

DAR - 30984

(2)

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

DAR No _____

RECEIVED
SUPREME JUDICIAL COURT

JUN 26 2026

FOR THE COMMONWEALTH

Commonwealth of Massachusetts, Appellees

vs.

Stanley Donald, Appellant

APPELLANT'S APPLICATION FOR DIRECT APPELLATE REVIEW

[APPEALS COURT#2026 P 0660]

Respectfully submitted
By Defendant-Appellant,

Stanley Donald,
Norfolk #W66438
P.O. Box 43
2 Clark Street
Norfolk, MA 02056

June 2026

REQUEST FOR DIRECT APPELLATE REVIEW

Pursuant to Mass.App.Rule 11(a), the Defendant-Appellant, Stanley Donald, requests this Court to grant him DAR since justice requires a final determination of actual innocence be decision by the Full Supreme Judicial Court.

INTRODUCTION

Since 1998, Mr. Donald, has maintained his innocence and now 28-years later he discovered third-party culprit evidence which supports another man Jerry Dixon committed the crimes.

Mr. Donald hereby seeks direct appellate review of denial of his motion for new trial which raises claims which consist of; the Commonwealth withholding this third-party culprit evidence in violation of Brady that was discovered after trial; And whether the Commonwealth had a duty to preserve rape kit protocol records that was ordered preserved by federal judge.

Direct appellate review gives this Court the opportunity to address a question of legal landscape regarding the third-party culprit evidence discovered after trial similar to the Court's ruling in Commonwealth Vs. Goparian, 496 Mass. 348, at 358 (2025).

STATEMENT OF PRIOR PROCEEDINGS

In March of 1999, Mr. Donald was convicted by jury of rape, ABDW, kidnaping, carjacking, unarmed robbery, and he was sentenced to an overall sentence of 40 to 50 years in State prison. Over the past 27-years he has filed several appeals maintaining his innocence. Commonwealth Vs. Donald, 487 Mass.1036(2021)

On August 24, 2022, Mr. Donald filed his motion for new trial which raised Brady claim regarding third-party culprit evidence. (R.40-to-57)^{*1.}

On February 24, 2025, the Commonwealth filed its memorandum in response to lower court's request for analysis of Brady claim regarding third-party culprit evidence of Jerry Dixon being the perpetrator. (R.166-to-170)

After several evidentiary hearings, on February 25, 2026, the lower court, Judge Patrick M. Haggan, issued a Memorandum of Decision which denied motion for new trial. (R.215-to-230)

On June 1, 2026, this cases entered the Appeals Court with the Appellant's Brief and Appendix with transcripts of the evidentiary hearings on file in the Appeals Court#2026-P-0660.

*1. The reference(R.-) refers to separate Record of Appendix and the reference(Vol.#, Tr.-) refers to transcripts of hearings.

SHORT STATEMENT OF FACTS RELEVANT TO APPEAL

The entire facts can be found in Commonwealth Vs. Donald,
56 Mass.App.Ct.1102(2002).

Jerry Dixon Is The Actual Perpetrator:

At trial, the defense was that this is a case of mistaken identity against Stanley Donald because there is no definitive identification evidence connecting Stanley Donald to the crime except that he is a black male who "looks very much like the man." This identification of "looks very much like" includes black males of the local population and no witness or victim describes Stanley Donald's height and size as six feet two.

The ATM bank photo presented at trial is Stanley Donald using his own ATM Bank of Boston bank card to withdraw his paycheck.(R.158)

Its evident that the identification evidence in this case is overwhelmingly connecting Jerry Dixon to the crime. The Watertown Police had Jerry Dixon as a suspect when they compared his fingerprints to crime scene fingerprints because Jerry Dixon was arrested in the neighboring City of Newton for other violent crimes.(R.196) The Watertown Police interviewed a witness who seen a black male that fit the description of Jerry Dixon as being five feet, ten in the parking garage before victim was assaulted(R.193-to-195) This witness was five feet in front of Jerry Dixon.

After trial, it was discovered that the Commonwealth knew Jerry Dixon was released from jail on September 8, 1997, which gave him the opportunity to assault the victim in this case on October 21, 1997.(R.197-to-199)

Further, in this case, the Commonwealth's DNA test results "yielded a DNA profile that occurs in one in 7,800 African-Americans" which also includes Jerry Dixon in the profile.

Even the motion judge agreed that the "non-disclosed evidence related to Jerry Dixon", "the Court accepts as true that the Commonwealth had this information." (R.225) Also, "the Court will accept that additional specific information about Jerry Dixon() was not disclosed to the defendant." (R.226-to-227)

Evenmore, the Boston Police Crime Lab confirmed that Jerry Dixon is five feet, ten same as what the witness seen in the parking garage before Jerry Dixon assaulted the victim in this case. (R.186-to-189)

Plus, the Commonwealth now asserts that Jerry Dixon "fit an extremely general description of the possible perpetrator in this case" (R.168; R.166-to-170)

Had the case went to trial against Jerry Dixon then the Commonwealth would have strong identification evidence to obtain a conviction against Jerry Dixon. The Commonwealth's assertions that Jerry Dixon "fit an extremely general description of the possible perpetrator" combined with the newly discovered identification evidence of Jerry Dixon being the actual perpetrator "makes a proper showing of actual innocence" for Mr. Donald. McQuiggin V. Perkins, 569 U.S. 383 (2013)

ISSUES OF LAW RAISED BY THE APPEAL AND WHETHER THEY
WERE PRESERVED BELOW

DID THE MOTION JUDGE ABUSED DISCRETION BY DENYING
MOTION FOR NEW TRIAL WHEN THE THIRD-PARTY CULPRIT
EVIDENCE OF JERRY DIXON WARRANTS A NEW TRIAL UNDER
STATE AND FEDERAL CONSTITUTION ?

DID THE COMMONWEALTH HAVE A DUTY TO PRESERVE
BETH ISRAEL RAPE KIT PROTOCOL RECORDS AFTER A
FEDERAL JUDGE ORDERED THE RAPE KIT PROTOCOL RECORDS
PRESERVED ?

These issues were preserved in the motion for new trial
submitted in the trial court.

Mr.Donald contends that the third-party culprit
evidence of Jerry Dixon warrants a new trial be ordered
by this Full Court as justice requires.

·ARGUMENTS·

I.]THE COMMONWEALTH WITHHELD SUBSTANTIAL
EXCULPATORY THIRD-PARTY CULPRIT IDENTIFICATION
EVIDENCE IN VIOLATION OF BRADY.

When this defendant, Stanley Donald, was arrested his defense was mistaken identity. Mr. Donald made a specific pretrial request for exculpatory evidence. (R.5; Paper Entry#12) Now after trial it has been discovered the Commonwealth has withheld third-party culprit evidence suggesting another man Jerry Dixon had opportunity to commit the crimes.

In 1996, Jerry Dixon was arrested by the Newton Police for violent crimes. The Middlesex District Attorney's Office ADA Megan Storing prosecuted Jerry Dixon. (R.201) The City of Newton is the neighboring City of Watertown where the attack of victim occurred in this present 1997 case.

The description of Jerry Dixon is five feet, ten, and he was released from the county jail on September 8, 1997, which gave him opportunity to commit the crime on October 21, 1997. (R.149)

The motion judge ruled that " Commonwealth had this information " regarding Jerry Dixon. (R.225; Memo. Decision p.11) A witness seen Jerry Dixon in the parking garage before the victim was assaulted. The Commonwealth never disclosed before trial that Jerry Dixon was the man seen in the parking garage.

"[E]vidence that someone other than the defendant was identified as the criminal is not only probative but critical to the issue of the defendant's guilt."
See Pettijohn V. Hall, 599 F.2d 476, 480 (1st. Cir. 1979)

Here, the Commonwealth had "a duty to produce" the third-party culprit evidence of Jerry Dixon according to Brady V. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194 (1963).

Mr. Donald is entitled to a new trial because the motion judge has established that the Commonwealth failed to disclose certain exculpatory material in violation of Brady. See Commonwealth Vs. Pope, 489 Mass. 790, at 798-802 (2022). As here, the motion judge's decision asserts that: [i] the Commonwealth had this information (R.225); And [ii] additional specific information about Jerry Dixon was not disclosed to the defendant. (R.226-227)

"Where the government fails to comply with this duty to turn over exculpatory evidence to the defense, a convicted defendant may be entitled to a new trial." Pope, at 798.

The third-party culprit evidence of Jerry Dixon is exculpatory evidence because it "tends to negate" or call into question the guilt of Mr. Donald, even if the evidence does not provide "complete proof of innocence." Commonwealth Vs. Caldwell, 487 Mass. 370, at 375-376 (2021). Mr. Donald had a constitutional right to present to the jury that Jerry Dixon fit description of man seen in parking garage before victim was assaulted and that's why the police compared Jerry Dixon's fingerprints to crime scene fingerprints, and the Commonwealth's nondisclosure is a violation of Brady.

II.]THE MOTION JUDGE ABUSED DISCRETION BY DENYING
MOTION FOR NEW TRIAL WHEN THE THIRD-PARTY
CULPRIT EVIDENCE OF JERRY DIXON WARRANTS A
NEW TRIAL UNDER STATE AND FEDERAL CONSTITUTION.

Once again an innocent man Stanley Donald is in prison behind crimes that Jerry Dixon committed in the darkness of our society. See Commonwealth Vs. Jerry Dixon, 458 Mass. 446, at 449 (2010); Also see (R.146; R.150-to-151)

In this case, the motion judge's decision supports the evidence of Jerry Dixon was in possession, custody of the prosecutor, and the evidence is exculpatory; And Mr. Donald suffered prejudice as a result of its nondisclosure.

Same as, Commonwealth Vs. Goparian, 496 Mass. 348, at 358 (2025).

"Evidence is exculpatory if it provides some significant aid to the defendant's case , , , ." Caldwell, 487 Mass. 370, at 375, Id.

The Goparian Court held "third-party culprit evidence implicates a defendant's constitutional right to present a complete defense." at 358, Id. As here, had Mr. Donald been able to present a complete defense with the third-party culprit evidence of Jerry Dixon then the jury would have found that a witness seen a man that fits Jerry Dixon's description in the parking garage before the victim was assaulted. There is "a substantial risk that the jury would have reached a different conclusion if the [third-party culprit] evidence had been admitted at trial." Commonwealth Vs. Tucceri, 412 Mass. 401, at 413 (1992).

Arguably, the Commonwealth's witness accurately described

Jerry Dixon:

Q:And only for purpose of identification, Ma'am,
was this man black, white, asian, hispanic ?

A:Black.

Q:And was--can you describe his physical appearance?

A:I would say about five ten, medium build.(R.194)

Q:How close was the man to you at point C ?

A:I'd say within about five feet.(R.195)

In fact, the Commonwealth agrees that Jerry Dixon
"fit an extremely general description of the possible
perpetrator in this case."(R.168; Commonwealth's Memo.)

Apparently, the motion judge misread that third-party
culprit evidence match the "local population."(R.227)
However, it's evident that the Commonwealth compared
Jerry Dixon's fingerprints to crime scene fingerprints
because the Commonwealth knew before trial that he fit
the description of the man seen in the parking garage
before the victim was assaulted. Its obvious Commonwealth
did not compare fingerprints to the "local population."

Jerry Dixon was "a legitimate suspect." See
Commonwealth Vs. Phinney, 466 Mass.155, 165(2006)
[Third-party culprit evidence].

Mr. Donald contends that it was discovered that the Newton Police Department arrested Jerry Dixon for violent crimes and he was described as five, ten, and according to Court caselaw the Newton Police and Watertown Police conduct "joint investigation" in rape cases where the Middlesex District Attorney Office has a Sexual Assault Unit Specifically for "joint investigation." See Commonwealth Vs. Jewett, 392 Mass. 558, 560-561 (1984)

According to the Jewett case, since the 1980's the Newton Police and Watertown Police conducted "joint investigations." Also it was recognized in Jewett, that "acting on information provided by the Newton Police Department, the Watertown Police included the same photograph of the defendant Jewett in the array shown to victim." Jewett, at 560-561, Id., this confirms there is "joint investigations" with Watertown Police and Newton Police.

Evenmore, the motion judge's decision is twisting where it says "the Commonwealth had this information" (R.225), and then says "additional specific information about Jerry Dixon was not disclosed to the defendant." (R.226-227) However, the motion judge contradicts his own ruling when he says "even if the defendant can establish that the Commonwealth did not disclose the Jerry Dixon information, a new trial is not warranted, ." (R.227)

A new trial is warranted because the motion judge ruled "additional information was not disclosed to the defendant" as required under Brady.(R.226-227) This case calls for the Appellate Courts to review de novo the third-party culprit evidence since a new trial is warranted where "the federal constitution guarantees criminal defendants a meaningful opportunity to present a complete defense."Holmes V.South Carolina,126 S.Ct.1727(2006)[Third-party guilt evidence] Remand. Plus,the Holmes decision held Mr.Donald has " a federal constitutional right to a new trial to present the third-party culprit evidence" of Jerry Dixon regardless of the Commonwealth's DNA profile of one in 7,800 African-Americans which also includes the DNA profile of Jerry Dixon who is an African-American. This third-party culprit evidence would not have posed a risk of unfair prejudice to the Commonwealth because the Commonwealth brought Jerry Dixon into the picture when they compared his fingerprints to the crime scene fingerprints.

Mr.Donald was deprived of a fundamental right under 6th, and 14th Amendments,and Article 12 of Mass.Declaration of Rights, and rights guaranteed under the cognate provisions of the State Constitution to introduce evidence that Jerry Dixon "committed the crime and had opportunity to commit it" the crime. See Commonwealth Vs.Graziano,368 Mass.325,at 330 (1975)[Verdict set aside]. Thus, a new trial is warranted.

III.]THE THIRD-PARTY CULPRIT EVIDENCE OF
JERRY DIXON IS NEWLY DISCOVERED AND
WARRANTS A NEW TRIAL.

After trial, on about November of 2010, Mr. Donald filed a civil action seeking access to test DNA evidence which then brought attention to Jerry Dixon. (R.145); and thereafter, the State Supreme Judicial Court cited Jerry Dixon's case inside a ruling on Mr. Donald's appeal for access to test the DNA evidence. See Commonwealth Vs. Stanley Donald, 468 Mass.37, at 46(2014), citing Dixon.

These events in the civil court and with the SJC caused Mr. Donald to discover that Jerry Dixon fit the description of a black man seen in the parking garage before the victim was assaulted and to discover further that Jerry Dixon was released from jail 30-days before the victim was assaulted.

This Appellate Court must recognize and find that this evidence of Jerry Dixon "constitutes newly discovered evidence and would have been a real factor in the jury's deliberations" because when the fingerprint expert mentioned Jerry Dixon then Mr. Donald could have used Jerry Dixon's description to show Jerry Dixon is five feet, ten and was seen in the parking garage. See Commonwealth Vs. Marrero, 493 Mass.338, at 344(2024), citing Commonwealth Vs. Mazza, 484 Mass.539, at 550-551(2020).

Here, After trial, Mr. Donald through public records obtained photographs of Jerry Dixon, and discovered his height, and discovered that Judge Hinkle discharged Jerry Dixon from jail before victim was assaulted. (R.146-to-151; R163-164; R.186-189)

In Mazza, the Court conducted a de novo review.

Here, Mr. Donald has established that the third-party culprit evidence is newly discovered and is "material and credible" and "carries a measure of strength" in support of his position that Jerry Dixon is the actual perpetrator:

Material, it was discovered after trial that Jerry Dixon is five feet, ten and fit the description of the black man a witness seen in the parking garage before victim was assaulted; And

Credible, Jerry Dixon is an African-American male who fit the Commonwealth's DNA profile of One in 7,800 African-Americans would match the semen stain in the victim's underwear; *2.

Unknown, it was unknown to defendant that Jerry Dixon was arrested by Newton Police for violent crimes and Jerry Dixon was released from jail on September 8, 1997, which gave him opportunity to assault the victim on October 21, 1997; And

Admissible, the third-party culprit evidence of Jerry Dixon would have been admissible at trial because the Commonwealth brought Jerry Dixon into the picture when they compared his fingerprints to crime scene fingerprints as a suspect.

"There is a substantial risk that the jury would have reached a different conclusion had the evidence been admitted at trial." Commonwealth Vs. Grace, 397 Mass. 303, 305-306 (1986).

In sum, a new trial is warranted.

*2. The Commonwealth's DNA expert opined that Stanley Donald "he is not the source of the DNA". (R.161-162)

IV.]THE COMMONWEALTH HAD A DUTY TO PRESERVE
BETH ISRAEL RAPE KIT PROTOCOL RECORDS.

On October 22,1997,the allege victim went to Beth Israel Hospital Emergency Room and they did do a sexual assault kit there.(R.78) On January 29,2001,the defendant at a hearing made the Commonwealth aware that he wanted to inspect the Beth Israel rape kit protocol records because rape kit testimony was used to compel him for blood and saliva samples.(Vol.#1,Transcripts of Hearing)

On October 27,2006,the Federal Court allowed defendant's motion for preservation of the "rape kit protocol records." (R.89-91) After numerous appeals, on March 21,2024,the motion judge issued an order for production of Beth Israel SANE rape kit forms#1-to-5.(R.84)

On April 23,2024,Beth Israel Hospital submitted a letter which basicly stated "retain medical records for a period of twenty(20)years."(R.85) Thereafter,on January 8,2025,Beth Israel Hospital sent the defendant a letter which stated "the medical records you reference in your letter were produced to the Middlesex County Superior Court of April 25,2024."(R.86)

At a hearing, on October 23,2024, and June 2,2025,the motion judge ruled that the Court never received any rape kit protocol records.(Vol.#2,Tr.3-to-4);(Vol.#3,Tr.3-to-7)

Mr. Donald contends that when the Federal Court issued the order to preserve on October 27, 2006, then the Beth Israel rape kit protocol records were still in custody of Beth Israel for the Commonwealth to obtain within the period of twenty years.

Had the Commonwealth obtained the rape kit protocol records in a timely manner then they would have found the records provided a description of the rapist in the victim's own words and possibly provided a description of Jerry Dixon as the perpetrator. (R.80-to-81; "EXAMPLE" OF RAPE KIT PROTOCOL RECORDS)

At a hearing, on November 22, 2024, it was said that the Middlesex District Attorney's Office always obtain the rape kit protocol records from the hospital. (Vol. #3, Tr. 5-to-10)

"The general rule is that the Commonwealth has a duty to preserve evidence for the defendant to inspect, examine, or perform test on." See Commonwealth Vs. Harwood, 432 Mass. 290, at 295 (2000). As here, the Commonwealth's failure to take steps to preserve the Beth Israel rape kit protocol records violated Mr. Donald's due process rights. See Commonwealth Vs. Heath, 89 Mass. App. Ct. 328, at 334 (2016)

According to Heath, Mr. Donald "might have uncovered something unknown to him having exculpatory value if he had had an opportunity to examine the [rape kit records] evidence before its destruction." Id. Also see Long V. Hooks, 972 F.3d 442 (4th Cir. 2002) [Missing Rape Kit]. Mr. Donald is entitled to some remediable action.

STATEMENT OF REASONS WHY DIRECT APPELLATE
REVIEW IS APPROPRIATE

Direct appellate review is particularly appropriate for this matter. The Court's decision on the issues raised herein will directly affect cases which have been raised and will raise similar, if not identical claims.

And this case gives the Court an opportunity to present an unmistakable demonstration of its ongoing commitment to Brady violations that has flooded the criminal justice system in the Commonwealth and to address this third-party culprit claim will correct a wrongful conviction in the interest of justice.

Respectfully Submitted
By Appellant,

Stanley Donald, JUNE 9th/2026
Stanley Donald
Norfolk#W66438
P.O.BOX 43
Norfolk, Mass 02056

Certificate Of Compliance

Pursuant to App.Rule 16(k), I, Stanley Donald, hereby certify that the Application for DAR complies with the Rules of the Court to the best of my knowledge.

Stanley Donald
Stanley Donald, pro-se

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
DAR No. _____

Appeals Court#2026-P-0660

Commonwealth, Appellee

Vs.

Stanley Donald, Appellant

[APPELLANT'S CERTIFICATE OF SERVICE]

I, Stanley Donald, pro-se, hereby certify that a copy of
same Application for Direct Appellate Review were
served upon:

1.] ADA Hallie Speight
MIDDLESEX DISTRICT ATTORNEY'S OFFICE
15 Commonwealth Avenue, Suite#300
Woburn, Mass 01801, for the Commonwealth,

by first class mail, postage prepaid this 9th day of
JUNE, 2026.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

Stanley Donald
Stanley Donald, pro-se
MCI-Norfolk#W66438
P.O.BOX 43
Norfolk, Mass 02056

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

APPEALS COURT
NO.2026-P-0660

Commonwealth Of Massachusetts, Appellee

Vs.

Stanley Donald, Appellant.

