

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH

NO. FAR-30950

2024-P-1351

COMMONWEALTH OF MASSACHUSETTS,
Appellant
V.

MANUEL BRUNETTE-SILVEIRA
Defendant-Appellee

COMMONWEALTH'S APPLICATION FOR
LEAVE TO OBTAIN FURTHER APPELLATE REVIEW

SUFFOLK COUNTY

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REQUEST FOR LEAVE TO OBTAIN FURTHER APPELLATE REVIEW

The Commonwealth respectfully requests leave from this Court to obtain further appellate review of the decision in *Commonwealth v. Brunette-Silveira*, 106 Mass. App. Ct. 731 (May 12, 2026). There, the Appeals Court reversed the trial judge's denial of defendant's motion for required findings of not guilty, set aside his findings as the factfinder in the bench trial, and entered judgments of not guilty by reason of lack of criminal responsibility. The majority concluded that the Commonwealth's evidence was insufficient to prove that the defendant was criminally responsible where he repeatedly assaulted two police officers over a period of time that was interspersed with bouts of calmness; issued a threat against one officer and carried it out when he had the opportunity to do so; and committed an additional assault from within his holding cell by making use of the limited, offensive materials available to him inside the cell. Further appellate review is appropriate here because the Appeals Court's decision contravenes well established case law regarding the factual quantum necessary for the Commonwealth to meet its burden as well as the role of

the factfinder in assessing the evidence, accepting reasonable inferences derived from it, and ascribing weight to that evidence in determining if the Commonwealth met its burden.

STATEMENT OF PRIOR PROCEEDINGS

On June 2, 2023, the defendant, Manuel Brunette-Silveira, was charged in the Central Division of the Boston Municipal Court with four counts of assault and battery on a police officer, in violation of G. L. c. 265, § 13D, and one count of threatening to commit a crime, in violation of G. L. c. 275, § 2 (No. 2301CR001742) (C.A.10).¹

On February 9, 2024, the defendant waived his right to a trial by jury, and a bench trial commenced before the Honorable Mark Summerville (Tr.1, 6-13). The defendant argued a lack of criminal responsibility by reason of insanity (Tr.50).

Following the presentation of the Commonwealth's evidence, the defense filed a motion for required finding of not guilty, which was denied (Tr.31).

¹ References to the Commonwealth's Appendix to this application will be cited as (C.A.[page]); references to the bench trial transcript will be cited as (Tr.[page]).

Dr. John Young, a licensed forensic psychologist at Bridgewater State Hospital, then testified for the defense, and the defense rested (Tr.32-48). The defendant renewed his motion for required finding of not guilty, which was again denied (Tr.49).²

Following closing arguments, Judge Summerville expressly rejected Dr. Young's expert testimony and found the defendant guilty on all counts (Tr.51). Judge Summerville sentenced the defendant to two and a half years in the house of correction, with 18 months deemed served and the balance suspended for four years (C.A.19; Tr.54). On March 5, 2024, the defendant filed a timely notice of appeal (C.A.19).

The case entered in the Appeals Court on November 26, 2024 (No. 2024-P-1351). Both parties submitted briefs and on November 4, 2025, the Appeals Court (Hershfang, Hodgins, Smyth, JJ) heard oral argument (C.A.3). On May 12, 2026, a divided panel reversed the denial of the defendant's motions for required

² The defendant waived argument on his motion and thus did not articulate any legal basis for why his motion should have been allowed, never mind an argument that the Commonwealth's evidence was insufficient to rebut his raised defense of lack of criminal responsibility (Tr.49).

findings of not guilty, set aside the findings of the trial judge, and entered judgments of not guilty by reason of lack of criminal responsibility in a published opinion, *Commonwealth v. Brunette-Silveira*, 106 Mass. App. Ct. 731 (May 12, 2026) (C.A.3, 7). The Commonwealth did not seek rehearing in the Appeals Court.

STATEMENT OF RELEVANT FACTS

The Commonwealth accepts the Appeals Court statement of the underlying facts and supplements its application by highlighting the following important facts relevant to the Commonwealth's showing supporting criminal responsibility. After the defendant spit on Officer Kalinski and called him a bitch, Officers Kalinski and Leighton were able to transport him to the police station without incident (Tr.22). It was only when the officers were removing the defendant from the cruiser and in close physical proximity that he took advantage of that proximity, spit on Officer Leighton, and then said, "what, bitch, I'm going to punch you in the face" (Tr.22-23). The officers then placed the defendant in a holding cell, "let him calm down," and once calmed, attempted to

retrieve him from the cell to continue the booking process (Tr.23). As they removed him from his cell and took off his handcuffs, the defendant acted on his earlier threat and punched Officer Leighton in the shoulder (Tr.23). The officers put the defendant back in handcuffs and returned him to his cell to again calm down (Tr.23). After some time had passed, Officer Kalinski approached the defendant's cell to once again try and resume the booking process, but the defendant threw a cup of toilet water at him, hitting his face and upper body (Tr.29).³ The defendant did eventually complete the booking process, though Officers Leighton and Kalinski were not involved, having been advised to stay out of the area by that point (Tr.29)

³ The Appeals Court found that it was not clear from Officer Kalinski's testimony whether the throwing of the toilet water happened during the second booking attempt (when the defendant punched Officer Leighton) or the third booking attempt, but found they "need not try to resolve this ambiguity" because "it does not change [their] analysis." *Brunette-Silveira*, 106 Mass. App. Ct. at 732 n.1. However, a plain reading of Officer Kalinski's testimony makes it clear that this happened during the third book attempt, after the defendant had been returned to the holding cell for punching Officer Leighton (Tr.28-29). And as discussed *infra*, this fact is important to the sequence of events and demonstrates the defendant's deliberate, controlled conduct throughout his interactions with the officers.

The Appeals Court held that these facts were insufficient to meet the Commonwealth's burden to prove the defendant "did not lack the substantial capacity to (1) appreciate the criminality or wrongfulness of his conduct and (2) conform his conduct to the requirements of the law." *Brunette-Silveira*, 106 Mass. App. Ct. at 733 (citation omitted). The majority opined that:

There is no evidence of what happened on the short cruiser ride from the scene of the first assault to the police station. There is no evidence that the defendant "calmed down" when left in the cell to do so. There is no evidence of how the defendant was booked, or the process followed, or when the booking was accomplished. The dissent rests on inferences as to what happened when neither testifying witness was present, but that failure of proof left an evidentiary hole that cannot be filled solely with inference. See *Commonwealth v. Simpkins*, 470 Mass. 458, 461-462 (2015); *Commonwealth v. Oyewole*, 470 Mass. 1015, 1016 (2014) (Commonwealth may rely only on "reasonable and possible" inferences drawn from circumstantial evidence to satisfy its burden). This absence of evidence did not give rise to an inference that the defendant's conduct proved criminal responsibility.

Id. at 735.

In comparing the evidence in this case to that presented in other cases where the Commonwealth

satisfied its burden, the court focused on the absence of “evidence of the defendant’s words and conduct before, during, and after the offense,” *Commonwealth v. McGillivray*, 102 Mass. App. Ct. 501, 504 (2023), and stated that the trial evidence here “was limited to the defendant’s charged criminal conduct and did not include any evidence of his acting in a rational, deliberate, or calculated manner.” *Id.* at 736. The Commonwealth’s showing, per the majority, was “gossamer” in its substance. *Id.* at 738.

POINTS ON WHICH FURTHER APPELLATE REVIEW IS SOUGHT

The Commonwealth seeks further appellate review on one issue: whether the Appeals Court erred in concluding that no rational factfinder could find that the defendant was criminally responsible at the time he committed his offenses when the evidence, viewed in the light most favorable to the Commonwealth, demonstrated the defendant’s deliberate assaultive behavior when in close proximity to officers, his ability to issue a specific threat and carry out that threat when the presented with the prime opportunity to do so, his calculated use of the limited, offensive materials available to him within his cell to further

assault one of the officers from a distance, and his capacity to subdue himself when he was neither in proximity to the officers nor had access to any materials to make up for that deficiency.

REASON WHY FURTHER APPELLATE REVIEW IS APPROPRIATE

FURTHER APPELLATE REVIEW IS APPROPRIATE WHERE THE APPEALS COURT FAILED TO VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE COMMONWEALTH, REJECTED REASONABLE INFERENCES SUPPORTED BY THE EVIDENCE, AND CONSEQUENTLY MISAPPLIED THE LAW BECAUSE THE EVIDENCE WAS SUFFICIENT TO ESTABLISH THAT THE DEFENDANT WAS CRIMINALLY RESPONSIBLE WHEN HE REPEATEDLY ASSAULTED TWO POLICE OFFICERS.

A majority of the Appeals Court concluded that the evidence at trial was insufficient to satisfy the Commonwealth's burden of proving the defendant was criminally responsible for his assaults on Officers Leighton and Kalinski. See *Brunette-Silveira*, 106 Mass. App. Ct. at 735. The Commonwealth respectfully asserts that in reaching this conclusion, the majority did not assess the evidence in the light most favorable to the Commonwealth and in forgoing that favorable assessment, misapplied the law. The evidence was correctly assessed by the trial judge and the dissenting justice (Hodgens, J.), both of whom properly applied the law to that evidence. Viewed as a

whole, the facts and circumstances surrounding the defendant's repeated assaults on the officers were sufficient for any rational factfinder to find that the defendant was criminally responsible beyond a reasonable doubt. His actions demonstrated deliberate decision-making, an appreciation for cause and effect, and goal-driven behavior calculated to achieve specific outcomes.

When a defendant presents a defense of a lack of criminal responsibility, the Commonwealth is then required to demonstrate that "the defendant was criminally responsible at the time of the offense beyond a reasonable doubt." *Commonwealth v. Rezac*, 494 Mass. 368, 371 (2024). To meet its burden, the Commonwealth must prove that the defendant either did not have a mental disease or defect at the time of the crime or had the substantial capacity to appreciate the wrongfulness of his conduct and conform his conduct to the requirements of the law. *Id.*, citing *Commonwealth v. McHoul*, 352 Mass. 544, 546-547 (1967).

"A trier of fact may reject the testimony of experts that a defendant lacked criminal responsibility and may infer sanity from the

defendant's conduct and the facts of the crime." *Commonwealth v. Keita*, 429 Mass. 843, 846 (1999). The Commonwealth may prove criminal responsibility through inferences supported by the circumstances of the offense, "including evidence that the defendant planned the offense, acted on a rational motive, made rational decisions in committing the offense and in avoiding capture, and attempted to conceal the offense or his or her role in the offense" as well as "evidence of the defendant's words and conduct before, during, and after the offense." *Commonwealth v. Lawson*, 475 Mass. 806, 815-816 (2016). Indeed, "[i]t will be the rare case where the totality of the evidence regarding the defendant's conduct and the circumstances surrounding the offense will not be sufficient to defeat a defendant's motion for a required finding of not guilty by reason of lack of criminal responsibility." *Id.* at 817.⁴

⁴ In the ten years since this Court acknowledged that it would be a "rare case" where the totality of the circumstances would be insufficient to meet Commonwealth's burden, there does not appear to be a single instance where an appellate court has encountered that rare case and reversed a conviction – that is, until this one.

"In deciding a motion for a required finding of not guilty by reason of lack of criminal responsibility, the judge must examine the evidence in the light most favorable to the Commonwealth and determine whether the evidence and the inferences that reasonably could be drawn from it were of sufficient force to permit a rational finder of fact to conclude that the defendant was criminally responsible beyond a reasonable doubt." *Id.* at 817 (internal quotations omitted). Here, Judge Summerville - acting both as the judge and the factfinder in this bench trial - properly assessed the Commonwealth's evidence, found it sufficient to rebut the defendant's criminal responsibility defense, and correctly denied his motion for required findings of not guilty.

At the outset, this Court need look no further than the majority's summation of the supposed deficiencies in the Commonwealth's case to see that the appellate court did not view the evidence through the favorable lens that is required. *Brunette-Silveira* at 735. The majority writes that "there is no evidence of what happened on the short cruiser ride from the scene of the first assault to the police station,"

Id., yet Officer Leighton was asked if anything happened during transport and he stated that nothing had.⁵ The majority writes that "there is no evidence that the defendant 'calmed down' when left in the cell to do so," *Id.*, yet Officer Leighton testified that they placed the defendant in the holding cell, "let him calm down[,] then" attempted to remove him to complete the booking process, at which point the defendant carried out his previous threat and punched the officer (Tr.23) (emphasis added). And while the majority is correct that "there is no evidence of how the defendant was booked, or the process followed, or when the booking was accomplished," *Id.*, it is certainly reasonable to infer that police were only able to successfully book him because the focus of his

⁵ Officer Leighton's testimony on this point in its relevant context:

Q: And where did you take him in the cruiser?

A: To the A1 District Station.

Q: And did anything happen when you were arriving to the station?

A: **To the transport, no**, but when we arrived, we went to get the suspect out of the vehicle. At which point he spit on me.

Q: And where did the -- so he spit on you when you got back to the station?

A Yes.

(Tr.22) (emphasis added).

aggression, Officers Leighton and Kalinski, removed themselves from the process (Tr.29).

