arms, they are not the only type of weapon protected by the Second Amendment. See, e.g., *Ramirez*, 479 Mass. at 337-338 (stun guns are “arms” protected by the Second Amendment). In other words, although *Heller* and *Bruen* dealt specifically with firearms, the Second Amendment applies to all weapons that are “typically possessed by law-abiding citizens for lawful purposes.” *Bruen*, at 2131. It therefore applies to the conduct at issue in the present case: carrying a switchblade publicly for self-defense.

A. *Switchblades are “bearable arms” that are typically possessed by law-abiding citizens for lawful purposes.*

To determine whether any weapon constitutes an “Arm” under the Second Amendment, *Heller* and *Bruen* require an examination of its historical tradition as a weapon of self-defense. *Bruen*, 142 S. Ct. at 2127 (“*Heller’s* methodology centered on constitutional text and history”). An examination of the relevant history reveals that switchblades fall within this definition.

I. *Knives Generally as “Arms”*

Numerous sources confirm that broad categories of knives constitute “Arms” within the historical tradition. The first fighting knives appeared in the Stone Age. See H. Peterson, *Daggers and Fighting Knives of the Western World I* (2001 ed.) (“Peterson”), cited in *Bruen*, at 2140. The first known folding knives have been found in Roman sites dating back to the first century. See G. Neumann, *Swords*

and *Blades of the American Revolution* 231 (1973) (“Neumann”), cited in *Heller*, at 625. “Knives and daggers were personal necessities to the early American.” Neumann, at 227.

In early America, folding knives became “almost universal accessories,” Neumann, at 231, and this included “spring knives.” *Id.* at 213. Long-bladed folding jackknives were commonly used for fighting and farm work, while smaller pocket knives were popular for hunting, fighting, and as tools. *Id.* at 246. At the time of the Revolutionary War, folding knives were so popular that “[o]rders from New York, New Hampshire, and Massachusetts actually listed them as required accessories.” *Id.* During the nineteenth century, and particularly in the Southern and Western states:

[M]en of all walks of life, law-abiding as well as criminal, were accustomed to wear a knife as a necessary part of their garb. Congressmen and senators even carried them into the United States Capitol. These were not mere decorations. The men who wore them did so for a purpose. It was a violent era, and a man might need a weapon at a moment’s notice. The small pistol and the knife answered such a need, and so they were widely popular.

Peterson, at 68.

The historical record thus clearly indicates that folding pocket knives, as a category, are weapons that were “typically possessed by law-abiding citizens for lawful purposes,” including self-defense, when the Second Amendment was drafted.

2. *Switchblade Knives as “Arms”*

A switchblade is merely one type of folding pocket knife, the “only difference” being its “spring-operated mechanism.” *State v.*

Delgado, 298 Or. 395, 403 (1984), quoting Webster's Third International Dictionary 2314 (1971).

Spring-operated folding knives specifically have a long history in this country. In fact, at the time of the founding, several common types of folding pocket knives contained spring mechanisms to open or hold the blade in place. See Neumann, at 242, 33.K (depicting English pocket knife, circa 1750-1840, featuring “a steel base spring (full length of handle) [that] helps to lock the blade in an open position”); *id.* at 243, 36.K (depicting pocket knife, circa 1750-1850, with an outside steel spring mechanism: the handle of the knife “is held by a bottom pin and a slotted screw at the left, while the remaining length acts as a free spring against the blade when opened”); *id.* at 244, 39.K (depicting curved pocket knife, circa 1760-1840, whose blade “folds into a slot cut along the outside . . . while a steel spring is inserted in the bottom”). As the Oregon Supreme Court explained in *Delgado*, the presence of a button to open the spring—the modern definition of a switchblade—is merely a natural progression of these rudimentary mechanisms. 298 Or. at 403.