APPELLANT'S RECORD OF APPENDIX ON APPEAL
FROM JUDGMENT OF MIDDLESEX SUPERIOR COURT

Respectfully Submitted
By Appellant,

Stanley Donald,
Senior Law Clerk
MCI-Norfolk#W66438
2 Clark Street,
P.O.BOX 43
Norfolk, Mass 02056

RECORD OF APPENDIX

- 1-to-39; Lower Court Docket Entry Sheet
- 40-to-55; Def. Post-conviction Motion For New Trial
- 56-to-57; Affidavit of Stanley Donald
- 58-to-73; Commonwealth's Opposition To Def. Motion For New Trial
- 74-to-78; Def. Renewed Motion For Post-conviction Discovery Of
[SANE RECORDS] Sexual Assault Nurse Examination
- 79-to-83; "EXAMPLE" OF S.A.N.E. Rape Kit Forms
- 84; Court ORDER For Production Of S.A.N.E. Rape Kit Forms
- 85-to-86; Beth Israel Hospital Responses To Court Order
- 87-to-88; Foxboro Police Response To SANE Rape Kit Records
- 89-to-90; Federal Court ALLOWED Motion To Preserve SANE
Rape Kit Protocol Records
- 91; Commonwealth's Letter Regarding Preservation Of Evidence
- 92-to-102; Def. Motion For Discovery Of Trial Exhibits/Photos
To Support SANE Rape Kit Forms With Transcripts
- 103-to-105; Def. Post-motion For Order To Discover Bank Documents
With Affidavit
- 106-to-112; Commonwealth Opposition To Def. Motion For Order
To Discover Bank Documents
- 113; Court Order For Production Of Bank Documents
- 114-to-118; Def. Amended Motion For Post-conviction Relief
- 119-to-122; Def. Supplemental Memorandum In Support Of Amended
Motion For Post-conviction Relief
- 123-to-125; Commonwealth's Opposition To Def. Amended Motion And
Memorandum For Post-conviction Relief

RECORD OF APPENDIX CONTINUE.....

126-to-165; Def. Renewed Memorandum In Support Of Motion For
New Trial[Brady Claim] And To Reconsider With
Affidavit & Exhibits

166-to-170; Commonwealth's Memorandum In Response To Court
Request For Analysis Of Def. Brady Claim Regarding
Allege Third-Party Culprit Evidence Of Jerry Dixon.

171-to-180; Def. 2nd Supplemental Memorandum In Support Of
Paper Entry#455 Motion For New Trial With Exhibits

181-to-202; Def. Supplemental Motion To Amend Paper#455 Motion
For New Trial With Exhibits Of Jerry Dixon

203-to-212; Def. Motion To Subpoena Commonwealth Witness With
Affidavit & Exhibits To Prove Bank Account

213-to-214; Commonwealth Motion To Correct Marginal Endorsement
On Motion To Subpoena Witness Paper#526

215-to-230; Motion Judge's Memorandum Of Decision And Order
Denying Def. Motions For New Trial And Amended
Motions.

231; Def. Notice Of Appeal.

9781CR02366 Commonwealth vs. Fleming, Stanley CKA Donald, Stanley

• Case Type:
Indictment
• Case Status:
Open
• File Date
12/19/1997
• DCM Track:
I - Inventory
• Initiating Action:
RAPE, AGGRAVATED c265 §22(a)
• Status Date:
12/19/1997
• Case Judge:

• Next Event:

All Information | Party | Charge | Event | Tickler | Docket | Disposition

Party Information

Commonwealth
- Prosecutor

Alias

Party Attorney

- Attorney
- Speight, Esq., Halle White
- Bar Code
- 687492
- Address
- Middlesex District Attorney
- 15 Commonwealth Ave
- Woburn, MA 01801
- Phone Number
- (781)897-6841

[More Party Information](#)

Fleming, Stanley
- Defendant

Alias

CKA Donald, Stanley

Party Attorney

- Attorney
- Devore, Esq., Melissa Ilg
- Bar Code
- 670253
- Address
- Ilg and Devore P.C.
- 54 Church St
- Lowell, MA 01852
- Phone Number
- (978)454-1900
- Attorney
- Pro Se
- Bar Code
- PROPER
- Address
- Phone Number

[More Party Information](#)

Party Charge Information

- Fleming, Stanley
- - Defendant
- Charge # 1:
265/22/B-2 - Felony RAPE, AGGRAVATED c265 §22(a)
- Original Charge

R.1

- 265/22/B-2 RAPE, AGGRAVATED c265 §22(a) (Felony)
- Indicted Charge

• Amended Charge

Charge Disposition
Disposition Date
Disposition
04/15/1999
Guilty Verdict

- Fleming, Stanley
- - Defendant
- Charge # 2:
265/22/B-2 - Felony RAPE, AGGRAVATED c265 §22(a)

- Original Charge
- 265/22/B-2 RAPE, AGGRAVATED c265 §22(a) (Felony)
- Indicted Charge

• Amended Charge

Charge Disposition
Disposition Date
Disposition
04/15/1999
Guilty Verdict

- Fleming, Stanley
- - Defendant
- Charge # 3:
265/19/B-1 - Felony ROBBERY +60, UNARMED, SUBSQ.OFF. c265 §19(a)

- Original Charge
- 265/19/B-1 ROBBERY +60, UNARMED, SUBSQ.OFF. c265 §19(a) (Felony)
- Indicted Charge

• Amended Charge

Charge Disposition
Disposition Date
Disposition
04/15/1999
Guilty Verdict

- Fleming, Stanley
- - Defendant
- Charge # 4:
265/26/A-2 - Felony KIDNAPPING c265 §26

- Original Charge
- 265/26/A-2 KIDNAPPING c265 §26 (Felony)
- Indicted Charge

• Amended Charge

Charge Disposition
Disposition Date
Disposition
04/15/1999
Guilty Verdict

- Fleming, Stanley
- - Defendant
- Charge # 5:
265/15A/B-1 - Felony A&B WITH DANGEROUS WEAPON +60 c265 §15A(a)

- Original Charge
- 265/15A/B-1 A&B WITH DANGEROUS WEAPON +60 c265 §15A(a) (Felony)
- Indicted Charge

• Amended Charge

Charge Disposition
Disposition Date
Disposition
04/15/1999
Guilty Verdict

Load Party Charges 6 through 6 Load All 6 Party Charges

R.2

Events					
Date	Session	Location	Type	Event Judge	Result
12/29/1997 09:00 AM	Criminal 1 Rm 430		Arraignment		Not Held
06/22/1998 09:00 AM	Criminal 1 Rm 430		Arraignment		Held as Scheduled
07/16/1998 09:00 AM	Criminal 1 Rm 430		Pre-Trial Conference		Held as Scheduled
08/03/1998 09:00 AM	Criminal 1 Rm 430		Hearing		Held as Scheduled
08/20/1998 09:00 AM	Criminal 1 Rm 430		Non-Evidentiary Hearing on Suppression		
09/14/1998 09:00 AM	Criminal 1 Rm 430		Non-Evidentiary Hearing on Suppression		
11/06/1998 09:00 AM	Criminal 1 Rm 430		Non-Evidentiary Hearing on Suppression		Held as Scheduled
11/18/1998 09:00 AM	Criminal 1 Rm 430		Status Review		
11/24/1998 09:00 AM	Criminal 1 Rm 430		Hearing		Held as Scheduled
11/30/1998 09:00 AM	Criminal 1 Rm 430		Jury Trial		Canceled
02/01/1999 09:00 AM	Criminal 1 Rm 430		Jury Trial		
03/30/1999 09:00 AM	Criminal 1 Rm 430		Jury Trial		
03/31/1999 09:00 AM	Criminal 1 Rm 430		Hearing		
04/05/1999 09:00 AM	Criminal 1 Rm 430		Jury Trial		Canceled
04/05/1999 09:00 AM	Criminal 4 Rm 630		Hearing		Held as Scheduled
04/06/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/07/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/08/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/09/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/12/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/13/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/14/1999 09:00 AM	Criminal 4 Rm 630		Jury Trial		Held as Scheduled
04/28/1999 09:00 AM	Criminal 4 Rm 630		Hearing for Sentence Imposition		Held as Scheduled
01/29/2001 02:00 PM	Criminal 5 Rm 840		Hearing		Held as Scheduled
12/12/2003 02:00 PM	Criminal 5 Rm 840		Hearing		Not Held
01/16/2004 08:30 AM	Criminal 5 Rm 840		Hearing		Not Held
02/02/2004 09:00 AM	Criminal 5 Rm 840		Hearing		Held as Scheduled
11/19/2014 02:00 PM	Criminal 2 Rm 530		Status Review		Held as Scheduled

R.3

Date	Session	Location	Type	Event Judge	Result
11/24/2014 09:00 AM	Criminal 2 Rm 530		Hearing		Held as Scheduled
04/04/2016 02:00 PM	Crim. 7L CR17		Motion Hearing		Not Held
05/25/2016 02:00 PM	Crim. 7L CR17		Motion Hearing	Brieger, Hon. Heidi	Held as Scheduled
03/28/2019 12:00 PM	Crim. 7L CR17	CTRM 17, 7th Floor-Lowell	Status Review	Brieger, Hon. Heidi	Held as Scheduled
04/04/2022 12:30 PM	Crim. 7L CR17		Conference to Review Status	Ritter, Hon. William J	Held as Scheduled
04/12/2022 02:00 PM	Crim. 7L CR17		Conference to Review Status	Ritter, Hon. William J	Not Held
03/21/2024 09:30 AM	Criminal 8 Rm 730	Courtroom 730	Conference to Review Status	Haggan, Hon. Patrick	Held via Video/Phone
04/23/2024 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Motion Hearing	Haggan, Hon. Patrick	Held via Video/Phone
07/09/2024 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Motion Hearing	Ham, Hon. Catherine	Not Held
08/02/2024 02:00 PM	Criminal 2 Rm 530	Courtroom 530	Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled
10/23/2024 11:00 AM	Criminal 1 Rm 430	Courtroom 430	Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled
11/22/2024 02:00 PM	Criminal 1 Rm 430	Courtroom 430	Hearing on Motion for New Trial	Haggan, Hon. Patrick	Held as Scheduled
12/11/2024 09:05 AM	Criminal 1 Rm 430	Courtroom 430	Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled
01/27/2025 02:00 PM	Criminal 6 Rm 730		Conference to Review Status	Haggan, Hon. Patrick	Held via Video/Phone
02/28/2025 08:30 AM	Criminal 6 Rm 730	Courtroom 730	Filing of Motions	Haggan, Hon. Patrick	Held as Scheduled
03/21/2025 02:00 PM	Criminal 6 Rm 730	Courtroom 730	Non-Evidentiary Hearing	Haggan, Hon. Patrick	Rescheduled
04/15/2025 10:00 AM	Criminal 1 Rm 430	Courtroom 430	Hearing on Motion for New Trial		Held as Scheduled
06/02/2025 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Hearing on Motion for New Trial	Haggan, Hon. Patrick	Held as Scheduled
02/25/2026 10:00 AM	Criminal 6 Rm 730		Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled

Ticklers				
Tickler	Start Date	Due Date	Days Due	Completed Date
Conversion Attorney Mismatch	12/19/1997	01/10/2015	1	
Conversion Attorney Mismatch	12/19/1997	01/10/2015	1	
Under Advisement	06/02/2025	07/02/2025	30	06/30/2025

Docket Information				
Docket Date	Docket Text	File Ref Nbr.	Image Avail.	
12/19/1997	Indictment returned	1		
12/22/1997	Summons for arraignment issued for 12/29/97	2		
12/29/1997	Def't defaulted, warrant issued			

R.4

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/18/1998	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 06/19/98	3	
06/18/1998	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 6/22/98	4	
06/22/1998	Affidavit of indigency filed; approved (Joseph A Grasso Jr., Justice) Intake Prepared By APO McClellan The Court Appoints Scheduled Bar Advocate Michael Casey	5	
06/22/1998	Appointment of Counsel Casey	6	
06/22/1998	Appearance of Deft's Atty: Casey		
06/22/1998	Default removed; warrant recalled		
06/22/1998	Deft arraigned before Court (Joseph A Grasso Jr., Justice)		
06/22/1998	RE offense 1: Plea of not guilty		
06/22/1998	RE offense 2: Plea of not guilty		
06/22/1998	RE offense 3: Plea of not guilty		
06/22/1998	RE offense 4: Plea of not guilty		
06/22/1998	RE offense 5: Plea of not guilty		
06/22/1998	RE offense 6: Plea of not guilty		
06/22/1998	Bail set: \$1 Million With Surety Or \$100,000 Cash (Joseph A Grasso Jr., Justice)		
06/22/1998	Bell Warning Read In Open Court		
06/22/1998	Mittimus issued		
06/22/1998	Continued until 7-16-98 PTC		
06/22/1998	Reporter present: Barbara Margilano		
06/22/1998	Commonwealth Files Statement Of The Case	7	
06/22/1998	Mittimus (001) not recog - Indictments returned with service	8	
07/06/1998	Commonwealth Files Notice Of Discovery I	9	
07/16/1998	Motion by Deft: For Approval Of Funds For Costs For A Private Investigator With Affidavit In Support	10	
07/16/1998	Motion (P#10) allowed (Maria I Lopez, Justice) Atty Notified		
07/16/1998	Pre-trial Conference Report Filed In Court	11	
07/16/1998	Motion by Deft: For Exculpatory Evidence	12	
07/16/1998	Motion by Deft: For The Production Of Police Department Reports	13	
07/16/1998	Motion by Deft: For Statements And/Or Admissions Of Defendant	14	
07/16/1998	Motion by Deft: For Statements Of Witnesses	15	
07/16/1998	Motion by Deft: To Be Furnished With Names And Addresses Of Government Witnesses	16	
07/16/1998	Motion by Deft: To Be Furnished With Statements Of Promises, Inducements Or Rewards	17	
07/16/1998	Motion by Deft: To Produce Tapes Of Commonwealth Interviews	18	
07/16/1998	Motion by Deft: For The Production Of Any Documentary Evidence	19	
07/16/1998	Motion by Deft: To Inspect The Evidence	20	
07/16/1998	Motion by Deft: For Copies Of Tests And Reports Of Physical Evidence And Scientific Evidence	21	
07/16/1998	Motion by Deft: For Disclosure Of Identification Procedure	22	
08/03/1998	Deft Files Petition To Show Cause Of Removal	23	
08/03/1998	Continued until 08/14/98 Motion to Suppress		
08/03/1998	Reporter present: Debbie Belanger		
08/03/1998	Rule 36 waived		
08/14/1998	Continued until 08/20/98 Motion to Suppress (Luis E. Pasquale, CM)		

R.5

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
08/14/1998	Motion by Commonwealth: To Compel Submission Of Handwriting Exemplar With A Memorandum And Affidavit Attached	24	
08/17/1998	Request for Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 8/20/98	25	
08/20/1998	Continued until 09/14/98 Motion to Support		
08/20/1998	Reporter present: Debbie Belanger		
08/20/1998	Motion (P#24) After Hearing Allowed (Charles F Barrett, Justice)		
08/20/1998	Court Order That The Defendant Stanley Donald Shall Forthwith Submit Himself To Provide Exemplar Writings On The Presence Of Watertown Police Detective Michael Munger Or His Designee (Charles F Barrett, Justice)	26	
09/04/1998	Motion by Deft: For Reconsideration Of Bail	27	
09/10/1998	Request for Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 9/14/98	28	
09/14/1998	Continued until 11/6/98 for Motion To Suppress & 11/30/98 Trial		
09/14/1998	Reporter present: Debbie Belanger		
09/14/1998	Rule 36 waived		
09/14/1998	Motion by Deft: For Continuance	29	
09/14/1998	Motion (P#29) allowed (Paul A Chernoff, Justice)		
10/22/1998	Motion by Deft: To Dismiss Appointed Attorney And To Appoint New Attorney	30	
10/29/1998	Request for Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) 11/6/98	31	
11/06/1998	Continued until 11/18/98 for Status		
11/06/1998	Reporter present: Barbara Gandolfo		
11/16/1998	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 11/18/98	32	
11/18/1998	Motion by Commonwealth: To Continue	33	
11/18/1998	Motion (P#33) allowed (Catherine A White, Justice)		
11/18/1998	Continued until 02/01/99 Trial		
11/18/1998	Reporter present: Barbara Gandolfo		
11/23/1998	Motion by Deft: to Reconsider Bail.	34	
11/24/1998	Motion by Commonwealth: To Compel The Defendant To Submit To The Taking Of Blood And Saliva Samples Filed In Court	35	
11/24/1998	COURT ORDER : Re blood and saliva samples to be taken turned over to Sergeant James Kozak (White, J.) both sides notify.	36	
11/30/1998	Deft Files Complaint	37	
12/08/1998	Motion by Deft: To Dismiss Appointed Counsel And To Appoint New Counsel With Affidavit	38	
12/14/1998	Letter received from defendant. copy sent to atty.		
12/28/1998	Deft files Discovery Order To Inspect Police Reports, Grand Jury Minutes. (Clerk Magistrate notified) On 1/7/99 copy sent to Atty Casey and ADA Yannetti	39	
01/19/1999	Motion by Deft: To Dismiss With An Affidavit Attached	40	
01/27/1999	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) 02/01/99		
01/28/1999	For Continuance Filed & Allowed Joseph A Grasso Jr., Justice	41	
01/28/1999	Continued until 03/30/99 Trial		
01/28/1999	Reporter present: Debbie Belanger		
02/05/1999	Deft Files Memorandum Of Law To Support Motion To Dismiss	42	
02/05/1999	Motion by Deft: For Funds	43	

R.6

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
03/25/1999	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 03/30/99		
03/30/1999	Sent to Courtroom 8A		
03/30/1999	Continued until 3/31/99 for EM and 4/5/99 for trial		
03/30/1999	Reporter present: John Lynch		
03/31/1999	Motion by Commonwealth: for a View.	44	
04/02/1999	Motion by Deft: for Required Findings of Not Guilty, Filed in Court.	45	
04/02/1999	Commonwealth files Proposed Statement of Facts for the Jury Verdict, Filed in Court.	46	
04/02/1999	Motion by Deft: for Individual Voir Dire, Filed in Court, see transcript for ruling, By the Court. (Robert A Barton, Justice)	47	
04/02/1999	Deft files Requested Pre-Trial Charge to Jury, Filed in Court.	48	
04/02/1999	Motion by Commonwealth: in Limine Regarding use of Video Presenter, Filed in Court.	49	
04/02/1999	Motion by Commonwealth: in Limine Regarding Demonstrative Charts, Filed in Court.	50	
04/02/1999	Motion by Commonwealth: to Exempt Certain Investigating Officers from the Court's General Order of Sequestration, Filed in Court.	51	
04/02/1999	Motion by Deft: in Limine (Display of Exhibits), Filed in Court.	52	
04/02/1999	Motion by Deft: in Limine (Warrants), Filed in Court.	53	
04/02/1999	Motion by Deft: in Limine (Prior Bad Acts), Filed in Court.	54	
04/02/1999	Motion by Deft: in Limine Regarding Defendant's Criminal Record, Filed in Court.	55	
04/02/1999	Motion by Deft: in Limine (Consciousness of Guilty/Flight)	56	
04/02/1999	Motion by Deft: in Limine (D.N.A. Evidence), Filed in Court.	57	
04/02/1999	Motion by Deft: in Limine (Letters), Filed in Court.	58	
04/02/1999	Motion by Deft: in Limine (Handwriting Analysis), Filed in Court.	59	
04/02/1999	Motion by Deft: in Limine (A.T.M. Photos), Filed in Court.	60	
04/02/1999	Motion by Deft: for Funds to Purchase Proper Clothing for Defendant, Filed in Court.	61	
04/02/1999	Motion by Deft: in Limine (Reference to "Mugshots"), Filed in Court.	62	
04/05/1999	Motion (P#46) allowed (Robert A Barton, Justice)		
04/05/1999	Motion (P#49) allowed (Robert A Barton, Justice)		
04/05/1999	Motion (P#50) denied (Robert A Barton, Justice)		
04/05/1999	Motion (P#51) allowed (Robert A Barton, Justice)		
04/05/1999	Motion (P#53) denied (Robert A Barton, Justice)		
04/05/1999	Motion (P#54) allowed (Robert A Barton, Justice)		
04/05/1999	Motion (P#55) allowed (Robert A Barton, Justice)		
04/05/1999	Motion (P#56) denied (Robert A Barton, Justice)		
04/05/1999	Motion (P#57) denied (Robert A Barton, Justice)		
04/05/1999	Motion (P#60) denied (Robert A Barton, Justice)		
04/05/1999	Motion (P#61) allowed (Robert A Barton, Justice)		
04/05/1999	Motion (P#62) allowed (Robert A Barton, Justice)		
04/05/1999	Motion by Deft: to Sequester, Filed in Court.	63	
04/05/1999	Motion (P#63) allowed (Robert A Barton, Justice)		
04/05/1999	Commonwealth files List of Potential Witnesses, Filed in Court.	64	
04/05/1999	Motion by Commonwealth: for a View.	65	
04/05/1999	Motion (P#65) allowed (Robert A Barton, Justice)		
04/05/1999	Pre Trial Motion Exhibits.		

