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SJC-11514

COMMONWEALTH vs. NATHANIEL FUJITA.

Middlesex. September 10, 2025. – January 8, 2026.

Present: Budd, C.J., Kafker, Georges, Dewar, & Wolohojian, JJ.

Homicide. Assault and Battery by Means of a Dangerous Weapon. Assault and Battery. Criminal Responsibility. Mental Health. Probable Cause. Practice, Criminal, Affidavit, Motion to suppress, New trial, Sentence, Capital case. Witness, Expert, Cross-examination. Evidence, Expert opinion, Cross-examination. Search and Seizure, Probable cause, Affidavit, Motor vehicle, Computer. Constitutional Law, Sentence.

Indictments found and returned in the Superior Court Department on August 4, 2011.

A pretrial motion to suppress evidence was heard by Mitchell H. Kaplan, J.; the cases were tried before Peter M. Lauriat, J.; and a motion for a new trial, filed on February 28, 2020, was heard by Hélène Kazanjian, J.

Robert F. Shaw, Jr., for the defendant.
Ryan J. Rall, Assistant District Attorney (Casey E. Silvia, Assistant District Attorney, also present) for the Commonwealth.

GEORGES, J. On July 3, 2011, the defendant, Nathaniel Fujita, killed his former high school girlfriend, Lauren Astley,

by strangling her and cutting her throat. Nearly two years later, at trial, the defendant asserted he lacked criminal responsibility. He presented testimony from a forensic psychiatrist who opined that the defendant was unable to appreciate the wrongfulness of his conduct or conform his conduct to the law due to the combined effects of a major depressive episode, a brief psychotic disorder, possible chronic traumatic encephalopathy (CTE), and daily marijuana use. A jury convicted the defendant of murder in the first degree on theories of deliberate premeditation and extreme atrocity or cruelty, as well as two counts of assault and battery by means of a dangerous weapon and one count of assault and battery. The defendant timely appealed from his convictions.

In February 2020, the defendant moved for a new trial, citing newly discovered evidence that he had developed schizophrenia years after the murder. Following an evidentiary hearing, a Superior Court judge denied the motion, concluding that, even assuming the diagnosis was newly discovered evidence, it did not cast real doubt on the justice of the convictions.

This case comes before us as a consolidated appeal from the defendant's convictions and the denial of his motion for a new trial. The defendant principally challenges the denial of his new trial motion, and, secondarily, the denial of his motion to suppress evidence seized from his home and vehicle. As to the

new trial motion, he contends that the judge erred in evaluating his proffered evidence and abused her discretion through various adverse evidentiary rulings. As to the motion to suppress, he argues that the searches lacked probable cause.

We conclude that the judge neither erred nor abused her discretion in denying the motion for a new trial, and we discern no abuse of discretion in the conduct of the evidentiary hearing. We also conclude that the denial of the defendant's motion to suppress was proper. After a full review of the record, we decline to exercise our authority under G. L. c. 278, § 33E, because the jury's finding that the defendant was criminally responsible for the murder was overwhelmingly supported by the evidence, even in light of the posttrial developments. We therefore affirm the defendant's convictions and the denial of his motion for a new trial. Finally, because the defendant was under twenty-one years old at the time of the killing, his sentence of life without the possibility of parole is unconstitutional under Commonwealth v. Mattis, 493 Mass. 216 (2024).

Background. 1. Factual background. We summarize the facts the jury could reasonably have found, reserving certain details for later discussion.

a. The breakup. The victim and the defendant attended the same high school and began dating as sophomores. In his senior

year, shortly before Christmas 2010, the defendant was admitted to college, where he planned to play football. Afterward, some of his grades declined. On April 1, 2011, the victim ended their years-long relationship. A few weeks later, the defendant sent the victim an e-mail message stating that she was the person he "care[d] about the most," that their breakup was the "biggest mistake of [his] life," and that they would "really regret[]" not trying to repair the relationship. The two briefly resumed dating, but the victim ended the relationship for the final time in the latter half of May.

Less than two weeks later, on June 4, 2011, both attended a graduation party. The defendant followed the victim throughout the event and repeatedly asked to speak with her. When she refused, the defendant shoved a pole supporting the event tent, causing the tent to shake as though it were about to collapse. As guests rushed to stabilize the tent, the defendant walked away. The victim went to her mother in tears. Her mother told the defendant that "he needed to settle down" and that he and the victim were "no longer dating." The defendant's continued disruptive behavior again caused the victim to seek out her mother in tears, and he was ultimately forced to leave the party.

The next two times they saw each other -- at their high school graduation on June 5 and at another party on June 11 --

there were no apparent issues. Nevertheless, according to members of the defendant's family, he appeared depressed and his condition worsened over the month of June. In mid-June, the defendant's mother, visibly distraught, visited the victim at her workplace, spoke with her at length, and began to cry outside of the store.

Concerned by that encounter, the victim began sending text messages to the defendant. On June 27, he replied, "I'm not saying I'm going to talk to you but what are your work hours?" When the victim asked why he was "so hostile," the defendant responded, "Let me know what times ur [sic] working and maybe ill [sic] decide to come in." He did not respond to her further text messages until the day of the killing.

b. Forty-eight hours before the killing. In the forty-eight hours preceding the killing, the defendant spent most of his time with family. On July 1, he spent the evening with his cousin; they watched television, talked, and made plans to go to the beach the next day.

On July 2, the defendant and his cousin drove three hours to visit the cousin's friend and spend the afternoon on the beach. The cousin noticed nothing unusual during the drive. At the beach, the defendant tossed a football, smiled, and appeared to enjoy himself. When asked about his relationship with the victim, he responded, "[W]e broke up a while ago." Both the

cousin and the friend sensed the topic was sensitive and dropped it.

After their time on the beach, the group visited the friend's grandparents, with whom the defendant had a brief and coherent conversation. They then went shopping. The defendant made two purchases and behaved normally. He later drove one and one-half hours home without incident.

On July 3, the defendant attended a family barbeque in Framingham celebrating his mother's and uncle's birthdays. Before he arrived, the hostess aunt asked family members to keep the gathering "upbeat," and avoid mentioning the recent breakup, as the defendant "was going through a difficult time." The defendant arrived at around 3 P.M. His aunt and cousin observed nothing unusual about his behavior; he spent most of the afternoon watching television and playing the keyboard with his cousin.

Before leaving, the defendant spoke with his uncle, who complimented his recent weight gain and asked for his college football schedule. The defendant seemed pleased and interacted normally. Around 5:30 P.M., the defendant decided to leave to visit a nearby nutrition store and invited his cousin, who declined.