Viewing the evidence in the light most favorable to the Commonwealth, the sequence of events from the moment officers first made contact with the defendant on the street through his eventual booking demonstrates a series of deliberate and goal-driven acts by the defendant that were wholly within his control. The defendant was immediately hostile and combative when officers approached him; he spat on Officer Kalinski and called him a bitch (Tr.20). He was able to refrain from this abusive behavior once in the back of the cruiser during transport and separated from the officers (Tr.22). The vitriol only returned when they removed him from the cruiser at the station and he was back in close physical proximity (Tr.22). The defendant capitalized on this proximity: he spat on Officer Leighton, called him a bitch, and told him he would punch him in the face (Tr.22-23, 28).

Once placed in a holding cell to calm down, the defendant was again able to control himself, reign in his temper, and conceal his aggression, so much so that he convinced the officers he had calmed down

enough for them to resume the booking process (Tr.23, 28). When Officer Leighton went to remove him from the cell and removed his handcuffs, the defendant, back in close physical proximity to the officer, carried out his earlier threat and punched him, just as he promised to (Tr.23, 28).

This cycle repeats itself: after punching Officer Leighton, the defendant was returned to the holding cell, where he again eventually controlled himself enough that he appeared calmed down and ready to resume the booking process (Tr.23, 29). This time it was Officer Kalinski who approached to remove the defendant from the cell, placing himself in close enough proximity for the defendant to capitalize on that nearness and assault him with toilet water (Tr.29). Eventually, the defendant completed the booking process, but only after both Officers Leighton and Kalinski disengaged from the process and other officers took over (Tr.24, 29).

Looking at the totality of the circumstances surrounding this litany of assaults, there was sufficient evidence that the defendant was in control of his behavior and that his choices were deliberate

acts calculated to achieve his desired outcome: demeaning and offensive attacks on Officers Leighton and Kalinski. The threat and assault on Officer Leighton alone provide enough evidence from which a rational factfinder could determine the defendant's capacity to make deliberate, thought-out choices: he planned to punch the officer, issued the threat, and strategically waited until his hands were free to carry out the threat and punch him by the cell. These crimes, as well as the preceding and subsequent assaults on Officer Kalinski, suggest that the defendant was motivated by an anti-police animus - a motive that, while likely viewed as indefensible and distasteful by the community, is not irrational just because it is unpopular. See *Commonwealth v. Ricard*, 355 Mass. 509, 515 (1969) (rejecting syllogism that defendant "was not rational as otherwise he would not have killed a man").

The majority places undue emphasis on the Commonwealth's decision not to introduce evidence of the defendant's behavior in the days before and after the incident to meet its burden. *Brunette-Silveira* at 736-738. And yet, despite placing a premium on

evidence of that kind, the majority erroneously discounts the defendant's words and conduct in the time immediately before, after, and in between each assault and what can be gleaned about his mental status from those periods of time.⁶ As discussed *supra*, the defendant repeatedly exhibited an ability to lash out with threats or physical violence when in close physical proximity to the officers, only to subdue himself when separated from them and adopt an outward affect of calm so convincing that they repeatedly decided he was calm enough to re-engage, at which point he would capitalize on the proximity and assault them again. Where the facts and circumstances surrounding each assault were sufficient to prove that the defendant was criminally responsible for his offenses, it is of no legal consequence that the Commonwealth did not expand its evidence to the days before and after the crimes.

⁶ The defendant's appreciation for right and wrong can be seen even before the police approached him: having caused a disturbance at the courthouse, he knew consequences would likely result from that disturbance and thus fled the premises to avoid them (Tr.19). See *Lawson*, 475 Mass. at 818 (judge could have found defendant criminally responsible based on evidence that he struggled with officers because he feared going back to jail).

The majority's rejection of reasonable inferences arising from the Commonwealth's evidence and their adoption of conclusions contrary to that evidence reveals a subjective dismissal of otherwise objectively reasonable inferences, an assessment that has no place in the court's analysis of the sufficiency of the evidence. See *Commonwealth v. Hartnett*, 72 Mass. App. Ct. 467, 475 (2008), quoting *Jackson v. Virginia*, 443 U.S. 307, 318-319 (1979) (when analyzing sufficiency of evidence, appellate court not required to "ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt"). While the Commonwealth's case was not so overwhelming as to compel every rational factfinder to find criminal responsibility, it was sufficient to support an inference of significant rational behavior. See *Commonwealth v. Kappler*, 416 Mass. 574, 579 (1993) ("The question of what inferences to draw from this evidence is for the jurors, not the trial judge and not this court").

Viewing the evidence in the light most favorable to the Commonwealth, the majority's conclusion that the case "did not include any evidence of

[defendant's] acting in a rational, deliberate, or calculated manner" simply cannot stand. *Brunette-Silveira* at 736. The trial judge, as the factfinder, "was in the best position to evaluate the evidence." *Commonwealth v. Cullen*, 395 Mass. 225, 231 (1985). See *Keita*, 429 Mass. at 845 ("We have never taken away from a trier of fact the determination whether a defendant was criminally responsible when the evidence raised the issue"). Here, the trial judge properly found that the Commonwealth met its burden of proving criminal responsibility. As described by the dissenting justice, the Commonwealth's case established that the defendant "engaged in unlawful and belligerent goal-directed behavior that also reflected a strong 'anti-police' animus aimed at the uniformed officers who confronted him on the street[.]" *Brunette-Silveira* at 738 (Hodgens, J., dissenting). The Appeals Court erred in concluding otherwise, thereby warranting further appellate review by this Court.

CONCLUSION

For the foregoing reasons, the Commonwealth respectfully requests that this Honorable Court allow the application for further appellate review and, ultimately, affirm the defendant's convictions.

Respectfully submitted
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July 28, 2026

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Commonwealth v. Brunette-Silveira

Appeals Court of Massachusetts

November 4, 2025, Argued; May 12, 2026, Decided

No. 24-P-1351.

Reporter

106 Mass. App. Ct. 731 *; 2026 Mass. App. LEXIS 45 **; 2026 LX 299155; 2026 WL 1291041

Counsel: *Meghan K. Oreste* for the defendant.

COMMONWEALTH vs. MANUEL BRUNETTE-SILVEIRA.

Prior History: [**1] Suffolk. COMPLAINT received and sworn to in the Central Division of the Boston Municipal Court Department on June 2, 2023.

Megan Keane (*David D. McGowan*, Assistant District Attorney, also present) for the Commonwealth.

The case was heard by *Mark H. Summerville, J.*

Judges: Present: HERSHFANG, HODGENS, & SMYTH, JJ.

Opinion by: HERSHFANG

Core Terms

criminally responsible, defendant's, fact finder, arrest, sanity, required finding, beyond a reasonable doubt, arresting officer, guilty by reason, assault, police officer, time of offense, court house, burden of proof, defense expert, station, was

Opinion

Headnotes/Summary

Headnotes

MASSACHUSETTS OFFICIAL REPORTS
HEADNOTES

Assault and Battery on Certain Public Officers and Employees > Threatening > Mental Health > Criminal Responsibility > Insanity > Evidence > Insanity > Expert opinion > Witness > Expert > Practice, Criminal > Motion for a required finding

At the trial of a criminal complaint charging assault and battery on a police officer in violation of *G. L. c. 265, § 13D*, and threatening to commit a crime in violation of *G. L. c. 275, § 2*, the defendant was entitled to a required finding of not guilty, where the Commonwealth failed to prove beyond a reasonable doubt that the defendant was criminally responsible at the time of the offenses. [733-738] HODGENS, J., dissenting.

HERSHFANG, J. After a bench trial by a judge of the Boston Municipal Court, the defendant was convicted of four counts of assault and battery on a police officer in violation of *G. L. c. 265, § 13D*, and one count of threatening to commit a crime in violation of *G. L. c. 275, § 2*. The defendant contends, as he did in his motion for a required finding of not guilty, which he made at the close of the Commonwealth's case and renewed at the close of evidence, that the evidence at trial was insufficient as a matter of law to permit a rational fact finder to find beyond a reasonable doubt that he was criminally responsible at the time of the crimes. We agree and reverse.

Background. Because the defendant challenges the sufficiency of the evidence, we describe the trial evidence in the light most favorable [**2] to the Commonwealth. See *Commonwealth v. Griffin*, 475 Mass. 848, 849, 62 N.E.3d 490 (2016). The charges arose after two police officers were called to the Edward W. Brooke Court House for a person causing a disturbance. Because our analysis depends in large part on distinguishing evidence from inference, we describe [732] in some detail the testimony of those two officers, who were the victims of the charged crimes and the Commonwealth's only trial witnesses.

When the officers arrived at the court house, they spoke

with court officers who provided a description of the person and the direction in which he had gone. The officers set out from the court house and, about one minute later, found someone matching the description (the defendant) sitting on the stairs "right down the street." The officers approached the defendant, saying "something to the effect[] of" "can we speak with you," or "how are you, sir?" The defendant responded, "What bitch" and immediately spit on the face and chest of one of the officers (first officer). The officers arrested and handcuffed the defendant and put him in the cruiser for the short drive to the police station.

At the station, the officers sought to remove the defendant from the cruiser. He spit on the second officer's head [**3] and said "something to the effect of, 'What, bitch, I'm going to punch you in the face.'" The officers put the defendant "in [a] holding cell because he wasn't being cooperative. [They] let him calm down. Then [they] attempted to take him out and fingerprint him." When they removed his handcuffs, the defendant punched the second officer in the shoulder. The officers replaced the handcuffs and returned the defendant to the cell.

The second officer had no further contact with the defendant. The first officer tried to remove the defendant from the cell and the defendant "threw a cup of toilet water on [him], in [his] face and [his] upper body."¹ The defendant "was eventually booked" without the involvement of either of the arresting officers. The record is devoid of evidence as to how, when, or by whom this booking was accomplished.

The defendant called an expert in forensic psychology, a licensed psychologist from Bridgewater State Hospital who first met and evaluated the defendant in 2019. The expert opined that on the day of the offense the defendant suffered from a chronic, major mental illness that included both psychotic symptoms and mood episodes, including what the expert characterized [**4] as a "manic episode" at the time of the offense. When the expert spoke with the defendant, the defendant "talked about experiencing [**733] hallucinations" in the police station, but "was not able to go into more specific detail about how those may have influenced his behavior." Because, in the expert's opinion, "that second

level of analysis would have been required to opine whether such symptoms caused substantial impairments in [the defendant's] appreciation of wrongfulness and criminality," the expert was not able to reach a reliable conclusion on the defendant's appreciation of wrongfulness or criminality.

The expert concluded that the defendant "was experiencing substantial impairments in his ability to control his behavior at the time of the offense," including behaviors of "excessively masturbating and consuming his own semen" and "ingesting toilet water" while in the holding cell. The expert testified further that the "assaultive behavior, aggressive behavior, [and] hypersexual behavior" the defendant exhibited at the time of the offense "continued for multiple days ... and did not stop until he received multiple intramuscular injections of antipsychotic medication five to seven [**5] days after the offense occurred."

Discussion. "[A] required finding of not guilty by reason of lack of criminal responsibility may rest on the failure of proof of criminal responsibility." Commonwealth v. Lawson, 475 Mass. 806, 812, 62 N.E.3d 22 (2016). "A trial judge sitting without a jury is presumed, absent contrary indication, to have correctly instructed himself as to the manner in which evidence was to be considered in his role as factfinder." Commonwealth v. Batista, 53 Mass. App. Ct. 642, 648, 761 N.E.2d 523 (2002).

When a defendant raises a defense of lack of criminal responsibility and the trial evidence, if viewed "in the light most favorable to the defendant, would permit a reasonable finder of fact to have a reasonable doubt whether the defendant was criminally responsible at the time of the offense," then "the Commonwealth bears the burden of proving beyond a reasonable doubt that the defendant was criminally responsible." Lawson, 475 Mass. at 811. The Commonwealth then must "prove negatives beyond a reasonable doubt," first, "that the defendant did not have a mental disease or defect at the time of the crime" or, second, "if that is not disproved beyond a reasonable doubt, that no mental disease or defect caused the defendant to lack substantial capacity either to appreciate the criminality of his conduct or to conform his conduct [**6] to the requirements of law." *Id.*, quoting Commonwealth v. Keita, 429 Mass. 843, 849-850, 712 N.E.2d 65 (1999).