R.7

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
04/05/1999	Reporter present: Elizabeth Tyler (4/5, 6, 7, 8 & 9/99-Pre trial & empanelment, view & testimony)		
04/08/1999	Trial Exhibits		
04/12/1999	Reporter present: John Lynch (4/12/99-trial)		
04/13/1999	Commonwealth files Proposed Jury Instructions, Filed in Court.	66	
04/13/1999	Deft files Proposed Jury Instructions, Filed in Court.	67	
04/13/1999	Motion (P#45) denied (Robert A Barton, Justice)		
04/13/1999	Reporter present: Elizabeth Tyler		
04/14/1999	After charge and before deliberation, Jurors #2-Joseph Lupo, #4-Frederick Dickhart, #7-Andy Coelho & #13-George McGonagla were withdrawn from panel, Ch.234A, S44 as amended, By the Court. (Robert A Barton, Justice)		
04/14/1999	Reporter present: Elizabeth Tyler		
04/15/1999	001 thru 006:Verdict Slips	68	
04/15/1999	RE offense 1: Guilty verdict		
04/15/1999	RE offense 2: Guilty verdict		
04/15/1999	RE offense 3: Guilty verdict		
04/15/1999	RE offense 4: Guilty verdict		
04/15/1999	RE offense 5: Guilty verdict		
04/15/1999	RE offense 6: Guilty verdict		
04/15/1999	001 thru 006: Verdict-Guilty offense as charged.		
04/15/1999	Bail set on 6/22/98 revoked		
04/15/1999	Defendant committed into the custody of the Sheriff.		
04/15/1999	Continued until 4/28/99 for sentence.		
04/15/1999	Reporter present: Elizabeth Tyler		
04/20/1999	Defendant files: Stay of Execution of Sentence of Imprisonment.	69	
04/20/1999	Motion by Deft. for New Trial with Supporting Affidavit.	70	
04/20/1999	Letters to Justice Barton.		
04/20/1999	Affidavit of Stanley Donald	71	
04/22/1999	Deft files Request to Appoint Counsel with Supporting Affidavit.	72	
04/27/1999	Writ of Habeas Corpus issued to Middlesex County Jail (Cambridge) for 04/28/99		
04/27/1999	Commonwealth files Sentencing Memorandum, Filed in Court	73	
04/28/1999	Motion (P#70) Treated a motion for a required finding of Not Guilty under Rule 25 (b)(2), after jury verdict & is denied without prejudice. (Robert A Barton, Justice)		
04/28/1999	Motion (P#72) allowed (Robert A Barton, Justice)		
04/28/1999	Notice Assignment of Counsel for sent to C.P.C.S.	74	
04/28/1999	Motion by Deft: for Leave to Withdraw & for Appointment of Appellate Counsel, Filed in Court.	75	
04/28/1999	Motion (P#75) allowed (Robert A Barton, Justice)		
04/28/1999	001.Sentence-MCI Cedar Junction for a term not exceeding 50 yrs. or less than 40 yrs., 002 & 003:Sent. MCI C.J. for a term of Life, 002 & 003 to be served concurrently with 001. 004 & 005:Sent. MCI C.J. for a term not exceeding 10 yrs. or less than 9 yrs., 004 & 005 to be served concurrently with 97-2366-001. 006:Sent. MCI C.J. for a term not exceeding 15 yrs. or less than 14 yrs., 006 to be served concurrently with 97-2366-001. (Robert A Barton, Justice)		
04/28/1999	Sentence credit given as per 279-33A: 316 days.		
04/28/1999	Victim-witness fee assessed, \$60.00		
04/28/1999	Notified of right of appeal under Rule 65 (Appeal)		

R.8

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/28/1999	Notified of right of appeal under Rule 64 (Appellate Appeal)		
04/28/1999	Defendant's Notice of Appeal, Filed In Court.	76	
04/28/1999	Deft files Appeal from Sentence to MCI Cedar Junction, Filed In Court.	77	
04/28/1999	Court reporter, John Lynch is hereby notified to prepare one copy of the transcript of the evidence of 4/12/99-Trial and anything you may have on this case.		
04/28/1999	Court Reporter Elizabeth Tyler is hereby notified to prepare one copy of the transcript of the evidence of 4/5, 6, 7, 8, 9, 13, 14, 15 & 28/99-Motions, Trial & Disposition and anything you may have on this case.		
04/28/1999	Attested copy of indictments sent to MCI Cedar Junction.		
04/28/1999	Abstract sent to the Registrar of Motor Vehicles		
04/28/1999	Mittimus issued to MCI Cedar Junction.		
05/03/1999	Motion by Deft: to Revise & Revoke Sentence Pursuant to M.R.Crim.P. Rule 29.	78	
05/05/1999	Two revised certified copies of the docket entries and two copies of the appeal from sentence to MCI Cedar Junction sent to the Clerk of the Appeals Court this day. (Counsel notified)		
05/06/1999	Mittimus Returned Massachusetts Correctional Institution 001-002-003-004-005-006 With Service	79	
05/18/1999	Motion by Deft: Amended Motion For A New Trial With A Memorandum And Affidavit Attached	80	
06/08/1999	Motion by Commonwealth: for pre-sentence report prepared by probation department filed in court	81	
06/08/1999	Motion (P#81) allowed. By the Court, Robert A. Barton copy given to ADA Yannetti		
06/08/1999	Motion by Commonwealth: In Opposition To The Defendant's Motion To Revise Or Revoke Sentence Filed In Court	82	
06/08/1999	Appointment of Counsel Whitkin	83	
06/16/1999	Appearance of Deft's Atty. Whitkin		
06/22/1999	Motion by Deft. For Free Transcripts	84	
06/22/1999	Deft Files Petition For Habeas Corpus	85	
06/29/1999	Motion by Deft: to Revise and Revoke with Affidavit and Certificate of Service	86	
07/08/1999	Motion (P#84) This motion Denied as transcript is being prepared if notice of appeal was filed. (Robert A. Barton, Justice) Both sides notified		
07/08/1999	Motion (P#84) Denied (Robert A. Barton, Justice) Both sides notified		
07/15/1999	Victim-witness fee paid as assessed \$60		
08/17/1999	Pro Se Motion for Funds For Scientific Tests (copy sent to Judge)	87	
08/17/1999	Defendant files Affidavit of Indigency	88	
09/01/1999	Habeas Corpus With Affidavit And Exhibit (Copy to Barton, J.)	89	
09/14/1999	Defendant's moves the Court to Order the Commonwealth to provide with all Discovery Material to preparation of this case: Statements Made to Doctors, Nurses, Hospital Reports of Beth Israel	90	
09/28/1999	Motion by Deft: For Discovery Order With An Affidavit Attached	91	
09/30/1999	Motion (P#91) This defendant is represented by counsel. The Court refuses to rule on pro-se pleadings filed by the defendant (Barton, J)		
10/04/1999	Motion by Deft: To Preserve Evidence With An Affidavit Attached	92	
10/07/1999	Motion (P#92) allowed Barton, J both sides notified		
10/15/1999	Discovery Order for copies of Medical Records from Beth Israel Hospital. This defendant is represented by counsel. This Court refuses to rule on pro-se pleadings filed by defendant. By the Court, Robert A. Barton, Justice of the Superior Court Copy to Defendant	93	

R.9

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
10/25/1999	ORDERED: Court will not rule on pro-se motions by this defendant who is represented by counsel for appeal. the defendant has previously been informed of this fact (Barton,J)		
10/25/1999	Motion by Deft: for post conviction discovery order. The Court will not rule on pro-se motions by this defendant who is represented by counsel for appeal. The defendant has previously been informed of this fact. By the Court, Robert A. Barton, Justice of the Superior Court. Copy to Defendant	94	
10/29/1999	Appearance of Commonwealth's Atty. Eileen O'Brien		
11/12/1999	Motion by Deft: To reconsider order to compel production of records with an affidavit attached	95	
11/16/1999	Motion (P#95) Denied Per phone call from (Barton,J) Sitting at Berkshire		
11/26/1999	Motion for new trial by Deft with Affidavit of Deft. (copy sent to Barton, J).	96	
11/30/1999	Motion Paper #96 -Re: motion for new trial- the court refuses to act on pro-se motions as defendant is represented by counsel. By the Court, Robert A. Barton, Justice of the Superior Court. Copy to Defendant		
12/20/1999	#2 Motion for a New Trial (30 (B) with Affidavit and Memorandum Attached. Copy to Judge Barton and District Attorney	97	
12/24/1999	Motion#97 This Court Exercising its inherent powers, appoints Martin Whitkin Esq. of Salem, Mass. To represent this defendant on his motion for New Trial. He has already been appointed by CPSC for appeal. The Motion for New Trial will be included in the appeal. By the Court, Robert A. Barton, Justice of the Superior Court. Copy to Defendant, Attorney, CPSC and District Attorney	98	
12/24/1999	Letter received from Attorney Martin Whitkin _ Re appointment for Stanley Donald	99	
01/27/2000	Motion by Deft: for production of scientific tests and reports with an affidavit attached	100	
02/01/2000	Motion (P#100) Denied without prejudice Motion may be reviewed after receipt of counsel (Barton,J)		
03/03/2000	Motion by Deft: for Release from Unlawful Restraint pursuant to Mass. R. Crim. P 30(A) with Supporting Affidavit.	101	
03/06/2000	Motion (P#101) The Court refuses to act on pro se motion as defendant is represented by counsel (Barton, J.) (sitting in Suffolk) copy sent to atty Whitkin, ADA & deff)		
04/07/2000	Motion by Deft. to reconsider production of Brady Material with an affidavit attached	102	
04/10/2000	Defendant's Motion (see #102) No action taken as this defendant is represented by counsel & the Court will not get act on Pro Se motions. (Robert A Barton, Justice) copy sent to deff.		
05/03/2000	Motion of Martin Whitkin, Esq. to Withdraw Appearance with Affidavit. (copies to Judge Barton)	103	
05/10/2000	Pro Se Motion by Deft. To Appoint Appellate Counsel (copy sent to Judge Barton)	104	
05/12/2000	Motion (P#104) Allowed. by the Court, Barton J. sitting in Nantucket. Committee for Public Counsel to appoint Attorney. Copy to Deft. and Cert. Copy of Docket Sheets & Motion To Denise Simonini		
06/02/2000	Appointment of Counsel Brian J Kelly	105	
06/07/2000	Motion by Deft: 3rd motion for a new trial with an affidavit attached	106	
06/07/2000	Motion by Deft: for the appointment of standby counsel	107	
06/13/2000	Copy of Pro Se Affidavit of Defendant in Support of Appeal to the Appellate which defendant filed in the Appellate Court (copy sent to atty Kelly)	108	
06/26/2000	Order: Appellate Division : Defendant withdrew his appeal. By the Court Robert J. Shone, Clerk.	109	
06/29/2000	Appearance of Commonwealth's Atty: Loretta M Lillis		
08/08/2000	Appearance of Deft's Atty: Brian J Kelly		

(R.10)

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
10/10/2000	Motion by Deft. Pro Se: 2nd Post Conviction Motion To Reconsider Production Of Brady Material Mass R.Crim.P.30 (c) (4) (Docket Sheets and Motion to Grabau, J.)	110	
10/13/2000	Motion (P#110) No action is taken on this matter as the Defendant has court appointed counsel, Brian J. Kelly, Esq. (Charles M. Grabau, RAJ) (deft., def't's atty., & A.D.A.)		
10/24/2000	Two sets, ten volumes in each set of the transcript of evidence delivered to the office of the Clerk of Courts this day. (4/5, 6, 7, 8, 9, 12, 13, 14, 15 & 28/99-Motions, Trial & Disposition, Elizabeth Tyler, Court Reporter & John Lynch, Court Reporter)	111	
10/24/2000	Notice of assembly of record: two certified copies of the docket entries, two sets of the transcript of evidence and a list of exhibits sent to the Clerk of the Appeals Court this day.	112	
10/24/2000	Notice of assembly of record sent to Brian Kelly, Esq. and Martha Coakley, District Attorney		
11/10/2000	Notice of Docket Entry: The above referenced case has been entered in the Appeals Court this day 11/10/00	113	
12/11/2000	Motion by Deft: renewed motion for production of scientific tests and reports	114	
01/17/2001	Commonwealth files Opposition to Defendant's Renewed Motion for Production of Scientific Tests, with Addendum .	115	
01/24/2001	Habeas corpus for Deft at Souza-Baranowski CC at Shirley for 1/29/01		
01/29/2001	Motion (P#114) denied. After hearing, I deny the defendant's motion as I find that the defendant had not raised a substantial issue. I accept the Commonwealth's representation that it does not possess the medical records of the victim or hospital form as shown on p.A8 in the Commonwealth's Opposition (Form 1). (Charles M. Grabau, R. A. J.) (copy given to A.D.A. in court)(deft's counsel notified)		
01/30/2001	Original Papers numbered 80, 96, 97 and 106 sent by request to Justice Grabau		
02/08/2001	Notice of appeal filed by Stanley Donald to the denial of his renewed motion for tests and reports	116	
02/08/2001	Court Reporter Jeanne Lentini is hereby notified to prepare one copy of the transcript of the evidence of January 29, 2001, before Justice Grabau	117	
02/09/2001	ORDER REGARDING DEFENDANT'S MOTIONS FOR NEW TRIAL. The Defendant, Stanley L. Donald, has filed several Motions for New Trial pursuant to Mass. Crim.P.30(b) in the above-numbered indictments. It is ordered that these motions be consolidated for hearing. (Charles M. Grabau, R. A. J.)(copy to def't, def't's atty., & A.D.A. Sahakian)	118	
02/09/2001	Original papers #80, #96, #97 and #106 sent back to Clerk's Office and refiled.		
02/09/2001	Motion by Deft: for a free transcript	119	
02/12/2001	Motion by Deft: to Renewed Motion for Production of Scientific Tests & Reports/Middlesex Superior Court	120	
02/12/2001	Motion (P#120) denied. This issued was brought to my attention at the last hearing with defendant's appellate counsel appearing. By the Court, Charles Grabau, Justice of the Superior Court. Copy to Defendant		
02/15/2001	Motion (P#119) denied without prejudice. Defendant has an appointed attorney in the case. All motions must be filed by the attorney of record. (Charles M. Grabau, R. A. J.)(deft & def't's atty. notified		
02/16/2001	Letter received from defendant re: Motions for New Trial and 30 days to confer with counsel (copy sent to Judge Grabau)	121	
03/02/2001	Supreme Judicial Court (SJ-2001-0097) Notice of Docket Entry: You are hereby notified that on 3/1/01, the following was entered on the docket of the above referenced case: JUDGMENT: denying relief under c. 211, s 3 without a hearing. (Sosman, J.)	122	
03/19/2001	Notice of Docket Entry: you are hereby notified that on 03/12/01, the following was entered on the docket of the above referenced case: Appellant's Notice of (Mandamus) for Reconsideration of Judgment by Stanley Donald pro se. (03/16/01) Appellant's Notice (Mandamus) to		

R.11

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Reconsideration of Judgment is Denied without a hearing by the Court, Sossman, J.) Supreme Judicial Court		
03/22/2001	Motion by Deft. to dismiss (Salman) with an affidavit and memorandum attached	123	
03/23/2001	Notice of appeal filed in Suprema Judicial Court (SJC No. 2001-97)	124	
10/24/2001	Motion (P#123) I take no action on the Defendant's Motion to Dismiss for 2 reasons: 1) the defendant has given notice of an appeal to the SJC (2001-97) and 2) Defendant has been appointed an appellate attorney to represent him on his appeal. (Charles M. Grabau, RAJ) (deft. & A D A notified)		
10/24/2001	Motion by Deft. For Recusal of Judge on bottom of correspondence	125	
10/24/2001	Motion (P#125) denied (Charles M. Grabau, R. A. J.) (deft. & A. D. A. notified)		
12/03/2001	Notice of Assembly of record: I am sending two revised certified copies of the docket entries, two sets, one volume of the transcript of evidence renewed motion for production of scientific tests & reports. Commonwealth's opposition to defendant's renewed motion for production of scientific tests and notice of appeal to the Clerk of the Supreme Judicial Court. (SJ-2001-0097) Counsel notified		
12/27/2001	Letter received from Defendant to Honorable Charles Grabau	126	
01/23/2002	Letter (P#126) I take no action on Defendant's request because I lack the authority (jurisdiction) to entertain the instant motion (Charles M. Grabau, J.) parties notified		
07/30/2002	Deft files Letter to Judge Grabau with Attachements.	127	
08/01/2002	Notice of Docket Entry: You are hereby notified that on July 30, 2002, the following was entered on the docket of the above referenced case: JUDGMENT AFTER RESCRIPT: (by Sosman, J) "This matter came before the court, and in accordance with the Rescript opinion that was entered in the Full court on June 29, 2002, it is ORDERED and ADJUDGED that the following entry of Judgement be, and the same hereby is made. "The judgment of the single Justice is Affirmed."		
08/01/2002	JUDGEMENT affirmed	128	
08/09/2002	Commonwealth files Response to Defendant's Letter	129	
08/09/2002	Re # 127- Clerks Office to file this letter and reply of ADA Lillios dated 8/1/02, no action taken, Grabau, J	130	
10/18/2002	Motion by Deft. for Independent DNA Tests and Inspection of Documents, with Addendum (copy to Judge Grabau)	131	
10/18/2002	Motion by Deft. for DNA Discovery. (copy to Judge Grabau)	132	
10/21/2002	MEMORANDUM AND ORDER OF ASSIGNMENT THE DEFENDANT HAS FILED A MOTION FOR INDEPENDENT DNA TESTS AND INSPECTION OF DOCUMENTS AND A MOTION FOR DNA DISCOVERY. JUDGE PAUL CHERNOFF IS ASSIGNED TO HEAR THIS MATTER (CHARLES GRABAU, REGIONAL ADMINISTRATIVE)	133	
12/03/2002	RULING Motion (P#131) Denied. See (P#134) (Paul Chernoff, J.) Copy to ADA & Deft. & Atty.	134	
12/03/2002	Postconviction Motion by Deft. for Order and Summons For the Presence of Commonwealth's Chemist Robert Martin. (copy to Judge Chernoff)	135	
12/24/2002	Deft files Letter to the Court (Sent to Chernoff, J)	136	
01/03/2003	Ruling - This Court has previously ruled that it would not entertain the defendant's post-trial pro se discovery motion because he is represented by court-appointed counsel in his appellate matter. The defendant subsequently indicated that his appellate counsel would argue his pro se motion. This judge reaffirms his previous ruling and states that a discovery motion filed by counsel will be addressed by a Superior Court judge. The Court acknowledges the defendant's letter dated December 7, 2002 which sets out the specifics of his requests. This letter will be made a part of the court file for consideration by this or another judge if a motion is filed by counsel. (Paul Chernoff, Justice) Copy to Deft. & Atty	137	
01/13/2003	Rescript received from Appeals Court, judgment AFFIRMED	138	
01/21/2003	Motion by Deft. to revise and revoke with an affidavit attached	139	
02/19/2003	Deft files Notice to the Court re. Jan. 3, 2003 Ruling of Court (copy sent to Judge Chernoff)	140	

R.12

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/10/2003	Order on defendants motion to revise and revoke Re: The defendant has until March 17, 2003 to file a supporting affidavit and/or memorandum (Charles M. Grabau, Justice)	141	
02/24/2003	RULING - On January 3, 2003, this Court reaffirmed previous rulings that the defendant's instant requests for post-trial discovery would not be entertained with pro se filings since there is counsel actively representing the defendant in the appellate stage. The Ruling stated that a motion filed in the Superior Court by his counsel would be reviewed by this or another judge. A letter dated February 18, 2003 from the defendant to Mr. Edward J. Sullivan, the Clerk of Court, represents that Brian Kelly, Esquire, appellate counsel, "intends to handle DNA issue." Should Mr. Kelly file a post-trial discovery motion on behalf of the defendant, it will receive the attention of a justice of the Superior Court. (Paul A. Chernoff, Justice) Both sides notified.	142	
03/04/2003	Defendant's Pro Se Request For Habeas Corpus. Copy to (Chernoff, J.)	143	
03/06/2003	Motion by Deft: To Stay Decision On Defendant's Motion To Revise And Revoke Copy to (Chernoff, J.)	144	
03/25/2003	Motion by Deft: to Proceed Co-Counsel (copy to Judge Chernoff)	145	
03/28/2003	Deft files Postconviction Order to the Court with Affidavit of Defendant in Support of Postconviction Order. (copy to Judge Chernoff)	146	
04/01/2003	Motion (P#144) allowed to be reviewed in 90 days. (Charles M. Grabau, RAJ) Copies mailed April 11, 2003		
04/09/2003	Postconviction Motion by Deft: in support of Counsel's Motion for Independent DNA Tests and Inspection of Rape Documents, with Affidavit, Addendum, and Exhibits Pursuant to Mass. R. Crim P.30(C), (4), (3). (copy to Judge Chernoff)	147	
04/09/2003	(P#141) Although the attorney of record Brian J. Kelly, Esq. is not seeking a hearing on the motion at this time. The motion to stay decision on defendant's motion to revise and Revoke is allowed, to be reviewed in 90 days. (Charles M. Grabau, RAJ) notice sent		
04/09/2003	Motion (P#145) denied (Charles M. Grabau, RAJ). Copies mailed 4/11/03		
04/09/2003	Defendant's filing (P#146) I take no action on Defendant's Motion as he has appointed counsel. Defendant is not co-counsel in his post-conviction motions. (Charles M. Grabau, RAJ) notice sent		
04/14/2003	Motion by Deft: Pro Se. Letter regarding rape kit.	148	
04/14/2003	Motion (P#148) treating this as a motion, it is denied without prejudice to renewal, if appropriate, by defendant's Attorney. (Fahey, J.) Copy Deft. & Atty.		
04/16/2003	General correspondence from defendant with an Affidavit regarding tests and rape kit. (copy sent to Judge Grabau)	149	
04/18/2003	Deft files Letter to the Court with affidavits regarding files and rape kit. (copy to Judge Grabau)	150	
04/23/2003	Motion by Deft. to Withdraw Counsel (copy to Judge Grabau)	151	
04/23/2003	Motion for appointment of counsel for Rule 30 Postconviction motions, or in the alternative, for the defendant to proceed Pro-Se. (copy to Judge Grabau)	152	
04/24/2003	Defendant's motion (P#147) is to be docketed and not scheduled for hearing until defendant's counsel's motion is filed. (notice sent)		
04/24/2003	Motion (P#151) After consideration, this motion is denied. without prejudice (Fahey, J.) notice sent		
04/24/2003	Motion (P#152) After consideration, this motion is denied without prejudice (Fahey, J.) notice sent		
04/25/2003	Defendant's Renewed Postconviction Discovery Motion for Production and Inspection of Hospital Records, and Rape Kit Documents, Pursuant to Mass. R.30(C)(4) with an Affidavit in Support of Motion. (copy to Judge Grabau)	153	
04/25/2003	Motion by Deft: to Proceed Pro-Se. (copy to Judge Grabau)	154	
04/25/2003	Defendant's Request for Habeas Corpus. (copy to Judge Grabau)	155	
04/28/2003	General correspondence from defendant regarding motion to withdraw counsel	156	