The *Delgado* Court thus held that a statute proscribing possession or carrying of switchblades violated the right to bear arms under the Oregon Constitution. *Id.* at 397, 404. The same is true of the statute in issue here under the Federal Constitution. Given the long history of folding pocket knives generally and switchblade knives in particular, switchblades constitute “bearable arms” within the protection of the Second Amendment. *Bruen*, 142 S. Ct. at 2132. See *State v. Herrmann*, 366 Wis. 2d 312, 317-328 (Ct. App. 2015) (also holding that

switchblades constitute “arms,” and that statute proscribing possession of switchblades violated Second Amendment).

Here, the Massachusetts statute likewise violates the Second Amendment because it creates an “absolute ban” on carrying a switchblade, *Heller*, at 632, and thus “amounts to a prohibition of an entire class of ‘arms.’” *Id.*, at 628, quoted in *Ramirez*, 479 Mass. at 334.

B. Switchblades do not fall within any exception to protected “Arms”

The Supreme Court’s cases state several specific exceptions within the definition of protected “Arms.” The most relevant of these is that the term “Arms” does not encompass weapons that are “dangerous and unusual.” *Heller*, at 627, quoted in *Bruen*, at 2128.² Switchblades, however, are neither dangerous nor unusual.

The cases hold that handguns, which can kill from a distance, are protected “Arms,” *Heller*, at 629, and thus are not considered dangerous under this formulation. And if handguns are not considered dangerous, then switchblades, which can only be used at close quarters, can hardly be considered *more* dangerous. As common sense—and data—tells us,

² *Bruen* and *Heller* state two additional exceptions. The first is public safety, which permits bans on carrying arms in “sensitive places” and “by felons and the mentally ill.” *Heller*, at 626. *Bruen*, at 2133. Second, weapons that were “specifically designed for military use and were ... employed in a military capacity” are excluded from the category of protected “Arms.” *Heller*, at 58. These exceptions are not at issue in this case.

“knives are far less dangerous than guns.” Kopel et al., *Knives and the Second Amendment*, 47 U. Mich. J.L. Reform 167, 181-84 (2013).

Nor can switchblades be considered “unusual.” As shown above, switchblades, and folding pocket knives generally, date back to the time of the founding and remain “in common use today.” *Bruen*, at 2143. Some of the other weapons barred by the statute—“zoobow,” “shuriken,” “manrikigusari”—may indeed be unusual in our nation’s historical tradition. But switchblades are hardly exotic.

In sum, under the first step of the *Bruen* standard, a switchblade constitutes an “Arm,” and the defendant’s conduct in carrying it was within the reach of the “plain text” of the Second Amendment, rendering the conduct “presumptively protect[ed].” *Bruen*, at 2129-30. And because the statute provides an “absolute ban” on carrying a switchblade, *Heller*, 554 U.S. at 632, the remaining question in step two is whether the Commonwealth can properly justify that ban. *Bruen*, at 2130. As the analysis below demonstrates, it cannot.

II. The Commonwealth cannot establish that an absolute ban on carrying switchblade knives is consistent with this nation’s historical tradition.

In step two of the *Bruen* analysis, it is the Commonwealth’s burden to “justify [the statutory] regulation by demonstrating that it is consistent with the Nation’s historical tradition of [weapons] regulation.” 142 S. Ct. at 2129. The Commonwealth must do so “affirmatively,” *id.* at 2127, and without “ambigu[ity],” *id.* at 2139.

This it cannot do. To the contrary, the Nation’s historical tradition shows that citizens have long carried knives, and folding knives in particular, for self-defense. Moreover, the history of the

Massachusetts statute in issue shows that the prohibition on carrying switchblades was not even enacted until the 1950s. See St. 1957, c. 688, § 23, amending G. L. c. 269, § 10, noted in *Commonwealth v. Miller*, 22 Mass. App. Ct. 694, 694 n.1 (1986). Apparently, then, switchblades had never previously been regulated here throughout the 160 years since the founding.