The defendant then drove to a nearby mall, where he purchased protein powder from the nutrition store. He spent

five to ten minutes in the store. During that time, he spoke with a sales associate and manager and showed no difficulty walking, talking, or completing the transaction.

c. The killing. After purchasing the protein powder, the defendant briefly called the victim. They had exchanged text messages earlier that day and agreed she would come to his house in Wayland after work. Moments before her arrival, the defendant called his mother to ask whether she was on her way home, and then immediately called the victim to tell her to park at the end of the fence near his family's garage so that his mother would not see her.

The victim arrived at 7:05 P.M. and entered the garage with the defendant. There, he used a bungee cord to strangle her until she lost consciousness. He then used a serrated knife to cut her neck multiple times. At some point, the victim suffered blunt force trauma to the back of her head. She died from the combined effects of strangulation and the incised wounds to her throat.

Over the next thirty minutes or so, the defendant undertook a series of steps to conceal the crimes. He drove the victim's car less than one-half mile to a nearby beach parking lot, removed a distinctive locket from her keys, and discarded the keys down a storm drain. He returned home, placed her body into his own vehicle, and drove for about ten minutes to a nearby

marsh. He carried her body at least thirty-five feet through water up to three feet deep and pressed her head deeply into the mud, partially submerging and concealing the body in vegetation. He discarded the locket and a towel soaked with the victim's blood nearby.

At about 7:45 P.M., a witness saw the defendant driving home from the direction of the marsh. He was shirtless and appeared focused while playing loud music with his vehicle's window down. Back home, he hid two bloodied sweatshirts and a pair of bloody sneakers in a crawl space accessible from his bedroom, and cleaned blood from the garage, kitchen, and upstairs bathroom. He then called his mother, who passed her cell phone to his cousin; he told his cousin he had hoped to "hang out" with her that night, "but never mind." The defendant sounded "hyper" during this call. His parents returned home sometime after 8:30 P.M.

Meanwhile, a friend of the victim grew alarmed when the victim failed to respond to text messages and missed a planned meeting. By 8 P.M., the friend began contacting others, including the defendant. When the friend asked whether he had heard from or seen the victim, the defendant responded, "No. This is the last place she would ever be." He further denied hearing from her. When asked how he was doing, he replied, "I was actually in the middle of watching a movie and you

interrupted me, so I have to go."

d. The initial investigation. Later that evening, the victim was reported missing. Her vehicle was found at the town beach, and police began searching the surrounding area. At around midnight, Sergeant William J. Smith of the Wayland police department visited the defendant's home and spoke with him for about five minutes. The defendant stated that the victim had visited him at around 7:45 P.M. that evening and parked near the fence so his mother would not see her. When asked three separate times what they had discussed, he offered only that it had been "awkward." Smith observed nothing unusual about the defendant's demeanor or his ability to communicate.

At about 12:30 A.M. on July 4, Sergeant Richard Manley also went to the defendant's home. The defendant and his mother spoke to Manley for about ten minutes. The defendant again said that the victim had visited his home at 7:45 P.M. When asked whether she might have wanted to rekindle their relationship, he paused, lowered his head, shook it, and said, "No." According to Manley, the defendant was attentive and calm, made eye contact, and spoke normally. With permission, Manley briefly searched the exterior of the home. Minutes after Manley left, the defendant used his laptop computer to search whether water removes fingerprints and opened a webpage on that topic.

At approximately 6:30 A.M. on July 4, Manley returned to

the defendant's home. The defendant's mother let him in. The defendant said he was no longer certain the victim arrived at 7:45 P.M., but thought she came earlier; he otherwise repeated the same account. When asked to check his cell phone's call log, he claimed his cell phone was broken. Manley requested permission to search inside the home, and the defendant and his mother agreed. The twenty-minute search revealed nothing. Manley described the defendant as calm, responsive, attentive, and physically coordinated. After quickly searching the exterior again, Manley left.

e. The arrest. At around 7:30 A.M. on July 4, a biker discovered the victim's body in the marsh and called 911.

At around 11:30 A.M., State police Trooper Anthony DeLucia went to the defendant's home. The defendant was not present, but his father allowed DeLucia to enter and look for the defendant's cell phone. DeLucia briefly searched the defendant's bedroom but could not locate the cell phone.

Later that day, the defendant joined family members at his aunt and uncle's home. The defendant appeared tired and stressed but walked, ate, drank, and conversed without any difficulty. His uncle observed no problems with the defendant's ability to understand or be understood.

Upstairs, the defendant later spoke privately with his cousin. He admitted he had asked to "hang out" with her on the

night of the killing because he needed to be with somebody to get his mind off of what he had done. When asked how the victim's car had ended up at the town beach, he responded, "It was me." When also asked whether police would find anything at his house connecting him to the victim's death, he replied, "They're not going to find a weapon there, if that's what you mean."

The defendant was arrested shortly after 1:30 A.M. on July 5.

2. Expert testimony at trial. At trial, the defendant did not dispute that he killed the victim. Instead, he asserted a lack of criminal responsibility defense, arguing that, due to mental disease or defect, he lacked the substantial capacity both to appreciate the wrongfulness of his conduct and to conform his conduct to the requirements of the law. See Commonwealth v. DiPadova, 460 Mass. 424, 428 (2011), citing Commonwealth v. McHoul, 352 Mass. 544, 546–547 (1967). The defense centered on the testimony of Dr. Wade Myers, a board-certified forensic psychiatrist.

Myers testified that, at the time of the killing, the defendant experienced a brief psychotic episode and entered a dissociative state in which his body was acting while his mind was disconnected from his actions. In Myers's view, the defendant became aware of what he had done only after the

killing was complete.

Myers also addressed whether the defendant was in the prodromal phase of schizophrenia. He explained that the prodromal phase consists of "non-specific" symptoms -- such as disorganized or odd speech, impaired concentration, diminished motivation, social withdrawal, declining academic performance, and sleep disturbances -- that may precede diagnosable schizophrenia. In contrast, "full blown" schizophrenia is characterized by "delusions, hallucinations, disorganized thinking, [and] severe impairment in [a person's] life." Myers testified that certain aspects of the defendant's behavior and symptoms could be consistent with prodromal schizophrenia, noting that the defendant's psychiatric testing reflected an elevated schizophrenia scale. Reviewing the defendant's booking video recording, Myers also pointed to "bizarre" posturing of the defendant's right arm as being consistent with "psychotic disorders like schizophrenia or a brief psychotic episode."