R.13

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/30/2003	Defendant's letter (P#149) No action taken as the defendant has an appointed attorney. (Charles M. Grabau, J.) notice sent		
04/30/2003	Deft files Correspondence re: victim's grand jury testimony (sent to Judge Grabau)	156.1	
05/05/2003	Correspondence from defendant re: Motion to proceed pro-se (sent to Judge Grabau)	156.2	
05/15/2003	Deft files Mandamus Habeas Corpus (sent to Judge Grabau)	157	
05/19/2003	Motion by Deft. to Withdraw (sent to Judge Grabau)	158	
05/21/2003	Deft files Letter re: Order for New Trial and hearing on such. (sent to Judge Grabau)	159	
05/21/2003	Motion by Deft. For Evidentiary Hearing on Defendant's Affidavit in Support of New Trial and Affidavit of Stanley Donald in Support of New Trial. (sent to Judge Grabau)	160	
05/21/2003	Defendant's Postconviction Motion For Funds (DNA Expert) with Memorandum of Law and Affidavit of Indigency. (sent to Judge Grabau)	161	
05/21/2003	Deft files letter requesting copy of Docket sheet copy sent 5/27/03	162	
06/03/2003	Defendant's Affidavit In Support of Revise and Revoke, with Attachments (sent to Judge Grabau)	163	
07/01/2003	Defendant's Renewed Motion for appointment of new counsel. (sent to Judge Grabau)	164	
07/18/2003	Letter from defendant regarding Appointment of Counsel (Copy to Grabau, J.)	166	
07/18/2003	Letter from defendant to be heard on his affidavit in support of revise and revoke. (Copy to Grabau, J.)	165	
07/21/2003	Deft Files Post Conviction Motion To Proceed Pro-Se (Copy Grabau, J.)	167	
07/28/2003	General correspondence from defendant regarding scheduling of hearing on Defendant's renewed postconviction motion for production and inspection of hospital records, and rape kit documents and notice deft. does not have counsel. (copy to Judge Grabau)	168	
07/31/2003	Deft files Mandamus Habeas Corpus For a Hearing (sent to Judge Grabau)	169	
08/07/2003	Deft files Court Order Compelling Discovery. (copy to Judge Grabau)	170	
08/07/2003	General correspondence from defendant regarding defendant's pro se mandamus habeas corpus (copy to Judge Grabau)	171	
08/13/2003	General correspondence from defendant regarding access to Rape Kit records files from Beth Israel hospital. (sent to Judge Grabau)	172	
08/29/2003	Deft files Notice of Leave for Appeal to Single Justice of the SJC	173	
09/04/2003	Deft files Motion for Leave to be Heard Before a Single Justice of the SJC	174	
09/16/2003	Deft's Third Motion for appointment of new counsel (copy to Judge Quinlan)	175	
09/16/2003	General correspondence from defendant regarding striking his motion for leave to appeal to single justice (copy to Judge Quinlan)	176	
09/19/2003	Motion by Deft. Enlarged Renewed Postconviction Discovery Motion and Affidavit with Memorandum for Production and Inspection of Hospital Records and Rape Kit Documents, Pursuant to Mass.R.30(C), (4), (3), and Addendum. (copy to Judge Quinlan)	177	
10/06/2003	Deft files correspondence sent to General Counsel for Beth Israel Hospital re rape kit records	178	
10/07/2003	Postconviction Motion by Deft: In support of Counsel's Motion for Independent DNA Tests and Inspection of Rape Documents, With Affidavit, Addendum, And Exhibits (Pursuant to Mass.R.Crim.P 30(C), (4), (3))	179	
10/15/2003	Deft files correspondence requesting hearing on specific pleadings. (copy sent to Judge Quinlan)	180	
10/22/2003	Deft files Affidavit in Support of Order to Compel Commonwealth For the Release of Hospital Records and Rape Kit Documents (sent to Quinlan)	181	
10/28/2003	Request by Defendant for Habeas Corpus (sent to Judge Quinlan)	182	

R.14

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
10/29/2003	Request by defendant for status report (sent to Judge Quinlan)	183	
10/30/2003	Defendant's Fourth Motion for the Appointment of New Counsel with an Affidavit in Support of Motion (copy to Judge Quinlan)	184	
11/03/2003	Defendant's Fourth Motion for the Appointment of New Counsel with an Affidavit in Support of Motion (sent to Judge Quinlan)	184.1	
11/04/2003	Motion by Deft. For Release From Unlawful Restraint (Pursuant to Rule 30(A)) with an Affidavit in Support of Motion. (copy to Judge Quinlan)	185	
11/12/2003	Procedural Order on Defendant's Motion For Release From Unlawful Restraint, Petition For Habeas Corpus and Fourth Motion For Appointment of Counsel: The court ORDERS that the Commonwealth file a response to the defendant's pending motions on or before December 10, 2003. Hearing on the defendant's motions and petition shall be held on December 12, 2003 at 2:00 p.m. in Courtroom 10B. (Regina L. Quinlan, Justice) notice sent	186	
11/13/2003	Habeas corpus for Deft at Souza Barnowski for 12/12/03		
12/10/2003	Commonwealth files Opposition to Defendants Motion for Release from Unlawful Restraint.	187	
12/11/2003	Commonwealth's Response to Defendant's Fourth Motion For the Appointment of New Counsel	188	
12/16/2003	Deft files Memorandum of Law in Support of Defendant's Motion For Release From Unlawful Restraint with Supplemental Appendix, Pursuant to Rule 30(a) (sent to Judge Quinlan)	189	
12/16/2003	Deft files Affidavit of the Defendant, Stanley Donald, in Support of DNA Retest, with Exhibits (sent to Judge Quinlan)	190	
12/17/2003	Deft files Notice to Court (sent to Quinlan, J.)	191	
12/19/2003	Defendant's 2nd Request For Habeas Corpus (sent to Judge Quinlan)	192	
12/19/2003	Motion by Deft: for Judgment on Pending Motion For New Trial with Exhibits (sent to Judge Quinlan)	193	
12/23/2003	Habeas corpus for Deft at Souza Barnowski for 1/16/04		
12/31/2003	General correspondence from defendant to D.A. regarding rape kit	194	
01/07/2004	Deft files Amended Affidavit in Support of Motion For a New Trial with Attachment. (sent to Judge Quinlan)	195	
01/09/2004	Defendant's Postconviction Motion For Order and Summons For the Presence of Commonwealth's Chemist Robert Martin (sent to Judge Quinlan)	196	
01/14/2004	Deft files 2nd Affidavit of Stanley Donald in Support of Pending Motion for DNA Retest (sent to Judge Quinlan)	197	
01/15/2004	Request Defendant for Mandamus for a Hearing on Motion For DNA Retest with an Affidavit in Support of Request. (sent to Judge Quinlan)	198	
01/28/2004	Habeas corpus for Deft at Souza-Baranowski for 2/2/04		
02/02/2004	Motion (P#158) allowed (Regina L. Quinlan, Justice). Copies mailed February 03, 2004		
02/02/2004	Motion by Deft: For Funds to Hire a Private Investigator	199	
02/02/2004	Defendant's motion (P#199) The Court takes no action at this time (Quinlan, J.) notice sent		
02/02/2004	Affidavit of Stanley Donald For Independent DNA Tests	200	
02/24/2004	Motion by Deft: to appoint counsel under rule 30 with an affidavit attached	201	
02/24/2004	Motion (P#201) allowed (Regina L. Quinlan, Justice). Copies mailed March 09, 2004		
02/24/2004	Notice of assignment of counsel filed. (copy to CPCS & Atty. Oberhauser)	201.1	
03/30/2004	General correspondence regarding from defendant letter with exhibits referencing Commonwealth's Opposition to Motion for Release From Unlawful Restraint. (copy to Judge Quinlan)	202	
03/30/2004	General correspondence regarding from defendant to Judge (copy to Judge Quinlan)	203	

R.15

Docket Date	Docket Text	File Ref Nbr. Image Avail.
04/15/2004	Deft files Letter re: Status of case (sent to Judge Quinlan)	204
04/15/2004	Deft files letter re: Judge Barton (sent to Judge Quinlan)	205
04/22/2004	Deft files 2nd Affidavit in Support of Pending Motion for Release From Unlawful Restraint, with Exhibits (sent to Judge Quinlan)	206
04/26/2004	Deft files Question to the Court (sent to Judge Quinlan)	207
04/29/2004	Deft files Habeas Corpus for Hearing (copy sent to Judge Quinlan)	208
04/29/2004	Deft files Affidavit in Support of Court Order (copy sent to Judge Quinlan)	209
04/29/2004	Deft files Affidavit in Support of Order to Compel Commonwealth For the Release of Hospital Records and Rape Kit Documents (copy sent to Judge Quinlan)	210
06/02/2004	Deft files Habeas Corpus (sent to Judge Quinlan)	211
06/02/2004	Deft files Status Report (sent to Judge Quinlan)	212
06/10/2004	Appearance of Deft's Atty. Gregory D Oberhauser	
06/14/2004	Deft files Affidavit of Stanley Donald with Exhibits with Argument Relevant to Release of DNA and Rape Kit Documents (sent to Judge Quinlan)	213
06/14/2004	Defendant's Status Report (P#215) Since counsel has filed an appearance, the court will take no action on pro se pleadings. (Regina L. Quinlan, J.) notice sent	
06/29/2004	Motion (P#216) Denied (Regina L. Quinlan, Justice). Both sides notified.	
06/30/2004	Motion (P#210) Denied (Regina L. Quinlan, Justice). Copies mailed	
07/21/2004	Deft files Objection, Mass R.Crim P. Rule 22 with an Affidavit of Stanley Donald (copy to Judge Quinlan)	214
09/20/2004	Deft files Notice to Court re. Exhibits on DNA Test (sent to Judge Quinlan)	215
09/30/2004	Deft files Memorandum of Law in Support of Motion for Independent DNA Test and Inspection of Rape Documents, with Addendum and Supplement Appendix (sent to Judge Quinlan)	216
11/22/2004	Deft files letter re: DNA evidence (sent to Judge Quinlan)	217
12/06/2004	Decision and Order Striking All Motions Filed by the Defendant Pro Se: ORDER: For the foregoing reasons it is hereby ORDERED that all of the Motions filed by the Defendant Pro Se after February 24, 2004 are STRICKEN (Regina L. Quinlan, J.) notice sent 12/8/04	218
01/20/2005	Memorandum Of Decision And Order On Defendant's Motion For Release From Unlawful Restraint -ORDER- For the foregoing reasons, the Defendant's Motion for Release from Unlawful Restraint is DENIED. (Regina L. Quinlan, Justice) Both sides notified	219
02/03/2005	General correspondence from defendant regarding decision on motion for release from unlawful restraint. (copy sent to Judge Quinlan)	220
02/14/2005	Response to Defendant's Letter Regarding Pro Se Motions: The defendant Stanley Donald has written to the court requesting the court refrain from ruling on pro se motions while he is represented by counsel. He particularly objects to the court's having acted upon his Motion for Release from Unlawful Restraint (Paper 219). Since the communication is directed to the court from the defendant pro se. The court takes no action on the letter. (Regina L. Quinlan, J.) notice sent 2/28/05	221
03/08/2005	Deft files Letter with attachments re: DNA evidence. (sent to Judge Lauriat)	222
03/15/2005	Defendant's Letter (P#222) in accordance with numerous prior orders of the court no action will be taken on this pro-se request since defendant is represented by counsel of record. (Lauriat, J)	
04/22/2005	Deft files Ex Parte Request with Attachments. (sent to Judge Lauriat)	223
04/26/2005	Motion by Deft: For an Order Authorizing DNA Testing of Physical Evidence in the Possession of the Middlesex Cambridge County Clerk's Office with an Affidavit and Memorandum of Law in Support of Motion (sent to Judge Lauriat)	224

(R.16)

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u> <u>Image Avail.</u>
04/26/2005	Motion by Deft: for Funds for Medical Expert (sent to Judge Lauriat)	225
04/27/2005	Defendant's motion (P#223) No action taken. Defendant is represented by counsel (Lauriat, J.) notice sent	
04/27/2005	Defendant's motion (P#224) The Commonwealth shall serve and file its detailed written response to this motion by or before May 31, 2005. (Lauriat, J.)	
04/27/2005	Motion (P#225) allowed, not to exceed \$750.00. The court notes, however, that no affidavit of "indecency" or indigency is attached. (Peter M. Lauriat, Justice). Copies mailed April 28, 2005	
05/02/2005	Emergency Motion by Commonwealth: to Stay Court Order	226
05/02/2005	Motion (P#226) Upon review, and upon the grounds stated, this motion is allowed. The Commonwealth shall serve and file its written response to the defendant's motion for funds for a medical expert by or before 5/31/05. (Peter M. Lauriat, Justice). Copies mailed May 02, 2005	
05/16/2005	Affidavit of Stanley Donald in Support of Counsel's Motion For Funds for Medical Expert (copy to Judge Lauriat)	227
05/31/2005	Motion by Commonwealth: to Extend Time For Filing Response to Defendant's Post-Conviction Motion for Further DNA Testing with an Affidavit of Assistant District Attorney Loretta M. Lillios in Support of Motion. (copy sent to Judge Lauriat)	228
06/06/2005	Deft files Opposition to Extension of the Time to Respond (copy to Judge Lauriat)	229
06/06/2005	Deft files Pro Se Request for Habeas Corpus for hearing on endorsed Motion For an Order Authorizing DNA Testing. (copy sent to Judge Lauriat)	230
06/07/2005	Deft files Pro Se Affidavit in Support of Counsel's Opposition (copy to Judge Lauriat)	231
06/08/2005	Motion (P#226) allowed (Peter M. Lauriat, Justice). Copies mailed June 08, 2005	
06/13/2005	Deft files Habeas corpus for hearing	232
06/13/2005	Motion (P#232) Denied without prejudice, pending Commonwealth's response to defendant's pending DNA Motions (Lauriat,J)	
07/21/2005	Deft files Exhibits "A to B" (sent to Judge Lauriat)	233
07/29/2005	Commonwealth files Memorandum in Opposition to Defendant's Post-Conviction, Post-Appeal Motions for 1) Further DNA Testing, 2) Access to the Victim's Hospital Records, and 3) Funds. (sent to Judge Lauriat)	234
08/03/2005	Request by Defendant for Habeas Corpus for hearing on Commonwealth's failure to respond to Motion for DNA Test and Inspection of Rape Kit. (sent to Judge Lauriat)	236
08/03/2005	General correspondence from defendant regarding Commonwealth failure to respond to defendant's motion for an order authorizing DNA testing of physical evidence (sent to Judge Lauriat)	235
08/03/2005	Deft files copy of letter and motion sent to his attorney to process	237
08/04/2005	Deft files renewed Habeas Corpus for hearing	237 1
08/09/2005	Deft files Affidavit with Record of Appendix in Support of Opposition to Commonwealth's Memorandum.	238
08/09/2005	Motion (P#224) Upon review of this motion and the Commonwealth's opposition thereto, and in light of the lengthy and exhaustive prior proceedings in this case, and for the reasons stated in the Commonwealth's opposition papers, this motion is Denied (Lauriat,J)	
08/09/2005	Motion (P#225) Upon further review, and in light of the arguments and procedural and substantive history set forth in the Commonwealth's opposition papers, the Court's order dated 4-27-05 allowing this motion is hereby vacated, and the motion is denied (Lauriat,J)	
08/09/2005	Motion (P#237 1) Stricken from the record. Defendant has Counsel of record. Pro-se motions, or motions purportedly brought in the name of counsel will not be entertained (Lauriat,J)	

(R.17)

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
08/09/2005	Motion (P# 236) Stricken from the record. Not filed by counsel of record (Lauriat,J)		
08/16/2005	NOTICE of APPEAL FILED by Stanley Donald on the Denial of his post-conviction Rule 30 motion for order authorizing DNA test and inspection of rape kit medical records, (Paper Entries #224, #225, #236, #237.1)	239	
08/16/2005	Motion by Def: Pro Se: To Preserve DNA Evidence And Kit Medical Records Pending Appeals	240	
08/16/2005	Motion by Def: Pro Se For Appointment Of Appellate Counsel.	241	
08/24/2005	Motion (P#241) Denied By the Court (Peter M. Lauriat, Justice).		
08/29/2005	Notice of assembly of record: two certified copies of docket entries and two copies of Memorandum of Decision sent to the Clerk of the Appeals Court this day.	242	
08/29/2005	Notice of assembly of record: two certified copies of docket entries and two copies of Memorandum of Decision sent to the Clerk of the Appeals Court this day.		
08/29/2005	Notice of Assembly of Record sent to James Sahakian, Esq. Chief of Appeals and Stanley L. Donald.		
08/31/2005	Notice of Entry of appeal received from the Appeals Court: Notice of Entry: In accordance with Massachusetts Rule of Appellate Procedure 10(a)(3), please note that the above-referenced case was entered in this Court on August 29, 2005. (Clerk's Office) dated 8/29/05. Appeals Court #2005-P-1221	243	
08/02/2006	Orders entered August 10, 2005, denying further DNA testing and denying inspection of medical records affirmed.	244	
08/15/2006	Def: files request for docket sheet mailed 8-23-2006		
08/18/2006	Motion by Def: for hearing pending new trial motions with an affidavit and memorandum attached	245	
08/18/2006	Motion by Def: to amend motion for new trial	246	
08/18/2006	Motion by Def: to revise and revoke sentence with an affidavit attached	247	
08/18/2006	Motion by Def: for appointment of counsel	248	
09/05/2006	Motion (P#246) The commonwealth shall file and serve its written response to the motion-as well as to defendant's assertion that there are still pending new trial motions-by or before October 6, 2006 (Lauriat,J)		
09/25/2006	MOTION by Def: Pro Se Amended Motion For New Trial With Affidavit in Support Of Motion For New Trial	249	
10/05/2006	MOTION by Commonwealth: to Strike Defendants Papers	250	
10/11/2006	Def: files opposition to commonwealth's motion to strike pro-se filings with an affidavit attached	251	
10/11/2006	Def: files habeas corpus for hearing new trial motion	252	
10/11/2006	MOTION by Def: to withdraw counsel from record	253	
10/12/2006	MOTION by Def: to Further Order Commonwealth for Response to Amended New Trial (Sent to Lauriat, J)	255	
10/13/2006	Motion (P#249) The court declines to act on this motion or on paper #246 & 106, because defendant has been and is presently represented by counsel see Comm v Donald-Mass App. ct-(June 6, 2006) (Lauriat,J)		
10/16/2006	MOTION by Def: to withdraw	254	
10/16/2006	MOTION (P#253) Defendant's "motion to withdraw counsel from record" is ALLOWED. Defendant shall be appearing pro se and shall notify the court of each change of address as soon as possible. (PM Lauriat, J.) (Peter M. Lauriat, RAJ). Copies mailed 10/18/2006		
10/20/2006	MOTION by Def: to reconsider and hear pro-se filings with an affidavit attached	256	
10/20/2006	MOTION by Def: for order to proceed pro se	257	
10/20/2006	Def: files habeas corpus	258	
10/24/2006	Def: files Notice of Appearance pro-se with address	259	