The Commonwealth may not simply rest on the so-called "presumption of sanity." Lawson, 475 Mass. at 814. "[T]he inference [**734] that the defendant is

¹ From the officers' testimony it is not clear whether this incident occurred during the second booking attempt (when the defendant punched the second officer) or a third booking attempt. Because it does not change our analysis, we need not try to resolve this ambiguity.

criminally responsible because the great majority of persons are criminally responsible is not sufficient alone to warrant a rational finder of fact to conclude beyond a reasonable doubt that a defendant is criminally responsible." *Id.* at 815. Instead, "through the inferences arising from the circumstances of the offense," the Commonwealth must demonstrate criminal responsibility. *Id.* at 816. Expert testimony is not required. See *Keita*, 429 Mass. at 846. "A trier of fact may reject the testimony of experts that a defendant lacked criminal responsibility and may infer sanity from the defendant's conduct and the facts of the crime." *Id.*

To evaluate the sufficiency of the Commonwealth's evidence of criminal responsibility, we "examine the evidence in the light most favorable to the Commonwealth" to "determine whether 'the evidence and the inferences that reasonably could be drawn from it were 'of sufficient force' to permit a rational finder of fact to conclude that the defendant was criminally responsible beyond a reasonable doubt.'" *Lawson*, 475 Mass. at 816, quoting *Commonwealth v. Scott*, 472 Mass. 815, 820, 37 N.E.3d 1054 (2015). Accordingly, we "must **[**7]** disregard contrary evidence presented by the defendant, including the testimony of a defense expert, unless the contrary evidence demonstrates that the Commonwealth's evidence, or any inference drawn from such evidence, is 'conclusively incorrect'" (citation omitted). *Lawson*, *supra* at 817. "It will be the rare case where the totality of the evidence regarding the defendant's conduct and the circumstances surrounding the offense will not be sufficient to defeat a defendant's motion for a required finding of not guilty by reason of lack of criminal responsibility." *Id.*

The evidence in this case — particularly the expert's testimony — "viewed in the light most favorable to the defendant, would permit a reasonable finder of fact to have a reasonable doubt whether the defendant was criminally responsible at the time of the offense." *Lawson*, 475 Mass. at 811. The Commonwealth therefore bore "the burden of proving beyond a reasonable doubt that the defendant was criminally responsible." *Id.*

Having determined that the Commonwealth bore the burden of proving the defendant was criminally responsible, we disregard the testimony of the defendant's expert, see *Lawson*, 475 Mass. at 817, and view both the remaining evidence and inferences favorably to the Commonwealth. **[**8]** The Commonwealth's proof must be through "the inferences arising from the circumstances of the offense, including

evidence that the defendant planned the of- **[*735]** fense, acted on a rational motive, made rational decisions in committing the offense and in avoiding capture, and attempted to conceal the offense or his or her role in the offense." *Id.* at 816. In assessing whether the Commonwealth met its burden, "[w]e are not permitted to pile inference upon inference." *Commonwealth v. Mazza*, 399 Mass. 395, 399, 504 N.E.2d 630 (1987). Having applied this lens, we conclude that the Commonwealth failed to prove criminal responsibility beyond a reasonable doubt. Although there was ample, uncontested evidence that the defendant spit on, hit, and threw toilet water at the officers, the trial evidence was insufficient to meet the Commonwealth's burden to prove that he did not lack the substantial capacity to (1) appreciate the criminality or wrongfulness of his conduct and (2) conform his conduct to the requirements of law. See *Commonwealth v. Rezac*, 494 Mass. 368, 371, 236 N.E.3d 1193 (2024).

There is no evidence of what happened on the short cruiser ride from the scene of the first assault to the police station. There is no evidence that the defendant "calmed down" when left in the cell to do so. There is no evidence of how the defendant **[**9]** was booked, or the process followed, or when the booking was accomplished. The dissent rests on inferences as to what happened when neither testifying witness was present, but that failure of proof left an evidentiary hole that cannot be filled solely with inference. See *Commonwealth v. Simpkins*, 470 Mass. 458, 461-462, 22 N.E.3d 944 (2015); *Commonwealth v. Oyewole*, 470 Mass. 1015, 1016, 21 N.E.3d 179 (2014) (Commonwealth may rely only on "reasonable and possible" inferences drawn from circumstantial evidence to satisfy its burden). This absence of evidence did not give rise to an inference that the defendant's conduct proved criminal responsibility.

The Commonwealth failed to carry its burden. In *Commonwealth v. Fujita*, 497 Mass. 46, 59-62, 273 N.E.3d 150 (2026), for example, the court ruled that the evidence was sufficient for the jury to reject the defendant's assertion of lack of criminal responsibility in light of his clear motive for the killing, his state of mind (upset about his breakup with the victim), and his "calculated steps to avoid detection," including assuring that no one would come home during the time the victim was there, instructing her to park out of sight, taking care to ensure that the murder was blocked from public view, and taking a "series of methodical steps to disperse evidence and avoid detection." *Id.* at 61. Similarly, in *Griffin*, 475 Mass. at 851-853, 856, the

defendant “appeared to be acting [**10] normally in the days leading up to the killing,” helped a friend [**736] care for his ailing father, and prepared a “last will and testament” before leaving to kill his daughter. *Id.* at 856. “There was also evidence that the defendant carefully planned the killing ... by assembling all of the materials he might need during the assault and placing them in his backpack.” *Id.* He walked to the crime scene in the rain to avoid making noise with his Jeep, cut telephone lines both inside and outside the house, turned off the electricity, “ensur[ing] that any occupants who awoke would be left in the dark,” and took care to clean up and repack his belongings, then left the house without waking anyone. *Id.* at 857.

Those were extreme cases. But even in cases that were closer to this one — that is, closer to the line — the Commonwealth has provided more evidence. *Lawson*, like this case, involved an assault on an arresting police officer. *Lawson*, 475 Mass. at 818. There, the court determined that the evidence was sufficient for a fact finder to infer that

“the defendant (1) told the doctor that he struggled with the officer because he feared he would be taken back to jail and therefore understood that the man was a police officer, with the power [**11] to arrest him; (2) attempted to divert the officers’ attention by asking one of the officers to light his cigarette, because he feared that the officers were going to arrest him on an outstanding warrant and became violent once he realized that his ruse had failed; (3) fought the officers because he wanted to escape rather than be arrested and return to jail; and (4) was fabricating his claims that the person he assaulted was wearing a yellow suit with a reflective emblem and that he did not believe the person to be a police officer.”

Id. Critical to the court’s analysis was that, in addition to evidence about what the defendant did when approached by the officers, the judge had evidence of what the defendant did beforehand (“walking, talking, and laughing with two other men,” and asking the officer to light his cigarette, *id.* at 808), as well as the defendant’s post hoc explanations of his behavior to the testifying expert, *id.* at 809-810. No similar evidence was introduced here. The trial evidence was limited to the defendant’s charged criminal conduct and did not include any evidence of his acting in a rational, deliberate, or calculated manner.

Commonwealth v. McGillivray, 102 Mass. App. Ct. 501,

207 N.E.3d 557 (2023), also involved an attempted assault on a police officer. In [**12] that case, the Commonwealth carried its burden by offering “evidence of the [**737] defendant’s words and conduct before, during, and after the offense.” *Id.* at 504, quoting *Lawson*, 475 Mass. at 816. We concluded that the evidence of criminal responsibility was sufficient because it permitted a rational fact finder to infer that

“(1) the defendant was aware of his own mental health issues when he called police to request hospitalization for a mental health evaluation hours before his confrontation with police; (2) the defendant’s threats to shoot anyone who came to his door were motivated by police officers’ refusal to ‘get off [his] property’ and ‘leave [him] alone’; (3) the defendant knew that his threats and conduct toward police were wrong when he refused to leave his house despite multiple attempts by police to negotiate with him to come outside; and (4) the defendant possessed the ability to control his behavior because, while he was described as ‘agitated,’ ‘angry,’ and ‘yelling’ during interactions with the police, he was ‘calm’ when speaking with his cousin during the [eight-hour] standoff.”

McGillivray, *supra*. Again, no such evidence appears on the record before us.

Finally, in *Keita*, 429 Mass. at 844-845, the defendant first spoke and gestured [**13] obscenely to a fellow passenger on a Massachusetts Bay Transportation Authority (MBTA) subway train and then, as she disembarked, lunged for her, groped her, and muttered obscenities. He was apprehended by another person and, when the victim returned with three uniformed MBTA officers, the defendant “was cooperative and his arrest uneventful”; during the booking process “immediately following his arrest,” the defendant “was docile and responsive to questions concerning his personal history” (citation omitted). *Id.* at 845. A forensic psychologist testified that the defendant was suffering from mental illness on the day of the attack and would have had “substantial difficulties conforming his behavior to the requirements of the law.” *Id.*

Affirming the conviction, the court identified (1) “police testimony that, when arrested, the defendant did not struggle, did not act in an erratic way, and was cooperative,” (2) the defendant’s cooperative behavior during booking, and (3) the fact that, when interviewed by the testifying psychologist, the defendant’s responses suggested he “knew what lawful conduct

was." *Id.* at 848-849. The court described this evidence as "thin," but concluded that, taken together with the [**14] (later questioned) "presump- [**738] tion of sanity," it was sufficient to support the judge's finding of guilt. *Id.* at 849. See *Lawson*, 475 Mass. at 813-815 & nn.7, 8.

If the evidence in *Keita* was "thin," this was gossamer. Without either the pre-*Lawson* "presumption of sanity" or a factual basis from which to infer intent, awareness of criminality, or rational action, see *Lawson*, 475 Mass. at 816, it was an error of law to "pil[e] ... inference upon inference or conjecture and speculation," *Commonwealth v. Armand*, 411 Mass. 167, 170, 580 N.E.2d 1019 (1991), and deny the defendant's motions for a required finding of not guilty.²

The judgments are reversed, the findings are set aside, and judgments of not guilty by reason of lack of criminal responsibility shall enter. The case is remanded for the process applicable to persons found not guilty by reason of lack of criminal responsibility. See *G. L. c. 123, § 16*.

So ordered.

Dissent by: HODGENS

Dissent

HODGENS, J. (dissenting). "It will be the rare case where the totality of the evidence regarding the defendant's conduct and the circumstances surrounding the offense will not be sufficient to defeat a defendant's motion for a required finding of not guilty by reason of lack of criminal responsibility." *Commonwealth v. Lawson*, 475 Mass.

806, 817, 62 N.E.3d 22 (2016). The evidence presented by the Commonwealth shows that this is not that rare case.

Such evidence, offered through the testimony [**15] of two arresting officers, showed the defendant engaged in unlawful and belligerent goal-directed behavior that also reflected a strong "anti-police" animus aimed at the uniformed officers who confronted him on the street: the defendant caused a disturbance at the loading dock of the court house and left the scene; two uniformed officers found him sitting on stairs about a one-minute drive from the court house; the defendant immediately spat on the first [**739] uniformed officer who spoke to him and called the officer a bitch; the officers arrested the defendant and transported him in a police cruiser to the station where he spat on the second arresting officer, called him a bitch, threatened to strike him, and later punched him in the shoulder; the officers placed the defendant in a holding cell where he calmed down; upon interacting with the first officer again, the defendant threw toilet water at him; although initially agitated during booking, the defendant changed his behavior when the first arresting officer left the room; and the defendant successfully completed the booking process with another officer. Viewing the totality of this evidence, and only this evidence, in the light most [**16] favorable to the Commonwealth, I must conclude that the trial judge properly denied the defense motion for a required finding of not guilty by reason of insanity. See *Lawson*, 475 Mass. at 817 (reviewing court and judge "must disregard contrary evidence presented by the defendant, including the testimony of a defense expert").

Until today, our appellate courts have never taken the question of criminal responsibility away from the fact finder. Indeed, the Supreme Judicial Court has repeatedly cautioned against doing so. See, e.g., *Commonwealth v. Rasmusen*, 444 Mass. 657, 662 n.6, 830 N.E.2d 1040 (2005) (required finding generally "not appropriate where the defense is lack of criminal responsibility"); *Commonwealth v. Fernandes*, 436 Mass. 671, 676, 766 N.E.2d 1288 (2002) ("we are aware of no case in which we have ordered the entry of a judgment of not guilty by reason of the defendant's lack of criminal responsibility after a jury has rejected such a defense"); *Commonwealth v. Rosenthal*, 432 Mass. 124, 130, 732 N.E.2d 278 (2000) (same). Especially given the "paramount role of the [fact finder] in assessing the defendant's criminal responsibility," the Commonwealth's evidence did not compel a finding of not guilty by reason of insanity. *Rasmusen*, *supra* at

²The cases cited by the dissent as to inferring sanity only drive home the distinction. In each, the fact finder was presented with evidence that went beyond the bare criminal acts to reveal purposeful behavior: in *Commonwealth v. Gullen*, 395 Mass. 225, 230, 479 N.E.2d 179 (1985), the defendant's history of steady employment before the crime, combined with his targeted and accurate shooting at police officers, followed by flight to the home of the defendant's lawyer and a surrender in response to being told to "give it up"; and, in *Commonwealth v. Cole*, 380 Mass. 30, 33, 35-36, 402 N.E.2d 55 (1980), plans to kill two specific coworkers while reassuring others — accurately — that they were safe and, after the shootings, behaving rationally during booking including calmly invoking Miranda rights.

663.