Myers further emphasized the genetic component of mental illness, noting that two of the defendant's great uncles had been diagnosed with schizophrenia. Based on the "combined effect" of the defendant's major depressive episode,[1] brief

[1] Myers testified that the defendant was diagnosed with a major depressive disorder after visiting a psychiatrist on June 15, 2011.

psychotic disorder, possible CTE, and daily marijuana use, Myers opined to a reasonable degree of medical certainty that the defendant lacked the "ability to appreciate the wrongfulness of his actions" and "the capacity to conform his conduct to the requirements of the law."

The Commonwealth's rebuttal expert, Dr. Alison Fife, a board-certified psychiatrist, rejected each of Myers's main conclusions. Fife testified that there was no evidence the defendant suffered from any mental illness and that no psychiatric condition caused or contributed to the killing. She opined that the defendant was not schizophrenic, exhibited no symptoms of prodromal schizophrenia, and showed no signs consistent with CTE. Fife also disagreed that the defendant met the criteria for a major depressive episode in June 2011. In Fife's view, the defendant's conduct before, during, and after the killing demonstrated he acted "purposely" and "intentionally." She concluded that the defendant "[a]bsolutely [did] not" kill the victim because of mental illness; instead, he was primarily motivated by "rage."

3. Procedural history. On August 3, 2011, a grand jury indicted the defendant on one count of murder in the first degree, two counts of assault and battery by means of a dangerous weapon, and one count of assault and battery.

In June 2012, the defendant moved to suppress evidence

seized during July 2011 searches of his family's home and car, which were conducted pursuant to search warrants. A Superior Court judge denied that motion on June 14, 2012.

A jury trial began in the Superior Court on February 13, 2013, before a different judge. After fourteen days of trial, on March 7, 2013, the jury found the defendant guilty on all charges, including murder in the first degree on theories of deliberate premeditation and extreme atrocity or cruelty. The judge sentenced the defendant to life imprisonment without the possibility of parole for the murder conviction; to two concurrent terms of from nine to ten years on the dangerous weapon convictions; and to a concurrent term of two and one-half years on the assault and battery conviction.

Following the filing of his notice of appeal, the defendant filed in this court a motion for a new trial based on a myriad of issues, including newly discovered evidence concerning his mental health. We remitted the motion to the Superior Court. After a four-day evidentiary hearing, a Superior Court judge (motion judge), who had not presided at the defendant's trial, denied the motion.

Discussion. We first address the defendant's challenges to the denial of his motion for a new trial and then turn to his claim regarding the denial of his motion to suppress.

1. Motion for new trial. "A motion for a new trial may be

granted . . . if it appears that justice may not have been done" (quotation omitted). Commonwealth v. Lessieur, 488 Mass. 620, 627 (2021), quoting Mass. R. Crim. P. 30 (b), as appearing in 435 Mass. 1501 (2001). We review the denial of such a motion to determine whether the judge committed "a significant error of law or other abuse of discretion" (citation omitted). Commonwealth v. Shepherd, 493 Mass. 512, 521 (2024). Because the motion judge did not preside at trial, we defer to her credibility determinations at the evidentiary hearing, but we "consider ourselves in as good a position as the motion judge to assess the trial record" (citation omitted). Commonwealth v. Gaines, 494 Mass. 525, 536 (2024).

Where, as here, "an appeal from the denial of a motion for a new trial has been consolidated with a defendant's direct appeal from a conviction of murder in the first degree, we review . . . under G. L. c. 278, § 33E." Commonwealth v. Duke, 489 Mass. 649, 662 (2022). Under § 33E, we review "preserved issues according to the appropriate constitutional or common-law standard and unpreserved issues for a substantial likelihood of a miscarriage of justice" (citation omitted). Shepherd, 493 Mass. at 521.

a. Newly discovered evidence. A defendant seeking a new trial on the ground of newly discovered evidence must satisfy the two-prong test of Commonwealth v. Grace, 397 Mass. 303, 305

(1986).[2]

First, the defendant must show that the evidence "is either 'newly discovered' or 'newly available.'" Commonwealth v. Sullivan, 469 Mass. 340, 350 (2014).[3] Evidence is "newly discovered" only if it was "unknown to the defendant or his counsel and not reasonably discoverable by them at the time of trial." Commonwealth v. Raymond, 450 Mass. 729, 733 n.6 (2008).

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[2] We have interchangeably referred to this inquiry as having two or three steps. Compare Lessieur, 488 Mass. at 627 ("a defendant must meet the two-prong test set forth in . . . Grace"), and Commonwealth v. Cameron, 473 Mass. 100, 104 (2015) (same), with Commonwealth v. Gibson, 489 Mass. 37, 51 (2022) ("A defendant must demonstrate that the evidence is [1] newly discovered [or newly available] and [2] credible and material and that [3] the evidence casts real doubt on the justice of the conviction"), and Commonwealth v. Pina, 481 Mass. 413, 435 (2019) (same). The test is the same.

[3] Although the defendant frames the evidence on appeal as "newly available," the motion judge instead examined the proffered evidence to determine whether it was "newly discovered." Evidence is "newly available" if it was "unavailable at the time of trial for a reason such as a witness's assertion of a privilege against testifying or . . . because a particular forensic testing methodology had not yet been developed or gained acceptance by the courts." Sullivan, 469 Mass. at 350 n.6. The defendant's evidence is not based on a newly developed or accepted forensic science and is therefore better understood as newly discovered evidence. Cf. Commonwealth v. Johnson, 486 Mass. 51, 66-67 (2020) (treating defendant's proposed evidence -- revision to Diagnostic and Statistical Manual of Mental Disorders published after trial -- as newly available). Nonetheless, this does not have any impact on the analysis. See Gibson, 489 Mass. at 51 ("The standard applied to a motion for a new trial based on newly available evidence is the same as applied to one based on newly discovered evidence" [citation omitted]).

Second, the defendant must demonstrate that the evidence "casts real doubt on the justice of the [defendant's] conviction[s]." Commonwealth v. Cowels, 470 Mass. 607, 616 (2015), quoting Grace, 397 Mass. at 305.

i. Factual background. We summarize the motion judge's factual findings, supplemented with record details consistent with those findings and the judge's credibility determinations. Gaines, 494 Mass. at 532. See Commonwealth v. Cousin, 478 Mass. 608, 615 (2018) (subsidiary findings will not be disturbed if warranted by evidence).