But that is not for the defendant, or this Court, to establish. The burden of “sift[ing] the historical materials for evidence” to uphold the statute falls squarely upon the respondents. *Bruen*, at 2150. And in attempting to meet that burden, the Commonwealth cannot engage in any “interest-balancing” as to the “costs and benefits of [arms] restrictions,” *id.* at 2129, because “[t]he Second Amendment ‘is the very *product of* an interest balancing by the people.’” *Id.* at 2131, quoting *Heller*, 554 U.S. at 635 (emphasis original).

In sum, the Second Amendment “presumptively protects” a citizen’s right to carry a switchblade, *Bruen*, at 2126, and it is up to the Commonwealth to show otherwise. “Only if [it does so] may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’” *Id.* (citation omitted).

REASONS TO GRANT DIRECT APPELLATE REVIEW

This case presents both a novel issue and a question of law concerning the Constitution to the United States. See Mass. R. A. P. II. Even prior to the decision in *Bruen*, this Court had never addressed the question of whether the statutory prohibition on carrying a switchblade violates the Second Amendment. *Bruen* made it clear that the Second Amendment’s protections extend to all bearable Arms, and that the two-

step test is the correct framework to analyze that right. To date, however, there has been no guidance from this Court on how lower courts should apply that test.

Moreover, the issue presented affects not only Mr. Canjura, but many other similarly situated defendants charged under the dangerous weapon statute throughout the Commonwealth. Direct appellate review is therefore appropriate in order to provide guidance for both the bench and bar.

CONCLUSION

For the reasons stated herein, this court should grant the defendant's application for direct appellate review.

Respectfully submitted,

DAVIDE.CANJURA

By his attorney,

/s/ Kaitlyn Gerber

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Dated: March 13, 2023

ADDENDUM

Table of Contents

Docket Entries.....Add. 17

2101CR001994 Commonwealth vs. Canjura, David Edgardo

- Case Type:
- Criminal
- Case Status:
- Open
- File Date
- 07/06/2021
- DCM Track:
-
- Initiating Action:
- A&B ON FAMILY / HOUSEHOLD MEMBER c265 §13M(a)
- Status Date:
- 07/07/2021
- Case Judge:
-
- Next Event:
- 11/18/2022

- All Information
- Party
- Charge
- Event
- Docket
- Disposition

Party Information

Canjura, David Edgardo
- Defendant

Alias

Party Attorney

- Attorney
- Rodrigues, Esq., Cristina Maria
- Bar Code
- 689324
- Address
- Phone Number
-

[More Party Information](#)

Party Charge Information

- **Canjura, David Edgardo**
- - Defendant
- Charge # 1:
- **265/13M/B-0 - Misdemeanor - more than 100 days incarceration** A&B ON FAMILY / HOUSEHOLD MEMBER c265 §13M(a)

- Original Charge
- 265/13M/B-0 A&B ON FAMILY / HOUSEHOLD MEMBER c265 §13M(a)
- (Misdemeanor - more than 100 days incarceration)
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
05/19/2022
Dismissed - Request of Commonwealth

- **Canjura, David Edgardo**
- - Defendant
- Charge # 2:
- **269/10/B-0 - Felony** DANGEROUS WEAPON, CARRY c269 §10(b)

- Original Charge
- 269/10/B-0 DANGEROUS WEAPON, CARRY c269 §10(b) (Felony)
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
05/19/2022
Continued Without a Finding

Events					
<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
07/07/2021 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Arraignment		Held - Bail or Conditions of Release ordered
08/24/2021 09:00 AM	Pre-Trial - Courtroom 14, 5th Flr		Pretrial Hearing		Held
11/09/2021 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Motion to Dismiss		Reschedule of Hearing
02/15/2022 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Motion Hearing (CR)		Held as scheduled
02/28/2022 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Motion Hearing (CR)		Held as scheduled
03/08/2022 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Motion Hearing (CR)		Held - Motion allowed
03/10/2022 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Jury Trial (CR)		Not Held
05/19/2022 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Jury Trial (CR)		Not Held - Disposed by plea
06/17/2022 09:00 AM	Administrative - Rm 507	BOS-5th FL, RM 507 (BMC)	Continued For Payment Until		Held
11/18/2022 09:00 AM	Administrative - Rm 507	BOS-5th FL, RM 507 (BMC)	Continued Without Finding Until		