It is well settled that the Commonwealth is not required to produce expert testimony to show that the defendant had the mental capacity to commit the crime. See Lawson, 475 Mass. at 815-816. Sanity may be inferred **[**17]** from “testimony of lay witnesses who observed [the] defendant at relevant times, [and] the evidence as to the circumstances of the commission of the crime.” Blaisdell v. Commonwealth, 372 Mass. 753, 765-766, 364 N.E.2d 191 (1977). Accord Lawson, *supra*. The fact finder may infer sanity from the “facts underlying the crime and evidence of [the defendant’s] actions before and after the crime.” Commonwealth v. Cullen, **[*740]** 395 Mass. 225, 229, 479 N.E.2d 179 (1985). Those facts showed that by aggressive words and actions, the defendant directed his anger toward the two uniformed police officers who approached him while he passively sat on stairs. His repeated acts directed only at the two arresting officers evinced intentional, goal-directed conduct successfully targeting the officers who were the objects of his anger. See, e.g., Lawson, *supra* at 815, quoting Commonwealth v. Ricard, 355 Mass. 509, 515, 246 N.E.2d 433 (1969) (“anger, revenge, rejection, jealousy, hatred, insult, intoxication, or the like” may account for behavior by sane person); Commonwealth v. LaCava, 438 Mass. 708, 714, 783 N.E.2d 812 (2003) (“serious impediment” to husband’s potential insanity defense to murder of wife included “anger over their impending divorce”); Commonwealth v. Francis, 355 Mass. 108, 111, 243 N.E.2d 169 (1969), S.C., 411 Mass. 579, 583 N.E.2d 849 (1992) (rational motives supporting sanity may include “jealousy, hatred, greed, envy, frustration of aroused sexual desire or the like”). A fact finder could readily conclude that anger and animosity rather than a mental disease or defect **[**18]** motivated the defendant to act as he did. See Commonwealth v. Lunde, 390 Mass. 42, 47-48, 453 N.E.2d 446 (1983) (Commonwealth may carry its burden even when conceding defendant suffered from mental disease or defect).

Beyond discerning a rational motive, the fact finder could also infer sanity from evidence and reasonable inferences showing the defendant was “oriented as to time, place, and persons.” Commonwealth v. Cole, 380 Mass. 30, 36, 402 N.E.2d 55 (1980). He caused a disturbance outside the court house, yet maintained the presence of mind to leave before the police could arrive; he sat passively on stairs along a city street, yet betrayed his frustration at being tracked down by the police; and he spat on the arresting officers and struck them, yet he managed to complete the booking process

with other officers. From this sequence of events a fact finder could conclude that the defendant engaged in “calculated behavior” and was “fully capable of committing” the charged crimes. Jackson v. Virginia, 443 U.S. 307, 325, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979). The defendant’s situational awareness became particularly evident when he showed the ability to turn his hostility on when interacting with the arresting officers and turn it off twice — first, when placed in the holding cell, and second, when another officer suggested that an arresting officer leave the room to enable the defendant **[**19]** to complete the booking process with different officers. See, e.g., Lawson, 475 Mass. at 807 (sufficient evidence of sanity where defendant “resisted arrest and assaulted the officers” but had rational motives); Cullen, 395 Mass. at 226 (sufficient **[*741]** evidence of sanity where defendant “threw a rock at a marked police cruiser” and fired gunshots at officers but attempted to evade capture); Commonwealth v. McGillivray, 102 Mass. App. Ct. 501, 502, 504, 207 N.E.3d 557 (2023) (sufficient evidence of sanity where defendant “threatened to shoot” police but showed “ability to control his behavior”).

The majority characterizes the Commonwealth’s evidence of sanity as “gossamer,” suggests certain inferences are unwarranted, and provides a contrasting and detailed account of the defense expert’s opinion (based on the defendant’s “functioning, thoughts, feelings, [and] motivations at the time of the offense,” medical records, and psychiatric care rendered five days after the arrest), but on appeal we should not be reweighing evidence in all but name. See Cullen, 395 Mass. at 231 n.4 (“extreme thinness of evidence” speaks to weight of evidence and is inappropriate appellate consideration [citation omitted]). The sufficiency “inquiry does not require a court to ‘ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable **[**20]** doubt.’” Jackson, 443 U.S. at 318-319, quoting Woodby v. Immigration & Naturalization Serv., 385 U.S. 276, 282, 87 S. Ct. 483, 17 L. Ed. 2d 362 (1966). Weighing the evidence and inferences from the evidence is the role of the fact finder who notably considered and expressly rejected the testimony of the defense expert in its entirety. That alternative inferences may be drawn from the evidence by an appellate court does not render the evidence insufficient in the trial court. See Commonwealth v. Latimore, 378 Mass. 671, 678-679, 393 N.E.2d 370 (1979). An inference “need only be reasonable and possible; it need not be necessary or inescapable” (citation omitted). Commonwealth v. Merola, 405 Mass. 529, 533, 542 N.E.2d 249 (1989).

Also, just because the Commonwealth could have presented more evidence, as has been done in archetypal criminal responsibility cases such as homicides, does not mean that the evidence presented here (through just two police witnesses) was necessarily insufficient to prove criminal responsibility for assault and battery on a police officer and threatening to commit a crime. When reviewing the denial of a motion for a required finding of not guilty, we should be focused on the Commonwealth's evidence and indulge all reasonable inferences in favor of the Commonwealth. We should also not engage in an extensive review of the defense expert's testimony, particularly where the parties never disputed that the Commonwealth shouldered **[**21]** the burden of proving the defendant's criminal responsibility. See Commonwealth v. Goudreau, 422 Mass. 731, 737, 666 N.E.2d 112 (1996) (Commonwealth bears burden to **[*742]** prove criminal responsibility "once the issue ... is raised"). Ultimately, "[t]he question of what inferences to draw from this evidence is for the [fact finder] ... and not this court." Commonwealth v. Kappler, 416 Mass. 574, 579, 625 N.E.2d 513 (1993).

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Finally, sufficiency of the evidence does not turn on the level of the Commonwealth's ardor for the case — it is controlled by the evidence and inferences from the evidence. At trial, the Commonwealth unsuccessfully attempted to stipulate to the police reports, unsuccessfully attempted to stipulate to the defense expert report, waived the opening statement, waived cross-examination of the defense expert, waived the argument on a required finding motion at the close of evidence, and in a brief closing argument announced that the prosecution declined to "contest[]" the testimony of the defense expert. Once the parties submitted the case to the fact finder, the evidence, and not the strategy or will of the parties, controlled the result. That evidence enabled, but did not compel, the judge to conclude that the defendant was criminally responsible for spitting on, striking, and threatening the two police **[**22]** officers who arrested him. At no point in the trial did the Commonwealth's evidence compel the judge to find the defendant lacked criminal responsibility for this conduct. Only by adverting to the defense evidence can the majority reach the result that it does. If, however, we look only at the Commonwealth's evidence and draw all inferences in its favor, then we have a man on a city street who directed anger and violence at two uniformed police officers — an event that is neither inexplicably irrational nor, sadly, unusual.

COMMONWEALTH'S CERTIFICATE OF SERVICE

I hereby certify under the pains and penalties of perjury that I served a copy of the Commonwealth's petition for further appellate review in the case of *Commonwealth v. Brunette-Silveira* on counsel of record via the Odyssey electronic filing system:

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July 28, 2026

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH

NO. FAR-30950

2024-P-1351

COMMONWEALTH OF MASSACHUSETTS,
Appellee
V.

MANUEL BRUNETTE-SILVEIRA,
Defendant-Appellant

RECORD APPENDIX FOR THE COMMONWEALTH'S APPLICATION FOR
LEAVE TO OBTAIN FURTHER APPELLATE REVIEW

SUFFOLK COUNTY

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July 2026

COMMONWEALTH'S APPENDIX

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Commonwealth v. Brunette-Silveira

Appeals Court of Massachusetts

November 4, 2025, Argued; May 12, 2026, Decided

No. 24-P-1351.

Reporter

106 Mass. App. Ct. 731 *; 2026 Mass. App. LEXIS 45 **; 2026 LX 299155; 2026 WL 1291041

Counsel: *Meghan K. Oreste* for the defendant.

COMMONWEALTH vs. MANUEL BRUNETTE-SILVEIRA.

Prior History: **[**1]** Suffolk. COMPLAINT received and sworn to in the Central Division of the Boston Municipal Court Department on June 2, 2023.

The case was heard by *Mark H. Summerville, J.*

Megan Keane (*David D. McGowan*, Assistant District Attorney, also present) for the Commonwealth.

Judges: Present: HERSHFANG, HODGENS, & SMYTH, JJ.

Opinion by: HERSHFANG

Core Terms

criminally responsible, defendant's, fact finder, arrest, sanity, required finding, beyond a reasonable doubt, arresting officer, guilty by reason, assault, police officer, time of offense, court house, burden of proof, defense expert, station, was

Opinion

Headnotes/Summary

Headnotes

MASSACHUSETTS OFFICIAL REPORTS
HEADNOTES

Assault and Battery on Certain Public Officers and Employees > Threatening > Mental Health > Criminal Responsibility > Insanity > Evidence > Insanity > Expert opinion > Witness > Expert > Practice, Criminal > Motion for a required finding

At the trial of a criminal complaint charging assault and battery on a police officer in violation of *G. L. c. 265, § 13D*, and threatening to commit a crime in violation of *G. L. c. 275, § 2*, the defendant was entitled to a required finding of not guilty, where the Commonwealth failed to prove beyond a reasonable doubt that the defendant was criminally responsible at the time of the offenses. **[733-738]** HODGENS, J., dissenting.

HERSHFANG, J. After a bench trial by a judge of the Boston Municipal Court, the defendant was convicted of four counts of assault and battery on a police officer in violation of *G. L. c. 265, § 13D*, and one count of threatening to commit a crime in violation of *G. L. c. 275, § 2*. The defendant contends, as he did in his motion for a required finding of not guilty, which he made at the close of the Commonwealth's case and renewed at the close of evidence, that the evidence at trial was insufficient as a matter of law to permit a rational fact finder to find beyond a reasonable doubt that he was criminally responsible at the time of the crimes. We agree and reverse.

Background. Because the defendant challenges the sufficiency of the evidence, we describe the trial evidence in the light most favorable **[**2]** to the Commonwealth. See *Commonwealth v. Griffin*, 475 Mass. 848, 849, 62 N.E.3d 490 (2016). The charges arose after two police officers were called to the Edward W. Brooke Court House for a person causing a disturbance. Because our analysis depends in large part on distinguishing evidence from inference, we describe **[*732]** in some detail the testimony of those two officers, who were the victims of the charged crimes and the Commonwealth's only trial witnesses.

When the officers arrived at the court house, they spoke

with court officers who provided a description of the person and the direction in which he had gone. The officers set out from the court house and, about one minute later, found someone matching the description (the defendant) sitting on the stairs “right down the street.” The officers approached the defendant, saying “something to the effect[] of” “can we speak with you,” or “how are you, sir?” The defendant responded, “What bitch” and immediately spit on the face and chest of one of the officers (first officer). The officers arrested and handcuffed the defendant and put him in the cruiser for the short drive to the police station.

At the station, the officers sought to remove the defendant from the cruiser. He spit on the second officer’s head [**3] and said “something to the effect of, ‘What, bitch, I’m going to punch you in the face.’” The officers put the defendant “in [a] holding cell because he wasn’t being cooperative. [They] let him calm down. Then [they] attempted to take him out and fingerprint him.” When they removed his handcuffs, the defendant punched the second officer in the shoulder. The officers replaced the handcuffs and returned the defendant to the cell.

The second officer had no further contact with the defendant. The first officer tried to remove the defendant from the cell and the defendant “threw a cup of toilet water on [him], in [his] face and [his] upper body.”¹ The defendant “was eventually booked” without the involvement of either of the arresting officers. The record is devoid of evidence as to how, when, or by whom this booking was accomplished.

The defendant called an expert in forensic psychology, a licensed psychologist from Bridgewater State Hospital who first met and evaluated the defendant in 2019. The expert opined that on the day of the offense the defendant suffered from a chronic, major mental illness that included both psychotic symptoms and mood episodes, including what the expert characterized [**4] as a “manic episode” at the time of the offense. When the expert spoke with the defendant, the defendant “talked about experiencing [**733] hallucinations” in the police station, but “was not able to go into more specific detail about how those may have influenced his behavior.” Because, in the expert’s opinion, “that second

level of analysis would have been required to opine whether such symptoms caused substantial impairments in [the defendant’s] appreciation of wrongfulness and criminality,” the expert was not able to reach a reliable conclusion on the defendant’s appreciation of wrongfulness or criminality.

The expert concluded that the defendant “was experiencing substantial impairments in his ability to control his behavior at the time of the offense,” including behaviors of “excessively masturbating and consuming his own semen” and “ingesting toilet water” while in the holding cell. The expert testified further that the “assaultive behavior, aggressive behavior, [and] hypersexual behavior” the defendant exhibited at the time of the offense “continued for multiple days ... and did not stop until he received multiple intramuscular injections of antipsychotic medication five to seven [**5] days after the offense occurred.”

Discussion. “[A] required finding of not guilty by reason of lack of criminal responsibility may rest on the failure of proof of criminal responsibility.” Commonwealth v. Lawson, 475 Mass. 806, 812, 62 N.E.3d 22 (2016). “A trial judge sitting without a jury is presumed, absent contrary indication, to have correctly instructed himself as to the manner in which evidence was to be considered in his role as factfinder.” Commonwealth v. Batista, 53 Mass. App. Ct. 642, 648, 761 N.E.2d 523 (2002).

