

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPREME JUDICIAL COURT
DAR No.

APPEALS COURT
No. 18-P-1245

COMMONWEALTH

v.

ERIC NORMAN

COMMONWEALTH'S APPLICATION FOR DIRECT APPELLATE REVIEW

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REQUEST FOR DIRECT APPELLATE REVIEW

Now comes the Commonwealth and requests, pursuant to Mass. R. App. P. 11 and Mass. R. Crim. P. 15, that this Court grant direct appellate review of its pending appeal of Justice Kenneth J. Fishman's allowance of the defendant's motion to suppress Global Positioning System ("GPS") tracking data generated by a bracelet the defendant agreed to wear as a condition of his pretrial release. The information in question was provided to law enforcement by the Probation Department's electronic monitoring program (ELMO) in response to a discrete request for data associated with dates, times, and locations of criminal activity. The grounds for this application are set forth below.

PRIOR PROCEEDINGS & STATEMENT OF RELEVANT FACTS

On July 23, 2015, the defendant was arraigned in the Dorchester Division of the Boston Municipal Court (No. 1507CR002831) on one count of possession with the intent to distribute cocaine, subsequent offense,¹ a violation of G. L. c. 94C, § 32A, and several motor

¹ The defendant previously pleaded guilty to possession with intent to distribute cocaine in the United States District Court for the District of Massachusetts. (RA 30). On February 25, 2009, Judge Patti B. Saris sentenced the defendant to sixty months imprisonment, to be followed by sixty months of supervised release. (RA 31). The defendant subsequently violated the terms of his probation on two occasions, and Judge Saris ultimately revoked his probation and re-incarcerated the defendant for an additional five months on March 24, 2014. (RA 32-34).

vehicle offenses. (RA 1, 6).² As a condition of pretrial release, the defendant agreed to wear a GPS bracelet. (RA 1, 8). The form the defendant signed at the time the device was attached to his leg stated:

You are hereby placed on GPS by this Court. Unless you are excused by your probation officer, you must appear in the court on the GPS supervision end date indicated, at which time a report on your GPS progress will be made. If you fail to appear on that date or any other date required, a warrant may be issued for your arrest. Coordinates and other data related to your physical location while on GPS are recorded and may be shared with the court, probation, parole, attorneys and law enforcement. Data generated by GPS equipment assigned to you is not private and confidential. It is your responsibility to remain in contact with probation at all times while under GPS supervision unless expressly authorized.

(RA 1). The defendant further acknowledged that he had "read and understood the above conditions of GPS supervision and agree[d] to observe them." (RA 2).

On August 10, 2015, a home invasion and armed robbery occurred at 113 Fellsway West in Medford at approximately 9:50 P.M. (RA 10). Two males, both armed with firearms, entered an apartment occupied by Roger Graham Jr. and his parents and demanded jewelry and money. (RA 10-12). After ransacking the apartment for several minutes, the assailants fled with approximately \$300 in cash, some clothing and Graham Jr.'s cell phone. (RA 12-13).

² The Commonwealth's appendix is abbreviated "RA".

On August 18, 2015, the Medford Police Department contacted ELMO and inquired whether any individuals subject to GPS monitoring were in the vicinity of 113 Fellsway West at the time of the home invasion.³ The following day, ELMO contacted the Medford Police and stated that the defendant, who was being monitored, was located in the area of 113 Fellsway West in Medford between 9:24 P.M. and 9:53 P.M. on the evening of August 10, 2015. (RA 13). Based on this information, officers presented Graham Jr. with a photographic array containing the defendant's photo on August 24, 2015. (RA 13). Graham Jr. was "almost positive" the defendant was one of the two assailants. (RA 2, 14).

Medford officers subsequently arrested the defendant and then proceeded to execute a search warrant at 9 Swan Street in Everett, the location that GPS data showed the defendant stopped both before and after the home invasion. (RA 2, 14). Among other items, officers recovered a Smith and Wesson model 10 revolver loaded with .38 caliber bullets, a black ski mask and a latex glove, all located within a backpack. (RA 14).

Based on this evidence, a Middlesex grand jury issued indictments on December 11, 2015, charging the

³ The Medford Police Department also inquired regarding the dates and times of four other home invasions.

defendant with armed robbery while masked, a violation of G.L. c. 265, § 17; three counts of armed home invasion, a violation of G.L. c. 265, § 18C; armed burglary, a violation of G.L. c. 266, § 14; armed assault in a dwelling, a violation of G.L. c. 265, § 18A; and larceny from a building, a violation of G.L. c. 266, § 20.⁴ (RA 16, 19).

On November 16, 2017, the defendant moved to suppress the GPS data obtained by law enforcement, arguing that he did not consent to the use of that data for general law enforcement purposes. (RA 22). On June 21, 2018, Justice Fishman presided over a non-evidentiary hearing on the defendant's motion. (RA 24). On July 13, 2018, Justice Fishman issued a memorandum of decision allowing the defendant's motion to suppress. (RA 1-5, 24-25). On July 24, 2018, the Commonwealth filed a timely notice of appeal in the Superior Court. (RA 25).

On July 30, 2018, the Commonwealth filed its application for leave to pursue an interlocutory appeal pursuant to Mass. R. Crim. P. 15(a)(2) and supporting memorandum of law with the Single Justice of the Supreme Judicial Court. (RA 35). On August 21, 2018, the defendant filed his opposition, accompanied

⁴ The defendant's bail was revoked on the Suffolk matter upon his arraignment in Somerville District Court on August 31, 2015. (RA 8).

by a motion for leave to file said opposition late. (RA 35). On August 27, 2018, the Single Justice (Budd, J.) allowed the Commonwealth's interlocutory appeal. (RA 35). On September 4, 2018, the Commonwealth's appeal entered on the docket of the Appeals Court.

On February 4, 2019, the Commonwealth requested a stay of appellate proceedings pending this Court's decision in Commonwealth v. Johnson, SJC-12483.

(RA 36). On February 6, 2019, a Single Justice of the Appeals Court allowed the Commonwealth's request.

(RA 36) On March 26, 2019, this Court issued its decision in the Johnson case, addressing both the imposition of GPS monitoring as a post-conviction condition of probation and a probationer's objective expectation of privacy in the data generated by such monitoring.

ISSUES OF LAW RAISED BY THE APPEAL

1. What are the "constellation of factors" relevant to an "individualized determination" of the reasonableness of subjecting a defendant to GPS monitoring as a condition of release prior to trial, to the extent they differ from the factors outlined by this Court in Commonwealth v. Feliz, No. 12545, slip op. at 21-22 (March 26, 2019), and Commonwealth v. Johnson, No. 12483, slip op. at 16 (March 26, 2019), as relevant to the imposition of GPS monitoring as a condition of post-conviction probation? This issue was

not directly raised below or by the Commonwealth on appeal. However, it will be necessary to any post-Johnson determination of the propriety of GPS monitoring as a condition of pre-trial release in this appeal or, to the extent the trial record is insufficient to facilitate such a determination, on remand.

2. To what degree is the expectation of privacy of a defendant released on pre-trial conditions diminished, and how does this reduced expectation of privacy affect this Court's analysis of (a) the reasonableness of GPS monitoring as a condition of pre-trial release, and (b) the extent to which a subsequent review by law enforcement of the historical GPS location data amounts to a search in the constitutional sense? This issue was not directly raised below or by the Commonwealth on appeal. However, it will be necessary to any post-Johnson determination of the propriety of GPS monitoring as a condition of pre-trial release in this appeal or, to the extent the trial record is insufficient to facilitate such a determination, on remand.

3. Is a trial judge bound by the majority opinion of a fractured decision of the Massachusetts Appeals Court? Here, the motion judge ignored the majority opinion in Commonwealth v. Johnson, 91 Mass. App. Ct. 296 (2017), fashioning a ruling by identifying "common

threads" in the concurring and dissenting opinions. This ruling precipitated the Commonwealth's interlocutory appeal, which was allowed by a Single Justice of this Court (Budd, J.).

ARGUMENT

- I. THIS COURT SHOULD AFFIRM THAT PRE-TRIAL DEFENDANTS PROPERLY PLACED ON GPS MONITORING HAVE NO EXPECTATION OF PRIVACY IN LOCATION DATA COLLECTED IN FURTHERANCE OF THE LEGITIMATE INTERESTS SERVED BY CONDITIONAL PRE-TRIAL RELEASE, INCLUDING PROTECTING THE PUBLIC, EXCLUDING DEFENDANTS FROM CERTAIN AREAS OR ASSOCIATIONS, AND ENSURING THAT DEFENDANTS DO NOT COMMIT ADDITIONAL CRIMES WHILE AWAITING TRIAL.

In Johnson, this Court determined for the first time that the imposition of GPS monitoring as a condition of probation amounts to a search under the Fourth Amendment and Article 14. A trial judge must undertake an "'individualized determination' of the reasonableness of subjecting a defendant to GPS monitoring[,] " balancing " 'the Commonwealth's need to impose GPS monitoring against the privacy invasion occasioned by such monitoring.' " Johnson, supra at 16, quoting Feliz, supra at 3, 19.

This Court also outlined a "constellation of factors" relevant to this balancing test, including a defendant's particular circumstances, his or her criminal convictions, past probation violations, and the purposes, if any, for which the monitoring was imposed. Johnson, supra at 16. However, these factors

were, by and large, specific to probationers, and this Court further acknowledged a probationer's "diminished privacy expectations" as relevant to the balancing test. Johnson, supra at 18.

Presumably, this Court's holding in Johnson applies with equal force to defendants released on bail prior to trial and subjected to GPS monitoring as a condition of pre-trial supervised release or probation. A trial judge must weigh competing interests and determine whether imposition of GPS monitoring is reasonable given the defendant's particular circumstances.

However, left unresolved in a post-Johnson landscape are the "constellation of factors" relevant to this analysis, to the extent they differ from those outlined in Johnson and Feliz as relevant to a post-conviction probationer, as well as the degree to which the liberty interest of an individual released on pre-trial conditions is diminished as compared to a post-conviction probationer, and how this presumed reduced interest affects any evaluation of reasonableness, both in the context of the initial imposition of GPS monitoring and any subsequent access to historical GPS location data by law enforcement. Resolution of these issues will prove essential not only to a proper legal analysis of the defendant's case, but also to any

future case where a trial court seeks to impose GPS monitoring as a condition of pre-trial release.

Both this Court and the United States Supreme Court have recognized the diminished privacy expectations of pre-trial detainees. See Bell v. Wolfish, 441 U.S. 520, 537 (1979); Commonwealth v. Silva, 471 Mass. 610, 617-618 (2015); In re Grand Jury Subpoena, 454 Mass. 685, 688-689 (2009). This Court has also recognized that a defendant does not have a constitutional right to release on bail. Querubin v. Commonwealth, 440 Mass. 108, 112 (2003).

Bearing these principles in mind, "[p]retrial release with restrictions placed upon a defendant's actions has long represented a compromise between the liberties that a person normally enjoys and the right of the [S]tate to insure compliance with its processes." Commonwealth v. Madden, 458 Mass. 607, 613 (2010), quoting Rendel v. Mummert, 106 Ariz. 233, 238-239 (1970). Thus, it appears clear that a defendant charged with a crime and subject to pre-trial supervision or probation upon his or her agreement to abide by certain restrictions retains only a reduced expectation of privacy vis-à-vis a law-abiding citizen when subjected to GPS monitoring. However, the Commonwealth has thus far been unable to find clear guidance as to the degree of difference, if any, in

said reduction when applied to a defendant released on pre-trial conditions versus post-conviction probation.

The trial court would likewise benefit from guidance as to what factors are relevant to assessing the reasonableness of imposing GPS monitoring on pre-trial defendants. The Commonwealth submits that GPS monitoring, imposed as a condition of pre-trial supervision or probation, need not serve the sole purpose of ensuring the defendant's appearance in court.⁵ Rather, a trial judge may consider many of the same factors espoused in Johnson, supra at 16-17, including the defendant's criminal convictions, prior defaults or probation violations, and risk of recidivism. As this Court noted in Brangan v. Commonwealth, 477 Mass. 691, 706 & n.18 (2017), "a defendant's dangerousness may be considered as a factor in setting . . . conditions of release" pursuant to both G.L. c. 276, § 58 and § 87.

Monitoring may also be imposed to further "[t]he government's interest in preventing crime by arrestees[.]" See Josh J. v. Commonwealth, 478 Mass.