R.18

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
10/27/2006	MOTION by Deft: renewed motion for an order authorizing DNA testing of newly discovered physical evidence and inspecting of rape kit hospital specimens records with an affidavit attached	260	
11/03/2006	MOTION by Deft: Def's. Motion to Refile Pro-se Papers for Hearing	261	
11/15/2006	MOTION by Deft: Renewed Motion for Post-Conviction Relief with Affidavit in Support of	262	
11/15/2006	Deft files Proposed Procedure for DNA Testing of Newly Discovery Physical Evidence and Inspection of Hospital Specimens Records (sent to Lauriat, J)	263	
11/17/2006	Motion (P#262) the Commonwealth shall file its response to this motion by or before January 3, 2007. (Lauriat, J) Both sides notified.		
12/14/2006	Commonwealth files Opposition to Defendant's Renewed Motion for Post-Conviction Relief (sent to Lauriat, RAJ)	264	
12/14/2006	Appearance of Commonwealth's Atty: Meghan O'Neill		
12/19/2006	Deft files response to Commonwealth's Opposition (sent to Lauriat,J)	265	
12/22/2006	MOTION by Deft: Pro Se Emergency Motion For Continuance	266	
12/26/2006	MOTION by Deft: for Appointment of New Counsel	266	
12/27/2006	MOTION by Deft: to amend Motion for Post-Conviction Relief	267	
01/08/2007	MOTION by Deft: Pro Se For Habeas Corpus For Hearing With Affidavit. (Copy to Lauriat, J.)	269	
01/17/2007	Deft files Renewed Proposed Procedure for DNA Testing and Inspection of Hospital Specimens Forms (Sent to Kottmyer, J)	270	
01/24/2007	Deft files habeas corpus	271	
01/26/2007	MOTION by Deft: to amend motion for appointment new counsel	272	
01/26/2007	MOTION by Deft: Post-conviction for evidentiary hearing with an affidavit attached	273	
02/06/2007	Deft files Mandamus Habeas Corpus	274	
02/06/2007	Deft files Mandamus Court to Take Action of Pending Renewed Motions for Post-Conviction Relief (sent to Kottmyer, J)	275	
02/21/2007	Defendants affidavit in support of renewed proposed procedure for DNA testing and inspection of hospital specimens forms	276	
02/22/2007	MOTION by Deft: Renewed motion for an order authorizing DNA testing of physical evidence and inspection of hospital specimens forms in the possession of the state police crime laboratory with an affidavit attached	277	
03/01/2007	Deft files Memorandum of law in support of renewed motion for an order authorizing DNA testing of physical evidence and inspection of hospital specimens forms in the possession of the state police crime laboratory (sent to Kottmyer, J)	278	
03/09/2007	MOTION by Deft: for Habeas Corpus	279	
03/13/2007	Affidavit of pro-se counsel	280	
04/17/2007	Deft files request for decision on pending motions	281	
04/20/2007	Letter received from defendant Re:DNA test	282	
04/30/2007	Letter regarding DNA test. (Copy to Kottmyer, J)	283	
05/16/2007	Deft files final notice for request of decision on pending renewed motions, with exhibits	284	
05/16/2007	Motion (P#284) the court is in the process of reviewing the voluminous materials submitted by defendant. For the most part, the defendant is renewing motion that were denied by the court and ruled on by the appeals court see docket entry #244 compare docket entry 260 (Kottmyer,J)		
05/17/2007	MOTION by Deft: to withdraw	285	
05/18/2007	Motion (P#285) The defendant is order to file a statement whether he opposes the motion to withdraw and if so the basis of the opposition within thirty days (Kottmyer,J)		
05/23/2007	Copy of docket sheets sent to defendant at his request		

R.19

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
05/29/2007	Deft files statement in response to motion to withdraw	286	
05/29/2007	Deft files notice to court regarding renewed motions	287	
06/08/2007	MOTION by Deft: for appointment of new counsel for renewed motion for post conviction DNA test and inspection of hospital specimens form in the possession of the state police crime laboratory with an affidavit attached	288	
06/14/2007	Deft files Request for Partial copy of Docket Sheet (sent to Kottmyer, J)	289	
06/14/2007	Deft files Statement in Response to Motion to Withdraw (Sent to Kottmyer, J)	290	
06/21/2007	MOTION by Deft: Final Motion for Habeas Corpus for Preliminary Hearing	291	
07/02/2007	Deft files notice to compel court for habeas	292	
07/18/2007	MOTION by Deft: to compel court for decision	293	
07/19/2007	Affidavit of pro se counsel in support of motion to compel for decision	294	
07/27/2007	Deft files post conviction motion to dismiss	295	
07/27/2007	Memorandum of Decision and Order on Defendant's renewed motion for post-conviction relief Re: For the reasons stated above, the defendant's renewed motion for post conviction relief is DENIED (Kottmyer, J)	296	
07/30/2007	Deft files Mandamus for decision to withdraw counsel from record	297	
08/06/2007	MOTION by Deft: for extension of time to file notice of appeal with an affidavit attached	298	
08/08/2007	Order from Appellate Division of the Superior Court Department for the Review of Sentence it is ORDERED that the judgments imposing said sentences stand and that said appeal be and is hereby dismissed (Dortch-Okara, Gershengorn & Ford, JJ)	299	
08/21/2007	Deft files mandamus for decision on motion for extension of time to file notice of appeal	300	
08/24/2007	Deft files notice of appeal	301	
08/24/2007	Deft files request to assemble record for appeal	302	
08/24/2007	Deft files request for copy of docket entry sheet for appeal's brief Appendix	303	
08/24/2007	MOTION by Deft: pro se motion to appoint appellate counsel	304	
09/07/2007	Deft files final request to assemble record	305	
09/18/2007	Deft Files Pro Se 3rd. Request To Assemble Record For Appeal.	306	
09/26/2007	Deft files Final Request to Assemble Record (waiting for deft. response from deft. about proceeding Pro Se)	307	
09/27/2007	MOTION by Deft. to Strike Motion to Appoint Counsel (sent to Kottmyer, J)	308	
09/28/2007	Deft files Final Request for Copy of Docket Entry Sheet (Dkt mailed.)	309	
10/04/2007	Notice of assembly of record; Two certified copies of docket entries, two copies of decision and two copies notice of appeal sent to the Clerk of the Appeals Court this day.	310	
10/04/2007	Notice of assembly of record; mailed to Jim Sahakian, ADA and Stanley Donald, Pro Se		
10/05/2007	MOTION (P#308) allowed (Diane M. Kottmyer, Justice). Copy Mailed		
10/09/2007	MOTION by Deft: Def's 2nd Motion to Proceed Pro-Se on Appeal	311	
10/09/2007	MOTION (P#277) denied (Diane M. Kottmyer, Justice) Copy Mailed.		
10/09/2007	MOTION (P#303) denied. The Court assembles the record. (Diane M. Kottmyer, Justice) Copy mailed.		
10/09/2007	MOTION (P#304) denied (Diane M. Kottmyer, Justice). Copies mailed		
10/11/2007	Notice of Entry. In accordance with Massachusetts Rules of Appellate Procedure 10(a)(3), please note that the above-referenced case was entered in this Court on October 9, 2007.	312	

R.20

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
10/18/2007	NOTICE of APPEAL FILED by Stanley Donald for denial of (P#277) Renewed Motion for an Order Authorizing DNA Testing	313	
10/25/2007	Notice of assembly of record; Two certified copies of of the docket entries and two copies of Decision and Notice of Appeal sent to the Clerk of the Appeals Court	314	
10/25/2007	Notice of assembly of record; mailed to Stanley Donald, Pro Se and Jim Sahakian, ADA		
10/30/2007	Notice of Entry: In accordance with Massachusetts Rule of Appellate Procedure 10 (a)(3), Please note that the above-referenced case was entered in the Court on October 29, 2007.	315	
11/08/2007	Please take note that, with respect to the MOTION to consolidate 2007-P-1578 with 2007-P-1691, filed by Stanley Donald. (Paper #2) On November 2, 2007, the following order was entered on the docket of the above-referenced case: RE#2 the motion is allowed and 01-P-1961 is consolidated with 01-P-1578. The appellant is given leave to file a supplemental memorandum on or before 12/03/07, the appellee's now consolidated brief remains due 1/18/08. (Mills, J)	316	
08/27/2008	Memorandum And Order Pursuant To Rule 1.28 Rescript received from Appeals Court; Judgment. Orders entered July 27, 2007, and October 9, 2007, denying motions for postconviction relief AFFIRMED. By the Court (Gellinas, McHugh & Green, JJ.) RE: 07-P-1578	317	
08/04/2008	MOTION by Deft. for Free Transcripts of Sentence Appeal (sent to Kotlmyer, J)	318	
08/04/2008	Deft files Notice of Appeal Decision of Appellate Division (sent to Kotlmyer, J)	319	
08/04/2008	MOTION (P#318) denied (Dennis J. Curran, Justice). Copy to defendant		
08/18/2008	Change of address and request for docket (party info updated)	320	
08/20/2008	(P#319) No action required		
09/30/2008	Notice of Docket Entry: You are hereby notified that on September 29, 2008, the following was entered on the docket of the above referenced case: Judgment denying relief under c. 211, s. 3 without a hearing (Ireland, J)	321	
10/08/2008	Notice of Docket Entry. You are hereby notified that on October 3, 2008, the following was entered on the docket of the above referenced case: Motion for reconsideration of paper #2 filed by Stanley L. Donald, pro se with certificate of service. (10/6/08 motion for reconsideration of petition is denied without hearing. By the Court (Ireland, J)	322	
10/17/2008	In accordance with the Rules of Appellate Procedure, Nos. 9(d) and 10(a) and (b), the enclosed copy of the Notice of Appeal and the Notice of Assembly of the Record on Appeal in the above entitled case are hereby mailed to you. The appealing party must enter the case in the Supreme Judicial Court of the Commonwealth: a) if the appeal is subject to S.J.C. Rule 2.21 (copy attached), within fourteen (14) days of the filing of the notice of appeal; (b) if the appeal is subject to Mass. R.A.P. 10(a) and (b), within ten (10) days of the receipt of this notice. Entry of the case will be made in the Clerk's Office, Supreme Judicial Court for the Commonwealth, John Adams Courthouse, One Pemberton Square, Room 1400, Boston, Massachusetts 02108-1724, upon receipt of the filing fee of \$300.00, or upon written request if the appealing party has been permitted to proceed without payment of fees in this Court. A copy of the record is available from this office for a fee of \$.20 per page	323	
12/18/2008	Deft files Habeas Corpus for Hearing or Assemble Record for Appeal (sent to Kotlmyer, J)	324	
12/24/2008	Appearance of Commonwealth's Atty: Hallie White Speight		

Showing 1 to 500 of 829

<< < 1 2 > >>

R.21

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
11/24/2014 09:00 AM	Criminal 2 Rm 530		Hearing		Held as Scheduled
04/04/2016 02:00 PM	Crim. 7L CR17		Motion Hearing		Not Held
05/25/2016 02:00 PM	Crim. 7L CR17		Motion Hearing	Brieger, Hon. Heidi	Held as Scheduled
03/28/2019 12:00 PM	Crim 7L CR17	CTRM 17, 7th Floor-Lowell	Status Review	Brieger, Hon. Heidi	Held as Scheduled
04/04/2022 12:30 PM	Crim. 7L CR17		Conference to Review Status	Ritter, Hon. William J	Held as Scheduled
04/12/2022 02:00 PM	Crim 7L CR17		Conference to Review Status	Ritter, Hon. William J	Not Held
03/21/2024 09:30 AM	Criminal 6 Rm 730	Courtroom 730	Conference to Review Status	Haggan, Hon. Patrick	Held via Video/Phone
04/23/2024 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Motion Hearing	Haggan, Hon. Patrick	Held via Video/Phone
07/09/2024 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Motion Hearing	Ham, Hon. Catherine	Not Held
08/02/2024 02:00 PM	Criminal 2 Rm 530	Courtroom 530	Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled
10/23/2024 11:00 AM	Criminal 1 Rm 430	Courtroom 430	Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled
11/22/2024 02:00 PM	Criminal 1 Rm 430	Courtroom 430	Hearing on Motion for New Trial	Haggan, Hon. Patrick	Held as Scheduled
12/11/2024 09:05 AM	Criminal 1 Rm 430	Courtroom 430	Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled
01/27/2025 02:00 PM	Criminal 6 Rm 730		Conference to Review Status	Haggan, Hon. Patrick	Held via Video/Phone
02/28/2025 08:30 AM	Criminal 6 Rm 730	Courtroom 730	Filing of Motions	Haggan, Hon. Patrick	Held as Scheduled
03/21/2025 02:00 PM	Criminal 6 Rm 730	Courtroom 730	Non-Evidentiary Hearing	Haggan, Hon. Patrick	Rescheduled
04/15/2025 10:00 AM	Criminal 1 Rm 430	Courtroom 430	Hearing on Motion for New Trial		Held as Scheduled
06/02/2025 12:00 PM	Criminal 1 Rm 430	Courtroom 430	Hearing on Motion for New Trial	Haggan, Hon. Patrick	Held as Scheduled
02/25/2026 10:00 AM	Criminal 6 Rm 730		Conference to Review Status	Haggan, Hon. Patrick	Held as Scheduled

Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Conversion Attorney Mismatch	12/19/1997	01/10/2015	1	
Conversion Attorney Mismatch	12/19/1997	01/10/2015	1	
Under Advisement	06/02/2025	07/02/2025	30	06/30/2025

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
01/08/2009	MOTION (P#324) denied (Kottmyer, Justice). Def. notified.		
01/21/2009	MOTION by Def. to Extend time to File Notice of Appeal (see Kottmyer, J)	325	

R.22

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/04/2009	MOTION (P#325) allowed (Falvey, J) Copy to deft		
02/10/2009	Unintited Notice of Appearance of Deft's Atty: Brad Paul Bennion		
03/05/2009	NOTICE OF DOCKET ENTRY: You are hereby notified that on February 27, 2009, the following was entered on the docket of the above referenced case: JUDGEMENT and ORDER OF TRANSFER AFTER RESCRIPT... It is ORDERED and ADJUDGED that, the defendants motive of appeal shall be transferred to the Middlesex Superior Court, nunc pro tunc to August 26, 2008, the date the defendants said notice of appeal was received by the supreme judicial court for the county of Suffolk. No view is expressed as to whether the notice was timely or whether the appeal has merit, those issues are to be resolved in the regular course pursuant to G.L.C. 261sec 27D* (Cowan, J.)	326	
11/17/2009	General correspondence regarding exhibits received from deft. Copy of latter returned to defendant with request for more definite information re: his request.		
09/06/2011	MOTION by Deft: Deft's Post-Conviction Motion For Appointment Of Counsel With Affidavit Of Standly Donald	327	
09/22/2011	MOTION (P#328) Upon review DENIED. In the exercise of the court's discretion, as the defendant has not, on this record, raised colorable or meritorious claims. See Commonwealth v. Concalces, 388 Mass. 255, 262 (1983) (Elizabeth M. Falvey, Justice). Copies mailed		
10/20/2011	MOTION by Deft: Renewed Post-Conviction Motion For New Trial	328	
10/20/2011	Affidavit of Stanley Donald	329	
10/20/2011	PROCEDURAL ORDER: The defendant has filed a motion for post-conviction relief. The court ORDERS that the Commonwealth file a response to the defendants pending motion on or before December 8, 2011. Chare: Rape, Aggravated, ADA: David Yarnett, Hallie White Speight, Motion Filed By Defendant. By The Court, (Tutman, J.) Mary Auliero Deputy Assistant Clerk Date: 10/24/11	330	
11/09/2011	MOTION by Commonwealth: For Stay Of Proceedings Or, In The Alternative, For Extension Of Time To File Opposition To Defendant's Renewed Post-Conviction Motion For New Trial" (Sent Up To Judge Tutman)	331	
11/16/2011	Deft files response to commonwealths motion for stay	332	
11/21/2011	MOTION (P#331) Motion For Stay is DENIED. Motion for Extension Of Time is ALLOWED. The Commonwealth shall file its opposition no later than February 12, 2012. (Kathie Tutman, Justice). Copies mailed		
12/15/2011	Appearance of Deft's Atty: Thomas D. Frothingham		
12/19/2011	MOTION by Deft: To proceed as co-counsel	333	
12/19/2011	Affidavit of of Stanley Donald	334	
12/19/2011	Attorney Thomas D. Frothingham regarding Screening of appearance	335	
01/11/2012	Letter from defendant sent to Hines, J	336.1	
01/17/2012	MOTION by Deft: Supplemental motion for new trial and dismissal with an affidavit attached	336	
01/17/2012	Deft files request for habeas corpus	337	
01/26/2012	MOTION (P#336.1) Treated as a motion to transfer exhibits and denied. This court is not authorized to remove and transfer exhibits filed in this matter. In addition, the plaintiff has not articulated any reason for this request. It appears that plaintiff (in this matter) is represented by counsel in MICR 1997-2366. counsel is presumably unable of making appropriate arrangements to provide the court with any necessary documents (Hines, Justice). Copies mailed		
01/27/2012	copy docket sheet sent on 1/27/2012 to Stanley L Donald		
02/09/2012	Commonwealth files Opposition To Defendant's "Renewed Post-Conviction Motion For New Trial and Dismissal" (Sent Up to Judge Tutman)	338	
02/10/2012	MOTION (P#336) DENIED. (Diane M. Kolmyer, Justice). Copies mailed		
02/13/2012	Affidavit of Affidavit of Stanley Donald In support of public claim	339	

R.23

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/15/2012	Deft files Response to commonwealth's opposition to renewed post-conviction motion(s) for new trial	340	
02/15/2012	Letter From Defendant	340.1	
02/23/2012	Deft files Memorandum In Response to Commonwealth's Opposition to Defendants Renewed Post Conviction Motion for New Trial and Supplemental Motion for New Trial and Dismissal	341	
03/01/2012	MOTION by Deft: To Extend Time To File Notice Of Appeal Pending Decision On Other Post-Conviction Motion (Sent Up To Judge Tuttleman)	342	
03/15/2012	MOTION (P#342) allowed (Tuttleman, Justice). Copies mailed 3/20/2012		
03/15/2012	MOTION by Deft. Pursuant to G.L.c.278A, sec. 2 For Access to & Scientific Analysis of Biological Evidence w/memo & affidavit	343	
04/04/2012	MOTION (P#328) DENIED for the reasons set forth in the Commonwealth's Opposition. (Diane M Kottmyer, Justice). Copies mailed		
04/04/2012	MOTION (P#340.1) Treated as a motion for post-conviction access and Scientific analysis the motion is DENIED. This matter was referred to the undersigned by the regional administrative judge. The defendant has failed to comply with section 3 of the newly enacted G.L.C. 278A. I note, in particular, that the Appeals court's summary of the facts of this case in its opinion affirming the conviction states that DNA testing was performed by Cillmark and the results admitted in evidence at defendant's trial. See Commonwealth v. Donald, 56 Mass App.Ct 1102/(2002) (Diane M. Kottmyer, Justice). Copies mailed		
04/10/2012	MOTION by Commonwealth: To Dismiss Without Prejudice (Sent up to Judge Kottmyer sitting in Civil Courtroom 610)	344	
04/10/2012	MOTION by Deft: For Extension Of Time To File Notice Of Appeal Pending Decision On Counsel's Motion For Access To Evidence (Sent up to Judge Kottmyer sitting in Civil Courtroom 610)	345	
04/10/2012	MOTION by Deft: Nunc Pro Tunc, To Revise Filing Date Of Motion Pursuant To G.L.c.278A For Access To and Scientific Analysis Of Biological Evidence (Sent up to Judge Kottmyer sitting in Civil Courtroom 610)	346	
04/12/2012	MOTION (P#346) allowed The motion is denied for reasons set forth in this court's order dated 4-4-12 (Kottmyer, J)		
04/17/2012	NOTICE of APPEAL FILED by Stanley Donald (on file until the court has Ruled on other pending motions)	347	
04/20/2012	MOTION by Deft: Renewed Motion Pursuant To G.L.c.278A, 2 For Access To and Scientific Analysis Of Biological Evidence, and Memorandum Of Law and Fact In Support Of Defendant's Renewed Motion Pursuant To G.L.c.278A, 2 For Access To Scientific Analysis To G.L.c 278A, 2 For Access To and Scientific Analysis Of Biological Evidence (Sent up to Judge Kottmyer 610)	348	
05/01/2012	copy of docket sheet sent on 5/1/2012 to deft		
05/23/2012	ORDERED: Ruling On Defendant's Renewed Motion For Access To and Scientific Analysis Of Biological Evidence.: 5/22/12. DENIED. See Endorsement dated 4/4/12. I have also considered that the evidence against the defendant (excluding DNA evidence) was over whelming, e/g/ photographs depicting the defendant making a withdrawal from the victim's account taken from surveillance at a bank four miles from the location of the rape, the defendant's license found on the ground about fifty yards from a different location at which the victim's car was ultimately abandoned, a letter to defendant's mother in defendant's handwriting requesting and stating he was "high and lost," that he had a new name and new job and was in New York (he was subsequently arrested in Miami). See descriptions of the evidence at trial in decisions of the Court of Appeals in Commonwealth vs. Donald at 66 Mass App.Ct 1110 (2006) and at 56 Mass.App.Ct.1102 (2002) (Diane M Kottmyer, Justice Of The Superior Court)	349	
05/25/2012	NOTICE of APPEAL FILED by Stanley Donald	349.1	
05/29/2012	Affidavit of of Stanley Donald in support of counsel renewed motion pursuant to GLS 278As2	350	
05/29/2012	Motion (P#350) No action required		
06/25/2012	Deft files request to assemble record for appeal	351	