In early May 2015, the defendant was transferred from a New Hampshire Department of Corrections facility (correctional facility) to a local hospital after being found mute and unresponsive in his cell. His condition improved with antipsychotic medication, and he was returned to the correctional facility. Less than two weeks later, he was transferred to New Hampshire's Secure Psychiatric Unit (SPU) after again appearing mute and refusing food and fluids.

When first admitted to the SPU, the defendant's initial presumptive diagnosis was catatonic schizophrenia. Over time, however, SPU clinicians questioned that diagnosis because the defendant's presentation was inconsistent: he was mute and unresponsive with some staff but talkative with others. One psychiatrist noted that "[s]chizophrenia, catatonic type appears

less likely by presentation" and that "[m]alingering" was a possibility.[4] Another noted that although "some chance of genuine catatonia" remained, the defendant's pattern -- speaking selectively to staff he viewed as uninvolved with his clinical assessment -- made malingering a "strong possibility."

On two occasions, when asked about his catatonic behavior in early May 2015, the defendant stated that he had intentionally become unresponsive because he was upset with correctional staff and acknowledged that emerging from his nonresponsive state "was a choice he made." Although he exhibited abnormal behavior early in his SPU stay -- including hissing, public masturbation, possible smearing of feces and urine, odd posturing, and intermittent reporting of hearing voices -- the defendant's 2015 discharge paperwork listed both catatonic schizophrenia and psychotic disorder not otherwise specified (NOS) as "rule[d] out." After substantial improvement in his functioning, he was discharged from the SPU in August 2015 and returned to the correctional facility.

In January 2016, the defendant was readmitted to the SPU after reporting suicidal ideation, hearing voices, and possible

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[4] Malingering is clinically defined as the "intentional production of false or grossly exaggerated physical or psychological symptoms, motivated by external incentives such as . . . evading criminal prosecution." American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 726 (5th ed. 2013).

hallucinations during the preceding month. Shortly before readmission, he had also been observed remaining in a single position for up to six hours. Over the next several months, the defendant's mental and physical state deteriorated, and staff documented inconsistent presentations. He was noncommunicative, made little or no eye contact, remained in unusual positions for hours, and showed increasingly poor hygiene. In June 2016, he had urinated on his safety blanket and, on another occasion, he had smeared feces on the walls of his cell.

In August 2016, a medical emergency was declared due to his severely deteriorated condition. After involuntary administration of antipsychotic medication, his condition gradually improved. His December 2016 discharge paperwork listed diagnoses of obsessive compulsive disorder, psychotic disorder NOS (in remission), and antisocial personality disorder.

ii. Expert testimony at the new trial hearing. At the four-day evidentiary hearing, the defendant presented testimony from his trial expert, Dr. Wade Myers, and from Dr. Eric Brown, a clinical forensic psychologist.

Myers testified that, to a reasonable degree of medical certainty, the defendant had developed schizophrenia between 2015 and 2016. In his view, the defendant's 2016 SPU records "very clearly" documented that he met diagnostic criteria: "six

or more months of psychotic symptoms, including the delusional thinking, the . . . thoughts disorder, the confusion, and the auditory hallucinations." Brown, who evaluated the defendant once in August 2015, twice in 2016, and once more in 2020, likewise concluded that the defendant suffered from schizophrenia.

All the experts -- including the Commonwealth's expert -- agreed on several general principles concerning schizophrenia. First, schizophrenia often emerges gradually and is commonly preceded by a prodromal phase marked by subtle, nonspecific symptoms.[5] See American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 117 (5th ed. text revision 2022) (majority of individuals suffering from schizophrenia have gradual onset of schizophrenia); Häfner & an der Heiden, Epidemiology of Schizophrenia, 42 Can. J. Psychiatry 139, 142 (Mar. 1997) (years-long prodromal phase precedes majority of schizophrenia cases). Second, prodromal symptoms typically wax and wane, are noticeable primarily in retrospect, and can be identified reliably only after a schizophrenia diagnosis has been made. See Madaan, Bestha, & Kolli,

[5] Prodromes are "symptoms that signal the impending onset of disease or illness." Merriam-Webster Online Dictionary, https://www.merriam.webster.com/dictionary/prodrome [https://perma.cc/RVU5-UBSD].

Schizophrenia Prodrome: An Optimal Approach, Current Psychiatry, vol. 13, no. 3, Mar. 2014, at 18 ("prodrome is a retrospective diagnosis"). Third, a schizophrenia diagnosis ordinarily requires at least six months of symptoms in the absence of treatment.

At trial, Myers did not diagnose the defendant as having prodromal schizophrenia because he lacked the retrospective confirmation that the defendant would develop schizophrenia -- later provided by the defendant's 2016 presentation. He explained at the evidentiary hearing that, to avoid "overreach[ing]," he had described prodromal schizophrenia only as a "possibility" at trial.

In light of the defendant's later schizophrenia diagnosis and earlier nonspecific symptoms, Myers testified at the evidentiary hearing that the defendant did have prodromal schizophrenia at the time of the murder. This conclusion, he stated, "strengthen[ed]" his trial opinion that the defendant had experienced a "brief" psychotic episode on the night of the killing, because an individual in the prodromal phase is more vulnerable to intermittent psychotic symptoms. Brown agreed, opining that the emergence of the defendant's psychosis sometime in 2015 or 2016 is "inextricably connected" to his behavior at the time of the murder. If the defendant had prodromal schizophrenia in 2011, Brown testified, he was "[d]efinitely"

more susceptible to intermittent psychotic breaks.

The Commonwealth's expert, Dr. Fabian Saleh, a board-certified forensic psychiatrist, disagreed. Although acknowledging the possibility that the defendant developed a "genuine psychotic illness years later," Saleh opined that no reliable nexus could be drawn between that later illness and the defendant's mental state on July 3, 2011. Establishing such a connection, he testified, would require "cherry pick[ing]" information while disregarding (1) the organized, goal-oriented nature of the defendant's conduct before, during, and after the killing; (2) inconsistencies and indications of malingering in the defendant's medical records; and (3) the stress of incarceration as an independent factor capable of triggering psychotic symptoms in someone predisposed to schizophrenia.

iii. Analysis. Having addressed the substance of the defendant's proffer, we turn to the merits of his motion for a new trial. The defendant's theory is straightforward: because he allegedly developed schizophrenia in 2015 or 2016, he now asserts that he must have been in the prodromal stage of the disorder at the time of the 2011 murder, and, therefore, was more likely experiencing a psychotic episode during the killing. We evaluate this claim under the familiar two-prong test for newly discovered evidence, beginning with whether the evidence is newly discovered. See Grace, 397 Mass. at 305.

