

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. SJ-2025-0383

Bristol Superior Court
No. 2573BP0147

Fall River District
Court
No. 2532CR003096

DOMINGO AGOSTINI

v.

COMMONWEALTH

RESERVATION AND REPORT

This matter came before the court, Gaziano, J., on the petition of the defendant, Domingo Agostini, brought pursuant to G. L. c. 211, § 3, seeking relief from the order of a hearing judge of the Fall River Division of the District Court Department, as well as from an order of a reviewing judge of the Superior Court for Bristol County, each of which ordered Agostini committed for dangerousness pursuant to G. L. c. 276, § 58A.

The Commonwealth alleges that the defendant stole money from a bank after presenting a note indicating that he had a bomb. In the underlying District Court case, the defendant was charged with armed robbery, in violation of G. L. c. 265, § 17,

and making a bomb or hijack threat, in violation of G. L. c. 269, § 14 (b). Before the District Court and the Superior Court, the defendant argued that neither of these offenses was a predicate offense under the "force clause" of G. L. c. 276, § 58A (1), which provides that:

"The commonwealth may move, based on dangerousness, for an order of pretrial detention or release on conditions for a felony offense that has as an element of the offense the use, attempted use or threatened use of physical force against the person of another[.]"

The Commonwealth argued that armed robbery was such an offense. In her written order, the District Court judge listed both of the defendant's charges as predicate offenses pursuant to G. L. c. 276, § 58A (1). In his written order, the reviewing judge of the Superior Court listed armed robbery as a predicate offense.

The defendant seeks relief from these orders pursuant to G. L. c. 211, § 3, and the Commonwealth opposes his petition. After considering the parties' submissions, I believe that this case raises a novel issue of public importance that should be addressed by the full court. Accordingly, I hereby reserve and report this case to the full court for determination.

The parties shall prepare and file in the full court a comprehensive statement of agreed facts, which shall be prepared in time for inclusion in the parties' record appendix.

The record shall consist of the following:

1. All papers and materials filed before the single justice in this case, No. SJ-2025-0383;
2. The docket sheet in this case, No. SJ-2025-0383;
3. The docket sheet in the underlying Superior Court matter, No. 2573BP0147;
4. The docket sheet in the underlying District Court matter, No. 2532CR003096;
5. The statement of agreed facts; and
6. This reservation and report.

This reservation and report shall proceed in all respects in accordance with the Massachusetts Rules of Appellate Procedure. The defendant, as the petitioning party, shall be deemed the appellant, and the Commonwealth shall be deemed the appellee. The parties shall consult with the Clerk of the Supreme Judicial Court for the Commonwealth to determine a schedule for the service and filing of briefs and the date of oral argument.

By the court,

/s/ Frank M. Gaziano

Frank M. Gaziano
Associate Justice

Dated: September 25, 2025