R.24

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr</u>	<u>Image Avail.</u>
07/17/2012	Notice of assembly of record; two certified copies of docket entries, one set of (P#343) Motion pursuant to GL c278A for access to and scientific analysis of biological evidence, (P#348) Renewed motion pursuant to GL c278A for access to and scientific analysis of biological evidence, and (P#349) Ruling on Defendants renewed motion for access to and scientific analysis of biological evidence and P#349.1 Notice of Appeals sent to the clerk of the appeals court this day	352	
07/17/2012	Notice of assembly of record; copy sent to Thomas D Frothingham, Esq and Jim Sahakian, ADA		
07/25/2012	Notice of Entry of appeal received from the Appeals Court 2012-P-1143	353	
09/17/2012	NOTICE OF DOCKET ENTRY: Please take note that, with respect to the MOTION to stay, filed by Stanley Donald, (P#5) on September 14, 2012 the following order was entered on the docket, RE#5: Denied. The appeal from appellas motion for post-conviction relief based on a public trial claim is hereby consolidated with the instant appeal without further need for assembly of the record. The trial court is to send two updated copies of the docket entries and a copy of the notice of appeal to this court forthwith. Counsel is to file a docketing statement on or before 9-24-12 as required by this courts pilot program requiring the filing of docketing statements for all appeals accompanied by a motion to enlarge time to file brief, as the brief is now overdue. Counsel is reminded that to the extent appellant seeks to file a moffett brief, the courts procedure in this regard are to be followed. See courts website.	354	
09/24/2012	Notice sent on 9/24/2012 MAILED DOCKET SHEET TO DEFENDANT	355	
12/21/2012	NOTICE OF DOCKET ENTRY: The supreme judicial court has allowed an Application for Direct Appellate review of the above-referenced matter case transferred to Supreme judicial court	356	
06/05/2014	NOTICE OF DECISION: A decision by the SJC was issued in the above-captioned case on this date. The text of the decision will be available for approximately two weeks at www.massreports.com (Kenneally, Clerk)	357	
08/07/2014	File in box on shelf		
09/22/2014	Defl files Third Motion for Access to and Scientific Analysis of Biological Evidence	358	
11/05/2014	ORDER OF ASSIGNMENT. The defendant has filed a motion for access to and scientific analysis of biological evidence pursuant to G.L.c.278A. Justice Diane Kotmyer is assigned to this matter. The Clerk's office shall notify all counsel of record. (Kathe M. Tutman, Regional Administrative Justice) Dated: November 5, 2014 (COPIES MAILED BOTH SIDES ADA HALLIE WHITE SPEIGHT AND D/C THOMAS FROTHINGHAM)	359	
01/05/2015	ORDER OF RE-ASSIGNMENT: The defendant has filed a motion for access to and scientific analysis of biological evidence pursuant to G.L.c.278A. Justice Heidi Brieger is re-assigned to this matter. The Clerk's office shall notify all counsel of record. (Kathe M. Tutman, Regional Administrative Justice) Dated: January 5, 2015 (COPIES MAILED BOTH SIDES ADA HALLIE WHITE SPEIGHT AND D/C THOMAS FROTHINGHAM)	360	
01/10/2015	CKA alias created for party #1 Party Name: Stanley Fleming Alias Name: Stanley Donald		
01/30/2015	Defendant's Motion for Discovery and For Funds to Hire a DNA/Forensic Expert in Connection with Defendant's Motion Pursuant to Chapter 278A	361	
01/30/2015	Affidavit filed by Defendant Stanley Fleming in support of Gwen B. Piro	362	
03/19/2015	MEMORANDUM & ORDER: MEMORANDUM & ORDER: Memorandum and Order On Defendant's Motion For Access To and Scientific Analysis Of Biological Evidence. CONCLUSION AND ORDER: Donald's Motion to and Scientific Analysis of Biological evidence is DENIED. (Heidi E. Brieger, Justice of the Superior Court) (COPIES MAILED BOTH SIDES ADA HALLIE WHITE SPEIGHT AND D/C THOMAS FROTHINGHAM)	363	

R-25

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
03/25/2015	Notice of appeal filed from the Denial of Defendants Third Motion Pursuant to GLC C 278A for Access to and Scientific Analysis of Biological Material Applies To: Frothingham, Esq , Thomas Dean (Attorney) on behalf of Fleming, Stanley (Defendant)	364	
04/10/2015	Appeal notice of assembly of record Two certified copies of the docket entries, Notice of Appeal from the denial of Defendants Third Motion for Access to and AScientific Analysis of Biological Material(copy enclosed of Motion) and Memorandum and Order on Defendants Motion for Access to ad Scientific Analysis of Biological Evidence.	365	
05/13/2015	Defendant's Motion to Defendant's Renewed Third Motion Pursuant to G.L.c. 278A For Access to and Scientific Analysis of Biological Evidence	366	
05/13/2015	Stanley Fleming's Memorandum in support of Defendant's Renewed Third Motion Pursuant to G.L.c. 278A for Access to and Scientific Analysis of Biological Evidence	367	
06/04/2015	General correspondence regarding COPIES OF (P#366, AND 367) SENT UP TO JUDGE BRIEGER IN LOWELL SUPERIOR		
06/17/2015	Notice of docket entry received from Appeals Court In accordance with Massachusetts Rule of Appellate Procedure 10 (a) (3), please note that the above-referenced case was entered in this Court on June 12, 2015 NO:2015-P-0849	369	
06/18/2015	Opposition to paper #366.0 Defendant's "Renewed Third Motion Pursuant To G.L.c.278A For Access To and Scientific Analysis Of Biological Evidence" filed by Commonwealth (COPY SENT OT JUDGE BRIEGER IN LOWELL SUPERIOR)	368	
07/03/2015	Defendant's Supplemental Motion of Supplemental Exhibits "A-to-C" in support counsel's third renewed motion pending	370	
07/16/2015	Affidavit of Stanley Donald	371	
08/17/2015	Affidavit of Stanley Donald AKA Fleming	372	
08/24/2015	Status Review of Docket as to the status of Appeal. Copies mailed 08/24/2015 Please take note that, with respect to the Status Report, filed by Fleming, Stanley RE: 2015-P-0849 RE: #6 Appellate proceedings STAYED to 9/18/15. status report due then concerning trial court's disposition of pending renewed motion pursuant to C.278A *Notice/ Attest /Briegar, J.		
09/09/2015	Notice of docket entry received from Appeals Court Re # 7 The Clerk's Office has received the referenced document from Fleming Stanley, who according to the case docket is represented by counsel. The document is noted as received on the docket, but the court will take no further action because it was not filed by counsel. Where counsel is on record as representing a party, only that counsel has authority to make filings in the court for the party, and only those filings will be reviewed and acted on by the court. Fleming Stanley should direct future inquiries and requests to counsel who can then make appropriate filings. This notice will not be sent in the future in response to any subsequent submissions from Fleming Stanley.	373	
09/14/2015	ORDER: ORDER: Accepting the appeals Court stay as a direction to decide the Renewed Motion, the court shall again review this matter. In so doing, the court requests the Commonwealth to submit its Opposition to the instant motion for the Court's consideration.	375	
09/28/2015	Commonwealth's Notice of Docket Entry Received From Appeals Court Clerks Office RE #8: Appellate proceedings STAYED to 10/22/2015. Status report due 10/22/2015 concerning the pending motions in trial court	374	
10/19/2015	The following form was generated: A Clerk's Notice was generated and sent to: Attorney: Thomas Dean Frothingham, Esq.		
11/02/2015	Commonwealth's Response to Supplemental Response to Defendants' "Renewed Third Motion Pursuant to G.L. C. 278A for access to and Scientific Analysis of Biological Evidence	376	
11/17/2015	Defendant's Response to Def's reply to Commonwealth's Supplemental Response	377	
01/14/2016	Defendant's Motion to remove counsel and proceed Pro -se	378	
01/14/2016	Defendant's Motion for discovery of Beth Israel Hospital rape kit forms to support motion pursuant to GLC 278A sent to court room 430	379	
02/09/2016	Defendant's Motion to Withdraw as attorney of record	380	
03/08/2016	Defendant's Submission regarding Defendants Proposed Order For Release Of Rape Kit Records	381	

R.26

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
03/08/2016	Stanley Fleming's Memorandum Defendant's Pro Se Memorandum Of Fact And Law In Support Of Motion For Discovery Of Bath Israel Hospital Rape Kit Forms In Connection With renewed Third Motion Pursuant To G.L. c.278A For Access To Scientific Analysis Of Biological Evidence	382	
03/15/2016	Appearance entered On this date Thomas Dean Frothingham, Esq. dismissed/withdrawn as Private Counsel for Defendant Stanley Fleming		
03/15/2016	Endorsement on Motion for remove counsel and proceed pro se, (#378.0): ALLOWED		
03/15/2016	Appearance entered On this date Thomas Dean Frothingham, Esq. added for Defendant Stanley Fleming		
03/15/2016	Appearance entered On this date Thomas Dean Frothingham, Esq. dismissed/withdrawn as Private Counsel for Defendant Stanley Fleming		
03/16/2016	Commonwealth's Response to Defendant's Motion for Discovery of Bath Israel Hospital Rape kit Forms	385	
03/21/2016	Endorsement on Motion to withdraw, (#380.0): No Action Taken see endorsement on paper #378		
03/22/2016	Commonwealth's Submission regarding Response To Defendant's Motion For Discovery Of Bath Israel Hospital Rape Kit Forms	386	
03/30/2016	Defendant's Notice to Commonwealth's Response to Motion for Discovery of Bath Israel Hospital Rape Kit Forms	384	
04/01/2016	Habeas Corpus for defendant issued to Middlesex County House of Correction returnable for 04/04/2016 02:00 PM Motion Hearing.		
04/04/2016	Event Result: The following event: Motion Hearing scheduled for 04/04/2016 02:00 PM has been resulted as follows: Result: Not Held Reason: Defendant not transported to event		
04/25/2016	Notice of docket entry received from Appeals Court NOTICE OF DOCKET ENTRY: Please take note that, with respect to the Renewed status report, filed by Fleming Stanley (P318), on April 21, 2016 the following order was entered on the docket RE#18 Appellate proceedings STAYED to 5-16-16. Status report due then regarding whether the hearing on defendant's motion scheduled for 4-4-16 that was not held has been rescheduled and the status of the pending trial court motion	386	
05/06/2016	General correspondence regarding Commonwealth's Status Report regarding defendant's renewed third motion pursuant to G.L.c 278 A for Access to and Scientific analysis of Biological Evidence	388	
05/12/2016	Pro Se Defendant's Motion to Issue of Habeas Corpus to M.C.I. Norfolk	387	
05/13/2016	Defendant's Response to Commonwealth's Status Report Regarding Motion Pursuant to G.L.c 278A for Access to and Scientific Analysis of Biological Evidence	389	
05/24/2016	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 05/25/2016 02:00 PM Motion Hearing.		
05/25/2016	Event Result: The following event: Motion Hearing scheduled for 05/25/2016 02:00 PM has been resulted as follows Result: Held as Scheduled		
06/01/2016	Defendant's Notice regarding Order of Post-Conviction Forensic Testing	390	
06/07/2016	Affidavit of Amended Affidavit of Stanley Donald with Exhibits	391	
06/10/2016	Defendant's Motion for Free transcript	392	
06/13/2016	Endorsement on Motion for Free Transcript, (#392.0): ALLOWED		
06/13/2016	Court Reporter Linda Rattigan is hereby notified to prepare one copy of the transcript of the evidence of 05/25/2016 02:00 PM Motion Hearing	393	
06/17/2016	Defendant's Motion regarding reconsider and amend proposed order to test blood evidence	394	
06/21/2016	Defendant's Motion in limine to Extend time for filing Notice of Appeal	395	
06/22/2016	Endorsement on Motion to Extend time of file notice of appeal, (#395.0): ALLOWED		
06/24/2016	Defendant's Notice regarding appeal	400	
07/14/2016	Commonwealth's Response to Defendant's Motion To Reconsider And Amend Proposed Order To Test Blood Evidence Pursuant To G.L. c.278A*	396	
07/19/2016	General correspondence regarding Appeals Court Notice	397	
08/03/2016	Defendant's Motion to reconsider and test blood evidence pursuant to G.L.c.278A	398	

R.27

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
08/10/2016	Notice of docket entry received from Appeals Court Please take note that, with respect to the Status Report filed by Fleming Stanley . (Paper # 22), on August 4, 2016, the following order was entered on the docket; RE#22: Appellate proceedings stayed to 9/12/2016 Status report due then as to a decision on defendant's motion to reconsider the denial of his G.L. 278A Motion No. 2015-P-849 dated: August 8, 2016	399	
09/08/2016	Notice of docket entry received from Appeals Court Please take note that, with respect to the Copy of letter sent to lower court, regarding action on pending motion to test blood evidence before September 30, 2016, received from Fleming Stanley, Pro Se Defendant/Appellant. (Paper #23), on September 2, 2016, the following order was entered on the docket; RE # 23 Treated as defendant's status report, appellate proceedings STAYED to 10/12/2016, with a status report due then as to the pending motion for reconsideration . No. 2015-P-0849 Dated; September 6, 2016	401	
09/26/2016	Notice of docket entry received from Appeals Court Notice Of Docket Entry Please take note that, with respect to the Status Report, filed by Commonwealth. (Paper #52), on September 22, 2016, the following order was entered on the docket RE #25: Appellate proceedings STAYED to 10/21/2016. Status report due then concerning trial court's disposition of pending motion to reconsider (Paper #394, 398) No. 2015-P-0849 Dated: September 23, 2016	402	
10/03/2016	Notice of docket entry received from Appeals Court RE#26: The stay of appellate proceedings are vacated. The defendant's brief and appendix are due on or before 11/7/16. To the extent the defendant seeks to appeal additional rulings in the trial court he may do so by filing a notice of appeal in the trial court. Upon receipt of a valid, timely notice of appeal, the trial court shall assemble the record and transmit the notice of the assembly package to this Court forthwith. Upon entry of that appeal, the defendant may move to consolidate his appeals.	403	
10/17/2016	Commonwealth's Supplemental regarding Status Report regarding agreement for Limited Testing and Commonwealth's Motion to Strike Defendant's Motions For Reconsideration (Papers #394 and #398) (COPY MAILED TO JUDGE BRIEGER @ SUFFOLK SUPERIOR COURT)	403.1	
10/18/2016	General correspondence regarding Defendant mailed a notice to the Court, could not satisfy his requests, notice was mailed back --please be advised this Court is in receipt of your request," please articulate specifically the motions you wish to appeal." - L. Pasquale, Assistant Clerk Magistrate	404	
10/24/2016	Notice of appeal filed. Applies To: Allas Donald, Stanley	410	
11/03/2016	General correspondence regarding Defendant's response back to the court indicating motions to be appealed are motion #379, #394 & #398	404.1	
11/03/2016	Pro Se Defendant's Response to Commonwealth's Supplemental Status Report And Commonwealth's Motion To Strike	405	
11/10/2016	General correspondence regarding To defendant from clerk's office regarding request for copies of pro se motion #379, 394 & 398	406	
11/21/2016	General correspondence regarding Procedural Order Completed and placed in drawer for paper number 398 and 379		
01/25/2017	Commonwealth's Request for Duplicate Order for Testing	407	
01/31/2017	Defendant's Motion to Strike Commonwealth's Request for Duplicate Order (FAXED TO LOWELL SUPERIOR COURT TO JUDGE BRIEGER)	408	
02/14/2017	Endorsement on Motion for commonwealth's request for duplicate order for testing. (#407.0): ALLOWED		
03/09/2017	ORDER: Proposed Order Regarding Post Conviction Forensic Testing	409	
03/22/2017	Appeal: notice of assembly of record two certified copies of docket entries, on set of the denial of his motion for discover and P#410 Notice of Appeal sent to the Clerk of the Appeals court this day		
03/22/2017	Appeal. notice of assembly of record sent to Stanley Donald, pro se and Thomas Ralph, ADA		
03/27/2017	Notice of Entry of appeal received from the Appeals Court Above-referenced case was entered in this Court on March 23, 2017	411	
04/03/2017	General correspondence regarding Letter from Deft to Judge Brieger	412	
04/06/2017	Notice of docket entry received from Appeals Court RE42: Denied without prejudice to renewal in the trial court	413	
04/10/2017	Defendant's Motion to stay order for forensic testing pending adjudication of appeal, with attached order from appeal court with motion and exhibits	414	

R.28

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/10/2017	Notice of docket entry received from Appeals Court The appeals 2015-P-849 and 2017-P-378 are consolidated for briefing and decision. 2015-P849 is closed. All papers shall be transferred to 2017-P-378. All future filings shall refer only to 2017-P378.	415	
04/10/2017	Notice of docket entry received from Appeals Court In accordance with Massachusetts Rule of Appellate Procedure 10(a)(3), please note that the above-referenced case was entered in this Court on April 5, 2017	416	
04/27/2017	Endorsement on Motion to stay order for forensic testing pending adjudication of appeal, (#414.0): ALLOWED		
09/28/2017	General correspondence regarding Copies of Indictments sent to Lynn Mustere		
12/08/2017	Rescript received from Appeals Court; judgment AFFIRMED Order denying motion to reconsider and test blood evidence affirmed Order denying motion for discovery affirmed..	417	
01/30/2018	Pro Se Defendant's Submission of Status Report (Copy sent to Brieger, J)	418	
02/01/2018	Endorsement on Submission of Status Report, (#418.0): Other action taken So noted. Judge: Brieger, Hon. Heidi		
03/07/2018	The following form was generated: A Clerk's Notice was generated and sent to Defendant: Stanley Fleming		
05/07/2018	Pro Se Defendant's Motion for Recusal of Judge Copy mailed to Hon. Heidi Brieger at Suffolk Superior Court this date	419	
05/29/2018	's Memorandum in Opposition to Defendant's Motion for Recusal of Judge Copy sent to Judge Brieger in Suffolk Superior Court Judge: Brieger, Hon. Heidi	420	
08/01/2018	Pro Se Defendant's Response to Commonwealth's Opposition to Defendant's Motion for Recusal of Judge SENT TO JUDGE BRIEGER AT SUFFOLK SUPERIOR COURT	421	
08/09/2018	Endorsement on Motion for Recusal of Judge, (#421.0): DENIED Upon careful review of this motion, it is DENIED insofar as there is no factual or legal basis for recusal in this matter. Judge: Brieger, Hon. Heidi		
08/12/2018	The following form was generated: A Clerk's Notice was generated and sent to Defendant: Stanley Fleming Attorney: James William Sahakian, Esq		
08/18/2018	Endorsement on Defendant's Response to Commonwealth's Opposition to Defendant. Motion for recusal of Judge, (#421.0). Other action taken So noted Judge: Brieger, Hon. Heidi		
08/18/2018	The following form was generated. A Clerk's Notice was generated and sent to Defendant: Stanley Fleming Attorney: Hallie White Spelght, Esq.		
08/27/2018	Pro Se Defendant's Motion for Appointment Of Counsel For Access To Forensic And Scientific Analysis With Discovery Of Sexual Assault Nurse Examination Records And Trial Photos copy mailed to Honorable Heidi Brieger & ADA Hallie Spelght	422	
08/27/2018	Affidavit of Affidavit Of Stanley Donald In Support Of Motion For Appointment Of Counsel For Access To Forensic And Scientific Analysis With Discovery Of Sexual Assault Nurse Examination Records And Trial Photos	422.1	
07/12/2018	General correspondence regarding Pro Se Defendant's Letter requesting a copy of docket sheet copy sent	423	
07/26/2018	Endorsement on Motion for appointment of counsel for access to forensic and scientific analysis with discovery of sexual assault nurse examination records and trial photos, (#422.0): DENIED Insofar as this court has no jurisdiction over the matter while there are appellate proceedings. Judge: Brieger, Hon. Heidi		
08/01/2018	The following form was generated. A Clerk's Notice was generated and sent to Defendant: Stanley Fleming		

R.29

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Attorney: Hallie White Speight, Esq. Holding Institution: MCI - Norfolk		
08/09/2018	Pro Se Defendant's Motion To Reconsider Motion For Appointment Of Counsel (Paper #422) (Copy mailed to Judge Brieger in Suffolk Superior Court)	424	
	Judge: Brieger, Hon. Heidi		
09/17/2018	Pro Se Defendant's Motion to Vacate Stay And For Hearing On Proposed Order Regarding Forensic Testing (Copy Mailed to Judge Brieger at Suffolk Superior Court)	425	
09/17/2018	Pro Se Defendant's Motion for Access To Forensic And Scientific Analysis With Post-Conviction Discovery Of Sexual Assault Nurse Examination Records And Trial Photos Of Alleged Victim's Injuries (Copy Mailed to Judge Brieger at Suffolk Superior Court)	426	
09/17/2018	Affidavit of / Affidavit Of Innocence Filed by Stanley L. Donald (Copy Mailed to Judge Brieger at Suffolk Superior Court)	427	
11/27/2018	Opposition to (P# 426) to Defendant's "Renewed Motion for Access to Forensic and Scientific Analysis with Post-Conviction Discovery of Sexual Assault Nurse Examinations Records and Trial Photos of Alleged (sic) Victim's Injuries" and Response to Defendant's "Motion to Vacate Stay for Hearing" filed by Commonwealth (Emailed to Judge Brieger)	428	
12/06/2018	Pro Se Defendant's Response to Commonwealth's Opposition To Defendant's Renewed Motion For Access To Forensic And Scientific Analysis With Post - Conviction Discovery Of Sexual Assault Nurse Examination Records and Trial Photos Alleged Victims Injuries (copies mailed to Judge Brieger & ADA Hallie Speight)	429	
12/11/2018	Attorney appearance On this date Edward B Gaffney, Esq. added for Defendant Stanley Fleming (Limited Notice of Appearance) (FOR SCREENING ONLY)		
12/18/2018	Defendant's Motion for Stay	430	
12/18/2018	Affidavit of of Edward B. Gaffney	430.1	
12/19/2018	Defendant's Motion for Stay	431	
12/19/2018	Endorsement on Motion for Stay, (#431.0). ALLOWED Upon review, this motion is ALLOWED for the good and sufficient reasons herein. Counsel shall contact the Assistant Clerk no later than January 25, 2019 to schedule a status conference in this matter.		
12/27/2018	Affidavit filed by Defendant Stanley Fleming in support of Motion to Stay Judge: Brieger, Hon. Heidi	431.1	
03/07/2019	Pro Se Defendant's PROPOSED Submission of order regarding post-conviction forensic testing and discovery of sexual assault nurse examination records with photos of injuries	432	
03/27/2019	Affidavit of for forensic testing of blood stains	434	
03/28/2019	Event Result: Status Review scheduled on: 03/28/2019 12:00 PM Has been: Held as Scheduled Hon. Heidi Brieger, Presiding Appeared: Defendant's appearance is waived Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Edward B Gaffney, Esq. Staff: Joseph P Mahoney, Assistant Clerk FTR Rattigan		
03/28/2019	General correspondence regarding Pro Se Defendant's correspondence Regarding testing and inspecting rape evidence Judge: Brieger, Hon. Heidi	433	
03/28/2019	Endorsement on Motion for Renewed access to forensic and scientific analysis with Post-Conviction discovery of sexual assault nurse examination records and Trial photos of alleged victim's injuries, (#426.0): DENIED upon review of this motion, and the docket in this matter, Denied as Moot		
04/05/2019	Notice of appeal filed. (P#426) Applies To: Fleming, Stanley CKA; Donald, Stanley (Defendant)	436	