A. First prong. Under the first prong of the test, the defendant must show that the evidence was "unknown to the defendant or his counsel and not reasonably discoverable by them at the time of trial." Raymond, 450 Mass. at 733 n.6. The motion judge concluded that the defendant's evidence was not newly discovered, based largely on her credibility assessments. Although she credited Brown's testimony that the defendant was "genuinely ill" by August 2016, the motion judge rejected the opinions of both Myers and Brown that the defendant developed schizophrenia between 2015 and 2016. Even assuming onset in that period, the motion judge credited Saleh's testimony that no reliable nexus connected the later schizophrenia diagnosis to the defendant's mental state at the time of the 2011 murder, and she disbelieved the defendant's experts on that issue.

In essence, the defendant argues that because his symptoms emerged years after trial, and any diagnosis of prodromal schizophrenia is necessarily retrospective, he met his burden of showing that this evidence was unknown and not reasonably discoverable at the time of trial. See Raymond, 450 Mass. at 733 n.6. We assume, without deciding, that the defendant satisfied his burden on the first prong and proceed to the second -- whether the newly discovered evidence casts real doubt on the justice of the convictions. See Grace, 397 Mass. at 305.

B. Second prong. Although the motion judge concluded that

the defendant's claim failed at the first prong, she determined, in the alternative, that it also failed at the second prong. In reaching this alternative conclusion, the motion judge implicitly presumed the credibility of the defendant's experts; we accept the judge's credibility determinations and proceed on that basis.

As a preliminary matter, we accept that the newly discovered evidence, if credited, tends to increase the likelihood that the defendant experienced a brief psychotic episode at the time of the killing. See Commonwealth v. Barry, 481 Mass. 388, 404, cert. denied, 589 U.S. 941 (2019), quoting Grace, 397 Mass. at 305 (second prong of analysis requires, "[a]s a threshold matter," that proffered evidence be both "material and credible"). That conclusion could bolster Myers's opinion at trial that the defendant lacked the capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

But even if the defendant suffered from prodromal schizophrenia in 2011, mental illness alone does not preclude a finding of criminal responsibility beyond a reasonable doubt. See Commonwealth v. Rezac, 494 Mass. 368, 371 (2024). A defendant is criminally responsible if the Commonwealth proves that the defendant "did not lack the substantial capacity to appreciate the criminality or wrongfulness of [his] conduct, and

. . . to conform [his] conduct to the requirements of the law," id., "as a result of that mental disease or defect" (emphasis added; citation omitted), Commonwealth v. Dunphe, 485 Mass. 871, 879 (2020). Not every defendant with a mental illness lacks criminal responsibility for his or her acts. See Commonwealth v. Zagrodny, 443 Mass. 93, 108 (2004).

The overwhelming evidence of the defendant's purposeful and controlled actions before, during, and after the killing demonstrated that he appreciated the criminality or wrongfulness of his conduct and retained the ability to conform his behavior to the law. See Rezac, 494 Mass. at 371 (stating criminal responsibility standard); Raymond, 450 Mass. at 734 (newly discovered evidence would likely not have been real factor in jury's deliberations where evidence against defendant was "overwhelming"). The motion judge noted that in the days and hours preceding the killing, no witness observed behavior suggesting the defendant was experiencing a psychotic episode. See, e.g., Commonwealth v. Griffin, 475 Mass. 848, 856 (2016) ("the defendant appeared to be acting normally in the days leading up to the killing"); Commonwealth v. O'Brien, 377 Mass. 772, 781 (1979) ("the defendant appeared normal and acted rationally about the time of the shooting").

The defendant also had a clear motive: he was distraught over the end of the relationship, describing the victim as "the

person [he] care[d] about the most," and their breakup as the "biggest mistake" of his life. He also warned the victim that they would "really regret[]" not trying to make things work. See Commonwealth v. Lawson, 475 Mass. 806, 816 (2016) (criminal responsibility may be proven through inferences arising from evidence of rational motive). Indeed, he had told the victim "there would be no turning back" if they remained apart, and he reacted angrily when she refused to speak to him.

Further, before the defendant was forced to leave a graduation party because of his behavior, the victim's mother reminded the defendant that the victim was no longer dating him. As of the day of the murder, the breakup continued to weigh heavily on him, as evidenced by his aunt's instruction to family members to avoid discussing it. Such state of mind evidence supports a finding of criminal responsibility. See Lawson, 475 Mass. at 816. Additionally, as the motion judge found, the defendant took calculated steps to avoid detection. See Griffin, 475 Mass. at 856-857 (carefully planning murder by taking precautions to prevent being caught supported finding of criminal responsibility). He confirmed that his mother would not return home while the victim was present and told the victim to park out of sight.

Additionally, although not admitted for its truth, the defendant's representation of what occurred during the murder,

as explained by Myers during his cross-examination, sheds further light on the defendant's mental capacity. See Matter of P.R., 488 Mass. 136, 142 (2021) (expert may testify about unadmitted but independently admissible evidence forming basis of expert's opinion if asked on cross-examination). After strangling her into unconsciousness, he left the garage, retrieved a knife from the kitchen, returned, closed the garage door to block outside view, and cut her throat multiple times.

The defendant's deliberate conduct after the killing further undermines Myers's testimony that the defendant was in a psychotic state in the weeks before and days after the attack, "crescendoing" at the time of the attack.[6] Immediately after murdering the victim, the defendant took a series of methodical steps to disperse evidence and avoid detection. First, he drove the victim's car away from his home and discarded the keys -- but only after removing a distinctive locket that would have linked the keys to the victim. Second, he transported the

[6] At trial, Myers marshalled a few examples in support of his ultimate conclusion that the defendant had psychosis at the time of the murder, including what he interpreted as "odd posturing" by the defendant during his booking video recording and references by the defendant to having auditory hallucinations on July 7, 2011. Myers conceded, however, that the defendant only made "vague reference" to having had hallucinations and, in later interviews with Myers, the defendant denied having them. Additionally, Fife testified that she did not see any evidence "whatsoever" of any type of posturing during the defendant's booking video recording.

victim's body approximately ten minutes north of his home, walked deep into a marsh, and pushed the victim's body deep into mud and vegetation to prevent discovery. See Commonwealth v. Robidoux, 450 Mass. 144, 164 (2007) (efforts to conceal victim's remains support inference of consciousness of guilt). Third, after the defendant returned home, he cleaned the victim's blood from his kitchen, showered, and hid his bloody and muddy clothing in a crawl space above his bedroom. See Griffin, 475 Mass. at 856-857 (defendant took methodical steps to clean and leave area of crime); Commonwealth v. Lunde, 390 Mass. 42, 48 (1983) (defendant hid murder weapon). Fourth, in the hours after the murder, when the defendant spoke with the police three separate times, the officers consistently described him as calm, polite, cooperative, coherent, able to make eye contact, and behaving normally. See Lunde, supra ("when the defendant spoke with police, he was coherent and calm" [footnote omitted]). Lastly, the defendant demonstrated his consciousness of guilt by searching online whether water removes fingerprints moments after speaking with police.