⁵ The need to ensure a defendant's appearance in court, and to locate him should he not appear, does, however, unquestionably constitute an appropriate consideration. See Commonwealth v. Ray, 435 Mass. 249, 255 n.12 (2001) ("The purpose of bail is to assure the defendant's appearance in court"). See also G.L. c. 276, § 82A (criminalizing the failure to appear "without sufficient excuse").

716, 721 (2018), quoting United States v. Salerno, 481 U.S. 739, 749 (1987). "The purpose of § 58 is 'to assure compliance with [the] laws and to preserve the integrity of the judicial process by exacting obedience with its lawful order.'" Commonwealth v. Morales, 473 Mass. 1019, 1020 (2016), quoting Paquette v. Commonwealth, 440 Mass. 121, 129 (2003). To this end, all defendants are explicitly informed that bail is conditioned on their agreement not to commit additional crimes while on pre-trial release. See G.L. c. 276, § 58.

Here, pre-trial electronic monitoring of the defendant was justified not only to enforce his exclusion zone from an area where he had repeatedly been charged with drug distribution, but also to ensure that he appeared in court even though he faced serious charges, to allow the defendant to be located if he did not appear, and to ensure he did not commit any new crimes while on pretrial release. The defendant had previously served a substantial sentence in conjunction with a federal narcotics conviction - during the course of which he repeatedly violated his conditions of probation - and was subject to a mandatory minimum of two years' incarceration for his violation of G.L. c. 94C, § 32A(b). GPS monitoring was a permissible and legitimate mechanism to ensure the defendant's compliance with his conditions of release

and the goals of the bail statutes. See Brangan, 477 Mass. at 709-710 (suggesting that GPS monitoring is an acceptable condition of pre-trial release in appropriate circumstances).

Nor, as in Johnson, did this defendant have any objectively reasonable expectation of privacy in the contents of his historical GPS location data. As this Court noted, "[s]imply comparing subsets of the defendant's GPS location data recorded while he was on probation to the general times and places of suspected criminal activity during the probationary period is not a search in the constitutional sense." Johnson, supra at 30. In the present case, officers of the Medford police department requested location data for individuals subject to GPS monitoring on five discrete dates and times that correlated to a series of home invasions in that town.

This Court should reaffirm that, even in the context of a defendant subject to pre-trial release, such a targeted review is "quite different from either mapping out and reviewing all of the defendant's movements while on probation or rummaging through the defendant's historical GPS location data indiscriminately. So long as the review is targeted at identifying the defendant's presence at the time and location of particular criminal activity during the . . . period [of pre-trial release], it is not a

search, as such review is consistent with . . . [the] limited expectation of privacy [of a defendant on pre-trial release]." Johnson, supra at 31.

This Court should also reaffirm that notice of otherwise constitutionally permissible government surveillance serves to further reduce the expectation of privacy of a defendant released pre-trial on conditions. See Johnson, supra at 25-27 & n.12 ("Notice is a relevant consideration"). Here, the defendant agreed to wear a monitoring device that recorded his minute-by-minute movements for permissible purposes. He entered into the agreement well aware of the device's capabilities and purposes - given the plain language of the agreement he signed - and wore the device "for the express purpose of tracking his location." Commonwealth v. Johnson, 91 Mass. App. Ct. 296, 304 (2017).

The defendant was informed that "the GPS device would collect minute-by-minute data about [his] location, wherever [he] might be[.]" (RA 37). The form the defendant signed stated both that "[d]ata generated by GPS equipment assigned to you is not private and confidential[,] and that "[c]oordinates and other data related to your physical location while on GPS are recorded and may be shared with . . . law

enforcement" (emphasis supplied).⁶ (RA 36, 38). These admonishments were explicitly included in direct response to Justice Grainger's concurrence in Johnson. See Brief of Amicus Curiae Massachusetts Probation Service at 11-12, Commonwealth v. Johnson, SJC-12483 (Aug. 2018); see also Johnson, 91 Mass. App. Ct. at 314 (Grainger, J., concurring) (suggesting "detailed written notice" explaining the scope of monitoring would alleviate concerns regarding defendant's understanding of order's scope).

II. PRINCIPLES OF STARE DECISIS DICTATE THAT A LOWER COURT JUDGE IS BOUND TO FOLLOW THE MAJORITY DECISION OF A SPLIT PANEL OF THE APPEALS COURT.

In his memorandum of decision, the motion judge ignored the majority opinion in Commonwealth v. Johnson, 91 Mass. App. Ct. 296 (2017), opting instead to base his ruling on "common threads" in the concurring and dissenting opinions. On appeal, the defendant invokes the rule espoused in Marks v. United States, 430 U.S. 188, 193 (1977), in support of the motion judge's ruling. This Court should make clear that both positions rest on faulty logic.

In Marks, Justice Powell noted that "[w]hen a fragmented Court decides a case and no single

⁶ These admonishments are consistent with our legislative regime, which authorizes inspection of a probation officer's records "at all times" by police officials. See G.L. c. 276, § 90.

rationale explaining the result enjoys the assent of [the majority of the] Justices, the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds." Marks v. United States, 430 U.S. 188, 193 (1977) (internal quotations omitted).

The defendant conveniently ignores the fact that the Marks rule is applicable only to plurality decisions of appellate courts sitting en banc. In fact, nearly every case cited by the defendant in support of his position applies the rule to plurality decisions of either the United States Supreme Court or a state supreme court sitting en banc. Unlike this Court, the Massachusetts Appeals Court does not sit en banc.

The Marks rule is inapplicable here because majority decisions of the Massachusetts Appeals Court do not solely reflect the considered judgement of the authoring justice or other members of the panel designated to hear and decide the appeal concurring with or dissenting from that opinion. Rather, "published opinions are considered by the entire court prior to release" and "reflect the view of a majority of the Justices." Sciaba Constr. Corp. v. City of Boston ("Sciaba"), 35 Mass. App. Ct. 181, 181 n.2 (1993).

Elaborating on this principle in Horner v. Boston Edison Co., 45 Mass. App. Ct. 139, 141 (1998), the Appeals Court noted that "summary decisions . . . [are] not circulated to other members of th[e] court and reflect[] only the views of that particular three-judge panel[,]" whereas published decisions are "circulated to all other justices who are free to make any comments or suggestions concerning the draft decision." A published decision therefore reflects not only the view of the panel justices joining in the majority, but "the considered decision of a majority of the court." Commonwealth v. Lindsey, 72 Mass. App. Ct. 485, 495 (2008), citing Sciaba, 35 Mass. App. Ct. at 181 n.2.

This Court should therefore reiterate that, when interpreting a split decision of the Appeals Court, the opinions of the panel justices do not carry equal weight, nor do those judges represent the entire universe of judges associated with the decision. Because "published opinions reflect the view of a majority of the Justices[,]" Sciaba, 35 Mass. App. Ct. at 181 n.2, a majority opinion reflects the view of the majority of Justices of the entire court. A dissenting opinion carries no precedential weight, and a trial judge may not ignore controlling precedent in favor of an amalgamation of the concurring and dissenting opinions.

REASONS WHY DIRECT APPELLATE REVIEW IS APPROPRIATE

This Court's decision in Commonwealth v. Johnson has altered the landscape governing the imposition of GPS monitoring as a condition of probation while leaving several important questions unanswered. Where GPS monitoring is also imposed on defendants on pre-trial release or probation, this Court should clarify the appropriate considerations in assessing whether imposition of such monitoring is reasonable in a particular case. Moreover, this Court should clarify the degree to which an individual's expectation of privacy is reduced while on pre-trial release or probation, and how this reduced expectation of privacy impacts the preceding analysis.

This Court should also clarify whether a pre-trial defendant properly subject to GPS monitoring can ever have an objectively reasonable expectation of privacy in the historical GPS location data generated by that device where such data is accessed by law enforcement to identify whether that defendant was present at the discrete times and locations where criminal activity has occurred (which would in turn trigger concerns about commission of new offenses while awaiting trial in violation of the conditions of release).

Finally, this Court should confirm that the majority opinion of a fractured decision of the

Appeals Court is binding on trial court judges. This Court should emphasize that a dissenting opinion carries no precedential weight, and that a trial judge cannot ignore the majority opinion in favor of "common threads" present in any concurring and dissenting opinion (or even between the majority and concurring opinions), particularly where a published decision of the Appeals Court reflects the view of a majority of its justices and not merely those of the three panel justices.

Respectfully Submitted,
For the Commonwealth,

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RECORD APPENDIX

TABLE OF CONTENTS

<u>Document</u>	<u>Page</u>
Memorandum of Decision on Motion to Suppress GPS Tracking Date.....	1
<u>Commonwealth v. Eric Norman</u> , Criminal Docket No. 1507CR2831....	6
Commonwealth's Statement of the Case.....	10
<u>Commonwealth v. Eric Norman</u> , Criminal Docket No. 1581CR514....	15
<u>United States v. Eric Norman</u> , Criminal Docket No. 1:08-cr-10340.....	27
<u>Commonwealth v. Eric Norman</u> , Docket No. SJ-2018-0336.....	35
<u>Commonwealth v. Eric Norman</u> , Docket No. 2018-P-1245.....	36

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
No. 2015-00514

COMMONWEALTH

v.

ERIC NORMAN

MEMORANDUM OF DECISION ON
MOTION TO SUPPRESS GPS TRACKING DATA

The defendant, Eric Norman, has been indicted for a home invasion and other offenses that allegedly took place on August 10, 2015, at Unit 3, 113 Fellsway West, in Medford, Massachusetts. He now moves to suppress GPS tracking data obtained by the Medford Police from ELMO, the Probation Department's electronic monitoring program. After hearing, the motion to suppress is **ALLOWED**.

On July 23, 2015, the defendant was released from Dorchester District Court, where he had been arraigned on related offenses. As a condition of pretrial release, the defendant was required to wear a GPS monitor. The form that the defendant was required to sign at the time the GPS device was attached to his leg stated:

You are hereby placed on GPS by this Court. Unless you are excused by your probation officer, you must appear in the court on the GPS supervision end date indicated, at which time a report on your GPS progress will be made. If you fail to appear on that date or any other date required, a warrant may be issued for your arrest. Coordinates and other data related to your physical location while on GPS are recorded and may be shared with the court, probation, parole, attorneys and law enforcement. Data generated by GPS equipment assigned to you is not private and confidential. It is your responsibility to remain in contact with probation at all times while under GPS supervision unless expressly authorized.

The form further indicates:

I have read and understood the above conditions of GPS supervision and I agree to observe them. I understand that if I violate any such condition, it may result in my being brought before the court, my arrest, revocation of probation, the entry of a guilty finding or delinquency adjudication (if not already entered), the imposition or execution of sentence and modification of my supervision.

At the time that the Medford Police sought information from ELMO regarding individuals who were located at 113 Fellsway West and under GPS supervision, at the time of the home invasion, the police had no information with regard to who the individuals were that committed the offense. Once the defendant was identified by ELMO as having been at the building at the time, further evidence was developed by a photo array identification process and searches of an address in Everett where GPS tracking data established the defendant had been before and after the home invasion. The Medford Police did not obtain a court order or search warrant for the GPS tracking data.

The defendant maintains that the data and its fruits must be suppressed because the search was conducted without judicial oversight and infringed on the defendant's reasonable expectation of privacy, thus violating the defendant's rights under Article 14 of the Massachusetts Declaration of Rights and the Fourth Amendment to the United States Constitution.

The Commonwealth, relying on the Appeals Court decision in *Commonwealth v. Johnson*, 91 Mass. App. Ct. 296 (2017), maintains that a defendant who consents to pretrial release condition of GPS monitoring, does not have a reasonable expectation of privacy in the data produced by that monitoring. While that is the substance of the majority decision in the *Johnson* case, *id.* at 307, of the three justices that participated in the decision, one wrote the

majority decision, another wrote a concurring opinion, and the third dissented. The concurring justice (Grainger, J.) noted that “the legal consequence of the defendant’s consent to be monitored by a GPS device should be analyzed only in the context of his reasonable expectation of ongoing privacy.” *Id.* at 311. Justice Grainger noted that “[r]easonable expectations to specific circumstances, and as a rule, the context, communications, and purposes related to the defendant’s consent are sufficiently determinative of important rights under art. 14 to warrant an evidentiary hearing.” *Id.* at 313. The concurring justice further noted that “any consent obtained from this defendant was limited to attaching the device to his ankle (procedure), and to the use of the data to determine his location at or close to the time of transmission (the search), but might not necessarily encompass the latter examination of the previously collected data (the extended search).” *Id.* at 310, citing *Commonwealth v. Augustine*, 467 Mass. 230, 254 (2014). Justice Grainger joined the majority only because he determined that the defendant failed, by way of affidavit, to provide sufficient detail to establish that he had reasonable expectations of a limited use to which the GPS data could be used. Accordingly, the concurring opinion articulates a belief that an individual being monitored by GPS may indeed have a reasonable expectation of privacy in the data collected by that GPS, at least to a limited extent.