When a defendant raises a defense of lack of criminal responsibility and the trial evidence, if viewed “in the light most favorable to the defendant, would permit a reasonable finder of fact to have a reasonable doubt whether the defendant was criminally responsible at the time of the offense,” then “the Commonwealth bears the burden of proving beyond a reasonable doubt that the defendant was criminally responsible.” Lawson, 475 Mass. at 811. The Commonwealth then must “prove negatives beyond a reasonable doubt,” first, “that the defendant did not have a mental disease or defect at the time of the crime” or, second, “if that is not disproved beyond a reasonable doubt, that no mental disease or defect caused the defendant to lack substantial capacity either to appreciate the criminality of his conduct or to conform his conduct [**6] to the requirements of law.” *Id.*, quoting Commonwealth v. Keita, 429 Mass. 843, 849-850, 712 N.E.2d 65 (1999).

The Commonwealth may not simply rest on the so-called “presumption of sanity.” Lawson, 475 Mass. at 814. “[T]he inference [**734] that the defendant is

¹ From the officers’ testimony it is not clear whether this incident occurred during the second booking attempt (when the defendant punched the second officer) or a third booking attempt. Because it does not change our analysis, we need not try to resolve this ambiguity.

criminally responsible because the great majority of persons are criminally responsible is not sufficient alone to warrant a rational finder of fact to conclude beyond a reasonable doubt that a defendant is criminally responsible." *Id.* at 815. Instead, "through the inferences arising from the circumstances of the offense," the Commonwealth must demonstrate criminal responsibility. *Id.* at 816. Expert testimony is not required. See *Keita*, 429 Mass. at 846. "A trier of fact may reject the testimony of experts that a defendant lacked criminal responsibility and may infer sanity from the defendant's conduct and the facts of the crime." *Id.*

To evaluate the sufficiency of the Commonwealth's evidence of criminal responsibility, we "examine the evidence in the light most favorable to the Commonwealth" to "determine whether 'the evidence and the inferences that reasonably could be drawn from it were 'of sufficient force' to permit a rational finder of fact to conclude that the defendant was criminally responsible beyond a reasonable doubt.'" *Lawson*, 475 Mass. at 816, quoting *Commonwealth v. Scott*, 472 Mass. 815, 820, 37 N.E.3d 1054 (2015). Accordingly, we "must **[**7]** disregard contrary evidence presented by the defendant, including the testimony of a defense expert, unless the contrary evidence demonstrates that the Commonwealth's evidence, or any inference drawn from such evidence, is 'conclusively incorrect'" (citation omitted). *Lawson*, *supra* at 817. "It will be the rare case where the totality of the evidence regarding the defendant's conduct and the circumstances surrounding the offense will not be sufficient to defeat a defendant's motion for a required finding of not guilty by reason of lack of criminal responsibility." *Id.*

The evidence in this case — particularly the expert's testimony — "viewed in the light most favorable to the defendant, would permit a reasonable finder of fact to have a reasonable doubt whether the defendant was criminally responsible at the time of the offense." *Lawson*, 475 Mass. at 811. The Commonwealth therefore bore "the burden of proving beyond a reasonable doubt that the defendant was criminally responsible." *Id.*

Having determined that the Commonwealth bore the burden of proving the defendant was criminally responsible, we disregard the testimony of the defendant's expert, see *Lawson*, 475 Mass. at 817, and view both the remaining evidence and inferences favorably to the Commonwealth. **[**8]** The Commonwealth's proof must be through "the inferences arising from the circumstances of the offense, including

evidence that the defendant planned the of- **[*735]** fense, acted on a rational motive, made rational decisions in committing the offense and in avoiding capture, and attempted to conceal the offense or his or her role in the offense." *Id.* at 816. In assessing whether the Commonwealth met its burden, "[w]e are not permitted to pile inference upon inference." *Commonwealth v. Mazza*, 399 Mass. 395, 399, 504 N.E.2d 630 (1987). Having applied this lens, we conclude that the Commonwealth failed to prove criminal responsibility beyond a reasonable doubt. Although there was ample, uncontested evidence that the defendant spit on, hit, and threw toilet water at the officers, the trial evidence was insufficient to meet the Commonwealth's burden to prove that he did not lack the substantial capacity to (1) appreciate the criminality or wrongfulness of his conduct and (2) conform his conduct to the requirements of law. See *Commonwealth v. Rezac*, 494 Mass. 368, 371, 236 N.E.3d 1193 (2024).

There is no evidence of what happened on the short cruiser ride from the scene of the first assault to the police station. There is no evidence that the defendant "calmed down" when left in the cell to do so. There is no evidence of how the defendant **[**9]** was booked, or the process followed, or when the booking was accomplished. The dissent rests on inferences as to what happened when neither testifying witness was present, but that failure of proof left an evidentiary hole that cannot be filled solely with inference. See *Commonwealth v. Simpkins*, 470 Mass. 458, 461-462, 22 N.E.3d 944 (2015); *Commonwealth v. Oyewole*, 470 Mass. 1015, 1016, 21 N.E.3d 179 (2014) (Commonwealth may rely only on "reasonable and possible" inferences drawn from circumstantial evidence to satisfy its burden). This absence of evidence did not give rise to an inference that the defendant's conduct proved criminal responsibility.

The Commonwealth failed to carry its burden. In *Commonwealth v. Fujita*, 497 Mass. 46, 59-62, 273 N.E.3d 150 (2026), for example, the court ruled that the evidence was sufficient for the jury to reject the defendant's assertion of lack of criminal responsibility in light of his clear motive for the killing, his state of mind (upset about his breakup with the victim), and his "calculated steps to avoid detection," including assuring that no one would come home during the time the victim was there, instructing her to park out of sight, taking care to ensure that the murder was blocked from public view, and taking a "series of methodical steps to disperse evidence and avoid detection." *Id.* at 61. Similarly, in *Griffin*, 475 Mass. at 851-853, 856, the

defendant “appeared to be acting **[**10]** normally in the days leading up to the killing,” helped a friend **[*736]** care for his ailing father, and prepared a “last will and testament” before leaving to kill his daughter. *Id.* at 856. “There was also evidence that the defendant carefully planned the killing ... by assembling all of the materials he might need during the assault and placing them in his backpack.” *Id.* He walked to the crime scene in the rain to avoid making noise with his Jeep, cut telephone lines both inside and outside the house, turned off the electricity, “ensur[ing] that any occupants who awoke would be left in the dark,” and took care to clean up and repack his belongings, then left the house without waking anyone. *Id.* at 857.

Those were extreme cases. But even in cases that were closer to this one — that is, closer to the line — the Commonwealth has provided more evidence. *Lawson*, like this case, involved an assault on an arresting police officer. *Lawson*, 475 Mass. at 818. There, the court determined that the evidence was sufficient for a fact finder to infer that

“the defendant (1) told the doctor that he struggled with the officer because he feared he would be taken back to jail and therefore understood that the man was a police officer, with the power **[**11]** to arrest him; (2) attempted to divert the officers’ attention by asking one of the officers to light his cigarette, because he feared that the officers were going to arrest him on an outstanding warrant and became violent once he realized that his ruse had failed; (3) fought the officers because he wanted to escape rather than be arrested and return to jail; and (4) was fabricating his claims that the person he assaulted was wearing a yellow suit with a reflective emblem and that he did not believe the person to be a police officer.”

Id. Critical to the court’s analysis was that, in addition to evidence about what the defendant did when approached by the officers, the judge had evidence of what the defendant did beforehand (“walking, talking, and laughing with two other men,” and asking the officer to light his cigarette, *id.* at 808), as well as the defendant’s post hoc explanations of his behavior to the testifying expert, *id.* at 809-810. No similar evidence was introduced here. The trial evidence was limited to the defendant’s charged criminal conduct and did not include any evidence of his acting in a rational, deliberate, or calculated manner.

Commonwealth v. McGillivray, 102 Mass. App. Ct. 501,

207 N.E.3d 557 (2023), also involved an attempted assault on a police officer. In **[**12]** that case, the Commonwealth carried its burden by offering “evidence of the **[*737]** defendant’s words and conduct before, during, and after the offense.” *Id.* at 504, quoting *Lawson*, 475 Mass. at 816. We concluded that the evidence of criminal responsibility was sufficient because it permitted a rational fact finder to infer that

“(1) the defendant was aware of his own mental health issues when he called police to request hospitalization for a mental health evaluation hours before his confrontation with police; (2) the defendant’s threats to shoot anyone who came to his door were motivated by police officers’ refusal to ‘get off [his] property’ and ‘leave [him] alone’; (3) the defendant knew that his threats and conduct toward police were wrong when he refused to leave his house despite multiple attempts by police to negotiate with him to come outside; and (4) the defendant possessed the ability to control his behavior because, while he was described as ‘agitated,’ ‘angry,’ and ‘yelling’ during interactions with the police, he was ‘calm’ when speaking with his cousin during the [eight-hour] standoff.”

McGillivray, *supra*. Again, no such evidence appears on the record before us.

Finally, in *Keita*, 429 Mass. at 844-845, the defendant first spoke and gestured **[**13]** obscenely to a fellow passenger on a Massachusetts Bay Transportation Authority (MBTA) subway train and then, as she disembarked, lunged for her, groped her, and muttered obscenities. He was apprehended by another person and, when the victim returned with three uniformed MBTA officers, the defendant “was cooperative and his arrest uneventful”; during the booking process “immediately following his arrest,” the defendant “was docile and responsive to questions concerning his personal history” (citation omitted). *Id.* at 845. A forensic psychologist testified that the defendant was suffering from mental illness on the day of the attack and would have had “substantial difficulties conforming his behavior to the requirements of the law.” *Id.*

Affirming the conviction, the court identified (1) “police testimony that, when arrested, the defendant did not struggle, did not act in an erratic way, and was cooperative,” (2) the defendant’s cooperative behavior during booking, and (3) the fact that, when interviewed by the testifying psychologist, the defendant’s responses suggested he “knew what lawful conduct

was." *Id.* at 848-849. The court described this evidence as "thin," but concluded that, taken together with the [**14] (later questioned) "presump- [**738] tion of sanity," it was sufficient to support the judge's finding of guilt. *Id.* at 849. See *Lawson*, 475 Mass. at 813-815 & nn.7, 8.

If the evidence in *Keita* was "thin," this was gossamer. Without either the pre-*Lawson* "presumption of sanity" or a factual basis from which to infer intent, awareness of criminality, or rational action, see *Lawson*, 475 Mass. at 816, it was an error of law to "pil[e] ... inference upon inference or conjecture and speculation," *Commonwealth v. Armand*, 411 Mass. 167, 170, 580 N.E.2d 1019 (1991), and deny the defendant's motions for a required finding of not guilty.²

The judgments are reversed, the findings are set aside, and judgments of not guilty by reason of lack of criminal responsibility shall enter. The case is remanded for the process applicable to persons found not guilty by reason of lack of criminal responsibility. See *G. L. c. 123, § 16*.

So ordered.

Dissent by: HODGENS

Dissent

HODGENS, J. (dissenting). "It will be the rare case where the totality of the evidence regarding the defendant's conduct and the circumstances surrounding the offense will not be sufficient to defeat a defendant's motion for a required finding of not guilty by reason of lack of criminal responsibility." *Commonwealth v. Lawson*, 475 Mass.

806, 817, 62 N.E.3d 22 (2016). The evidence presented by the Commonwealth shows that this is not that rare case.

Such evidence, offered through the testimony [**15] of two arresting officers, showed the defendant engaged in unlawful and belligerent goal-directed behavior that also reflected a strong "anti-police" animus aimed at the uniformed officers who confronted him on the street: the defendant caused a disturbance at the loading dock of the court house and left the scene; two uniformed officers found him sitting on stairs about a one-minute drive from the court house; the defendant immediately spat on the first [**739] uniformed officer who spoke to him and called the officer a bitch; the officers arrested the defendant and transported him in a police cruiser to the station where he spat on the second arresting officer, called him a bitch, threatened to strike him, and later punched him in the shoulder; the officers placed the defendant in a holding cell where he calmed down; upon interacting with the first officer again, the defendant threw toilet water at him; although initially agitated during booking, the defendant changed his behavior when the first arresting officer left the room; and the defendant successfully completed the booking process with another officer. Viewing the totality of this evidence, and only this evidence, in the light most [**16] favorable to the Commonwealth, I must conclude that the trial judge properly denied the defense motion for a required finding of not guilty by reason of insanity. See *Lawson*, 475 Mass. at 817 (reviewing court and judge "must disregard contrary evidence presented by the defendant, including the testimony of a defense expert").