R. 30

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/18/2019	Defendant's Motion to Reconsider Paper Entry #426 Copy Sent to Judge Brieger	435	
04/23/2019	Endorsement on Motion to Reconsider Paper entry #426, the defendant's renewed Motion for access to forensic and scientific analysis with post-conviction discovery of sexual assault nurse examination records and Trial photos of alleged victim's injuries, (#435.0): DENIED Upon consideration, for the reasons previously given		
05/01/2019	The following form was generated: A Clerk's Notice was generated and sent to: Attorney: Edward B. Gaffney, Esq. Attorney: James William Sahakian, Esq. Attorney: Halle White Speight, Esq. Holding Institution: MCI - Norfolk		
05/01/2019	The following form was generated: A Clerk's Notice was generated and sent to: Holding Institution: MCI - Norfolk		
05/30/2019	Notice of appeal filed. Applies To: Alas Donald, Stanley	437	
06/05/2019	Notice of Assembly of Record: One copy of docket entries one set of the transcript of evidence and P#437 Notice of Appeal to Denial of motion to reconsider. Sent to the Clerk of the Appeals Court this day		
06/05/2019	Notice of assembly of record sent to Counsel Applies To: Alias Donald, Stanley	438	
06/05/2019	Notice of Assembly of record sent to ADA Thomas Ralph		
06/13/2019	Notice of docket entry received from Appeals Court 2019-P-855	439	
09/09/2019	Notice of docket entry received from Supreme Judicial Court Notice of Docket Entry No. SJ-2018-0551 Notice Of Docket Entry You are hereby notified that on September 4, 2019, the following was entered on the docket of the above referenced case: Judgment : as on file. (Lenk) Judgment Accordingly, upon consideration, It is ORDERED that the petition for extraordinary relief shall be, and hereby is ALLOWED with respect to testing of the victim's underwear. Testing of the underwear shall proceed according to the previously-agreed twenty-one paragraph protocol. With all other claims for relief, the petition shall be, and hereby is, DENIED. By the Court, Lenk, J.	440	
10/11/2019	Notice of docket entry received from Supreme Judicial Court SJ-2018-0551 You are hereby notified that on October 8, 2019, the following was entered on the docket of the above referenced case: ORDER." Upon consideration, it is ORDERED that the motion to correct judgment shall be, and hereby is, DENIED " (Lenk, J)	441	
11/25/2020	Notice of docket entry received from Supreme Judicial Court RE: No. SJC-13040- NOTICE OF ENTRY: Pursuant to Mass. R.A.P. 10(a)(3), you are hereby notified that, on November 23, 2020, the above-referenced case was entered on the docket of this court. (Francis V. Kenneally, Clerk)	442	
11/27/2020	Notice of docket entry received from Appeals Court RE: No. 2019-P-0855- NOTICE OF DOCKET ENTRY: The Supreme Judicial Court has allowed an Application for Further Appellate Review of the above-referenced matter. Case Transferred to Supreme Judicial Court.	443	
08/09/2021	Rescript received from Supreme Judicial Court; judgment REVERSED SJC-13040 ORDERED, that the following entry be made in the docket: viz The order dated March 28, 2019, denying Donald's eight motion for postconviction forensic testing of the bloodstains taken from the cement floor of the parking garage is reversed, and the matter is remanded for a hearing pursuant to G.L.C 278A s 7. We express no opinion as to Donald's likelihood of success on the merits of his motion after a hearing..	444	
02/11/2022	Defendant's Motion for Order to Perform DNA Testing on Blood Evidence Only	445	

R.31

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/24/2022	Commonwealth's Response to Defendant's "Motion for Order to Perform DNA Testing on Blood Evidence Only"	446	
02/28/2022	Affidavit of Stanley Donald Of Innocence	447	
03/31/2022	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 04/04/2022 12:30 PM Conference to Review Status. Via Zoom. Meeting ID: 160 946 0194 Passcode: 456391	448	
04/04/2022	Attorney appearance On this date Melissa Ilg Devore, Esq. added for Defendant Stanley Fleming		
04/04/2022	Event Result: Conference to Review Status scheduled on: 04/04/2022 12:30 PM Has been: Held as Scheduled Comments: Defendant's presence waived. Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Melissa Ilg Devore, Esq., Staff: Joseph P Mahoney, Assistant Clerk		
04/04/2022	Attorney appearance On this date James William Sahakian, Esq. dismissed/withdrawn for Prosecutor Commonwealth		
04/11/2022	Event Result: Conference to Review Status scheduled on: 04/12/2022 02:00 PM Has been: Not Held For the following reason: By Court prior to date Hon. William J Ritter, Presiding Staff: Joseph P Mahoney, Assistant Clerk		
04/20/2022	ORDER: ORDER ON POST-CONVICTION FORENSIC TESTING	449	
04/20/2022	The following form was generated: A Clerk's Notice was generated and sent to. Defendant, Attorney: Edward B Gaffney, Esq. Box 1272, Framingham, MA 01701 Prosecutor, Attorney: Hallie White Speight, Esq. Middlesex District Attorney 15 Commonwealth Ave, Woburn, MA 01801		
04/27/2022	Defendant Melissa Ilg Devore, Esq.'s Motion for Funds for forensics Testing Pursuant to G.L. Chapter 278A	450	
05/18/2022	ORDER: of Assignment The defendant, Stanley Donald, has filed a Motion for Order to Perform DNA Testing on Blood Evidence Only Justice Laurence Pierce is assigned to this matter. The clerk's office shall notify all counsel of record. Pierce, RAJ. Judge: Pierce, Hon. Laurence D	451	
05/23/2022	ORDER: of Assignment The defendant, Stanley Donald, has filed a Motion for Funds for Forensic Testing. Justice Patrick M. Haggan is assigned to this matter. The clerk's office shall notify all counsel of record. Pierce, RAJ	452	
05/27/2022	Defendant's Motion for Funds for Forensic Testing Pursuant to G.L. Chapter 278A (Unopposed)	453	
05/27/2022	Endorsement on Unopposed Motion for Funds For Forensic Testing Pursuant to G.L. Chapter 278A, (#453 0): After review, and without opposition, motion Allowed Judge: Haggan, Hon. Patrick		
06/14/2022	Defendant Edward B Gaffney, Esq.'s Motion for Funds for Forensic Testing Pursuant to G.L. Chapter 278A	454	
06/14/2022	Affidavit filed by Defendant Stanley Fleming in support of Motion for funds	454.1	
08/29/2022	Defendant's Motion for new trial (post-conviction)	455	
08/29/2022	Affidavit of Stanley Donald with Defendant's Record of Appendix in support of motion for new trial	456	
09/19/2022	Defendant's Submission of Post-Conviction Motion for Evidentiary Hearing on Pending Motions for New Trial (Paper#118,#455)	457	
10/27/2022	Opposition to to defendant's "Post Conviction Motion for New Trial" filed by Commonwealth	458	
11/03/2022	Defendant's Response to Commonwealth's Opposition to Post-Conviction Motion for New Trial	459	
01/30/2023	Defendant's Motion to strike or in alternative order retesting of blood stains with an independent forensic laboratory	460	

R.30

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/02/2023	Commonwealth's Response to Defendant's "Motion to Strike or in Alternative Order Retesting of Bloodstains with an Independent Forensic Laboratory"	461	
02/03/2023	Attorney Edward B Gaffney, Esq.'s motion to withdraw as counsel of record for party Applies To: Fleming, Stanley (Defendant); Gaffney, Esq., Edward B (Attorney) on behalf of Fleming, Stanley (Defendant)	462	
02/10/2023	Defendant's Motion for Post-Conviction Discovery of [Sane Records] Sexual Assault Nurse Examination (Renewed Motion)	463	
02/10/2023	Affidavit of Stanley Donald	463.1	
02/13/2023	Affidavit filed by Defendant Stanley Fleming in support of Motion for Evidentiary Hearing	464	
03/10/2023	Opposition to defendant's "Renewed motion for post-conviction discovery of [sane Records] sexual assault nurse examination" filed by Commonwealth	465	
03/20/2023	Defendant's Response to Commonwealth's Opposition to Defendant's Renewed Motion for Discovery of [Sane Records] Sexual Assault Nurse Examination	466	
04/05/2023	Pro Se Defendant's Petition for Writ of Habeas Corpus	467	
06/09/2023	Defendant's Submission of Mandamus for Court to Take Action on Pending Filings	468	
07/11/2023	Notice of docket entry received from Supreme Judicial Court SJ-2023-255 JUDGEMENT: This matter came before the Court, Cypher, J., on the petitioner Stanley Donald's petition pursuant to G.L. c. 211, § 3, filed pro se and seeking an order to compel the trial court to rule on his post-conviction motion for a new trial filed by his counsel on or about August 29, 2022. Upon consideration thereof, it is ORDERED that the petition be, and the same hereby is, denied without prejudice on the grounds that the petitioner has an existing adequate, alternate remedy in the trial court in that the petitioner, in the first instance, may move the trial court to expedite its review of the pending motion. Petitioner shall note that the trial court will receive notice of this judgment. By the Court, (Cypher, J.) /s/ Maura S. Doyle Maura S. Doyle, Clerk Entered: July 11, 2023	469	
07/17/2023	Defendant's Petition to Waive Entry Fee for Single Justice to Order Lower Court to Take Action on Pending Post-Conviction Motions	470	
07/17/2023	Defendant's Mandamus for Court to Take Action on Pending Filings	471	
07/20/2023	Pro Se Defendant's Motion for Expedite Review on Pending Filings	472	
07/20/2023	Affidavit of Stanley Donald	472.1	
09/01/2023	Pro Se Defendant's EMERGENCY Motion for Expedite Review	473	
09/01/2023	Affidavit of Stanley Donald	473.1	
09/22/2023	General correspondence regarding Exhibits 1-5 filed by Defendant	474	
09/28/2023	Notice of docket entry received from Supreme Judicial Court COMMONWEALTH OF MASSACHUSETTS SUPREME JUDICIAL COURT FOR THE COUNTY OF SUFFOLK CLERK'S OFFICE RE: No. SJ-2023-0255 COMMONWEALTH v. STANLEY DONALD Lower Court: Middlesex Superior Court Lower Court No: 9781CR02368 NOTICE OF DOCKET ENTRY You are hereby notified that on September 18, 2023, the following was entered on the docket of the above-referenced case: P.#7: Defendant's MOTION for Expedite Review on Pending Filings with Certificate of Service, Affidavit and attachment filed by Stanley Donald, pro se. (9/28/2023: "Per the within, MOTION is DENIED without hearing." (Cypher, J.)) P.# 8: Renewed Petition to Compel Lower Court with Certificate of Service and attachments filed by Stanley Donald, pro se. (9/28/2023: "Per the within, MOTION is DENIED without hearing." (Cypher, J.)) Very truly yours, /s/ Maura S. Doyle	475	

R.33

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Maura S. Doyle Clerk		
03/19/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 03/21/2024 09:30 AM Conference to Review Status. ***ZOOM HABE***	476	
03/19/2024	Defendant's Notice of withdrawal of appearance	477	
03/19/2024	Attorney appearance On this date Edward B Gaffney, Esq. dismissed/withdrawn for Defendant Stanley Fleming		
03/21/2024	Endorsement on Motion to strike or in alternative order retesting of bloodstains with an independent forensic laboratory, (#460.0): DENIED After review and hearing, motion DENIED. Haggan, J.		
03/21/2024	Endorsement on Motion Defendant's renewed motion for post-conviction discovery of (SANE records) sexual assault nurse examination, (#463.0): Other action taken After review and hearing, the motion is allowed in part as to an order to Beth Israel Deaconess as to the rape kit report otherwise the motion is denied as already acted on by the appeals court. Haggan, J.		
03/21/2024	Endorsement on Motion Unopposed motion for funds for forensic testing pursuant to G.L. chapter 278A, (#453.0): ALLOWED After review and without opposition, motion allowed. Haggan, J.		
03/21/2024	Endorsement on Motion Defendant's post-conviction motion for evidentiary hearing on pending motions for new trial (paper # 118, #455), (#457.0): Other action taken Allowed in part as to hearing on pending motions taking place today, but not evidentiary. Haggan, J. Judge: Haggan, Hon. Patrick		
03/21/2024	ORDER. Court Order It is hereby ordered by this Court that records department of Beth Israel Deaconess Medical Center and Emergency Room, et al., 330 Brookline Avenue, Boston, Massachusetts 02215, shall produce this Court the SANE rape kit forms #1-to-5, related to the rape kit #10330, relevant to the victim/patient interview with sexual assault nurse examination regarding statements and injuries that is recorded on the SANE rape kit forms, herein, to the Clerk's Office of Middlesex Superior Criminal Court, 200 Trade Center, Woburn, Massachusetts 01801, a copy of said rape kit forms for this Court to conduct an in-camera view in the above referenced criminal case as justice requires. SO ORDERED BY Haggan, J.	478	
03/21/2024	Docket Note: By order of the Court (Haggan, J.), Beth Israel Deaconess Medical Center records to be filed with the Clerk's Office UNDER SEAL for in camera review by the court. Clerk's office to notify parties upon receipt of records but parties may not view records.		
03/21/2024	Attorney appearance On this date Pro Se added for Defendant Stanley Fleming		
03/21/2024	Event Result : Conference to Review Status scheduled on: 03/21/2024 09:30 AM Has been: Held via Video/Phone Comments: Defendant to file discovery motion in approximately 7 days By request of defendant, court to stay action on motion for new trial to next date. Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Pro Se, Staff: Lia Marino, Assistant Clerk Magistrate Ashlee Bresnahan, FTR		
03/21/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 04/23/2024 12:00 PM Motion Hearing. **ZOOM/VIDEO HABE** Meeting ID:161 081 5426 Passcode: 12345	479	
03/22/2024	Docket Note: Certified Copy of Order Pleading (P#478)- Mailed to Beth Israel Deaconess Medical Center 330 Brookline Ave. Boston, Mass. 02215 Attn: Records Department		
03/25/2024	Defendant's Post-Motion for Order to Discover Bank Documents	480	
03/25/2024	Affidavit of Stanley Donald	480.1	
04/03/2024	Defendant's Submission Copy of letter from defendant to Beth Israel Deaconess Medical Center General Counsel	481	
04/04/2024	Defendant's Motion to inspect non-privilege records	483	

R.34

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/05/2024	Opposition to (P#480)-To Defendant's " Post-Conviction Motion for Order to Discover Bank Documents" filed by Commonwealth	482	
04/22/2024	Defendant 's Bishop Motion to Inspect Non-Privilege Records	484	
04/22/2024	Defendant 's Response to Commonwealth's Opposition for Order to Discover Bank Documents (Exhibit attached NOT scanned)	485	
04/23/2024	Event Result:: Motion Hearing scheduled on: 04/23/2024 12:00 PM Has been: Held via Video/Phone Comments: FTR: A. Bresnahan Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Staff. Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate		
04/23/2024	General correspondence regarding Beth Israel Lahey Health from Emily Armstrong to Judge Haggan	486	
04/23/2024	Endorsement on Motion for Order to Discover Bank Documents, (#480.0): ALLOWED After hearing with argument, the motion is Allowed. (Haggan, J.) Judge: Haggan, Hon. Patrick		
04/23/2024	ORDER: ORDER: RE: Bank of America Records Judge: Haggan, Hon. Patrick	487	
04/25/2024	Docket Note: Copy of Order (P#487) mailed to Bank of America Financial Center		
05/23/2024	Docket Note: Order RE: (P#487)-(Return to Sender Not Deliverable as Addressed - Unable to Forward) Regarding the Order for Bank of America Records		
07/01/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 07/09/2024 12:00 PM Motion Hearing. ** VIDEO/ZOOM ** Meeting ID: 161 081 5426 Passcode: 12345	488	
07/05/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 07/09/2024 12:00 PM Motion Hearing. ** VIDEO/ZOOM ** Meeting ID: 161 081 5426 Passcode: 12345	489	
07/08/2024	Defendant 's Motion for copy of paper entrys #478; #486 relevant to endorsed court order & correspondence regarding Beth Israel Lahey related to rape kit. (Exhibit attached not scanned)	490	
07/09/2024	Event Result: Motion Hearing scheduled on: 07/09/2024 12:00 PM Has been: Not Held For the following reason: Defendant not transported to event Comments: MCI-Norfolk Internet connection went down, so zoom not possible on this date. Hon. Cathleen E. Campbell, Presiding Staff: Michelle Goldman, Assistant Clerk Magistrate Ariel Jordan, Assistant Clerk Magistrate		
08/01/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 08/02/2024 02:00 PM Conference to Review Status. **IN PERSON, PLEASE TRANSPORT**	491	
08/02/2024	Event Result: Conference to Review Status scheduled on: 08/02/2024 02:00 PM Has been: Held as Scheduled Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Pro Se, Staff. Douglas Nagengast, Assistant Clerk Magistrate & FTR Monitor		
08/05/2024	Endorsement on Motion for Copy of Paper Entrys # 478 & 486 Relevant to Endorsed Court Order & Correspondance Regarding Beth Israel Lahey Health related to Rape kit. (#490.0): ALLOWED Allowed. (Haggan, J.)		

(R.35)

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
08/05/2024	ORDER: RE: Bank of America Records Judge: Haggan, Hon. Patrick	492	
08/06/2024	Docket Note: Copies of (P#478 & 486) and endorsed (P#490) mailed to Stanley Donald aka Stanley Fleming @ MCI- Norfolk		
08/06/2024	Docket Note: **Certified Copy of Order (P#492)- Order for Bank of America Records mailed this date to Records Department of Bank of America Financial Center c/o CT Corporation Systems 101 Federal St. Boston, Ma. 02110**		
08/23/2024	Pro Se Defendant's Motion for Discovery of Trial Exhibits Photos to Support Beth Israel SANE Rape Kit Forms & Records (Exhibits A-B attached)	493	
08/26/2024	Defendant's 2nd Status Report on Evidence	494	
09/16/2024	Defendant's Supplemental Memorandum In Support of Renewed Motion for Postconviction Relief based on Supreme Judicial Court case of Commonwealth v. Gaines	495	
09/27/2024	General correspondence regarding Letter from Beth Israel Lahey to Judge Haggan	496	
10/15/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 10/23/2024 11:00 AM Conference to Review Status. **IN PERSON, PLEASE TRANSPORT** (CKA Stanley Donald put on habe)	497	
10/23/2024	Event Result.: Conference to Review Status scheduled on: 10/23/2024 11:00 AM Has been: Held as Scheduled Comments: FTR: A. Breshahan Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Staff: Michelle Goldman, Assistant Clerk Magistrate April Jordan, Assistant Clerk Magistrate		
10/23/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 11/22/2024 02:00 PM Hearing on Motion for New Trial. **IN PERSON, PLEASE TRANSPORT** (CKA Stanley Donald put on habe)	498	
10/23/2024	ORDER: COURT ORDER: RE: Bank of America Records	499	
10/23/2024	Docket Note: Order (P#499)- Certified copy of Order, sent via certified mail #7020 3160 0002 2336 9868 to Bank of America Attn. Records Dept. Post Office Box 25118, Tampa, Florida 33622, this day		
10/29/2024	Defendant's Amended Motion for Post-Conviction Relief	500	
10/29/2024	Affidavit of Stanley Donald (Attachments not scanned)	500.1	
11/01/2024	Defendant's Supplemental Memorandum In Support of Amended Motion for Post-Conviction Relief	501	
11/12/2024	Defendant's 2nd Affidavit with Exhibits (Attachments not scanned)	502	
11/12/2024	Opposition to (P#550)- To Defendant's "Amended Motion for Post-Conviction Relief" and "Supplemental Memorandum In Support of Amended Motion for Post Conviction Relief" filed by Commonwealth	503	
11/20/2024	Defendant's Response to Commonwealth's Opposition to Amended Motion for Post-Conviction Relief (Exhibit attached NOT scanned)	504	
11/20/2024	Affidavit of Donald (AKA Fleming) Stanley	504.1	
11/22/2024	Event Result.: Hearing on Motion for New Trial scheduled on: 11/22/2024 02:00 PM Has been: Held as Scheduled Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Pro Se, Staff: Steve Mattos, Assistant Clerk Magistrate April Jordan, Assistant Clerk Magistrate		
11/22/2024	Defendant's Motion of Free Transcripts of Hearings	505	