The dissenting opinion, offered by Justice Wolohojian, found that a defendant’s consent to wear GPS device as a condition of pretrial release does not distinguish his expectation of privacy in the long-term historical GPS data. *Id.* at 320. The dissenting justice concluded that the defendant’s consent reduces his reasonable expectation to be free from continuous government surveillance, “but only co-extensive with a judge’s authority to include GPS monitoring as a reasonable pretrial condition within the purposes authorized by the Legislature.”

Id. at 320. “A defendant’s consent cannot be construed to exceed a judge’s statutory authority, that it can be construed to be co-extensive with it. Thus, provided pretrial GPS monitoring is imposed for the purpose authorized by the Legislature, a defendant’s consent to such monitoring operates to reduce his reasonable expectation of privacy in the GPS data collected to the extent they have searched for purposes authorized by the bail statutes, but no further.” *Id.* at 322.

In *Johnson*, as in the case at bar, the data was not searched for any reason connected with the conditions of the defendant’s pretrial release. “Instead, the record undisputably shows that the historical GPS data was searched for the ordinary law enforcement purposes and investigation into other matters.” *Id.* at 323. Accordingly, Justice Wolohojian determined that the defendant had a reasonable expectation of privacy in that data and was entitled to an evidentiary hearing to determine whether Commonwealth is able to meet the warrant requirement through a demonstration of the existence of probable cause. *Id.* at 324, citing *Augustine*, 472 Mass. at 448.

Thus, the majority of justices in the *Johnson* decision actually concluded that a defendant can have a reasonable expectation of privacy in the GPS data even when he consents to being monitored as a condition of pretrial release. This Court finds that this determination is consistent with both federal and state decisional authority that imposed a warrant requirement for GPS tracking devices to a suspect’s motor vehicle. See *United States v. Jones*, 132 S. Ct. 945 (2012) (Sotomayor, J., concurring); ; *Commonwealth v. Rousseau*, 465 Mass. 372 (2013); *Commonwealth v. Connolly*, 454 Mass. 808 (2008); *People v. Weaver*, 12 NY 3d 433, 441-442 (2009).

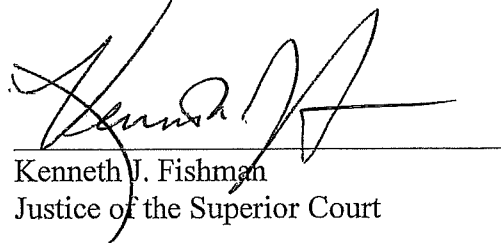
The parties in this case have agreed that there was no factual dispute present, and neither

sought an evidentiary hearing. Thus, this Court is not faced with the quandary present in the *Johnson* case. This Court finds that both factually and legally, the defendant did not relinquish his expectation of privacy with regard to the use of the GPS data for general law enforcement investigative processes, as distinguished from the specific reason for the imposition of a GPS condition, *i.e.*, the requirement that he appear in court.¹ Thus, no hearing as envisioned by Justice Grainger in *Johnson* would be necessary to determine the defendant's subjective reasonable expectation of privacy.

Nor is an evidentiary hearing necessary, much less required, as envisioned by Justice Wolohojian, to determine whether the warrant requirement was satisfied by the presence of probable cause to obtain such information. Here, the only basis upon which the collection of GPS historical data was sought was the location of the building in which the crime was committed, and the time frame in which the crime was committed. These facts, standing alone, would not have been sufficient to support a warrant for the defendant's GPS historical data.

CONCLUSION

Based on the foregoing, the motion to suppress GPS tracking data is **ALLOWED**.



Kenneth J. Fishman
Justice of the Superior Court

DATED: July 13, 2018.

¹By way of affidavit, the defendant states that he was not informed that the historical data collected by the GPS device could or would be used for law enforcement purposes, other than to enforce compliance with the condition that he stay out of Boston.

CRIMINAL DOCKET		DOCKET NUMBER	NO. OF COUNTS	Trial Court of Massachusetts BMC Department	
DEFENDANT NAME AND ADDRESS Eric Norman 5B Parrott St Lynn, MA 01901		DOB 03/25/1990	GENDER Male	COURT NAME & ADDRESS BMC Dorchester 510 Washington Street Dorchester, MA 02124-	
		DATE COMPLAINT ISSUED 07/23/2015	INTERPRETER REQUIRED		
		PRECOMPLAINT ARREST DATE 07/22/2015			
FIRST FIVE OFFENSE COUNTS					
COUNT	CODE	OFFENSE DESCRIPTION	ORIGINAL		OFFENSE DATE
1	90/20/B	INSPECTION/STICKER, NO * c90 §20			07/22/2015
2	90/10/A	UNLICENSED OPERATION OF MV c90 §10			07/22/2015
3	94C/32A/H	DRUG, POSSESS TO DISTRIB CLASS B, SUBSQ. c94C §32A(b)			07/22/2015
DEFENSE ATTORNEY cc Lazzarotti		OFFENSE CITY/TOWN Boston	POLICE DEPARTMENT Boston PD Area B-3		
DATE & JUDGE	DOCKET ENTRY		DATE & JUDGE	FEES IMPOSED	
7/23/15 12 planes	<input type="checkbox"/> Attorney appointed (SJC R. 3:10) <input type="checkbox"/> Atty denied & Deft. Advised per 211 D §2A <input type="checkbox"/> Waiver of Counsel found after colloquy Terms of release set: <input type="checkbox"/> PR <input checked="" type="checkbox"/> Bail <i>Same</i> <input type="checkbox"/> See Docket for special condition <input type="checkbox"/> Held (276 §58A) <i>GPS</i>			Counsel Fee (211D § 2A(12)) \$ <i>150</i> <input checked="" type="checkbox"/> WAIVED Counsel Contribution (211D § 2) \$ <input type="checkbox"/> WAIVED Default Warrant Fee (276 § 30(1)) <input type="checkbox"/> WAIVED Default Warrant Arrest Fee (276 § 30 (12)) <input type="checkbox"/> WAIVED Probation Supervision Fee (276 § 87A) <input type="checkbox"/> WAIVED Bail Order Forfeited Advised of right to jury trial: <input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive Advised of trial rights as pro se (Dist. Ct. Supp.R.4) Advised of right of appeal to Appeals Ct. (M.R. Crim P.R. 28)	
	Arraigned and advised: <input checked="" type="checkbox"/> Potential of bail revocation (276 §58B) <input type="checkbox"/> Right to bail to review (276 §58) <input type="checkbox"/> Right to drug exam (111E § 10) <input type="checkbox"/> Inquiry made by Court under 276 § 56A Abuse Allegation: <input type="checkbox"/> C276 § 56A form filed by Commonwealth <input type="checkbox"/> Allegation of abuse under C276 § 56A found <input type="checkbox"/> No allegation of abuse under C276 § 56A found				
SCHEDULING HISTORY					
NO.	SCHEDULED DATE	EVENT	RESULT	JUDGE	TAPE START/STOP
1	07/23/2015	Arraignment	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>Kaplan</i>	<i>10:19</i>
2	<i>10/6/15</i>	<i>PCH</i>	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		<i>3:50</i>
3	<i>9-30-15</i>	<i>Adv/VOP</i>	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>11/12/15</i> <i>U Grant</i>	<i>3:50</i>
4			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>PCH</i>	
5	<i>12-18-15</i>	<i>PCH</i>	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	<i>George</i>	
6			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
7			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
8			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
9			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
10			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
APPROVED ABBREVIATIONS					
ARR = Arraignment PTH = Probable Cause Hearing DOE = Discovery compliance & jury selection STR = Bench trial JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing SRE = Status review					
SRP = Status review of payments FAT = First appearance in jury session SEN = Sentencing CWF = Continuance without finding scheduled to terminate PRO = Probation scheduled to terminate					
DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PVH = probation revocation hearing.					
A TRUE COPY ATTEST:	CLERK-MAGISTRATE / ASSTY CLERK <i>X</i>			TOTAL NO. OF PAGES	ON (DATE)



CRIMINAL DOCKET - OFFENSES		DEFENDANT NAME		DOCKET NUMBER	
		Eric Norman		1507CR002831	
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
1 INSPECTION/STICKER, NO * c90 §20		12-18-15 <i>Georges</i>			
DISPOSITION METHOD		FINE/ASSESSMENT	SURFINE	COSTS	OUI §24D FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and alien warning pursuant to C278§29D and MRCrP12 <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VW ASSESSMENT	BATTERER'S FEE
		OTHER			
		SENTENCE OR OTHER DISPOSITION			
		<input type="checkbox"/> Sufficient facts found but continued without a finding until; <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until; <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION		JUDGE	DATE
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
2 UNLICENSED OPERATION OF MV c90 §10		12-18-15 <i>Georges</i>			
DISPOSITION METHOD		FINE/ASSESSMENT	SURFINE	COSTS	OUI §24D FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and alien warning pursuant to C278§29D and MRCrP12 <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VW ASSESSMENT	BATTERER'S FEE
		OTHER			
		SENTENCE OR OTHER DISPOSITION			
		<input type="checkbox"/> Sufficient facts found but continued without a finding until; <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until; <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION		JUDGE	DATE
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
3 DRUG, POSSESS TO DISTRIB CLASS B, SUBSQ. c94C §32A(b)		12-18-15 <i>Georges</i>			
DISPOSITION METHOD		FINE/ASSESSMENT	SURFINE	COSTS	OUI §24D FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and alien warning pursuant to C278§29D and MRCrP12 <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input checked="" type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VW ASSESSMENT	BATTERER'S FEE
		OTHER			
		SENTENCE OR OTHER DISPOSITION			
		<input type="checkbox"/> Sufficient facts found but continued without a finding until; <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until; <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION		JUDGE	DATE
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			

CRIMINAL DOCKET DOCKET ENTRIES		DEFENDANT NAME Eric Norman	DOCKET NUMBER 1507CR002831
DATE	DOCKET ENTRIES		
7/23/15	GPS ordered		
	Dpt to stay out of Boston except lawyer appointment for court date		
7-23-15	Cash Bail \$2,000.00 Bail Date: 7-23-15 TP/		
8-31-15	STATUS REV. @ REQ. OF PROBATION		
8-31-15	V.O.P. Warr. to Issue LA Grant (D)		
"	Warrant issued DO		
9-4-15	Atty Abelow reports A is at Bellview HC - issue a habeas for A at Bellview HC set 10/6/15 JP		
9-4-15	Habeas issued to Middlesex HC - and faxed by ALD.		
10/6/15 10:30	Bail Reduced to \$1,000 cash La Grant Comm. May issue Bail on 11/12/15 PCH over the Comm.'s objection Mitt issued La Grant		
10-6-15	A-Fee waived (ES)		
10/6/15	10/6/15 2000 Habeas Habeas SLV.		
11/12/15 10:18	J. George 6th Session Atty Lawrence case cont 12/18/15 by PCH Same bail \$1.00 case cont over defence objection also issue habe at Bellview HC for 12/18/15 Mitt & Habe issued (JP)		

APPROVED ABBREVIATIONS
 ARR = Arraignment PTH = Prelim hearing DCE = Discovery compliance & jury selection BTR = Bench trial JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing SRP = Status review
 SRP = Status review of payments FAT = First appearance in jury session SEN = Sentencing DWF = Continuance without finding scheduled to terminate PRO = Probation scheduled to terminate
 DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PVH = probation revocation hearing.

Eric Norman

1507CR2831

DOCKET ENTRIES

copy

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
DOCKET NO.: 1581CR514

COMMONWEALTH

v.