As concluded by the motion judge, taken together, the defendant's purposeful conduct before and after the murder -- reinforced by Myers's recounting of the defendant's own description of the killing -- forecloses any real doubt on the justice of the convictions. See Cowels, 470 Mass. at 616. The

motion judge therefore did not abuse her discretion or commit legal error in denying the motion. See Commonwealth v. Moore, 489 Mass. 735, 749 (2022).[7]

b. Alleged errors at the evidentiary hearing. The defendant contends that the motion judge committed several evidentiary errors during the hearing on his motion for a new trial. He argues that these rulings, whether viewed individually or cumulatively, require vacating the denial of his motion and remanding for further proceedings. We address each

[7] Contrary to the defendant's assertion, the motion judge did not apply the wrong standard for newly discovered evidence. The motion judge began her analysis by correctly acknowledging that for a motion for a new trial to be granted based on newly discovered evidence, such evidence must "cast[] real doubt on the justice of the conviction." Raymond, 450 Mass. at 733. Even assuming the motion judge then misstated the law when she said, "[I]f a new trial were to occur, it is unlikely that evidence of the defendant's current mental illness would significantly impact the jury," she otherwise correctly analyzed the potential impact of the newly discovered evidence against the evidence at trial. See Commonwealth v. Linton, 483 Mass. 227, 239 n.5 (2019) (holding no error of law where although judge "at one point misstated the law," elsewhere "the judge properly stated the [legal] standard").

Similarly, although the motion judge misstated the standard under Mass. R. Crim. P. 30 (b) by stating "[a] judge may grant a motion for a new trial only 'if it appears that justice may not have been done,' . . . and the 'trial was infected with prejudicial constitutional error'" (emphasis added), we discern no error as the judge denied the defendant's motion without relying on this misstatement of the law. See Klairmont v. Gainsboro Restaurant, Inc., 465 Mass. 165, 174 n.16 (2013) (acknowledging misstatement of law but concluding judge correctly applied law to facts).

ruling in turn, reviewing for an abuse of discretion. See Commonwealth v. Gibson, 489 Mass. 37, 45 (2022); Commonwealth v. Watkins, 473 Mass. 222, 223 n.2 (2015).

i. Scope of Saleh's testimony. The defendant first argues that the motion judge improperly permitted Saleh to testify beyond the scope of the Commonwealth's prehearing disclosure. Specifically, the defendant challenges (1) Saleh's purported testimony that the defendant did not have schizophrenia, and (2) Saleh's opinion that no nexus existed between the defendant's mental health in 2016 and his mental state on the day of the murder in 2011.

This argument rests on a mistaken premise. Saleh never testified that the defendant did not develop schizophrenia. Although the Commonwealth supplemented its disclosure one business day before the hearing to indicate that Saleh would opine there was "an insufficient basis" to definitively diagnose schizophrenia in 2016, Saleh offered no such opinion. At most, he testified -- favorably to the defendant -- that it was "possible" the defendant developed a "genuine psychotic illness" years after the murder. And when asked whether the defendant's medical records "contained a sufficient basis on which to conclude a definite diagnosis," Saleh did not address whether a "definite diagnosis" could be made; instead, he focused on the absence of any reliable nexus between the defendant's 2016

mental state and his murderous conduct in 2011.

As for Saleh's nexus testimony, the defendant asserts that the Commonwealth's late disclosure unfairly expanded the scope of expert evidence. Even assuming that the testimony should not have been admitted, any error was nonprejudicial. The motion judge relied on the nexus testimony only for the first prong of the newly discovered evidence analysis -- whether the evidence was newly discovered. For the second prong -- whether the new evidence cast real doubt on the justice of the convictions -- the motion judge implicitly assumed a sufficient nexus, but nonetheless concluded that the proffered evidence failed to cast such doubt. Accordingly, any error "did not influence the [fact finder], or had but very slight effect" (citation omitted). Commonwealth v. Cronin, 495 Mass. 170, 181 (2025).[8]

ii. Scope of cross-examination. The defendant next argues that the motion judge improperly limited his cross-examination of Saleh by cautioning defense counsel that further questioning about malingering might open the door to diagnostic testimony. He also claims unfairness because the Commonwealth was offered

[8] For the same reason, even assuming that the motion judge abused her "nearly unreversible discretion" (citation omitted), Commonwealth v. Whitman, 453 Mass. 331, 342 (2009), in denying the defendant an opportunity to present rebuttal evidence -- when the motion judge had previously told the defendant that he should assume he would be able to recall his experts in rebuttal after Saleh testified -- any such error would be nonprejudicial.

an opportunity for redirect examination -- which it did not use -- while he was denied any opportunity for recross-examination.

We discern no abuse of discretion. The motion judge merely cautioned that questions about evidence of malingering in the defendant's postconviction medical records could "open the door[]" to diagnostic testimony regarding the defendant's mental state in 2015 and 2016. In so doing, the motion judge did not prohibit cross-examination on this topic, and her caution was warranted given the risk to the defendant. See Commonwealth v. McCowen, 458 Mass. 461, 479 n.15 (2010) ("We caution defense counsel, in preparing cross-examination, to consider the risk that their inquiry may open the door to the admission of evidence that would otherwise not have been admitted"). Because defense counsel understandably declined to pursue this line of questioning, the defendant "cannot thereafter claim it was error by the court to call the potential hazards of cross-examination to attention." Commonwealth v. Ciminera, 11 Mass. App. Ct. 101, 107, S.C., 384 Mass. 807 (1981). And because the Commonwealth conducted no redirect examination of Saleh, the defendant's objection to the lack of recross-examination of Saleh also fails. See Commonwealth v. O'Brien, 419 Mass. 470, 476 (1995) ("If the recross-examination proposes to enter new territory not raised on redirect, the trial judge has discretion in determining whether to allow the examination").