Until today, our appellate courts have never taken the question of criminal responsibility away from the fact finder. Indeed, the Supreme Judicial Court has repeatedly cautioned against doing so. See, e.g., *Commonwealth v. Rasmusen*, 444 Mass. 657, 662 n.6, 830 N.E.2d 1040 (2005) (required finding generally "not appropriate where the defense is lack of criminal responsibility"); *Commonwealth v. Fernandes*, 436 Mass. 671, 676, 766 N.E.2d 1288 (2002) ("we are aware of no case in which we have ordered the entry of a judgment of not guilty by reason of the defendant's lack of criminal responsibility after a jury has rejected such a defense"); *Commonwealth v. Rosenthal*, 432 Mass. 124, 130, 732 N.E.2d 278 (2000) (same). Especially given the "paramount role of the [fact finder] in assessing the defendant's criminal responsibility," the Commonwealth's evidence did not compel a finding of not guilty by reason of insanity. *Rasmusen*, *supra* at

²The cases cited by the dissent as to inferring sanity only drive home the distinction. In each, the fact finder was presented with evidence that went beyond the bare criminal acts to reveal purposeful behavior: in *Commonwealth v. Gullen*, 395 Mass. 225, 230, 479 N.E.2d 179 (1985), the defendant's history of steady employment before the crime, combined with his targeted and accurate shooting at police officers, followed by flight to the home of the defendant's lawyer and a surrender in response to being told to "give it up"; and, in *Commonwealth v. Cole*, 380 Mass. 30, 33, 35-36, 402 N.E.2d 55 (1980), plans to kill two specific coworkers while reassuring others — accurately — that they were safe and, after the shootings, behaving rationally during booking including calmly invoking Miranda rights.

663.

It is well settled that the Commonwealth is not required to produce expert testimony to show that the defendant had the mental capacity to commit the crime. See Lawson, 475 Mass. at 815-816. Sanity may be inferred **[**17]** from “testimony of lay witnesses who observed [the] defendant at relevant times, [and] the evidence as to the circumstances of the commission of the crime.” Blaisdell v. Commonwealth, 372 Mass. 753, 765-766, 364 N.E.2d 191 (1977). Accord Lawson, *supra*. The fact finder may infer sanity from the “facts underlying the crime and evidence of [the defendant’s] actions before and after the crime.” Commonwealth v. Cullen, **[*740]** 395 Mass. 225, 229, 479 N.E.2d 179 (1985). Those facts showed that by aggressive words and actions, the defendant directed his anger toward the two uniformed police officers who approached him while he passively sat on stairs. His repeated acts directed only at the two arresting officers evinced intentional, goal-directed conduct successfully targeting the officers who were the objects of his anger. See, e.g., Lawson, *supra* at 815, quoting Commonwealth v. Ricard, 355 Mass. 509, 515, 246 N.E.2d 433 (1969) (“anger, revenge, rejection, jealousy, hatred, insult, intoxication, or the like” may account for behavior by sane person); Commonwealth v. LaCava, 438 Mass. 708, 714, 783 N.E.2d 812 (2003) (“serious impediment” to husband’s potential insanity defense to murder of wife included “anger over their impending divorce”); Commonwealth v. Francis, 355 Mass. 108, 111, 243 N.E.2d 169 (1969), S.C., 411 Mass. 579, 583 N.E.2d 849 (1992) (rational motives supporting sanity may include “jealousy, hatred, greed, envy, frustration of aroused sexual desire or the like”). A fact finder could readily conclude that anger and animosity rather than a mental disease or defect **[**18]** motivated the defendant to act as he did. See Commonwealth v. Lunde, 390 Mass. 42, 47-48, 453 N.E.2d 446 (1983) (Commonwealth may carry its burden even when conceding defendant suffered from mental disease or defect).

Beyond discerning a rational motive, the fact finder could also infer sanity from evidence and reasonable inferences showing the defendant was “oriented as to time, place, and persons.” Commonwealth v. Cole, 380 Mass. 30, 36, 402 N.E.2d 55 (1980). He caused a disturbance outside the court house, yet maintained the presence of mind to leave before the police could arrive; he sat passively on stairs along a city street, yet betrayed his frustration at being tracked down by the police; and he spat on the arresting officers and struck them, yet he managed to complete the booking process

with other officers. From this sequence of events a fact finder could conclude that the defendant engaged in “calculated behavior” and was “fully capable of committing” the charged crimes. Jackson v. Virginia, 443 U.S. 307, 325, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979). The defendant’s situational awareness became particularly evident when he showed the ability to turn his hostility on when interacting with the arresting officers and turn it off twice — first, when placed in the holding cell, and second, when another officer suggested that an arresting officer leave the room to enable the defendant **[**19]** to complete the booking process with different officers. See, e.g., Lawson, 475 Mass. at 807 (sufficient evidence of sanity where defendant “resisted arrest and assaulted the officers” but had rational motives); Cullen, 395 Mass. at 226 (sufficient **[*741]** evidence of sanity where defendant “threw a rock at a marked police cruiser” and fired gunshots at officers but attempted to evade capture); Commonwealth v. McGillivray, 102 Mass. App. Ct. 501, 502, 504, 207 N.E.3d 557 (2023) (sufficient evidence of sanity where defendant “threatened to shoot” police but showed “ability to control his behavior”).

The majority characterizes the Commonwealth’s evidence of sanity as “gossamer,” suggests certain inferences are unwarranted, and provides a contrasting and detailed account of the defense expert’s opinion (based on the defendant’s “functioning, thoughts, feelings, [and] motivations at the time of the offense,” medical records, and psychiatric care rendered five days after the arrest), but on appeal we should not be reweighing evidence in all but name. See Cullen, 395 Mass. at 231 n.4 (“extreme thinness of evidence” speaks to weight of evidence and is inappropriate appellate consideration [citation omitted]). The sufficiency “inquiry does not require a court to ‘ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable **[**20]** doubt.’” Jackson, 443 U.S. at 318-319, quoting Woodby v. Immigration & Naturalization Serv., 385 U.S. 276, 282, 87 S. Ct. 483, 17 L. Ed. 2d 362 (1966). Weighing the evidence and inferences from the evidence is the role of the fact finder who notably considered and expressly rejected the testimony of the defense expert in its entirety. That alternative inferences may be drawn from the evidence by an appellate court does not render the evidence insufficient in the trial court. See Commonwealth v. Latimore, 378 Mass. 671, 678-679, 393 N.E.2d 370 (1979). An inference “need only be reasonable and possible; it need not be necessary or inescapable” (citation omitted). Commonwealth v. Merola, 405 Mass. 529, 533, 542 N.E.2d 249 (1989).

Also, just because the Commonwealth could have presented more evidence, as has been done in archetypal criminal responsibility cases such as homicides, does not mean that the evidence presented here (through just two police witnesses) was necessarily insufficient to prove criminal responsibility for assault and battery on a police officer and threatening to commit a crime. When reviewing the denial of a motion for a required finding of not guilty, we should be focused on the Commonwealth's evidence and indulge all reasonable inferences in favor of the Commonwealth. We should also not engage in an extensive review of the defense expert's testimony, particularly where the parties never disputed that the Commonwealth shouldered **[**21]** the burden of proving the defendant's criminal responsibility. See Commonwealth v. Goudreau, 422 Mass. 731, 737, 666 N.E.2d 112 (1996) (Commonwealth bears burden to **[*742]** prove criminal responsibility "once the issue ... is raised"). Ultimately, "[t]he question of what inferences to draw from this evidence is for the [fact finder] ... and not this court." Commonwealth v. Kappler, 416 Mass. 574, 579, 625 N.E.2d 513 (1993).

End of Document

Finally, sufficiency of the evidence does not turn on the level of the Commonwealth's ardor for the case — it is controlled by the evidence and inferences from the evidence. At trial, the Commonwealth unsuccessfully attempted to stipulate to the police reports, unsuccessfully attempted to stipulate to the defense expert report, waived the opening statement, waived cross-examination of the defense expert, waived the argument on a required finding motion at the close of evidence, and in a brief closing argument announced that the prosecution declined to "contest[]" the testimony of the defense expert. Once the parties submitted the case to the fact finder, the evidence, and not the strategy or will of the parties, controlled the result. That evidence enabled, but did not compel, the judge to conclude that the defendant was criminally responsible for spitting on, striking, and threatening the two police **[**22]** officers who arrested him. At no point in the trial did the Commonwealth's evidence compel the judge to find the defendant lacked criminal responsibility for this conduct. Only by adverting to the defense evidence can the majority reach the result that it does. If, however, we look only at the Commonwealth's evidence and draw all inferences in its favor, then we have a man on a city street who directed anger and violence at two uniformed police officers — an event that is neither inexplicably irrational nor, sadly, unusual.

CRIMINAL COMPLAINT ORIGINAL		DOCKET NUMBER 2301CR001742	NO. OF COUNTS 5	Trial Court of Massachusetts BMC Department
DEFENDANT NAME & ADDRESS Manuel Brunette-Silveira 57 HEMENWAY STREET Boston, MA 02115			COURT NAME & ADDRESS BMC Central 24 New Chardon Street, 6th Floor Boston, MA 02114 (617)788-8600	
DEFENDANT DOB 12/20/1981	COMPLAINT ISSUED 06/02/2023	DATE OF OFFENSE 06/01/2023	ARREST DATE 06/01/2023	
OFFENSE CITY / TOWN Boston	OFFENSE ADDRESS 70 STANIFORD STREET		NEXT EVENT DATE & TIME 06/02/2023 09:00 AM	
POLICE DEPARTMENT Boston PD - Area A-1		POLICE INCIDENT NUMBER 232042825		NEXT SCHEDULED EVENT Arraignment
OBTN TBOS230049610	PCF NUMBER 2259333	DEFENDANT XREF ID 6333251		ROOM / SESSION Arraignment - Rm 17, 5th Flr
The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the date(s) indicated below the defendant committed the offense(s) listed below and on any attached pages.				
COUNT	CODE	DESCRIPTION		
1	265/13D/A	A&B ON POLICE OFFICER c265 §13D		
On 06/01/2023 did assault and beat OFFICER WILLIAM KALINSKI, a police officer who was then engaged in the performance of his or her duties, in violation of G.L. c.265, §13D.				
PENALTY: house of correction not less than 90 days, not more than 2½ years; or not less than \$500, not more than \$5000.				
2	265/13D/A	A&B ON POLICE OFFICER c265 §13D		
On 06/01/2023 did assault and beat OFFICER WILLIAM KALINSKI, a police officer who was then engaged in the performance of his or her duties, in violation of G.L. c.265, §13D.				
PENALTY: house of correction not less than 90 days, not more than 2½ years; or not less than \$500, not more than \$5000.				
3	265/13D/A	A&B ON POLICE OFFICER c265 §13D		
On 06/01/2023 did assault and beat OFFICER PETER LEIGHTON, a police officer who was then engaged in the performance of his or her duties, in violation of G.L. c.265, §13D.				
PENALTY: house of correction not less than 90 days, not more than 2½ years; or not less than \$500, not more than \$5000.				
4	265/13D/A	A&B ON POLICE OFFICER c265 §13D		
On 06/01/2023 did assault and beat OFFICER PETER LEIGHTON, a police officer who was then engaged in the performance of his or her duties, in violation of G.L. c.265, §13D.				
PENALTY: house of correction not less than 90 days, not more than 2½ years; or not less than \$500, not more than \$5000.				
5	275/2	THREAT TO COMMIT CRIME c275 §2		
On 06/01/2023 did threaten to commit a crime against the person or property of another, to wit: BODILY HARM, in violation of G.L. c.275, §2.				
PENALTY from §4: Imprisonment not more than 6 months; or not more than \$100; or recognizance to keep the peace for up to 6 months.				

SIGNATURE OF COMPLAINANT 	SWORN TO BEFORE CLERK/MAGISTRATE/ASST. CLERK X 	DATE JUN 02 2023
NAME OF COMPLAINANT	CLERK/MAGISTRATE/ASST. CLERK X	DATE

Notice to Defendant: 42 U.S.C. § 3796gg-4(e) requires this notice: If you are convicted of a misdemeanor crime of domestic violence you may be prohibited permanently from purchasing and/or possessing a firearm and/or ammunition pursuant to 18 U.S.C. § 922 (g) (9) and other applicable related Federal, State, or local laws.