ERIC NORMAN

*2016 Jan 27
Filed in Court
Dennis F. Allen
Ant. Clerk*

COMMONWEALTH'S STATEMENT OF THE CASE

Now comes the Commonwealth in the above-captioned matter and submits this statement of the case. This statement is provided to assist the court and is not intended to be a bill or particulars, nor does it contain all of the information known to the Commonwealth at this time.

On Monday, August 10, 2015 at approximately 9:52PM, Officer Doherty was dispatched to 113 Fellsway West, unit 3 for a report of an armed home invasion that had just occurred. Upon arrival, he was met on the sidewalk by Mr. Roger Graham. Mr. Graham was frantic and stated that two black males had just robbed his family at gunpoint. Mr. Graham said that he believed the men fled in a motor vehicle but he never saw a vehicle and could not provide a description or a direction of flight.

The police learned that Mr. Graham, his son, Roger Graham Jr. ("Graham Jr.") and Mr. Graham's wife were present during the home invasion. Graham Jr. stated that he was eating dinner in the living room area (middle of apartment) with his mother and father

#2

when they suddenly heard a knock at the door. Graham Jr. said that his father yelled out "come in" while his mother went to the door and asked, "who is it?" Graham Jr. said that a male voice replied "Chris." Graham Jr. said that he has a friend named Chris and this did not seem odd so his mother opened the door. As soon as Mrs. Graham opened the door two black males rushed in and knocked Mrs. Graham to the floor. Both of the men were brandishing firearms at this time.

Graham Jr. said the first man through the door (hereinafter referred to as "Suspect 1") was a dark skinned black male, approximately 6' 02", with a "thick and full" black beard, wearing a plain white t-shirt and a "fisherman" style hat that was khaki in color with two strings coming down from either side. Graham Jr. stated this male was very muscular and large in size. Graham Jr. also stated this male party was brandishing a black semiautomatic Glock firearm.

Graham Jr. said the second man through the door (hereinafter referred to as "Suspect 2") was a dark skinned black male, approximately 6' 01", wearing a baseball hat, black pants, a black, long-sleeved t-shirt with an image on the front that he believed to be a picture of Pablo Escobar. Mr. Graham said this man's face was covered from his neck up to the bridge of his nose by a blue bandana. Mr. Graham also stated this man was brandishing a small older model .22 caliber handgun that was

~~Silver in color with a brown or black handle.~~

Once inside the residence, Graham Jr. said Suspect 1 immediately grabbed his phone, which was plugged into the wall. Graham Jr. stated that the man never returned the phone. Graham Jr. said that Suspect 1 said "where's the jewelry and the money." Suspect 2 then said "where's the safe, just give us that and we'll leave." At this point, Graham Jr. said Suspect 2 ordered him to stand up while pointing the silver gun at him. Suspect 2 then led Graham Jr. through the kitchen and into his bedroom, which is located at the rear of the apartment. Graham Jr. continuously told the man that he pawned his jewelry and no longer had what they were looking for. While this was taking place, Graham Jr. said that he heard Suspect 1 attempting to open other doors in the front of the apartment. Graham Jr. continued to deny being in possession of any money or jewelry and Suspect 2 eventually lead him back to the living room where his family was being held at gunpoint by Suspect 1. Graham Jr. said that while walking back to the living room, he mentioned that his father had a safe in the front bedroom. Suspect 1 then went into the front bedroom and retrieved a small black lock box containing some of Mr. Graham's money.

The man opened the box and removed approximately \$300.00 in U.S. currency. Suspect 1 became angered that they had not yet found anything substantial and put his gun to the back of Graham

Jr.'s head. Suspect 1 led Graham Jr. back to his bedroom and

eventually ransacked the entire room. Graham Jr. said Suspect 1 took two "throw back" jerseys from his closet. One jersey was described as a blue Atlanta Braves jersey and the other a Sammy Sosa jersey (Graham Jr. said that the jerseys were made by Mitchell & Ness and valued at approximately \$300.00 each). Graham Jr. stated that he did not know how long they were in the bedroom but when Suspect 1 was finished searching his room, he made Graham Jr. lay on the kitchen floor face down with his parents. Suspect 1 then told all three victims to stay on the floor and count to 100 before they moved. Graham Jr. said that both men then fled down the front stairs of the residence and out onto Fellsway West in an unknown direction. Graham Jr. said that when he reached approximately sixty-five seconds, his father stood up and ran down the rear staircase to the second floor and requested that the downstairs neighbors on the second floor call the police. Graham Jr. stated that at this time he believed that the men had stolen approximately \$300.00 in cash, the two "throw back" jerseys and his Metro PCS cell phone.

On August 19, 2015, ELMO contacted Medford Police and stated that the defendant, who was being monitored, was located in the area of 113 Fellsway West in Medford between 9:24pm and 9:53pm.


On August 24, 2015, Graham Jr. was presented with the photo array composed with the defendant's photo. Graham Jr. went

~~through the presentation four times total. Mrs. Graham Jr. did not~~

positively identify Mr. Norman (photo number 3) but made the following comments about the defendant, "[h]e looks light in the picture but it looks like him"; "[h]e looks like him, strong likelihood"; "possible". The following day Graham Jr. called the detective and stated, "almost positive that 3 of 12 was the guy, I am just afraid to identify one guy when the other one is still out there."

Immediately following the arrest of Mr. Norman, Sgt. Detective Mackowski, Detective Conway and Detective Pellegrino went to 9 Swan St. in Everett (where the defendant stopped both before and after the home invasion) to execute the search warrant for that address. The following items were recovered during the execution of the search warrant: a Smith and Wesson model 10 revolver loaded with six .38 caliber bullets; a black ski mask; seven white zip ties; one black tank top; and one clear latex glove. These items were all located in a Sketchers zip tie back pack inside of a shoe box.

Respectfully Submitted,
For the Commonwealth
MARIAN T. RYAN
DISTRICT ATTORNEY



Kate M. Kleimola
Assistant District Attorney
15 Commonwealth Ave.
Woburn, MA 01801
(781) 897-8555
BBO NO. 664978

Dated: January 26, 2016

[Skip to main content](#)**1581CR00514 Commonwealth vs. Norman, Eric**

Case Type
 Indictment
 Case Status
 Open
 File Date
 12/10/2015
 DCM Track:
 B - Complex
 Initiating Action:
 ROBBERY, ARMED & MASKED c265 §17
 Status Date:
 01/27/2016
 Case Judge:

 Next Event:
 12/10/2018

All Information	Party	Charge	Event	Tickler	Docket	Disposition
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Party Information

Middlesex District Attorney
 - Prosecutor

Alias**Party Attorney**

- Attorney
- Schrader, Esq., Maren M
- Bar Code
- 683551
- Address
- Middlesex District Attorney's Office
- 15 Commonwealth Ave
- Woburn, MA 01801
- Phone Number
- (781)897-8300

[More Party Information](#)

Norman, Eric
 - Defendant

Alias**Party Attorney**

- Attorney
- Abelow, Esq., Arnold I
- Bar Code
- 010540
- Address
- Law Office Of Arnold Abelow
- 459 Broadway
- Everett, MA 02149
- Phone Number
- (617)389-2640
- Attorney
- Spurlock, Esq., Matthew D
- Bar Code
- 601156
- Address
- Committee for Public Counsel Services

==STATUS:Certified under Rule 304 - not Admitted==

Boston, MA 02108

- Phone Number
- (617)910-5727

[More Party Information](#)

Party Charge Information

- **Norman, Eric**
- - Defendant
- **Charge # 1 :**
- **265/17/B-0 - Felony** ROBBERY, ARMED & MASKED c265 §17

-
- Original Charge
- 265/17/B-0 ROBBERY, ARMED & MASKED c265 §17 (Felony)
- Indicted Charge
-
- Amended Charge
-

- **Norman, Eric**
- - Defendant
- **Charge # 2 :**
- **265/18C/A-0 - Felony** HOME INVASION c265 §18C

-
- Original Charge
- 265/18C/A-0 HOME INVASION c265 §18C (Felony)
- Indicted Charge
-
- Amended Charge
-

- **Norman, Eric**
- - Defendant
- **Charge # 3 :**
- **265/18C/A-0 - Felony** HOME INVASION c265 §18C

-
- Original Charge
- 265/18C/A-0 HOME INVASION c265 §18C (Felony)
- Indicted Charge
-
- Amended Charge
-

- **Norman, Eric**
- - Defendant
- **Charge # 4 :**
- **265/18C/A-0 - Felony** HOME INVASION c265 §18C

-
- Original Charge
- 265/18C/A-0 HOME INVASION c265 §18C (Felony)
- Indicted Charge
-
- Amended Charge
-

- **Norman, Eric**
- - Defendant
- **Charge # 5 :**
- **266/14/A-0 - Felony** BURGLARY, ARMED c266 §14

-
- Original Charge
- 266/14/A-0 BURGLARY, ARMED c266 §14 (Felony)
- Indicted Charge
-
- Amended Charge
-

Load Party Charges 6 through 7 Load All 7 Party Charges

Events						
Date	Session	Location	Type	Event Judge	Result	
01/26/2016 09:00 AM	Woburn Magistrate Session	Criminal Courtroom-Lowell	Arraignment	Sullivan, Michael A	Rescheduled	
01/27/2016 09:00 AM	Woburn Magistrate Session	Criminal Courtroom-Lowell	Arraignment	Sullivan, Michael A	Held as Scheduled	
02/16/2016 09:00 AM	Woburn Magistrate Session	Criminal Courtroom-Lowell	Pre-Trial Conference	Sullivan, Michael A	Held as Scheduled	
04/13/2016 09:00 AM	Criminal 1 Rm 430		Status Review		Held as Scheduled	
04/27/2016 09:00 AM	Criminal 1 Rm 430		Evidentiary Hearing to Dismiss		Held as Scheduled	
05/24/2016 09:00 AM	Criminal 1 Rm 430		Pre-Trial Hearing		Held as Scheduled	
06/21/2016 09:00 AM	Criminal 1 Rm 430		Hearing RE: Discovery Motion(s)		Not Held	
07/12/2016 09:00 AM	Criminal 1 Rm 430		Status Review		Held as Scheduled	
07/27/2016 02:00 PM	Criminal 1 Rm 430		Evidentiary Hearing on Suppression		Not Held	
09/12/2016 09:00 AM	Criminal 1 Rm 430		Final Pre-Trial Conference		Not Held	
09/27/2016 09:00 AM	Criminal 1 Rm 430		Jury Trial		Rescheduled	
10/26/2016 09:00 AM	Criminal 1 Rm 430		Status Review		Held as Scheduled	
11/10/2016 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Scheduling Conference	Pierce, Hon. Laurence D	Held as Scheduled	
01/11/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Hearing RE: Discovery Motion(s)	Pierce, Hon. Laurence D	Held as Scheduled	
03/02/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Filing of Motions	Pierce, Hon. Laurence D	Not Held	
04/12/2017 09:00 AM	Criminal 1 Rm 430		Final Pre-Trial Conference		Rescheduled	
04/19/2017 09:00 AM	Criminal 1 Rm 430		Jury Trial		Rescheduled	
05/02/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Filing of Motions	Pierce, Hon. Laurence D	Held as Scheduled	
06/19/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Non-Evidentiary Hearing	Henry, Hon. Bruce R	Not Held	
08/29/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Final Trial Conference	Pierce, Hon. Laurence D	Rescheduled	
08/29/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Scheduling Conference	Pierce, Hon. Laurence D	Held as Scheduled	
09/07/2017 02:00 PM	Criminal 2 Rm 530	Courtroom 530	Final Pre-Trial Conference	Barry-Smith, Hon. Christopher K	Rescheduled	
	Criminal 2 Rm 530	Courtroom 530	Jury Trial		Rescheduled	