To the extent the defendant challenges the time limitations imposed on his cross-examination, that claim also fails. A "judge has broad discretion to determine the scope and extent of cross-examination." Commonwealth v. Johnson, 431 Mass. 535, 538 (2000). See Commonwealth v. Caruso, 476 Mass. 275, 296 (2017), citing Mass. G. Evid. § 611(a), (b) (2016) (judges have "discretion to determine the scope of cross-examination"); Mass. G. Evid. § 611(b) (2025). The defendant bears the burden of proving that the motion judge abused her discretion. See Commonwealth v. Garcia, 470 Mass. 24, 35 (2014). Here, the motion judge twice extended the hearing -- from one day to two, and then to four. By the final day, the defendant had presented two experts and three fact witnesses, and had already begun cross-examining Saleh. The motion judge reasonably required that cross-examination of Saleh conclude by 12:30 P.M. to allow for closing arguments, noting that "[f]our days is plenty of time for the court to devote to this type of hearing given the issues and the evidence." On these facts, the limitation fell well within the motion judge's discretion.

iii. Unfair process. Finally, the defendant asserts that the purported procedural errors, taken cumulatively, deprived him of a fair evidentiary hearing. We disagree. Having concluded that none of his claims has merit, we reject his cumulative-error argument as well. See Commonwealth v.

Robinson, 493 Mass. 775, 795 (2024).

2. Motion to suppress. The defendant argues that his motion to suppress the evidence recovered from searches of his family's home and vehicle should have been allowed because the July 4 warrant affidavit did not establish probable cause.[9] He contends that the affidavit failed to establish the relevance of a "reddish-brown stain" found in his bedroom and failed to establish a sufficient nexus to seize his laptop computer.[10]

a. Standard of review. "[O]ur inquiry as to the sufficiency of the search warrant application always begins and ends with the 'four corners of the affidavit.'" Commonwealth v. Mora, 477 Mass. 399, 400 (2017), quoting Commonwealth v. O'Day,

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[9] Two warrants were issued on July 4, 2011 -- one to search the defendant's home and another to search his vehicle. The warrant applications were based on the same affidavit. Accordingly, we address the two July 4 warrant applications together.

The defendant also argues that evidence obtained from a second search of his family's home should have been suppressed. His argument squarely rests on the lawfulness of the initial search, and therefore our analysis focuses solely on whether the initial affidavit established probable cause.

[10] The defendant also argues that information provided in the affidavit by unnamed individuals is unreliable. We need not address this issue because the affidavit contains sufficient facts to establish probable cause without relying on the information from the unnamed sources. See Commonwealth v. Matias, 440 Mass. 787, 789 n.3 (2004) (declining to address informant's reliability where unnecessary to establish probable cause).

440 Mass. 296, 297 (2003). The facts in the affidavit -- and the reasonable inferences drawn from them -- must be sufficient to permit the issuing judge or magistrate to conclude that a crime occurred, see Commonwealth v. Morin, 478 Mass. 415, 425 (2017), and that there exists "a sufficient nexus between the suspected criminal activity, the items sought, and the place to be searched" (quotation and citation omitted), Commonwealth v. Camuti, 495 Mass. 630, 637 (2025). See Commonwealth v. Foster, 471 Mass. 236, 241 (2015) (sufficient nexus must be shown between criminal activity and residence for probable cause to exist for search of residence).

We review de novo a judge's probable cause determination on a defendant's motion to suppress, while also giving "considerable deference" to the issuing magistrate's probable cause determination. Commonwealth v. Lowery, 487 Mass. 851, 856–857 (2021). Because probable cause concerns "probabilities," the affidavit should not be "parsed, severed, and subjected to hypercritical analysis" (citations omitted), Commonwealth v. Clagon, 465 Mass. 1004, 1004 (2013), but rather should be read "as a whole and in a commonsense and realistic fashion" (citation omitted), Camuti, 495 Mass. at 637.

b. Factual background. The July 4 warrant affidavit included the following facts.

The defendant left a family barbeque at around 6 P.M. on

July 3, 2011, in one of his family's vehicles. Later that night, the defendant told police that the victim asked to come to his home, that he called his mother beforehand to find out when she would be returning home from the barbeque, and that he told the victim to park beside the house because he did not want his mother to see them talking. He claimed the victim arrived at around 7:45 P.M., remained in her car, spoke briefly with him about his recent behavior, and then left.

At 8 P.M. -- about fifteen minutes later -- the victim's car was found abandoned near the defendant's home at a nearby beach parking lot. The defendant's parents returned home at about 8:30 P.M. At 10 P.M., the victim's father reported her missing and told police that she frequently communicated with the defendant on the social media platform Facebook.

At 7 A.M. on July 4, the defendant's parents consented to a cursory search of their home and property. While searching the home, police noted a fist-sized hole in the defendant's bedroom wall, consistent with someone punching the wall. At 7:30 A.M., the victim's body was found submerged in water off Water Row, about seven miles from her abandoned car. A bungee cord was wrapped around her neck, she had incised wounds to her neck, and footprints led away from the water's edge where the victim was found. Certain items belonging to the victim, including the keys to her vehicle, her wallet, and her cell phone, were not

recovered.

Later that morning, officers returned to the defendant's home looking for him. The defendant was absent, but his father allowed them inside. While in the defendant's bedroom, the officers observed a "reddish-brown stain" on the carpet and a laptop computer. The defendant's father told police that the defendant had punched the hole in his bedroom wall, had punched another hole elsewhere in the home, and had previously broken a car windshield during an argument in May 2011.

Based on these facts, police sought warrants to search the defendant's home and vehicle for evidence related to the killing, including the victim's missing items, and to seize the defendant's laptop computer.

c. Probable cause analysis. i. Evidence implicating the defendant. Although the defendant concedes that the affidavit established probable cause that a murder had occurred, he argues that no facts connected him to the crime. This claim is meritless. Indeed, the affidavit provided ample facts from which the magistrate could reasonably conclude that the defendant was involved in the victim's violent death.