Docket Information					
<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>	
07/06/2021	Criminal Complaint issued from Electronic Application: Originating Court: BMC Central Case Number: 2101AC002136-AR Receiving Court: BMC Central ;				
07/06/2021	Complaint issued upon new arrest.			<i>Image</i>	
07/06/2021	Recog received on 07-06-21			<i>Image</i>	
07/07/2021	Event Resulted: Arraignment scheduled on: 07/07/2021 09:00 AM Has been: Held - Bail or Conditions of Release ordered Hon. James Martin Stanton, Presiding				
07/07/2021	Participants at Court Event - Defendant In Court - Assistant District Attorney Smith - Probation Representative Griffin - Session Clerk - KN - Courtroom and Time - 17 @ 9:39, 9:44, 11:15, 11:57. Attorney Rodriguez appears Judge: Stanton, Hon. James Martin				
07/07/2021	Court finds abuse is alleged in connection with the charged offense. C276 §56A. Judge: Stanton, Hon. James Martin		1		
07/07/2021	Plea of Not Guilty entered on all charges. Judge: Stanton, Hon. James Martin				
07/07/2021	Defendant arraigned before Court, advised of right to counsel. Judge: Stanton, Hon. James Martin		2		
07/07/2021	Bail revocation warning (276/58) given to the defendant Judge: Stanton, Hon. James Martin				
07/07/2021	No Virtual Hearing Notice Filed. Judge: Stanton, Hon. James Martin				

Add. i8

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
07/07/2021	Commonwealth's motion to revise/revoke bail or conditions of release filed and DENIED.			Image
07/07/2021	Defendant released on prior recognizance. Judge: Stanton, Hon. James Martin			
07/07/2021	Special Conditions of release in addition to bail or recognizance imposed:No Abuse Judge: Stanton, Hon. James Martin			
07/07/2021	The Court enters the following order: Defendant to appear on next date. Judge: Stanton, Hon. James Martin			
07/07/2021	Appearance filed On this date Cristina Maria Rodrigues, Esq. added as Appointed - Indigent Defendant for Defendant David Edgardo Canjura Appearance filed for the purpose of Case in Chief by Judge Hon. James Martin Stanton.			
08/24/2021	Event Resulted: Pretrial Hearing scheduled on: 08/24/2021 09:00 AM Has been: Held Hon. Eleanor C Sinnott, Presiding			
08/24/2021	Defendant's motion to Dismiss filed with the following, if any, supporting documents: Judge: Sinnott, Hon. Eleanor C		3	
08/24/2021	Defendant released on prior recognizance. Next event to be held in person Judge: Sinnott, Hon. Eleanor C			
08/24/2021	Participants at Court Event - Defendant Before Court - Assistant District Attorney Simone - Probation Representative Rodriguez - Session Clerk - MA - Courtroom and Time - 14/9:49. Atty Rodrigues appears Judge: Sinnott, Hon. Eleanor C			
11/09/2021	Event Resulted: Motion to Dismiss scheduled on: 11/09/2021 09:00 AM Has been: Reschedule of Hearing For the following reason: Both Parties Request Hon. James Martin Stanton, Presiding			
11/09/2021	Event Scheduled Event: Jury Trial (CR) Date: 03/10/2022 Time: 09:00 AM Result: Not Held			
11/09/2021	Defendant released on prior recognizance. Judge: Stanton, Hon. James Martin			
11/09/2021	Defendant's motion to Dismiss filed with the following, if any, supporting documents: Denied Judge: Stanton, Hon. James Martin		4	
11/09/2021	Out of Court discovery compliance date ordered to wit 02/10/2022 Judge: Stanton, Hon. James Martin			
11/09/2021	Participants at Court Event - Defendant in Court - Assistant District Attorney Devin - Probation Representative Chin - Session Clerk - jr - Courtroom and Time - 15 9.32 11.39 3.30. Atty Rodrigues appears Judge: Stanton, Hon. James Martin			
02/14/2022	Defendant's motion to allow defense examination of knife filed with the following, if any, supporting documents:		5	
02/15/2022	Participants at Court Event - Defendant In Court - Assistant District Attorney Nucci - Probation Representative Sweeney - Session Clerk - CM - Courtroom and Time - RM 15 / 1054. Attorney: Rodrigues, Esq., Cristina Maria Judge: Sinnott, Hon. Eleanor C			