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
09/11/2017 09:00 AM				Barry-Smith, Hon. Christopher K	
09/11/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Hearing on Compliance	Pierce, Hon. Laurence D	Held as Scheduled
11/03/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Filing of Motions	Lu, Hon. John T	Rescheduled
11/16/2017 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Filing of Motions		Held as Scheduled
01/10/2018 09:00 AM	Criminal 4 Rm 630		Lobby Conference		Rescheduled
01/24/2018 09:00 AM	Criminal 4 Rm 630		Evidentiary Hearing on Suppression		Rescheduled
01/25/2018 09:00 AM	Criminal 1 Rm 430		Final Trial Conference		Rescheduled
02/07/2018 09:00 AM	Criminal 1 Rm 430		Jury Trial		Rescheduled
02/13/2018 02:00 PM	Criminal 4 Rm 630	Courtroom 630	Lobby Conference	Barrett, Hon. C. William	Held as Scheduled
03/15/2018 09:00 AM	Criminal 4 Rm 630	Courtroom 630	Lobby Conference	Barrett, Hon. C. William	Rescheduled
03/28/2018 09:00 AM	Criminal 4 Rm 630	Courtroom 630	Lobby Conference	Barrett, Hon. C. William	Held as Scheduled
03/28/2018 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Scheduling Conference	Pierce, Hon. Laurence D	Held as Scheduled
06/21/2018 09:00 AM	Criminal 4 Rm 630	Courtroom 630	Evidentiary Hearing on Suppression		Held - Under advisement
08/24/2018 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Final Trial Conference		Held as Scheduled
09/04/2018 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Jury Trial		Canceled
09/07/2018 02:00 PM	Criminal 1 Rm 430	Courtroom 430	Bail Hearing	Pierce, Hon. Laurence D	Rescheduled
09/25/2018 02:00 AM	Criminal 1 Rm 430	Courtroom 430	Bail Hearing	Pierce, Hon. Laurence D	Held as Scheduled
12/10/2018 09:00 AM	Criminal 1 Rm 430	Courtroom 430	Scheduling Conference		

Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Pre-Trial Hearing	01/28/2016	06/10/2016	134	
Final Pre-Trial Conference	02/01/2016	10/14/2016	256	
Case Disposition	01/28/2016	10/24/2016	270	
Under Advisement	04/27/2016	05/27/2016	30	04/05/2018

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
12/11/2015	Indictment(s) returned	1	Image
01/22/2016	Habeas Corpus for defendant issued to Middlesex Jail returnable for 01/26/2016 09:00 AM Arraignment. Applies To: Middlesex Jail (Holding Institution)		
01/26/2016	Event Result: The following event: Arraignment scheduled for 01/26/2016 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties		
01/26/2016	Habeas Corpus for defendant issued to Middlesex Jail returnable for 01/27/2016 09:00 AM Arraignment. Applies To: Norman, Eric (Defendant)		
01/27/2016	Defendant arraigned before Court.		
01/27/2016	Plea of not guilty entered on all charges.		
01/27/2016	Bail set at \$500,000.00 Surety, \$50,000.00 Cash. Bail is set without Prejudice. ONLY RELEASE TO GPS BRACELET 1) GPS, house arrest; only release for Court, Attorney visits, and Medical appointments: all to be verified by Probation		
01/27/2016	Bail warnings read		
01/27/2016	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).		
01/27/2016	Defendant is ordered committed in lieu of having posted bail.		
01/27/2016	Event Result: The following event: Arraignment scheduled for 01/27/2016 09:00 AM has been resulted as follows: Result: Held as Scheduled		
01/27/2016	Appearance entered On this date Stephen E Woods, Esq. added as Private Counsel for Defendant Eric Norman		
01/27/2016	Issued on this date: Mittimus in Lieu of Bail Sent On: 01/27/2016 11:18:16		Image
01/27/2016	Commonwealth files the statement of the case.	2	
01/27/2016	Commonwealth 's Notice of Discovery I	3	
02/01/2016	Case assigned to: DCM Track B - Complex was added on 02/01/2016		
02/16/2016	Event Result: The following event: Pre-Trial Conference scheduled for 02/16/2016 09:00 AM has been resulted as follows: Result: Held as Scheduled		
02/16/2016	General correspondence regarding Tracking Order	4	
04/12/2016	Event Result: The following event: Status Review scheduled for 04/13/2016 09:00 AM has been resulted as follows: Result: Held as Scheduled		
04/13/2016	Defendant 's Motion to dismiss Indictments, memorandum of Law in support of Defendant's Motion to dismiss, with affidavit	5	
04/25/2016	Habeas Corpus for defendant issued to Middlesex Jail returnable for 04/27/2016 09:00 AM Evidentiary Hearing to Dismiss.		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Applies To: Norman, Eric (Defendant)		
04/27/2016	Commonwealth Kate M. Kleimola, Esq.'s Submission of Commonwealth Opposition to the Defendant's Motion to Dismiss	6	
04/27/2016	Matter taken under advisement The following event: Evidentiary Hearing to Dismiss scheduled for 04/27/2016 09:00 AM has been resulted as follows: Result: Held - Under advisement- Commonwealth's supplemental response is due 5/6.		
05/10/2016	Opposition to paper #5.0 Defendant's Motion To Dismiss filed by Middlesex District Attorney(COMMONWEALTH'S SUPPLEMENTAL OPPOSITION) (Sent up to judge Budd)	7	
05/23/2016	Endorsement on Motion to dismiss Indictments, (#5.0): DENIED The Motion is DENIED. (See Ruling P#5) (COPIES MAILED BOTH SIDES ADA KATE KLEIMOLA AND D/C STEPHEN WOODS)		
05/24/2016	Defendant's Motion for Discovery	8	
05/24/2016	Event Result: The following event: Pre-Trial Hearing scheduled for 05/24/2016 09:00 AM has been resulted as follows: Result: Held as Scheduled		
06/21/2016	Event Result: The following event: Hearing RE: Discovery Motion(s) scheduled for 06/21/2016 09:00 AM has been resulted as follows: Result: Not Held Reason: Joint request of parties		
07/12/2016	Event Result: The following event: Status Review scheduled for 07/12/2016 09:00 AM has been resulted as follows: Result: Held as Scheduled		
07/20/2016	Event Result: The following event: Evidentiary Hearing on Suppression scheduled for 07/27/2016 02:00 PM has been resulted as follows: Result: Not Held Reason: Request of Defendant		
07/29/2016	Attorney appearance On this date Arnold I Abelow, Esq. added for Defendant Eric Norman		
09/09/2016	Habeas Corpus for defendant issued to Middlesex Jail returnable for 09/12/2016 09:00 AM Final Pre-Trial Conference.		
	Applies To: Norman, Eric (Defendant)		
09/12/2016	Defendant's Motion to Continue Trial Date	9	
09/12/2016	Endorsement on Motion to , (#9.0): ALLOWED Henry, J		
09/12/2016	Event Result: The following event: Final Pre-Trial Conference scheduled for 09/12/2016 09:00 AM has been resulted as follows: Result: Not Held Reason: Joint request of parties		
09/12/2016	Event Result: The following event: Jury Trial scheduled for 09/27/2016 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties		
10/26/2016	Event Result: The following event: Status Review scheduled for 10/26/2016 09:00 AM has been resulted as follows:		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Result: Not Held Reason: Both parties failed to appear		
11/10/2016	Event Result: The following event: Scheduling Conference scheduled for 11/10/2016 12:00 PM has been resulted as follows: Result: Held as Scheduled		
01/11/2017	Event Result: The following event: Hearing RE: Discovery Motion(s) scheduled for 01/11/2017 09:00 AM has been resulted as follows: Result: Held as Scheduled		
03/02/2017	Attorney appearance On this date Stephen E Woods, Esq. dismissed/withdrawn as Private Counsel for Defendant Eric Norman		
03/02/2017	Event Result: The following event: Filing of Motions scheduled for 03/02/2017 09:00 AM has been resulted as follows: Result: Not Held Reason: Request of Defendant		
03/02/2017	Event Result: The following event: Final Pre-Trial Conference scheduled for 04/12/2017 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Request of Defendant		
03/02/2017	Event Result: The following event: Jury Trial scheduled for 04/19/2017 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Request of Defendant		
05/02/2017	Defendant's Motion for Discovery and Exculpatory Evidence (Non Evidentiary)	10	
05/02/2017	Event Result: The following event: Filing of Motions scheduled for 05/02/2017 09:00 AM has been resulted as follows: Result: Held as Scheduled		
06/19/2017	Event Result: The following event: Non-Evidentiary Hearing scheduled for 06/19/2017 09:00 AM has been resulted as follows: Result: Not Held Reason: Defense Attorney and Defendant failed to appear Appeared: Attorney Kleimola, Esq., Kate M. FTR: Darlene Abreu		
08/25/2017	Event Result: The following event: Final Trial Conference scheduled for 08/29/2017 09:00 AM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date		
08/29/2017	Event Result: The following event: Jury Trial scheduled for 09/11/2017 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties		
08/29/2017	Event Result: The following event: Final Pre-Trial Conference scheduled for 09/07/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties		
08/29/2017			