First, given the timing, it was reasonable to infer that the defendant was the last person to have seen the victim alive. See Commonwealth v. Gentile, 437 Mass. 569, 574-575 (2002) (probable cause existed where, among other things, defendant was

last person to have seen victim). The defendant claimed to have spoken with the victim at approximately 7:45 P.M. -- only fifteen minutes before her car was found abandoned near his home and roughly two hours before she was reported missing. Temporal and geographic proximity weigh heavily in the probable cause analysis. See Commonwealth v. Powell, 102 Mass. App. Ct. 755, 762 n.11 (2023). Also, the defendant took steps to hide his meeting with the victim from his mother, and his father reported incidents in which the defendant had violently expressed his anger by punching walls and breaking a car windshield. Finally, given the violent nature of the killing, the magistrate could reasonably infer that the reddish-brown stain on the defendant's bedroom floor was connected to the killing.

The defendant contends that a reddish-brown stain in a teenager's room "could be attributed to a multitude of substances" and that treating it as blood reflects "an obvious confirmation bias." We disagree. The defendant's argument amounts to the type of "hypercritical analysis" that is improper when reviewing search warrant affidavits (citation omitted). Commonwealth v. Anthony, 451 Mass. 59, 69 (2008). Read as a whole and with reasonable inferences, the reddish-brown stain was not simply found in the bedroom of a random teenager, but in the bedroom of the last person to see the victim alive -- someone who also (1) met with the victim outside that bedroom

shortly before her abandoned car was discovered, and (2) made efforts to hide the victim's visit. The inference that the stain was blood was both reasonable and possible. See Gentile, 437 Mass. at 577 (seizure of defendant's clothing was supported by probable cause where, inter alia, police observed stain believed to be blood on his pants).

ii. Nexus to objects sought and places to be searched. Given the facts implicating the defendant in the victim's violent death, and the locations tied to those facts -- i.e., the defendant's home (where the victim was last seen alive, having driven there in her car) and the defendant's bedroom (where a reddish-brown stain was observed) -- the affidavit established probable cause to believe that forensic evidence from the victim, along with her missing items, might be found in the defendant's home. See Foster, 471 Mass. at 243 ("Because police knew that the defendant had been at his house after the shooting, he could have had the victim's blood on his clothes, his person, or any item he had with him at the scene and wore back to the apartment").

Similarly, the affidavit established probable cause to search the family car. Based on the timeline in the affidavit, the defendant had at most forty-five minutes to kill the victim, abandon her car at the beach parking lot, transport her body to Water Row seven miles away, attempt to hide her body in the

marsh, and return home before his parents' arrival at 8:30 P.M. Because the victim's car was found at 8 P.M. and her body was discovered miles away, it is reasonable to infer that the defendant used his own car to transport the victim's body to Water Row. Accordingly, probable cause existed to believe that forensic evidence or her missing items -- i.e., her cell phone, wallet, and keys -- might be present in the defendant's car. See Commonwealth v. Wilson, 427 Mass. 336, 343 (1998) (facts in search warrant affidavit were sufficient to reasonably infer that defendant used vehicle to travel from crime scene and that because of "extremely violent nature" of crime, trace evidence might be in vehicle).

Finally, regarding the laptop computer, officers observed it in the defendant's bedroom, establishing its location. The remaining question is nexus. Police may seize a computer only if the affidavit provides information establishing "the existence of some 'particularized evidence' related to the crime," and if officers reasonably believe the device is likely to contain that evidence (citation omitted). Commonwealth v. White, 475 Mass. 583, 589-590 (2016). Here, the affidavit did so.

Although the defendant told police his cell phone was broken before the night of July 3, he admitted communicating with the victim and his mother that night. The victim's father

reported that the victim and the defendant frequently communicated on Facebook. The affiant, a State police trooper, averred based on training and experience that he was aware that young people commonly use Facebook to "communicate on a minute-to-minute basis and often make arrangements to meet and organize activities." Therefore, it is reasonable to infer that, without a functioning cell phone, the defendant would have used his laptop computer to access Facebook to arrange the victim's arrival at his home on the day of the murder. Accordingly, these facts establish that "particularized evidence" of the defendant's communications with the victim were likely stored on his laptop computer. See Commonwealth v. Colina, 495 Mass. 13, 31–32 (2024).

Viewed as a whole, and giving appropriate deference to the magistrate's determination, the July 4 affidavit established probable cause to search the defendant's home, vehicle, and laptop computer. The motion to suppress was properly denied.

3. Life sentence without possibility of parole. The parties agree that the sentence of life without the possibility of parole violates art. 26 of the Massachusetts Declaration of Rights because the defendant was under the age of twenty-one years old when he committed murder in the first degree. See Mattis, 493 Mass. at 235. The defendant committed the murder at the age of eighteen and prior to August 2, 2012. His sentence

is therefore unconstitutional, and he is entitled to parole eligibility after serving fifteen years in prison. See id. at 237.

4. Review under G. L. c. 278, § 33E. Having reviewed the entire record pursuant to our duty under G. L. c. 278, § 33E, we find no basis to disturb the defendant's conviction of murder in the first degree. The Commonwealth presented substantial evidence that the defendant acted with deliberate premeditation and with extreme atrocity or cruelty. Even considering the defendant's newly discovered evidence, the trial record amply supports the jury's conclusion that he was criminally responsible. The jury reasonably rejected the defense expert's contrary opinion, particularly given the expert's acknowledgement that the defendant paused the attack in the garage, retrieved a knife from the kitchen, and resumed his deadly attack on the victim only after first closing the garage door -- conduct that weighs heavily against § 33E relief. See Commonwealth v. Colleran, 452 Mass. 417, 431 (2008) (whether defendant "left the scene after an initial confrontation and returned with a weapon to kill the victim" is relevant to § 33E analysis).

Further, this case does not resemble the rare instances where we have exercised our extraordinary § 33E power involving mentally ill defendants. In particular, the killing does not

reflect the kind of spontaneous, motiveless violence associated with severe mental illness as in Colleran, 452 Mass. at 432, or the kind of extreme and unusual circumstances present in Commonwealth v. Berry, 466 Mass. 763, 771, 773-774 (2014) (defendant suffering from profound and long-standing mental illness exhibited bizarre behavior around time of offense, including "zon[ing] out" during attack and making delusional threats after arrest).

Conclusion. We affirm the order denying the defendant's motion for a new trial. We also affirm his conviction of murder in the first degree on the theories of deliberate premeditation and extreme atrocity or cruelty. In accordance with Mattis, 493 Mass. at 237, we remand the matter to the Superior Court to correct the mittimus to reflect the defendant's new sentence of life with the possibility of parole after fifteen years. See Perez v. Commonwealth, 496 Mass. 381, 386 n.11 (2025). The remaining judgments are affirmed.

So ordered.