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/15/2022	Matter to stay on for March 10, 2022 Judge: Sinnott, Hon. Eleanor C			
02/15/2022	Event update:: Motion Hearing (CR) scheduled on: 02/15/2022 09:00 AM Has been: Held as scheduled Hon. Eleanor C Sinnott, Presiding			
02/28/2022	Called ahead at the request of Defendant Attorney Rodriguez To advance and continue			
02/28/2022	Event update:: Motion Hearing (CR) scheduled on: 02/28/2022 09:00 AM Has been: Held as scheduled Hon. Richard Sinnott, Presiding			
02/28/2022	Participants at Court Event - Defendant Not In Court - Assistant District Attorney Devin - Probation Representative Jurczak - Session Clerk - KMW - Courtroom and Time - RM 18 / 344. Attorney: Rodrigues, Esq., Cristina Maria Judge: Sinnott, Hon. Richard			
02/28/2022	Defendant's motion for Knife Examination filed with the following, if any, supporting documents: certif. of service on opposing party ALLOWED	6		Image
02/28/2022	Defendant's motion for Funds for Knife Expert filed with the following, if any, supporting documents: DENIED	7		Image
03/02/2022	Notice of appeal to the Appeals Court filed by the Defendant	8		
03/03/2022	Notice of assembly of the record sent to the Appeals Court via email. Judge: Coffey, Hon. James W	9		
03/08/2022	Notice of Docket Entry rec'd from Appeals Court. "ORDER: ȷ the entry of this matter on the Appeals Court single justice's docket is vacated... The Boston Municipal Court shall transmit the same to the appellate division in the usual manner. (Desmond, J.)."			
03/08/2022	Called ahead at the request of Defendant Atty Rodrigues			
03/08/2022	Event Resulted: Motion Hearing (CR) scheduled on: 03/08/2022 09:00 AM Has been: Held - Motion allowed Hon. James W Coffey, Presiding			
03/08/2022	Participants at Court Event - Defendant Not In Court - Assistant District Attorney Smythcovich - Probation Representative Deane - Session Clerk - JNF - Courtroom and Time - 18/3:00. Attorney Rodrigues appears			
03/08/2022	Defendant's motion to reschedule or continue scheduled court hearing filed and ALLOWED.			Image
03/08/2022	Event Scheduled Event: Jury Trial (CR) Date: 05/19/2022 Time: 09:00 AM Result: Not Held - Disposed by plea			
03/08/2022	Defendant released on prior recognizance. Judge: Coffey, Hon. James W			
03/10/2022	Event Resulted: Jury Trial (CR) scheduled on: 03/10/2022 09:00 AM Has been: Not Held Hon. Steven M Key, Presiding			
03/10/2022	Defendant released on prior recognizance. Judge: Key, Hon. Steven M			
03/10/2022	Participants at Court Event - Defendant in Court - Assistant District Attorney Ball - Probation Representative Izzo - Session Clerk - jr - Courtroom and Time - 15 9.47. Atty Rodrigues appears Judge: Key, Hon. Steven M			