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Rule 36 waived re: Rule 36 Waived through 8/29/17 through 2/7/18		
08/29/2017	Event Result: The following event: Scheduling Conference scheduled for 08/29/2017 09:00 AM has been resulted as follows: Result: Held as Scheduled Appeared: Attorney Abelow, Esq., Arnold I Attorney ADA Alicia Walsh standing in for Kleimola, Esq., Kate M Court Reporter FTR Darlene Abreu		
09/11/2017	Event Result: The following event: Hearing on Compliance scheduled for 09/11/2017 09:00 AM has been resulted as follows: Result: Held as Scheduled Appeared: Prosecutor ADA Alicia Walsh Attorney Abelow, Esq., Arnold I FTR: Darlene Abreu		
10/31/2017	Event Result: Judge: Lu, Hon. John T The following event: Filing of Motions scheduled for 11/03/2017 09:00 AM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date		
11/16/2017	Defendant's Motion to suppress Evidence of GPS Tracking Data Seized Pursuant to a Warrantless Search	11	
11/16/2017	Eric Norman's Memorandum in support of Motion to Suppress GPS Tracking Data	11.1	
11/16/2017	Defendant's Motion to Suppress Identification	12	Image
11/16/2017	Affidavit of Affidavit of Arnold Abelow, Esq. In Support Of Motion To Suppress Identification	12.1	Image
11/16/2017	Eric Norman's Memorandum Memorandum In Support Of Motion To Suppress Identification	12.2	Image
11/16/2017	Event Result: Judge: Hopkins, Hon. Merita A The following event: Final Trial Conference scheduled for 01/25/2018 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties		
11/16/2017	Event Result: Judge: Hopkins, Hon. Merita A The following event: Filing of Motions scheduled for 11/16/2017 09:00 AM has been resulted as follows: Result: Held as Scheduled Appeared: Attorney Abelow, Esq., Arnold I Attorney Kleimola, Esq., Kate M FTR Robin Belanger Judge: Hopkins, Hon. Merita A Judge: Hopkins, Hon. Merita A		
01/03/2018	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/10/2018 09:00 AM Lobby Conference.	13	Image
01/10/2018	Event Result: Judge: Barrett, Hon. C. William The following event: Lobby Conference scheduled for 01/10/2018 09:00 AM has been		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	<p>resulted as follows: Result: Rescheduled Reason: Court Order Case continued to January 24 @ 9AM for scheduling conference LP/ACM</p> <p>Judge: Barrett, Hon. C. William</p>		
01/17/2018	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/24/2018 09:00 AM Evidentiary Hearing on Suppression.	14	Image
01/24/2018	<p>Event Result: Judge: Barrett, Hon. C. William The following event: Evidentiary Hearing on Suppression scheduled for 01/24/2018 09:00 AM has been resulted as follows: Result: Rescheduled due to session unavailability Case continued to 2/13/2018 @ 2PM for a lobby conference Reason: Court Order Appeared: Attorney Abelow, Esq., Arnold I Attorney Kleimola, Esq., Kate M Not on record Attest: LP/ACM</p> <p>Judge: Barrett, Hon. C. William</p>		
01/24/2018	<p>The following form was generated:</p> <p>Notice to Appear Sent On: 01/24/2018 09:50:58</p>		
01/24/2018	<p>Event Result: Judge: Barrett, Hon. C. William The following event: Jury Trial scheduled for 02/07/2018 09:00 AM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date Case continued by agreement of counsel to 2/13/2018 @ 9AM for lobby conference and the selection of a new MTS , FTC & JT date Appeared: Attorney Abelow, Esq., Arnold I Attorney Kleimola, Esq., Kate M Not on record Attest: LP/ACM</p> <p>Judge: Barrett, Hon. C. William</p>		
02/08/2018	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 02/13/2018 02:00 PM Lobby Conference.	15	Image
02/13/2018	<p>Event Result: Judge: Barrett, Hon. C. William The following event: Lobby Conference scheduled for 02/13/2018 02:00 PM has been resulted as follows: Result: Held as Scheduled DAY 1 Case continued to 3/15/18 for further lobby conference Appeared: Defendant Norman, Eric Attorney Abelow, Esq., Arnold I Attorney Kleimola, Esq., Kate M Robin Belanger FTR Monitor</p> <p>Judge: Barrett, Hon. C. William</p>		
03/08/2018	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 03/15/2018 09:00 AM Lobby Conference.	16	Image
03/15/2018	<p>Event Result: Judge: Barrett, Hon. C. William The following event: Lobby Conference scheduled for 03/15/2018 09:00 AM has been</p>		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	<p>resulted as follows: Result: Rescheduled Reason: Court Order By agreement of counsel case rescheduled to 3/28/2018 @ 9AM for lobby conference Attest; LP/ACM</p> <p>Judge: Barrett, Hon. C. William</p>		
03/23/2018	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 03/28/2018 09:00 AM Lobby Conference.	17	Image
03/28/2018	<p>Event Result: Judge: Barrett, Hon. C. William The following event: Lobby Conference scheduled for 03/28/2018 09:00 AM has been resulted as follows: Result: Held as Scheduled Appeared: Defendant Norman, Eric Attorney Abelow, Esq., Arnold I Attorney Kleimola, Esq., Kate M Cynthia hart FTR Monitor</p> <p>Judge: Barrett, Hon. C. William</p>		
03/28/2018	<p>Event Result: Judge: Pierce, Hon. Laurence D The following event: Scheduling Conference scheduled for 03/28/2018 09:00 AM has been resulted as follows: Result: Held as Scheduled Appeared: Attorney Abelow, Esq., Arnold I Attorney Kleimola, Esq., Kate M FTR: Newman</p> <p>Judge: Pierce, Hon. Laurence D</p>		
06/14/2018	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 06/21/2018 09:00 AM Evidentiary Hearing on Suppression.	18	Image
06/21/2018	<p>Matter taken under advisement: Evidentiary Hearing on Suppression scheduled on: 06/21/2018 09:00 AM Has been: Held - Under advisement Hon. Kenneth J Fishman, Presiding Appeared: Prosecutor Kate M Kleimola, Esq., Attorney for the Commonwealth Defendant Eric Norman Arnold I Abelow, Esq., Staff: Lucie Pasquale, Assistant Clerk Magistrate FTR Recording</p> <p>Judge: Fishman, Hon. Kenneth J</p> <p>Judge: Fishman, Hon. Kenneth J</p>		
06/21/2018	Defendant's Motion for funds To Retain GPS Expert	19	Image
06/21/2018	Affidavit of Affidavit Of Arnold Abelow	19.1	
06/21/2018	Endorsement on Motion To Suppress Identification, (#12.0): Withdrawn		
	Judge: Fishman, Hon. Kenneth J		
06/22/2018	General correspondence regarding **Received phone call ON 6/22/18 from Vanessa at MCI-Norfolk, FAXED MITTIMUS AND DOCKET SHEET TO MCI-NORFOLK**		Image
07/13/2018	MEMORANDUM & ORDER:	20	Image
	Memorandum Of Decision On Motion To Suppress GPS Tracking Data		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Based on the foregoing, the motion to suppress GPS tracking data is ALLOWED. Judge: Fishman, Hon. Kenneth J		
07/24/2018	Notice to the Appeals Court of Interlocutory Appeal Jamie Charles, ADA. Applies To: Middlesex District Attorney (Prosecutor)	24	Image
08/03/2018	Summons returned to court: SERVED	21	Image
08/08/2018	MEMORANDUM & ORDER: Amended Memorandum Of Decision On Motion To Suppress GPS Tracking Data Based on the foregoing, the motion to suppress GPS tracking data is ALLOWED. Judge: Fishman, Hon. Kenneth J	22	Image
08/23/2018	Habeas Corpus for defendant issued to Middlesex Jail returnable for 08/24/2018 09:00 AM Final Trial Conference.	23	Image
08/24/2018	Defendant oral motion Defendant's Oral Motion for Bail After hearing, no action is taken pending interlocutory appeal Case continued to 9/25/18 at 2:00PM for further hearing Judge: Pierce, Hon. Laurence D		
08/24/2018	Event Result:: Final Trial Conference scheduled on: 08/24/2018 09:00 AM Has been: Held as Scheduled Hon. Laurence D Pierce, Presiding Appeared: Prosecutor Maren M Schrader, Esq., Attorney for the Commonwealth Defendant Eric Norman Arnold I Abelow, Esq., Staff: Michelle Goldman, Assistant Clerk Magistrate Doug Nagengast, Assistant Clerk Magistrate FTR Recording D. Abreau Judge: Pierce, Hon. Laurence D		
08/24/2018	Event Result:: Jury Trial scheduled on: 09/04/2018 09:00 AM Has been: Canceled For the following reason: Joint request of parties/case on appeal Hon. Laurence D Pierce, Presiding Appeared: Staff: Michelle Goldman, Assistant Clerk Magistrate Doug Nagengast, Assistant Clerk Magistrate FTR Recording D. Abreau Judge: Pierce, Hon. Laurence D		
08/29/2018	Notice of docket entry received from Supreme Judicial Court SJ-2018-0336 You are hereby notified that on August 27, 2018, the following was entered on the docket of the above referenced case: ORDER: Interlocutory appeal allowed, to appeals court (Budd,J)	25	Image
08/30/2018	Notice of Assembly of Record: two certified copies of docket entries, one set of the Memorandum of Decision on Motion to Suppress GPS tracking data, One Copy of Notice of docket entry from SJC allowing Interlocutory appeal and P#24 Notice of Appeal sent to the Clerk of the Appeals Court this day		
08/30/2018			

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Appeal: notice of assembly of record sent to Counsel Jamie Charles, ADA and Arnold Abelow, Esq		
09/06/2018	Habeas Corpus for defendant issued to Middlesex Jail returnable for 09/07/2018 02:00 PM Bail Hearing.	26	Image
09/07/2018	Event Result:: Bail Hearing scheduled on: 09/07/2018 02:00 PM Has been: Rescheduled For the following reason: Joint request of parties Hon. Laurence D Pierce, Presiding Appeared: Staff: Michelle Goldman, Assistant Clerk Magistrate Mary Santiago, Assistant Clerk Magistrate		
09/07/2018	Notice of Entry of appeal received from the Appeals Court 2018-P-1245 In accordance with Massachusetts Rule of Appellate procedure 10(a)(3) please note that the above-referenced case was entered in this court on September 4, 2018	27	Image
09/24/2018	Habeas Corpus for defendant issued to Middlesex Jail returnable for 09/25/2018 02:00 AM Bail Hearing.	28	Image
09/25/2018	Bail set at \$100,000.00 Surety, \$10,000.00 Cash. ***DEFENDANT NOT TO BE RELEASE UNTIL GPS IS FITTED 2.24/7 locked down 3. Only release for medical Appointment or Atty Visit with prior notification to probation Judge: Henry, Hon. Bruce R		
09/25/2018	Issued on this date: Mittimus in Lieu of Bail Sent On: 09/25/2018 15:02:21	29	Image
09/25/2018	Event Result:: Bail Hearing scheduled on: 09/25/2018 02:00 AM Has been: Held as Scheduled Hon. Bruce R Henry, Presiding Appeared: Prosecutor Maren M Schrader, Esq., Attorney for the Commonwealth Defendant Eric Norman Arnold I Abelow, Esq., Staff: Michelle Goldman, Assistant Clerk Magistrate Mary Santiago, Assistant Clerk Magistrate PO Maryanne Deschene FTR Robin Belanger Judge: Henry, Hon. Bruce R		
09/25/2018	Finding and Order on Bail: Judge: Henry, Hon. Bruce R	30	
10/02/2018	Defendant's Motion to Appoint Committee for Public Counsel Services Appellate Counsel	31	Image
10/02/2018	Endorsement on Motion to appoint CPCS appellate counsel, (#31.0): ALLOWED Judge: Hogan, Hon. Maureen		Image
10/05/2018	Attorney appearance On this date Matthew D Spurlock, Esq. added for Defendant Eric Norman		

**United States District Court
District of Massachusetts (Boston)
CRIMINAL DOCKET FOR CASE #: 1:08-cr-10340-PBS-1**

Case title: USA v. Norman
Related Case: 1:13-cv-12047-PBS
Magistrate judge case number: 1:08-mj-00896-MBB

Date Filed: 11/13/2008
Date Terminated: 02/26/2009

Assigned to: Chief Judge Patti B. Saris
Referred to: Magistrate Judge Marianne B.
Bowler

Defendant (1)

Eric Norman
TERMINATED: 02/26/2009

represented by **Albert F. Cullen , Jr.**
60 K Street
South Boston, MA 02127
617-268-2240
Fax: 617-268-2242
Email: afcullen@aol.com
TERMINATED: 02/26/2009
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Charles P. McGinty
Federal Public Defender Office
District of Massachusetts
51 Sleeper Street
5th Floor
Boston, MA 02210
617-223-8061
Fax: 617-223-8080
Email: charles_mcginty@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or
Community Defender Appointment

J. Martin Richey
Federal Public Defender Office
51 Sleeper Street
5th Floor
Boston, MA 02210
617-223-8061
Fax: 617-223-8080
Email: martin_richey@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Pending Counts

21:841(a)(1)...POSSESSION OF
COCAINE BASE WITH INTENT TO
DISTRIBUTE
(1)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Highest Offense Level (Terminated)

None

Complaints

21:841(a)and 860...did knowingly and

Disposition

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 60 months. The court makes a recommendation to the Bureau of Prisons to the 500 Hour Drug Treatment Program and to a FCI with mental health counseling. The defendant is remanded to the custody of the United States Marshal. Upon release from imprisonment, the defendant shall be on supervised release for a term of 60 months, with conditions: Drug testing not to exceed 104/year; outpatient drug treatment; mental health counseling; get G.E.D.; vocational training; curfew from 12:00 AM - 6:00 AM; recommendation to the RE-ENTRY program; stay away from area on attached map. The \$100.00 Special Assessment is due immediately. REVOCATION: The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of time served. Upon release from imprisonment, the defendant shall be on supervised release for a term of 48 months with standard and special conditions. REVOCATION: The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 5 months. The defendant is remanded to the custody of the United States Marshal. Upon release from imprisonment, no term of supervised release imposed.

Disposition

Disposition

intentionally conspire to distribute cocaine
base...

Plaintiff

USA

represented by **John A. Wortmann , Jr.**

United States Attorney's Office
John Joseph Moakley Federal Courthouse
1 Courthouse Way
Boston, MA 02110
617-748-3207
Fax: 617-748-3963
Email: john.wortmann@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/05/2008	<u>1</u>	SEALED COMPLAINT as to Eric Norman (1), Rudy Antenor (2). (Attachments: # <u>1</u> Affidavit of Sgt. Det. William Dwan, # <u>2</u> js45's)(Catino3, Theresa) [1:08-mj-00896-MBB] (Entered: 09/08/2008)
09/05/2008	<u>2</u>	MOTION to Seal and to unseal as to Eric Norman, Rudy Antenorby USA. (Catino3, Theresa) [1:08-mj-00896-MBB] (Entered: 09/08/2008)
09/05/2008		Magistrate Judge Marianne B. Bowler: endorsedORDER entered granting <u>2</u> Motion to Seal as to Eric Norman (1), Rudy Antenor (2) (Catino3, Theresa) [1:08-mj-00896-MBB] (Entered: 09/08/2008)
09/05/2008		arrest Warrant Issued by Magistrate Judge Marianne B. Bowler as to Eric Norman, Rudy Antenor. (Catino3, Theresa) [1:08-mj-00896-MBB] (Entered: 09/08/2008)
09/09/2008	<u>4</u>	MOTION TO UNSEAL ON A LIMITED BASIS as to Eric Norman, Rudy Antenorby USA. (Smith3, Dianne) [1:08-mj-00896-MBB] (Entered: 09/09/2008)
09/09/2008	<u>5</u>	Magistrate Judge Marianne B. Bowler: ORDER entered granting <u>4</u> Motion TO UNSEAL ON A LIMITED BASIS as to Eric Norman (1) (Smith3, Dianne) [1:08-mj-00896-MBB] (Entered: 09/09/2008)
09/10/2008	<u>6</u>	MOTION to Unseal Case as to Eric Norman and Rudy Antenor by USA. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/10/2008)
09/10/2008		Magistrate Judge Marianne B. Bowler: Endorsed ORDER entered granting Motions to Unseal <u>4</u> and <u>6</u> . (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/10/2008)
09/10/2008		Case unsealed as to Eric Norman and Rudy Antenor. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/10/2008)
09/10/2008		Arrest of Eric Norman. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/10/2008)
09/10/2008		Electronic Clerk Notes for proceedings held before Magistrate Judge Marianne B. Bowler: Initial Appearance as to Eric Norman held on 9/10/2008. AUSA Wortmann for the Govt. and Attorney Cullen for the Deft. Thomas O'Brien for Pretrial Services. The Govt. moves for detention. Detention/Probable Cause Hearing set for 9/12/2008 at 2:00 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. The Deft. is remanded to the custody of the U.S. Marshal. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/10/2008)