- Case Type:
- Criminal
- Case Status:
- Open
- File Date
- 06/02/2023
- DCM Track:
-
- Initiating Action:
- A&B ON POLICE OFFICER c265 §13D
- Status Date:
- 05/12/2026
- Case Judge:
-
- Next Event:
- 10/29/2026

All Information Party Charge Event Docket Disposition

Party Information

Brunette-Silveira, Manuel
- Defendant

Alias

Party Attorney

- Attorney
- Oreste, Esq., Meghan K
- Bar Code
- 692187
- Address
- Phone Number
-

[More Party Information](#)

Party Charge Information

- **Brunette-Silveira, Manuel**
- - Defendant
- Charge # 1:
265/13D/A-0 - Misdemeanor - more than 100 days incarceration A&B ON POLICE OFFICER c265 §13D

- Original Charge
- 265/13D/A-0 A&B ON POLICE OFFICER c265 §13D (Misdemeanor - more than 100 days incarceration)
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
02/09/2024
Guilty - Bench Finding

- **Brunette-Silveira, Manuel**
- - Defendant
- Charge # 2:
265/13D/A-0 - Misdemeanor - more than 100 days incarceration A&B ON POLICE OFFICER c265 §13D

- Original Charge
- 265/13D/A-0 A&B ON POLICE OFFICER c265 §13D (Misdemeanor - more than 100 days incarceration)
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
02/09/2024
Guilty - Bench Finding

- Brunette-Silveira, Manuel

- - Defendant

Charge # 3:

265/13D/A-0 - Misdemeanor - more than 100 days incarceration A&B ON POLICE OFFICER c265 §13D

- Original Charge
- 265/13D/A-0 A&B ON POLICE OFFICER c265 §13D (Misdemeanor - more than 100 days incarceration)
- Amended Charge
-

Charge Disposition

Disposition Date

Disposition

02/09/2024

Guilty - Bench Finding

- Brunette-Silveira, Manuel

- - Defendant

Charge # 4:

265/13D/A-0 - Misdemeanor - more than 100 days incarceration A&B ON POLICE OFFICER c265 §13D

- Original Charge
- 265/13D/A-0 A&B ON POLICE OFFICER c265 §13D (Misdemeanor - more than 100 days incarceration)
- Amended Charge
-

Charge Disposition

Disposition Date

Disposition

02/09/2024

Guilty - Bench Finding

- Brunette-Silveira, Manuel

- - Defendant

Charge # 5:

275/2-0 - Misdemeanor - more than 100 days incarceration THREAT TO COMMIT CRIME c275 §2

- Original Charge
- 275/2-0 THREAT TO COMMIT CRIME c275 §2 (Misdemeanor - more than 100 days incarceration)
- Amended Charge
-

Charge Disposition

Disposition Date

Disposition

02/09/2024

Guilty - Bench Finding

Events

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
06/02/2023 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Arraignment		Held - Bail or Conditions of Release ordered
06/05/2023 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Arraignment		Held - Bail or Conditions of Release ordered
06/23/2023 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Hearing to Review Status		Review Completed
07/17/2023 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Hearing to Review Status		Reschedule of Hearing
08/11/2023 09:00 AM	Videoconference-Courtroom 13, 5th Floor	BOS-5th FL, CR 13 (BMC)	Hearing to Review Status		Review Completed
08/11/2023 09:00 AM	Pre-Trial - Courtroom 14, 5th Flr		Hearing to Review Status		Reschedule of Hearing
09/18/2023 09:00 AM	Pre-Trial - Courtroom 14, 5th Flr		Hearing to Review Status		Reschedule of Hearing
09/18/2023 09:00 AM	Videoconference-Courtroom 13, 5th Floor	BOS-5th FL, CR 13 (BMC)	Hearing to Review Status		Held via video conference
10/20/2023 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Probable Disposition		Not Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
11/28/2023 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Hearing to Review Status		Review Completed
12/18/2023 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Hearing to Review Status		Reschedule of Hearing
12/18/2023 09:00 AM	Videoconference-Courtroom 13, 5th Floor	BOS-5th FL, CR 13 (BMC)	Hearing to Review Status		Review Completed
01/11/2024 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Motion Hearing (CR)		Held - Motion allowed
01/19/2024 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Bench Trial (CR)		Reschedule of Hearing
02/09/2024 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr	BOS-5th FL, CR 15 (BMC)	Bench Trial (CR)		Held
05/08/2025 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Motion Hearing (CR)		Held - Motion allowed
07/31/2025 09:00 AM	Arraignment - Rm 17, 5th Flr	BOS-5th FL, CR 17 (BMC)	Default Removal Hearing		Held
08/15/2025 09:00 AM	MH Session - Courtroom 16, 5th Flr	BOS-5th FL, CR 16 (BMC)	Hearing to Review Status		Defendant defaulted-FI to Appear
06/26/2026 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr		Hearing to Review Status		Held
10/29/2026 09:00 AM	Motions & Trials - Courtroom 15, 5th Flr		Hearing to Review Status		
02/09/2028 09:00 AM	Administrative - Rm 507	BOS-5th FL, RM 507 (BMC)	Probation Until		Event Cancelled

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/02/2023	Criminal Complaint issued from Electronic Application: Originating Court: BMC Central Case Number: 2301AC002195-AR Receiving Court: BMC Central ;			
06/02/2023	Complaint issued upon new arrest.			
06/02/2023	Event Resulted: Arraignment scheduled on: 06/02/2023 09:00 AM Has been: Held - Bail or Conditions of Release ordered Hon. Joseph Griffin, Jr., Presiding			
06/02/2023	Participants at Court Event - Defendant in Court - Assistant District Attorney Jones - Probation Representative Izzo - Session Clerk - HW - Courtroom and Time - 17/ 234. Atty Enciso appears Judge: Griffin, Jr., Hon. Joseph			
06/02/2023	Defendant refuses to speak to Attorney Enciso Judge: Griffin, Jr., Hon. Joseph			
06/02/2023	Defendant is ordered committed without bail because OTHER REASON: to Suffolk County Jail returnable for 06/05/2023 09:00 AM Arraignment; mittimus issued. Court location of next event (if not this court): Further Orders: Judge: Griffin, Jr., Hon. Joseph		1	
06/05/2023	Order for hospitalization and examination of defendant as to COMPETENCE TO STAND TRIAL pursuant to G.L. c 123, § 15(b) issued to Bridgewater State Hospital returnable 06/23/2023 09:00 AM Hearing to Review Status Judge: Sinnott, Hon. Richard			

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/05/2023	Event Resulted: Arraignment scheduled on: 06/05/2023 09:00 AM Has been: Held - Bail or Conditions of Release ordered Hon. Richard Sinnott, Presiding			
06/05/2023	Participants at Court Event - Defendant In Court - Assistant District Attorney Jones - Probation Representative Jurczak - Session Clerk - KN - Courtroom and Time - 17, 1:01, 2:48. Attorney McCarthy present Judge: Sinnott, Hon. Richard			
06/05/2023	At the request of Attorney McCarthy an evaluation pursuant to Chp. 123, Sec 15a is ordered. Judge: Sinnott, Hon. Richard			
06/05/2023	Defendant in custody, in court presence waived as he disrobed in lockup Judge: Sinnott, Hon. Richard			
06/05/2023	Doctor Jackson appears and testifies Judge: Sinnott, Hon. Richard			
06/05/2023	Defendant is ordered committed without bail because OTHER REASON: to Suffolk County Jail returnable for 06/23/2023 09:00 AM Hearing to Review Status; mittimus issued. Court location of next event (if not this court): Further Orders: Judge: Sinnott, Hon. Richard		2	
06/05/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 06/23/2023 09:00 AM Hearing to Review Status: Further Orders:			
06/05/2023	Transportation order to issue Judge: Sinnott, Hon. Richard			
06/05/2023	Appearance filed On this date Thomas J McCarthy, Esq. added as Appointed - Indigent Defendant for Defendant Manuel Brunette-Silveira Appearance filed for the purpose of Case in Chief by Judge Hon. Richard Sinnott.		3	
06/23/2023	Event Resulted: Hearing to Review Status scheduled on: 06/23/2023 09:00 AM Has been: Review Completed Hon. James W Coffey, Presiding			
06/23/2023	Participants at Court Event - Defendant in Court - Assistant District Attorney Dontalee - Probation Representative Griffin - Session Clerk - CM - Courtroom and Time - 17 / 2:04. Attorney McCarthy present Judge: Coffey, Hon. James W			
06/23/2023	The Court enters the following order: Court orders court clinician evaluation. Dr. Pietruska sworn & testifies. Judge: Coffey, Hon. James W			
06/23/2023	Defendant is ordered committed without bail because OTHER REASON: to Suffolk County Jail returnable for 07/17/2023 09:00 AM Hearing to Review Status; mittimus issued. Court location of next event (if not this court): Further Orders: Judge: Coffey, Hon. James W		4	
06/23/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 07/17/2023 09:00 AM Hearing to Review Status: Further Orders: Judge: Coffey, Hon. James W			
06/23/2023	Petition by person in charge of place of detention for Order involuntarily committing a prisoner, awaiting trial to Bridgewater State Hospital for examination and observation for a period not to exceed 30 days filed, and ORDER issued Hon. James W Coffey. (G.L. c.123 §18(a)).		5	

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Judge: Coffey, Hon. James W			
06/23/2023	18a report received and filed.			
07/17/2023	Event Resulted: Hearing to Review Status scheduled on: 07/17/2023 09:00 AM Has been: Reschedule of Hearing For the following reason: Both Parties Request Hon. Tracy Lee Lyons, Presiding			
07/17/2023	Participants at Court Event - Defendant in Court - Defense Attorney McCarthy - Assistant District Attorney Corin - Probation Representative Digangi - Session Clerk - KWS - Courtroom and Time - 17/ 1104.			
	Judge: Lyons, Hon. Tracy Lee			
07/17/2023	Plea of Not Guilty entered on all charges.			
	Judge: Lyons, Hon. Tracy Lee			
07/17/2023	Defendant arraigned before Court, advised of right to counsel.	6		
	Judge: Lyons, Hon. Tracy Lee			
07/17/2023	Bail revocation warning (276/58) given to the defendant			
	Judge: Lyons, Hon. Tracy Lee			
07/17/2023	Commonwealth's motion to revoke bail on Docket: 2301CR666 filed and DENIED.			
07/17/2023	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 08/11/2023 09:00 AM Hearing to Review Status; mittimus issued.	7		Image
	Court location of next event (if not your court): Further Orders:			
	Judge: Lyons, Hon. Tracy Lee			
07/17/2023	Reasons for ordering bail.	8		
	Judge: Lyons, Hon. Tracy Lee			Image
07/17/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 08/11/2023 09:00 AM Hearing to Review Status: Further Orders:			
	Judge: Lyons, Hon. Tracy Lee			
07/17/2023	Order for hospitalization and examination of defendant as to CRIMINAL RESPONSIBILITY pursuant to G.L. c 123, § 15(b) issued to Bridgewater State Hospital returnable 08/11/2023 09:00 AM Hearing to Review Status			
	Judge: Lyons, Hon. Tracy Lee			
07/27/2023	Receipt of result notice regarding mental health commitment hearing received and filed.			
08/04/2023	After review of the docket, next event supposed to be held Via Zoom, revised habe to issue			
08/04/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 08/11/2023 09:00 AM Hearing to Review Status: Further Orders: REVISED HABE TO ISSUE DO NOT TRANSPORT TO BE HELD VIA ZOOM			
08/10/2023	Event Resulted: Hearing to Review Status scheduled on: 08/11/2023 09:00 AM Has been: Reschedule of Hearing For the following reason: Video Conference Requested Hon. James W Coffey, Presiding			
08/11/2023	Event Resulted: Hearing to Review Status scheduled on: 08/11/2023 09:00 AM Has been: Review Completed Hon. James Martin Stanton, Presiding			
08/11/2023	Participants at Court Event - Defendant in via zoom Court - Defense Attorney McCarthy - Assistant District Attorney Corin - Probation Representative Grey - Session Clerk - KD - Courtroom and Time - 14/909.			
	Judge: Stanton, Hon. James Martin			

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
08/11/2023	The Court enters the following order: Defense counsel allowed to copy 15b report Judge: Stanton, Hon. James Martin			
08/11/2023	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 09/18/2023 09:00 AM Hearing to Review Status; mittimus issued. Court location of next event (if not your court): Further Orders: VIRTUAL Judge: Stanton, Hon. James Martin		9	
08/11/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 09/18/2023 09:00 AM Hearing to Review Status: Further Orders: VIRTUAL Judge: Stanton, Hon. James Martin			
08/16/2023	Criminal mental health evaluation completed from Bridgewater state hospital dated Aug 10,2023 is placed with papers			
09/15/2023	Event Resulted: Hearing to Review Status scheduled on: 09/18/2023 09:00 AM Has been: Reschedule of Hearing For the following reason: Video Conference Requested Hon. James W Coffey, Presiding			
09/18/2023	Event Resulted: Hearing to Review Status scheduled on: 09/18/2023 09:00 AM Has been: Held via video conference Hon. Mark H Summerville, Presiding			
09/18/2023	Participants at Court Event - Defendant in (via zoom) Court - Defense Attorney McCarthy - Assistant District Attorney Corin - Probation Representative Smith - Session Clerk - KMH - Courtroom and Time - 14/ 910. Judge: Summerville, Hon. Mark H			
09/18/2023	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 10/20/2023 09:00 AM Probable Disposition; mittimus issued. Court location of next event (if not your court): Further Orders: in Person Judge: Summerville, Hon. Mark H		10	
09/18/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 10/20/2023 09:00 AM Probable Disposition: Further Orders: In person Judge: Summerville, Hon. Mark H			
10/20/2023	Event Resulted: Probable Disposition scheduled on: 10/20/2023 09:00 AM Has been: Not Held Hon. Eleanor C Sinnott, Presiding			
10/20/2023	Participants at Court Event - Defendant in Court - Defense Attorney McCarthy - Assistant District Attorney Donatelle - Probation Representative Lindsey - Session Clerk - zs - Courtroom and Time - 15 9.08 9.38 11.36. Judge: Sinnott, Hon. Eleanor C			
10/20/2023	Defendant's in court presence excused. Judge: Sinnott, Hon. Eleanor C			
10/20/2023	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 11/28/2023 09:00 AM Hearing to Review Status; mittimus issued. Court location of next event (if not your court): Further Orders: Deft waives 30 days		11	