Add. 20

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/28/2022	Defendant's motion to Dismiss filed with the following, if any, supporting documents:		10	Image
05/19/2022	Event Resulted: Jury Trial (CR) scheduled on: 05/19/2022 09:00 AM Has been: Not Held - Disposed by plea Hon. James Martin Stanton, Presiding			
05/19/2022	Participants at Court Event - Defendant in Court - Assistant District Attorney Devin - Probation Representative Kiernan - Session Clerk - SGD - Courtroom and Time - 15 / 9:05 / 9:23 / 10:36 / 11:44. Attorney Rodriguez present			
05/19/2022	Commonwealth reports ready for trial as to count 2. Commonwealth reports not ready for trial as to count 1. Judge: Stanton, Hon. James Martin			
05/19/2022	Defendant's motion to Dismiss as to count 2 filed and DENIED.			
05/19/2022	Tender of admission filed and accepted by the Court. Judge: Stanton, Hon. James Martin		12	Image
05/19/2022	Plea colloquy given. Judge: Stanton, Hon. James Martin			
05/19/2022	Waiver of Jury Trial found after colloquy Judge: Stanton, Hon. James Martin			
05/19/2022	Defendant warned pursuant to alien status, G.L. c. 278, § 29D. Judge: Stanton, Hon. James Martin			
05/19/2022	Plea changed to Admission to Sufficient Facts Judge: Stanton, Hon. James Martin			
05/19/2022	Charges Disposed: Charge # 1 A&B ON FAMILY / HOUSEHOLD MEMBER c265 §13M(a) On: 05/19/2022 Judge: Hon. James Martin Stanton Dismissed - Request of Commonwealth with the defendants consent Charge # 2 DANGEROUS WEAPON, CARRY c269 §10(b) On: 05/19/2022 Judge: Hon. James Martin Stanton Continued Without a Finding			
05/19/2022	Correction Date: 05/19/2022 Judge: Hon. James Martin Stanton Charge #: 2 DANGEROUS WEAPON, CARRY c269 §10(b) Probation: Administrative Start Date: 05/19/2022 End Date: 11/18/2022			
05/19/2022	Probation order of conditions imposed: -Administrative probation. -Probation fee waives. -LCF to be paid by June 7. Judge: Stanton, Hon. James Martin			
06/08/2022	Notice of appeal to the Appeals Court filed by the Defendant		13	
06/08/2022	Notice of Bail Return Sent.			Image
06/23/2022	Event Resulted: Continued For Payment Until scheduled on: 06/17/2022 09:00 AM Has been: Held Hon. James W Coffey, Presiding			
06/23/2022	Participants at Court Event - Defendant Not In Court - Assistant District Attorney n/a - Probation Representative Ayers - Session Clerk - CEP - Courtroom and Time - 16/2:16. No attorney present Judge: Coffey, Hon. James W			
06/23/2022	Fees paid. CWOFF Remains As Ordered Until 11/18/22			
07/01/2022	After review, record of June 23, 2022 is revised. LCF satisfied - Case remains CWOFF until NOV 18, 2022			

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
07/19/2022	Notice of assembly of the record sent electronically to the Appeals Court Judge: Coffey, Hon. James W		14	
07/20/2022	Notice of Entry of Appeal rec'd from the Appeals Court			

Case Disposition		
<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Disposed by Plea	05/19/2022	

CERTIFICATE OF COMPLIANCE

I hereby certify that this application complies with rules 11 and 20 of the Massachusetts Rules of Appellate Procedure. The application is set in 14-point Athelas and the argument section contains 1955 words, as determined through use of the “Word Count” feature in Microsoft Word for Office 365.

/s/ Kaitlyn Gerber

CERTIFICATE OF SERVICE

I hereby certify that in the matter of *Commonwealth v. David E. Canjura*, Appeals Court No. 22-P-0676, I have today served the Defendant’s Application for Direct Appellate Review on the Commonwealth by directing a copy through the electronic filing service provider to:

David McGowan
Suffolk County DA’s Office
david.mcgowan@state.ma.us

/s/ Kaitlyn Gerber
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Dated: March 13, 2023