09/10/2008	<u>11</u>	Magistrate Judge Marianne B. Bowler: ORDER entered appointing CJA Attorney Albert F. Cullen, Jr for Eric Norman. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/16/2008)
09/12/2008	<u>8</u>	Magistrate Judge Marianne B. Bowler: ORDER entered. ORDER OF VOLUNTARY DETENTION without prejudice as to Eric Norman and Rudy Antenor. (Bowler, Marianne) [1:08-mj-00896-MBB] (Entered: 09/12/2008)
09/12/2008		Electronic Clerk Notes for proceedings held before Magistrate Judge Marianne B. Bowler: Detention/Probable Cause Hearing as to Eric Norman and Rudy Antenor held on 9/12/2008. AUSA Wortmann for the Govt. and Attorneys Cullen and Andrews for the Defts. Toland Gladden for PTS. The Govt. calls BPD Officer Brian Mahoney to testify, Exhibit/Witness List to follow. The Defts. agree to voluntary detention without prejudice. The court makes a finding of probable cause. The Defts. are remanded to the custody of the U.S. Marshal. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/12/2008)
09/12/2008	<u>9</u>	EXHIBIT/WITNESS LIST for 9/12/2008 Detention/Probable Cause Hearing of Eric Norman and Rudy Antenor. (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/12/2008)
09/12/2008	<u>12</u>	Arrest Warrant Returned Executed on 9/10/08. as to Eric Norman. (Catino3, Theresa) [1:08-mj-00896-MBB] (Entered: 09/22/2008)
09/25/2008	<u>14</u>	Joint MOTION for Extension of Time to November 12, 2008 to Indict as to Eric Norman, Rudy Antenorby USA. (Wortmann, John) [1:08-mj-00896-MBB] (Entered: 09/25/2008)
09/26/2008		Judge Patti B. Saris: Electronic ORDER entered granting <u>14</u> Motion for Extension of Time to Indictment as to Eric Norman (1) and Rudy Antenor (2). (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 09/26/2008)
11/06/2008	<u>15</u>	Assented to MOTION for Excludable Delay from November 12, 2008 to December 4, 2008 as to Eric Norman, Rudy Antenorby Eric Norman, USA, Rudy Antenor. (Wortmann, John) [1:08-mj-00896-MBB] (Entered: 11/06/2008)
11/07/2008		Judge George A. OToole, Jr: Electronic ORDER entered granting <u>15</u> Motion to Exclude as to Eric Norman (1), Rudy Antenor (2). (Duffy, Marc) [1:08-mj-00896-MBB] (Entered: 11/07/2008)
11/13/2008	<u>16</u>	INFORMATION (Felony) as to Eric Norman (1) count(s) 1. (Attachments: # <u>1</u> js45) (Smith3, Dianne) (Entered: 11/13/2008)
11/14/2008		ELECTRONIC NOTICE OF PLEA HEARING as to Eric Norman. Arraignment on Information and Plea Hearing set for 11/18/2008 at 2:00 PM in Courtroom 19 before Judge Patti B. Saris. (Alba, Robert) (Entered: 11/14/2008)
11/18/2008		Electronic Clerk Notes for proceedings held before Judge Patti B. Saris: Arraignment on Information as to Eric Norman (1) Count 1 held on 11/18/2008. Plea entered by Eric Norman: Guilty Count 1. Sentencing set for 2/25/2009 at 4:00 PM in Courtroom 19 before Judge Patti B. Saris. (Court Reporter Lee Marzilli.)(Attorneys present: Wortmann, Cullen) (Alba, Robert) (Entered: 11/18/2008)
11/18/2008	<u>17</u>	Judge Patti B. Saris: ORDER entered. PROCEDURAL ORDER re sentencing hearing as to Eric Norman Sentencing set for 2/25/2009 04:00 PM in Courtroom 19 before Judge Patti B. Saris. (Patch, Christine) (Entered: 11/19/2008)
11/18/2008	<u>18</u>	WAIVER OF INDICTMENT by Eric Norman (Patch, Christine) (Entered: 11/25/2008)
11/18/2008	<u>19</u>	PLEA AGREEMENT as to Eric Norman (Patch, Christine) (Entered: 11/25/2008)
02/22/2009	<u>21</u>	SENTENCING MEMORANDUM by USA as to Eric Norman (Attachments: # <u>1</u> Exhibit BPD Incident reports, # <u>2</u> Exhibit BPD FIOs)(Wortmann, John) (Entered: 02/22/2009)

02/24/2009		ELECTRONIC NOTICE OF RESCHEDULING as to Eric Norman. The Sentencing previously set for 2/25/2009 at 4:00 p.m. has been RESCHEDULED to 2/25/2009 at 3:15 PM in Courtroom 19 before Judge Patti B. Saris. NOTE: CHANGE IS TO TIME ONLY. (Alba, Robert) (Entered: 02/24/2009)
02/25/2009		Electronic Clerk Notes for proceedings held before Judge Patti B. Saris: Sentencing held on 2/25/2009 for Eric Norman (1), Count(s) 1. Court sentences defendant to 60 months imprisonment, 60 months supervised release w/conditions, \$100 special assessment. Defendant informed of right of appeal. (Court Reporter Brenda Hancock.)(Attorneys present: Wortmann, Cullen)(P.O. Walls) (Alba, Robert) (Entered: 02/25/2009)
02/26/2009	<u>22</u>	Judge Patti B. Saris: ORDER entered. JUDGMENT as to Eric Norman (1), Count(s) 1, The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 60 months. The court makes a recommendation to the Bureau of Prisons to the 500 Hour Drug Treatment Program and to a FCI with mental health counseling. The defendant is remanded to the custody of the United States Marshal. Upon release from imprisonment, the defendant shall be on supervised release for a term of 60 months, with conditions: Drug testing not to exceed 104/year; outpatient drug treatment; mental health counseling; get G.E.D.; vocational training; curfew from 12:00 AM - 6:00 AM; recommendation to the RE-ENTRY program; stay away from area on attached map. The \$100.00 Special Assessment is due immediately. (Patch, Christine) (Entered: 03/04/2009)
10/13/2009	<u>24</u>	Judgment Returned Executed as to Eric Norman on 9/24/09. (Patch, Christine) (Entered: 10/14/2009)
01/12/2012	<u>26</u>	MOTION to appoint counsel re possible reduction of sentence (Crack Cocaine case) as to Eric Norman. (Anderson, Jennifer) Modified event on 2/10/2012 (Anderson, Jennifer). (Entered: 01/13/2012)
02/16/2012		Judge Patti B. Saris: ELECTRONIC ORDER entered Granting <u>26</u> Motion to Appoint Counsel re: possible reduction of sentence (Crack Cocaine case) Fed Defender appointed as to Eric Norman. (Molloy, Maryellen) (Entered: 02/16/2012)
02/16/2012	<u>27</u>	Judge Patti B. Saris: ORDER entered.... PROCEDURAL ORDER re Crack Cocaine Offenses - 18:3582 as to Eric Norman (Molloy, Maryellen) (Entered: 02/16/2012)
02/17/2012	<u>28</u>	NOTICE OF ATTORNEY APPEARANCE: J. Martin Richey appearing for Eric Norman. Type of Appearance: Federal Defender. (Richey, J.) (Entered: 02/17/2012)
02/17/2012	<u>29</u>	Judge Patti B. Saris: ORDER entered. ORDER APPOINTING FEDERAL DEFENDER PROGRAM as to Eric Norman (Adam, Lucien) (Entered: 02/17/2012)
05/15/2013	34	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Initial Appearance re Revocation of probation as to Eric Norman held on 5/15/2013. Government moves for detention, defendant agrees to voluntary detention. Defendant remanded to the USMS. Appearance entered by Charles McGinty on behalf of defendant. (Final Probation Revocation Hearing set for 5/20/2013 11:00 AM in Courtroom 19 before Chief Judge Patti B. Saris.) (Attorneys present: Pohl, McGinty..)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 05/16/2013)
05/17/2013	<u>35</u>	Arrest Warrant Returned Executed on 5/15/2013 as to Eric Norman. (Anderson, Jennifer) (Entered: 05/17/2013)
05/20/2013	36	ELECTRONIC Clerk's Notes for proceedings held before Chief Judge Patti B. Saris:Interim Hearing re Revocation of Supervised Release as to Eric Norman held on

		5/20/2013....Ordered: parties agree to modify the conditions of release (see separate order for details). Parties request that the Final Revo Hrg be continued to September 2013- Allowed as stated in open court. Order of Release issued. Copy of Order forwarded to US Marshals. Defendant is hereby ordered released and shall abide by all the conditions of supervision. Dft shall appear on 9/26/13 for final revocation hrg. Final Hearing re: Revocation of Supervised Release continued to 9/26/2013 02:30 PM in Courtroom 19 before Chief Judge Patti B. Saris.(Ausa Wortmann, Atty McGinty, PO L.Dube')Court Reporter Name and Contact or digital recording information: Lee Marzilli (617-345-6787). (Molloy, Maryellen) (Entered: 05/20/2013)
05/20/2013	<u>37</u>	Chief Judge Patti B. Saris: ORDER of Release entered as to Eric Norman. (Attachments: # <u>1</u> Associational Restrictions). (Anderson, Jennifer) (Entered: 05/20/2013)
05/22/2013	<u>38</u>	Magistrate Judge Marianne B. Bowler: ORDER entered. ORDER APPOINTING FEDERAL DEFENDER PROGRAM as to Eric Norman (Karjel, Christine) (Entered: 05/22/2013)
05/23/2013	39	Case as to Eric Norman no longer referred to Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 05/23/2013)
07/25/2013	43	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Initial Appearance re Revocation of probation as to Eric Norman held on 7/25/2013. Government seeks detention, defendant agrees to an order of voluntary detention pending the final revocation hearing set in front of Chief Judge Saris. Defendant remanded to the USMS. (Attorneys present: Moran, Sinnis.)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts/CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 07/26/2013)
07/26/2013	<u>44</u>	Arrest Warrant Returned Executed on 7/25/2013 as to Eric Norman. (Anderson, Jennifer) (Entered: 07/29/2013)
08/23/2013	<u>45</u>	MOTION to Vacate under 28 U.S.C. 2255 as to Eric Norman. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit)(McGinty, Charles) Civil case 1:13-cv-12047 opened. (Entered: 08/23/2013)
08/23/2013	<u>46</u>	Assented to MOTION <i>to Stay Proceedings</i> as to Eric Norman. (McGinty, Charles) (Entered: 08/23/2013)
08/27/2013	47	Chief Judge Patti B. Saris: ORDER entered. Pursuant to General Order 12-03, <i>Standing Procedural Order re: Appointment of Counsel and Motions for Relief from a Conviction or Sentence Under 28 U.S.C. 2255 or Other Authority, Based on Alleged Misconduct at the William A. Hinton State Laboratory</i> , which can be found at <u>General Order 12-03</u> . A Joint Status Report due by 9/26/2013 (LaFlamme, Jennifer) (Entered: 08/27/2013)
08/27/2013	48	ELECTRONIC NOTICE issued requesting courtesy copy for <u>45</u> MOTION to Vacate under 28 U.S.C. 2255 as to Eric Norman Counsel who filed this document are requested to submit a courtesy copy of this document (or documents) to the Clerk's Office by 9/9/2013. These documents must be clearly marked as a Courtesy Copy and reflect the document number assigned by CM/ECF. (LaFlamme, Jennifer) (Entered: 08/27/2013)
08/28/2013	49	ELECTRONIC NOTICE OF Revo HEARING as to Eric Norman.... Final Hearing re Revocation of Supervised Release set for 9/25/2013 09:30 AM in Courtroom 19 before Chief Judge Patti B. Saris. (Molloy, Maryellen) (Entered: 08/28/2013)
09/25/2013	50	ELECTRONIC Clerk's Notes for proceedings held before Chief Judge Patti B. Saris:Final Hearing re Revocation of Supervised Release as to Eric Norman held on 9/25/2013... Court finds the dft in violation of counts 2-6; Violation I and VII Dismissed w.out

