

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. SJ-2018-0221

Middlesex Superior Court
No. 1781CR00049

COMMONWEALTH

v.

DENNIS JONES

RESERVATION AND REPORT

This case came before the Court, Gants, C.J., on a petition pursuant to G. L. c. 211, § 3. The Commonwealth, as petitioner, seeks relief from two orders of the Middlesex Superior Court dated July 25, 2017 and May 3, 2018.

I reserve and report this case for determination by the Supreme Judicial Court for the Commonwealth on the record now before me. In addition to whatever other issues and arguments the parties raise in their briefs, they should be sure to address at least the following questions:

1. What is the burden of proof that the Commonwealth bears on a motion like this in order to establish a "foregone conclusion," as that term is used in Commonwealth v. Gelfgatt, 468 Mass. 512, 520-526 (2014)?
2. Did the Commonwealth meet its burden of proof in this case?

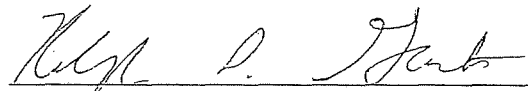
3. When a judge denies a "Gelfgatt" motion filed by the Commonwealth and the Commonwealth thereafter renews its motion and provides additional supporting information that it had not provided in support of the motion initially, is a judge acting on the renewed motion first required to find that the additional information was not known or reasonably available to the Commonwealth when the earlier motion was filed before considering the additional information?

The record before the full court shall consist of the following:

1. Commonwealth's petition for extraordinary relief pursuant to G. L. c. 211, § 3;
2. impounded record appendix of the Commonwealth;
3. Commonwealth's motion to file impounded record appendix;
4. respondent Dennis Jones' opposition to the Commonwealth's petition for extraordinary relief pursuant to G. L. c. 211, § 3;
5. docket sheets in SJ-2018-0221;
6. this Reservation and Report.

This matter shall proceed in all respects in conformance with the Massachusetts Rules of Appellate Procedure. The Commonwealth shall be designated the appellant. The parties shall consult with the Clerk for the Commonwealth regarding

service and filing of briefs.

A handwritten signature in dark ink, appearing to read "Ralph D. Gants", written over a horizontal line.

Ralph D. Gants

Chief Justice

Entered: *July 20, 2012*