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Judge: Sinnott, Hon. Eleanor C			
10/20/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 11/28/2023 09:00 AM Hearing to Review Status: Further Orders:			
	Judge: Sinnott, Hon. Eleanor C			
11/28/2023	Event Resulted: Hearing to Review Status scheduled on: 11/28/2023 09:00 AM Has been: Review Completed Hon. James W Coffey, Presiding			
11/28/2023	Participants at Court Event - Defendant before in custody Court - Defense Attorney McCarthy - Assistant District Attorney Corin - Probation Representative Gray - Session Clerk - ZS - Courtroom and Time - 15, 9:03/9:51/10:50/11:14.			
	Judge: Coffey, Hon. James W			
11/28/2023	Commonwealth and Defendant reports ready for trial as to Docket 2301CR666.			
	Judge: Coffey, Hon. James W			
11/28/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 12/18/2023 09:00 AM Hearing to Review Status: Further Orders: NEXT DATE VIA ZOOM			
	Judge: Coffey, Hon. James W			
11/28/2023	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 12/18/2023 09:00 AM Hearing to Review Status; mittimus issued.		12	
	Court location of next event (if not your court): Further Orders:			
	Judge: Coffey, Hon. James W			
12/15/2023	Event Resulted: Hearing to Review Status scheduled on: 12/18/2023 09:00 AM Has been: Reschedule of Hearing For the following reason: Video Conference Requested Hon. James W Coffey, Presiding			
12/18/2023	Event Resulted: Hearing to Review Status scheduled on: 12/18/2023 09:00 AM Has been: Review Completed Hon. Mark H Summerville, Presiding			
12/18/2023	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 01/19/2024 09:00 AM Bench Trial (CR); mittimus issued.		13	
	Court location of next event (if not your court): Further Orders: In Person			
	Judge: Summerville, Hon. Mark H			
12/18/2023	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 01/19/2024 09:00 AM Bench Trial (CR): Further Orders:			
	Judge: Summerville, Hon. Mark H			
01/11/2024	Called ahead at the request of Defendant Atty McCarthy for Motion to Advance and Continue.			
01/11/2024	Event Resulted: Motion Hearing (CR) scheduled on: 01/11/2024 09:00 AM Has been: Held - Motion allowed Hon. Richard Sinnott, Presiding			
01/11/2024	Event Resulted: Bench Trial (CR) scheduled on: 01/19/2024 09:00 AM Has been: Reschedule of Hearing For the following reason: Brought forward Hon. Richard Sinnott, Presiding			

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
01/11/2024	Participants at Court Event - Defendant not in Court - Defense Attorney McCarthy - Assistant District Attorney Jones - Probation Representative RYan - Session Clerk - KMH - Courtroom and Time - 14/11:52. Judge: Sinnott, Hon. Richard			
01/11/2024	Defendant's motion to Continue filed and ALLOWED. Judge: Sinnott, Hon. Richard			
01/11/2024	Defendant is ordered committed to Suffolk County Jail in lieu of having posted bail in the amount ordered: (\$0.00 Bond; \$500.00 Cash), returnable for 02/09/2024 09:00 AM Bench Trial (CR); mittimus issued. Court location of next event (if not your court): Further Orders: Cancel Mitt 1/19/24 Revised Mitt Judge: Sinnott, Hon. Richard		14	
01/11/2024	Habeas Corpus for prosecution issued to Bridgewater State Hospital returnable for 02/09/2024 09:00 AM Bench Trial (CR): Further Orders: REVISED HABE; CANCEL HABE FOR 1/19/24			
02/09/2024	Event Resulted: Bench Trial (CR) scheduled on: 02/09/2024 09:00 AM Has been: Held Hon. Mark H Summerville, Presiding			
02/09/2024	Participants at Court Event - Defendant In Court - Defense Attorney McCarthy - Assistant District Attorney Liber - Probation Representative Lindsey - Session Clerk - KWS - Courtroom and Time - 15/915. Judge: Summerville, Hon. Mark H			
02/09/2024	Evidentiary Trial / Hearing Notes 1014 Commonwealth moves for trial. 1035 Deft, after colloquy waives his right to trial by jury Jury waiver filled after hearing, court accepts defts waiver of jury C/W list of witness filed C/W witness Off. Peter Leighton sworn and testifies 10:56-11:01 Commonwealth rests Judge: Summerville, Hon. Mark H			
02/09/2024	Defendant's motion for required finding of not guilty filed and DENIED.			
02/09/2024	Evidentiary Trial / Hearing Notes Defense witness Dr. John Young licensed psychologist sworn and testifies 1105-1137 Defense rests Judge: Summerville, Hon. Mark H			Image
02/09/2024	Defendant's motion for required finding filed and DENIED.			
02/09/2024	Charges Disposed:: Charge # 1 A&B ON POLICE OFFICER c265 §13D On: 02/09/2024 Judge: Hon. Mark H Summerville Guilty - Bench Finding Charge # 2 A&B ON POLICE OFFICER c265 §13D On: 02/09/2024 Judge: Hon. Mark H Summerville Guilty - Bench Finding Charge # 3 A&B ON POLICE OFFICER c265 §13D On: 02/09/2024 Judge: Hon. Mark H Summerville Guilty - Bench Finding Charge # 4 A&B ON POLICE OFFICER c265 §13D On: 02/09/2024 Judge: Hon. Mark H Summerville Guilty - Bench Finding Charge # 5 THREAT TO COMMIT CRIME c275 §2		15	Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	On: 02/09/2024 Judge: Hon. Mark H Summerville Guilty - Bench Finding			
02/09/2024	Sentence Imposed:: Sentence Date: 02/09/2024 Judge: Hon. Mark H Summerville Charge #: 1 A&B ON POLICE OFFICER c265 §13D Split Sentence to HOC Term: 2 Years, 6 Months, 0 Days To Serve: 0 Years, 18 Months, 0 Days Served Concurrent Charge #: 2 A&B ON POLICE OFFICER c265 §13D Split Sentence to HOC Term: 2 Years, 6 Months, 0 Days To Serve: 0 Years, 18 Months, 0 Days Served Concurrent Charge #: 3 A&B ON POLICE OFFICER c265 §13D Split Sentence to HOC Term: 2 Years, 6 Months, 0 Days To Serve: 0 Years, 18 Months, 0 Days Served Concurrent Charge #: 4 A&B ON POLICE OFFICER c265 §13D Split Sentence to HOC Term: 2 Years, 6 Months, 0 Days To Serve: 0 Years, 18 Months, 0 Days Served Concurrent Charge #: 5 THREAT TO COMMIT CRIME c275 §2 Committed to HOC Term: 0 Years, 6 Months, 0 Days To Serve: 0 Years, 6 Months, 0 Days Served Concurrent Committed to Suffolk House of Correction (South Bay) Credits 253 Days Further Orders of the Court: COUNT 5 DEEMED SERVED. ALL COUNTS CONCURRENT Probation: Probation Start Date: 02/09/2024 End Date: 02/09/2028			
02/09/2024	Probation order of conditions imposed - report within 24 hours -mental health evaluation/treatment -sign releases Judge: Summerville, Hon. Mark H			
02/09/2024	All fees waived. Judge: Summerville, Hon. Mark H			
03/05/2024	Notice of appeal to the Appeals Court filed by the Defendant		16	
03/11/2024	Form generated: Notice to the Parties Sent On: 03/11/2024 14:42:21			
03/11/2024	Notice sent to Commonwealth notifying a Notice of appeal has been received and filed.			
03/11/2024	Contacted Attorney McCarthy in regards to notifying CPCS of assigning appellate counsel and requesting transcripts.			
03/11/2024	Form generated: Notice to the Parties Sent On: 03/11/2024 14:54:04			
03/26/2024	Notice regarding request for transcripts and request for counsel received and filed by Attorney McCarthy.			
10/08/2024	Appearance filed On this date Meghan K Oreste, Esq. added as Appointed - Indigent Defendant for Defendant Manuel Brunette-Silveira Appearance filed for the purpose of Case in Chief by Judge Hon. James W Coffey.			
10/08/2024	Appearance filed On this date Thomas J McCarthy, Esq. dismissed/withdrawn as Appointed - Indigent Defendant for Defendant Manuel Brunette-Silveira			

<u>Docket Date</u>	<u>Docket Text</u>	<u>Amount Owed</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
11/26/2024	Notice of assembly of the record sent to the Appeals Court Judge: Coffey, Hon. James W		17	
11/26/2024	Form generated: A Notice to the Parties was generated and sent to: Defendant, Attorney: Meghan K Oreste, Esq. Oreste Law 20 Cabot Boulevard Suite 300, Mansfield, MA 02048			
05/08/2025	Called ahead at the request of Probation Officer			
05/08/2025	Event Resulted: Motion Hearing (CR) scheduled on: 05/08/2025 09:00 AM Has been: Held - Motion allowed Judge: Griffin, Hon. David W			
05/08/2025	Event Resulted: Probation Until scheduled on: 02/09/2028 09:00 AM Has been: Event Cancelled For the following reason: Violation of probation filed Judge: Griffin, Hon. David W			
05/08/2025	Participants at Court Event - Defendant not in Court - Defense Attorney no - Assistant District Attorney no - Probation Representative Grenier - Session Clerk - ZS - Courtroom and Time - 17/11:25. Judge: Griffin, Hon. David W			
05/08/2025	Probation requests case be advanced for issuance of warrant due to the following reasons: for violation of terms and conditions of Probation Judge: Griffin, Hon. David W			
05/08/2025	Probation violation notice filed. Judge: Griffin, Jr., Hon. Joseph Judge: Griffin, Hon. David W		18	 <u>Image</u>
05/08/2025	Arrest warrant ordered to issue. Judge: Griffin, Hon. David W			
05/08/2025	Warrant Issued: Straight Warrant issued on 05/08/2025 for Brunette-Silveira, Manuel			
07/31/2025	Called ahead at the request of Defendant			
07/31/2025	Notice of warrant cancellation			
07/31/2025	Warrant recalled: Straight Warrant cancelled on 07/31/2025 for Brunette-Silveira, Manuel			
07/31/2025	Event Resulted: Default Removal Hearing scheduled on: 07/31/2025 09:00 AM Has been: Held Hon. James W Coffey, Presiding			
07/31/2025	Participants at Court Event - Defendant In Court - Defense Attorney - - Assistant District Attorney Liber - Probation Representative ACPO Derens - Session Clerk - KN - Courtroom and Time - 17 / 10:23. Judge: Coffey, Hon. James W			
07/31/2025	Probation violation notice filed. Detention Requested Judge: Coffey, Hon. James W		19	
07/31/2025	No attorney available Judge: Coffey, Hon. James W			
07/31/2025	Called ahead at the request of the defendant. CB Judge: Coffey, Hon. James W			
07/31/2025	Default warrant recall fee waived. Judge: Coffey, Hon. James W			

<u>Docket</u> <u>Date</u>	<u>Docket Text</u>	<u>Amount</u> <u>Owed</u>	<u>File</u> <u>Ref</u> <u>Nbr.</u>	<u>Image</u> <u>Avail.</u>
07/31/2025	Defendant before Court on Warrant, Warrant recalled as served. Judge: Coffey, Hon. James W			
07/31/2025	Released on Personal Recognizance Judge: Coffey, Hon. James W			
08/15/2025	Warrant Issued: Straight Warrant issued on 08/15/2025 for Brunette-Silveira, Manuel			
08/15/2025	Event Resulted: Hearing to Review Status scheduled on; 08/15/2025 09:00 AM Has been: Defendant defaulted-FI to Appear Hon. Paul Treseler, Presiding			
08/15/2025	Arrest warrant ordered to issue. Judge: Treseler, Hon. Paul			
08/15/2025	Participants at Court Event - Defendant Not in Court - Defense Attorney no - Assistant District Attorney Trinkley - Probation Representative Clifford - Session Clerk - AK - Courtroom and Time - 16 / 10:18. Judge: Treseler, Hon. Paul			
05/12/2026	Warrant recalled: Straight Warrant cancelled on 05/12/2026 for Brunette-Silveira, Manuel			
06/09/2026	Form generated: Notice to the Parties Sent On: 06/09/2026 12:51:48			
06/26/2026	Event Resulted: Hearing to Review Status scheduled on; 06/26/2026 09:00 AM Has been: Held Hon. Mark H Summerville, Presiding			
06/26/2026	Participants at Court Event - Defendant In Court - Defense Attorney McCarthy - Assistant District Attorney Neyman - Probation Representative Nee - Session Clerk - JG - Courtroom and Time - 14/12:32. Judge: Summerville, Hon. Mark H			

Case Disposition

<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Pending	06/02/2023	

CERTIFICATE OF SERVICE

I hereby certify under the pains and penalties of perjury that I have today made service on the defendant by e-filing a copy of the record appendix and sending it to counsel of record:

Meghan K. Oreste
20 Cabot Blvd, Suite 300
Mansfield, MA 02048
meghan@orestelaw.com

/s/ Mackenzie Slyman
MACKENZIE SLYMAN
Assistant District Attorney

July 28, 2026