		prejudice. ORDERED: Conditions of Supervision - REVOKED. Sentence Imposed: TIME SERVED; 48 Months S.R. Standard and Special Conditions Imposed. (Attorneys present: AUSA Wortmann, Atty McGinty, PO L Dube.)Court Reporter Name and Contact or digital recording information: Lee Marzilli (617-345-6787). (Molloy, Maryellen) (Entered: 09/25/2013)
09/25/2013	<u>51</u>	Chief Judge Patti B. Saris: ORDER entered. JUDGMENT OF REVOCATION as to Eric Norman (1), Count(s) 1: The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of time served. Upon release from imprisonment, the defendant shall be on supervised release for a term of 48 months with standard and special conditions. (LaFlamme, Jennifer) (Entered: 09/25/2013)
09/26/2013	<u>52</u>	Letter of support re violation hearing as to Eric Norman. (LaFlamme, Jennifer) (Entered: 09/26/2013)
09/30/2013	53	Chief Judge Patti B. Saris: ELECTRONIC ORDER entered GRANTING <u>46</u> Motion to Stay as to Eric Norman (1). "ALLOWED." (LaFlamme, Jennifer) (Entered: 09/30/2013)
10/02/2013	<u>54</u>	Transcript of Rule 11 Hearing as to Eric Norman held on November 18, 2008, before Chief Judge Patti B. Saris. Court Reporter Name and Contact Information: Lee Marzilli at leemarz@aol.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/23/2013. Redacted Transcript Deadline set for 11/4/2013. Release of Transcript Restriction set for 12/31/2013. (Scalfani, Deborah) (Entered: 10/02/2013)
10/02/2013	55	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Scalfani, Deborah) (Entered: 10/02/2013)
10/24/2013	<u>56</u>	Transcript of Sentencing as to Eric Norman held on February 25, 2009, before Chief Judge Patti B. Saris. Court Reporter Name and Contact Information: Brenda Hancock at 617-439-3214 The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 11/14/2013. Redacted Transcript Deadline set for 11/25/2013. Release of Transcript Restriction set for 1/22/2014. (Scalfani, Deborah) (Entered: 10/24/2013)
10/24/2013	57	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Scalfani, Deborah) (Entered: 10/24/2013)
03/10/2014	62	ELECTRONIC NOTICE OF HEARING as to Eric Norman Initial Appearance on Revocation Proceedings set for 3/10/2014 03:30 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 03/10/2014)
03/10/2014	63	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Initial Appearance re Revocation of probation as to Eric Norman held on 3/10/2014. Government moves for detention. Defendant agrees to waive PC and agrees to an order of voluntary detention without prejudice. Defendant remanded to the USMS. (Final Probation Revocation Hearing set for 3/21/2014 10:00 AM in Courtroom 19 before Chief Judge Patti B. Saris.) (Attorneys present: Wortmann, McGinty.)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts/CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 03/11/2014)

03/18/2014	<u>64</u>	Arrest Warrant Returned Executed on 3/10/2014 as to Eric Norman. (LaFlamme, Jennifer) (Entered: 03/19/2014)
03/21/2014	<u>65</u>	ELECTRONIC Clerk's Notes for proceedings held before Chief Judge Patti B. Saris:Final Hearing re Revocation of Supervised Release as to Eric Norman held on 3/21/2014. Parties agree to 5 Months Imprisonment. ORDERED: Conditions of Supervised Released are hereby REVOKED: sentence imposed: 5 Months Imprisonment, No Term of Supervision imposed. Defendant Remanded back to the Custody of the US Marshal, court adjourned. (Ausa Wortmann, Atty McGinty, PO L.Dube)Court Reporter Name and Contact or digital recording information: Lee Marzilli (617-345-6787). (Molloy, Maryellen) (Entered: 03/21/2014)
03/21/2014	<u>66</u>	Stipulation of Voluntary Dismissal as to Eric Norman. (McGinty, Charles) Modified docket text and event on 3/25/2014 (LaFlamme, Jennifer). (Entered: 03/21/2014)
03/21/2014		Terminate Deadlines and Hearings as to Eric Norman as to Supervised Release. (Molloy, Maryellen) (Entered: 03/21/2014)
03/24/2014	<u>67</u>	Chief Judge Patti B. Saris: JUDGMENT OF REVOCATION entered as to Eric Norman (1), Count(s) 1: The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 5 months. The defendant is remanded to the custody of the United States Marshal. Upon release from imprisonment, no term of supervised release imposed. (LaFlamme, Jennifer) (Entered: 03/25/2014)
04/02/2014	<u>68</u>	STIPULATION of Voluntary Dismissal by Eric Norman (McGinty, Charles) Modified docket text on 4/3/2014 (LaFlamme, Jennifer). (Entered: 04/02/2014)
04/10/2014	<u>69</u>	Chief Judge Patti B. Saris: ELECTRONIC ORDER entered terminating <u>45</u> Motion to Vacate (2255) as to Eric Norman (1) as per <u>68</u> Stipulation of Voluntary Dismissal. (LaFlamme, Jennifer) Civil Case 1:13-cv-12047-PBS closed. (Entered: 04/10/2014)

PACER Service Center			
Transaction Receipt			
03/27/2019 14:05:01			
PACER Login:	md5530:4027328:0	Client Code:	
Description:	Docket Report	Search Criteria:	1:08-cr-10340-PBS
Billable Pages:	9	Cost:	0.90

**SUPREME JUDICIAL COURT
for Suffolk County
Case Docket**

COMMONWEALTH v. ERIC NORMAN
SJ-2018-0336

CASE HEADER

Case Status	Interlocutory appeal allowed	Status Date	08/27/2018
Nature	Lv for interloc appeal	Entry Date	07/30/2018
Sub-Nature	Mot to Suppress	Single Justice	BD
TC Ruling	Mot to Suppress allowed	TC Ruling Date	07/13/2018
SJ Ruling		TC Number	
Pet Role Below	Plaintiff in lower court	Full Ct Number	
Lower Court	Middlesex Superior Court	Lower Ct Judge	Kenneth J. Fishman, J.

INVOLVED PARTY

ATTORNEY APPEARANCE

Commonwealth
Defendant/Petitioner

Jamie Michael Charles, Assistant District Attorney

Eric Norman
Plaintiff/Respondent

Arnold I. Abelow, Esquire

DOCKET ENTRIES

Entry Date	Paper	Entry Text
07/30/2018		Case entered.
07/30/2018	#1	Commonwealth's Application For Leave To Pursue An Interlocutory Appeal Pursuant to Mass. R. Crim. P. 15 (a) (2) filed by ADA Jamie Michael Charles.
07/30/2018	#2	Memorandum In Support Of Commonwealth's Application For Leave To Pursue An Interlocutory Appeal with Certificate of Service and Exhibits A & B filed by ADA Jamie Michael Charles.
08/21/2018	#3	Defendant's Opposition To Commonwealth's Application For leave To Pursue An Interlocutory Appeal filed by Atty. Arnold Abelow.
08/21/2018	#4	Memorandum In Support Of Defendant's Opposition To Commonwealth's Application For Leave To Pursue An Interlocutory Appeal filed by Atty. Arnold Abelow.
08/21/2018	#5	Defendant's MOTION For Leave To File Late The Defendant's Opposition To Commonwealth's Interlocutory Appeal with Affidavit filed by Atty. Arnold Abelow.
08/21/2018	#6	Certificate of Service of paper #'s 3-5 filed by Atty. Arnold Abelow.
08/21/2018		Under advisement. (Budd, J.).
08/27/2018	#7	ORDER: Interlocutory appeal allowed; to Appeals Court. (Budd, J.)
08/27/2018	#8	Notice to counsel/parties, regarding paper #7 filed.

As of 08/28/2018 20:00

APPEALS COURT
Full Court Panel Case
Case Docket

COMMONWEALTH vs. ERIC NORMAN
2018-P-1245

CASE HEADER			
Case Status	Red & Blue briefs filed	Status Date	03/07/2019
Nature	Crime against Property	Entry Date	09/04/2018
Sub-Nature	Armed Home Invasion	SJ Number	
Appellant	Plaintiff	Case Type	Criminal
Brief Status		Brief Due	
Panel		Argued/Submitted	
Citation		Decision Date	
Lower Court	Middlesex Superior Court	TC Number	
Lower Ct Judge	Kenneth J. Fishman, J.	TC Entry Date	12/10/2015
FAR Number		SJC Number	

INVOLVED PARTY	ATTORNEY APPEARANCE
Commonwealth Plaintiff/Appellant Blue brief & appendix filed 2 Exts, 202 Days	Thomas D. Ralph, A.D.A. Jamie Michael Charles, A.D.A.
Eric Norman Defendant/Appellee Red brief filed 1 Ext, 58 Days	Arnold I. Abelow, Esquire Matthew Spurlock, Esquire

DOCKET ENTRIES		
Entry Date	Paper	Entry Text
09/04/2018		Transcripts received: NONE
09/04/2018	#1	Lower Court Assembly of the Record Package
09/04/2018	#2	Notice of entry sent.
10/04/2018	#3	MOTION of Appellant to extend date for filing brief and appendix filed for Commonwealth by Attorney Jamie Charles.
10/05/2018		RE#3: No action taken pending receipt of the docketing statement, now due on or before 10/10/2018. *Notice sent
10/09/2018	#4	Docketing Statement filed for Commonwealth by Attorney Jamie Charles.
10/05/2018	#5	Notice of appearance of Matthew Spurlock for Eric Norman.
10/12/2018	#6	Appellant brief filed for Commonwealth by Attorney Jamie Charles.
10/12/2018	#7	Appendix filed for Commonwealth by Attorney Jamie Charles.
10/18/2018	#8	MOTION of Appellee to extend brief due date filed for Eric Norman by Attorney Matthew Spurlock.
10/18/2018		RE#8: Allowed to 01/10/2019. Notice sent.
01/10/2019	#9	Appellee brief filed for Eric Norman by Attorney Matthew Spurlock.
01/22/2019	#10	Motion of Appellant to extend date for filing Reply Brief filed for Commonwealth by Attorney Jamie Charles.
01/22/2019		RE#10: Allowed to 02/07/2019. *Notice.
02/04/2019	#11	MOTION of Appellant to stay appellate proceedings filed for Commonwealth by Attorney Jamie Charles.
02/06/2019		RE#11: Allowed. Appellate proceedings stayed to 3/6/19. Status report to be filed on or before that date regarding any action in Commonwealth v Johnson, SJC -12483. *Notice/Attest/Fishman, J.
03/06/2019	#12	Status Report filed for Commonwealth by Attorney Jamie Charles.

DOCKET ENTRIES

03/07/2019	RE#12: Appellate proceedings STAYED to 05/06/2019. Status report due 05/06/2019 regarding any action in Commonwealth v Johnson, SJC -12483, or within 7 days of a decision, whichever is earlier. *Notice/Attest/Fishman, J. *Notice.
03/27/2019 #13	Status Report filed for Commonwealth by Attorney Jamie Charles.
03/28/2019	RE#13: The stay of appellate proceedings is vacated. The Commonwealth's reply brief is due on or before 04/09/2019. The Commonwealth is granted leave to address the SJC's decision in Commonwealth v Johnson, SJC -12483, in its reply brief. To the extent the defendant may seek to respond to any new argument raised regarding that decision, he may seek leave to do so upon the filing of the Commonwealth's reply brief. *Notice.

As of 03/28/2019 20:00

CERTIFICATE OF SERVICE

Re: Commonwealth v. Eric Norman,
DAR No. -

I, Jamie Michael Charles, hereby certify that on this day I served the Commonwealth's application for direct appellate review and record appendix on the defendant by causing a copy of each document to be mailed to his attorney:

Matthew Spurlock, Esq.
Committee for Public Counsel Services
44 Bromfield Street
Boston, MA 02108

By: \s\ JAMIE MICHAEL CHARLES
JAMIE MICHAEL CHARLES
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Dated: April 10, 2019