R.36

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
11/22/2024	Endorsement on Motion for Free Transcripts, (#505.0): ALLOWED After review and hearing, the motion is ALLOWED. (Haggan, J.) Judge: Haggan, Hon. Patrick		
11/26/2024	Defendant's Emergency Motion to Stay Ruling on (Paper #455) Motion for New Trial Until C.P.C.S. Assign Counsel	506	
11/27/2024	Endorsement on Motion to Stay Ruling on (Paper#455) Motion for New Trial Until C.P.C.S. Assign Counsel, (#506.0): ALLOWED After review, and defendant an opportunity to present guidance at an evidentiary hearing (which he declined) the motion to stay ruling on paper #455 is ALLOWED. Session clerk to schedule a status hearing date on zoom to coordinate and schedule potential evidentiary hearing. (Haggan, J.) Judge: Haggan, Hon. Patrick		
11/27/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 12/11/2024 09:05 AM Conference to Review Status. ** ZOOM/VIDEO **	507	
12/11/2024	Event Result:: Conference to Review Status scheduled on: 12/11/2024 09:05 AM Has been: Held as Scheduled Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Pro Se, Staff: Steve Mattos, Assistant Clerk Magistrate April Jordan, Assistant Clerk Magistrate		
12/30/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/27/2025 02:00 PM Conference to Review Status. ****ZOOM HABA**** Emailed to MCI-Norfolk 12/30/24 Lia Marino, AC	508	
01/08/2025	Defendant's Renewed Memorandum In Support of Motion for New Trial and to Reconsider Amended Motion for Post-Conviction Relief	509	
01/08/2025	Defendant's Motion to Expand Exhibits	510	
01/27/2025	General correspondence regarding Correspondence received from Deft. RE: Exhibit #29 Letter from Beth Israel	511	
01/27/2025	Event Result:: Conference to Review Status scheduled on: 01/27/2025 02:00 PM Has been: Held via Video/Phone Comments: Commonwealth to file responsive pleading by 2/28. Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Staff: Lia Marino, Assistant Clerk Magistrate		
01/28/2025	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 03/21/2025 02:00 PM Non-Evidentiary Hearing. ****IN PERSON, PLEASE TRANSPORT*** Cancelled by email 3/20/25	512	
01/30/2025	General correspondence regarding Correspondence received from Deft. RE: Additional Letter from Beth Israel	513	
02/10/2025	Affidavit of Stanley Donald In Support of Paper Entry #484	514	
02/24/2025	Commonwealth's Memorandum in Response To Court Request for Analysis of Defendant's Brady Claim Regarding Alleged Third Party Culprit Evidence	515	
02/26/2025	Event Result:: Filing of Motions scheduled on: 02/26/2025 08:30 AM Has been: Held as Scheduled Comments: held administratively Hon. Patrick Haggan, Presiding Staff: Lia Marino, Assistant Clerk Magistrate		
03/03/2025	Defendant's Response to Commonwealth's Memorandum	516	
03/03/2025	Defendant's Supplemental Authority of U.S. Supreme Court	517	
03/06/2025	Affidavit of Stanley Donald In Support of Response to Commonwealth's Memorandum	518	

R.37

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
03/06/2025	Defendant's Motion for New Sentencing Hearing	519	
03/17/2025	Defendant's Supplemental Authority Regarding Third-Party Culprit Evidence	520	
03/20/2025	Event Result:: Non-Evidentiary Hearing scheduled on: 03/21/2025 02:00 PM Has been: Rescheduled For the following reason: By Court prior to date Hon. Patrick Haggan, Presiding Staff: Lia Marino, Assistant Clerk Magistrate		
03/20/2025	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 04/15/2025 10:00 AM Non-Evidentiary Hearing to Dismiss. ***IN PERSON, PLEASE TRANSPORT***	521	
03/28/2025	Defendant's 2nd Supplemental Memorandum In Support of Paper Entry #455 Post-Conviction Motion for New Trial	522	
04/15/2025	Event Result:: Hearing on Motion for New Trial scheduled on: 04/15/2025 10:00 AM Has been: Held as Scheduled Comments: FTR: K. O'Kelly Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Staff: Michelle Goldman, Assistant Clerk Magistrate April Jordan, Assistant Clerk Magistrate		
04/15/2025	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 06/02/2025 12:00 PM Hearing on Motion for New Trial. ***IN PERSON, PLEASE TRANSPORT***	523	
04/22/2025	Affidavit of Stanley Donald	524	
04/22/2025	Defendant's Motion for Findings of Facts and Ruling of Law	525	
05/05/2025	Docket Note: Certified copy of paper #492 mailed to Stanley Donald aka Stanley Fleming @ MCI- Norfolk		
05/12/2025	Defendant's Motion to Subpoena Commonwealth Witness	526	
05/12/2025	Affidavit of of Stanley Donald	526.1	
05/12/2025	Defendant's Motion to Amend Paper #455 to Order New Trial	527	
05/18/2025	General correspondence regarding Letter to Judge Haggan from Defendant	528	
05/30/2025	Defendant's Supplemental Motion to Amend Paper #455 Post-Conviction Motion for New Trial	529	
06/02/2025	Matter taken under advisement: Hearing on Motion for New Trial scheduled on: 06/02/2025 12:00 PM Has been: Held - Under advisement Comments: FTR: J. MacEachern Hon. Patrick Haggan, Presiding Appeared: Defendant Stanley Fleming Holding Institution MCI - Norfolk Staff: Michelle Goldman, Assistant Clerk Magistrate April Jordan, Assistant Clerk Magistrate		
06/02/2025	Endorsement on Motion to Subpoena Commonwealth Witness, (#526.0): ALLOWED After hearing with argument, motion ALLOWED. (Haggan, J.) 6/2/25		
06/02/2025	Pro Se Defendant's Motion for Free Transcripts of Hearings	530	
06/02/2025	Endorsement on Motion for Free Transcripts of Hearings, (#530.0): ALLOWED ALLOWED. (Haggan, J.) 6/2/25		
06/08/2025	Defendant's Motion to Expand Exhibits to Include Letter to SJG	531	
08/06/2025	Defendant's Citation of Supplemental Authority	532	
08/18/2025	Commonwealth's Motion to Correct Marginal Endorsement and Docket Entry Regarding Paper #526	533	
08/18/2025	Endorsement on Motion to Correct Marginal Endorsement and Docket Entry Regarding Paper #526, (#533.0): ALLOWED 8/18/25 After review, including the transcript, it is clear to this court that the motion was DENIED, but the court erroneously endorsed it as "ALLOWED." The motion to correct the margin endorsement on paper #526 is ALLOWED. The defendant's Motion to Subpoena Commonwealth Witness (#526) is DENIED. SO ORDERED. (Haggan, J.)		

R.38

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Judge: Haggan, Hon. Patrick		
08/25/2025	Pro Se Defendant 's Response to Commonwealth's Motion to Correct Marginal Endorsement on Paper Entry #526 Court Order	534	
08/26/2025	Defendant 's Memorandum In Support of Supplemental Authority	535	
09/11/2025	General correspondence regarding Letter from Deft. to Clerk's Office: RE: (Copy of Endorsed P#533)	536	
09/11/2025	Docket Note: Copy of Endorsed (P#533) mailed to the defendant, this day @ MCI-Norfolk P.O. Box 43 Norfolk, Mass. 02056		
11/26/2025	General correspondence regarding Letter from Defendant to ADA Speight	537	
12/05/2025	Defendant 's Motion for Video Zoom Status Conference	538	
02/25/2026	ORDER: Memorandum of decision and order on defendant's motion for a new trial (and amended motions for new trial) pursuant to Mass. R. Crim. P. 30 (Paper No. 455), and amended motion for post-conviction relief (paper no. 500) .. After careful review of the parties' multiple written submissions and multiple oral arguments, as well as the documentary evidence presented by the defendant, for the following reasons, the defendant's motion for new trial (Paper No. 455) and amended motion for post-conviction relief (Paper No. 500) are DENIED.. Copies given in hard to ADA Speight and Mr. Donald 2/25/26	539	
02/25/2026	Event Result: Conference to Review Status scheduled on: 02/25/2026 10:00 AM Has been: Held as Scheduled Hon. Patrick Haggan, Presiding Appeared: Prosecutor Hallie White Speight, Esq., Attorney for the Commonwealth Defendant Stanley Fleming Pro Se, Staff. Lia Marino, Assistant Clerk Magistrate & FTR		
03/02/2026	Notice of appeal filed. Applies To: Fleming, Stanley (Defendant)	540	
Showing 501 to 629 of 829 << < 1 2 > >>			

Case Disposition

<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Disposed by Jury Verdict	07/25/2012	

R.39

COMMONWEALTH
MIDDLESEX, ss

OF

MASSACHUSETTS

SUPERIOR COURT

CRIMINAL DIVISION

No. 9781CR02366-01-06.

PAPER ENTRY
#455

Commonwealth Of Massachusetts

Vs.

Stanley Donald

DEFENDANT'S POST-CONVICTION MOTION FOR NEW TRIAL

Now comes the Defendant, Stanley Donald, and moves pursuant to Mass.R.Crim.P.Rule 30(b), for this Honorable Court to grant him an evidentiary hearing and ORDER a new trial on the grounds setforth in this motion:

[A.]Prosecutorial misconduct deprived the defendant of a fair trial when the trial prosecutor wore a visible firearm on his waist in the courtroom during trial;

[B]The Commonwealth withheld substantial identification evidence of another suspect Jerry Dixon in violation of Brady;

[C]Newly discovered evidence casts doubt on the justice of the rape convictions and reveals the Commonwealth used forensic evidence from a different rape case to deprive defendant of a fair trial in violation of the 5th, 6th and 14th Amendments to the U.S. Constitution; And

[D.]Two prosecutors committed misconduct to deny defendant access to sexual assault nurse examination forms which links another suspect Jerry Dixon to the crimes; And

[E.]The defendant was deprived of his Sixth Amendment Rights to effective assistance of trial counsel who failed to conduct a proper investigation for the defense.

The Defendant attaches an Appendix with an Affidavit and Exhibits in support of these claims raised in this motion.

R.40

-Concise Procedural History Of Proceedings-

¹⁰
In April of 1999, the Defendant was convicted of two counts aggravated rape, unarmed robbery, kidnapping, assault and battery with a dangerous weapon to wit cement floor, and carjacking. He was sentenced to an overall sentence of not less than 40 years and not more than 50 years. On February 9, 2001, the Court issued an Order regarding his motions for new trial to be consolidated for a hearing which is still pending. See (Paper Entry #118)

Since his conviction, the Defendant has filed numerous motions and appeals with the goal to prove his innocence and establish grounds for new trial. See Commonwealth Vs. Donald, 468 Mass. 371 (2014); And Commonwealth Vs. Donald, 487 Mass. 1036 (2021).

Further, by Court Order, on July 26, 2022, the crime scene blood stains were sent to Bode Technology for comparison testing to the allege victim's blood sample which the Commonwealth does not concede that such testing has the potential to result in evidence material to the defendant's identification as the perpetrator of any offense or his innocence of the charges for which he stands convicted. See (Exhibits #1-to-2; Court Order Par. 18) Since the Commonwealth will not concede to test results of bloodstains then the Defendant now moves for an evidentiary hearing on his claims set forth in this motion for new trial.

R. 41

-Concise Statement Of Facts-

These facts summarize the Commonwealth's trial evidence in Commonwealth Vs. Donald, 56 Mass.App.Ct.1102(2002).

On the morning of October 21, 1997, the victim E.W.,^{*1.} was attacked in the parking garage of her apartment building. Her attacker tackled her to the ground, and smashed her face into the cement floor of the garage, breaking her nose, which began to bleed profusely. The blood was just everywhere on the cement floor. He took E.W.'s keys, ordered her into the car, and drove off with her, threatening to kill her with a gun he claimed to have. As he drove away he demanded that she cover her head with her jacket and give him money.

He also took her bank access card and driver's license, and demanded that she tell him her password. After driving for some time he stopped the car, and pulled her out of the passenger seat. While her head was still covered with the jacket, he smashed her on the side of the head with what she believed to be a rock. He then demanded that she remove her shoes, tights and underwear, and hold her legs, and then he vaginally raped her with his penis and with his tongue.

*1. Because of the nature of the crimes in this case, the victim will be referred to by her initials only.

R.42

The attacker then drove away in E.W.'s car. E.W. got dressed, and was ultimately taken to a hospital where she was treated for her injuries. Meanwhile, a videotape recorded an individual withdrawing money from E.W.'s bank account at an ATM.

That evening, E.W.'s car was found approximately twenty miles from the attack. The following morning, Mr. Donald's driver's license was found about fifty yards from where the car was found.

The following month, police showed two men at Mr. Donald's workplace still images taken at the ATM of the individual who had withdrawn the money from E.W.'s account. They confirmed that Mr. Donald did not show up for work on the day of the attack, and the men identified the individual as Mr. Donald.

Later that same month, E.W. picked Mr. Donald's photograph out of an photo array, saying that it looked "very, very much like" the attacker. Tests on sperm samples found on E.W.'s underwear and a blood sample from Mr. Donald revealed that the DNA profile was found in approximately 1-in-7,800 African-Americans.

At trial, E.W. testified photos was taken of her injuries. A State Police Crime Lab Chemist collected several bloodstains from the cement floor of garage and from a right fender of a car. A State Police Fingerprint Expert opinioned that Mr. Donald do not match the fingerprints recovered in E.W.'s car. A witness seen a black man walking in the garage in a limp manner before E.W. was assaulted. E.W. testified before the Grand Jury that she went to Beth Israel Emergency for a [S.A.N.E] sexual assault kit but the Commonwealth never questioned her about the rape kit at trial. See (Exhibit #3)

-4- (R.43)

**A] PROSECUTORIAL MISCONDUCT DEPRIVED THE DEFENDANT OF
A FAIR TRIAL WHEN THE TRIAL PROSECUTOR WORE A VISIBLE
FIREARM ON HIS WAIST IN THE COURTROOM DURING TRIAL.**

During trial, the trial prosecutor ADA David R. Yannetti wore a dark colored 9mm firearm on his waist that was visible to the witnesses and jurors and there was "no essential State interest" for the prosecutor to wear a firearm on his waist which only created the impression in the minds of the jury that defendant is dangerous or untrustworthy, which also affected the defendant's ability to receive a fair trial. Holbrook V. Flynn, 475 U.S. 560, 568-569 (1986) ["No essential State interest"].

Here, this defendant told a court officer name "Luke" that ADA Yannetti has a 9mm firearm on his waist in the courtroom during trial. See (Affidavit of Stanley Donald)

Even more, the Middlesex District Attorney's Office is aware that in 1999, ADA Yannetti carried a firearm on his waist when the District Attorney's Office was in Cambridge inside the same building as the Middlesex Cambridge Courthouse where ADA Yannetti would leave the District Attorney Office and take the elevator up to the courtroom with his 9mm firearm on his waist during trial. This can be confirmed by former ADA Stephen B. Barton who worked in the Middlesex District Attorney's Office.

This misconduct of trial prosecutor deprived the defendant of a fair trial in violation of the Due Process Clause of the 5th and 14th Amendments to the U.S. Constitution which warrants an evidentiary hearing. See Norris V. Risley, 918 F.2d 828 (9th Cir. 1990)

B.] THE COMMONWEALTH WITHERHELD SUBSTANTIAL IDENTIFICATION EVIDENCE OF ANOTHER SUSPECT JERRY DIXON IN VIOLATION OF BRADY.

Before trial, the Commonwealth and its agents were well aware of another suspect Jerry Dixon who was selected from the photo array by the allege victim and that's why Jerry Dixon's fingerprints was compared to those fingerprints recovered from the allege victim's car by the Watertown Police. (Exhibit#4)

After trial, the defendant discovered through a civil case filed in Suffolk Superior Court against the Watertown Police Department (Civil Action#2010-01628-D) that the Commonwealth and its agents never informed the defense counsel that the allege victim selected Jerry Dixon's photo at the same time when she selected the defendant's photo. The identification of Dixon was also brought to the defendant's attention when the SJC cited Jerry Dixon in Commonwealth Vs. Donald, 468 Mass.37, at-46 (2014).

More, in support of this claim, it has been discovered after trial that Jerry Dixon was matched through CODIS DNA database to several unsolved rapes that occurred before this present rape case where in the early 1990's Jerry Dixon committed similar rapes. See Commonwealth Vs. Jerry Dixon, 458 Mass.446, At 450 (2010). Further, a Commonwealth witness in this present case described Jerry Dixon's description as the black man "five ten, medium build" that she seen in the garage before the allege victim was attacked. (Exhibit#6)

(R.45)

The defendant contends that this withheld identification evidence of the allege victim selecting Jerry Dixon's photo was withheld by an overzealous prosecutor, ADA David R. Yannetti, who tried this case to seek revenge and deprive defendant of a fair trial in violation of Brady. See Commonwealth Vs. Daniels, 445 Mass. 392 (2005) citing Brady V. Maryland, 373 U.S. 83, 87 (1963).

The State Supreme Judicial Court has held in Daniels, "if evidence,,, challenges the credibility of a key witness for the prosecution then that evidence should reach the hands of the defendant before trial." Daniels, Id.

Here, had the defendant known at trial that the allege victim selected Jerry Dixon's photo from the photo array then Defense Counsel would have been able to "challenge the credibility" of the allege victim's identification of the defendant to raise reasonable doubt when infact the identification evidence points to Jerry Dixon. Furthermore, the U.S. Supreme Court recognized that "evidence pointing to a different suspect" requires the Court to hold an evidentiary hearing. See Houss V. Bell, 126 S.Ct. 2064 (2006). Also see Commonwealth Vs. Tucceri, 412 Mass. 401 (1991).

The Commonwealth's failure to disclose that Jerry Dixon's photo was selected by the allege victim is clearly a Brady violation entitling this Court to hold an evidentiary hearing and to grant this Defendant a new trial as justice requires. See Commonwealth Vs. Joseph Pope, SJC-13202 (June 7, 2022), Brady violation requires New Trial.

**C.] NEWLY DISCOVERED EVIDENCE CASTS DOUBT ON THE JUSTICE
OF THE RAPE CONVICTION AND REVEALS THE COMMONWEALTH
USED FORENSIC EVIDENCE FROM A DIFFERENT RAPE CASE TO
DEPRIVE DEFENDANT OF A FAIR TRIAL IN VIOLATION OF HIS
5th, 6th And 14th AMENDMENT RIGHTS TO U.S. CONSTITUTION.**

At trial, a State Crime Lab Chemist, Robert Martin, testified he developed a Crime Lab Report#C97-1059, which consist of "Item 12 underpants and seminal fluid residue containing sperm cells were found on stain located on the inside crotch area of the underpant, amylase a constituent of saliva was detected on stain on the mid and front crotch area of the underpants." (Exhibit#10; And#7-to-11)

The Commonwealth's test results from Cellmark Lab on the sperm found on the underpants with a sample of Defendant's blood reveal a DNA profile of approximately 1 in 7,800 African-Americans has the same DNA profile. (Exhibit#12) The DNA expert from Cellmark Lab testified that the amylase, a constituent of saliva from the tongue used to penetrate the allege victim's vagina, excluded him as "the source of the DNA that was present, the amylase; stain one." (Exhibit#13)

Q: "And what about Stanley Donald with regard to that particular cutting, the cutting that had apparently saliva on it, the amylase?"

A: "Well that he is not the source of the DNA that was present, the amylase, stain one." (Exhibit#13)

Now several years after trial, a Crime Chemist, Gwen B. Pino, a Supervisor for Forensics at State Police Crime Laboratory has submitted two different Affidavits that points to evidence from a different rape case. (Exhibits#14-to-19)

8-
(R.47)

The first Affidavit states "the vaginal sample in this case identified seminal fluid residue containing sperm cells." See (Exhibits#16;And #14-to-16) It has been discovered that the first Affidavit is false because the Crime Lab Report#C97-1059, clearly states "Item#8,vaginal swabs,no seminal fluid residue or sperm cells were detected."(Exhibit#9)

Apparently, the second Affidavit was submitted to clear up the false assertions in the first Affidavit which states "no seminal fluid residue or sperm cells were detected on the, vaginal swabs,."(Exhibits#17,par.4;And 17-to-19)

This newly discovered evidence supports that the "vaginal sample" which "identified seminal fluid residue containing sperm cells" is actually from a different rape case with
*2.
Crime Lab Report#C95-883.(Exibits#20-to-22) This is the reasons why the Chemist Pino asserted in her first Affidavit that the "Vaginal sample identified seminal fluid residue containing sperm cells" because this evidence points to whether Chemist Robert Martin used "seminal fluid" from Crime Lab Report#C95-883 to fix the Commonwealth's case in violation of G.L.c.22E §14. And Chemist Gwen Pino uncovered Chemist Robert Martin's unlawful conduct when she re-examined the evidence after trial and submitted an first Affidavit that asserts "Vaginal sample identified seminal fluid residue containing sperm cells".See (Exhibit#16)

*2.The Crime Lab Report#C95-883 involves consensual sex between Defendant and a girlfriend where he was found not guilty by jury in Middlesex Superior Court Criminal Case#95-1097.

In support of this claim, a Watertown Police Captain has provided an Affidavit with photos of a box on July 25, 2011, which clearly asserts "There are notations to destroy the evidence on July 21, 2000." See (Exhibits#24; And#23-to-26)

It is perceived that Chemist Robert Martin wrote the notation *3. to destroy evidence to hide his unlawful conduct. Further, on October 18, 2021, the Legal Counsel for State Police Crime Laboratory stated in a letter that the case [Crime Lab#C95-883] you are inquiring about has a motion for post-conviction tested still pending before the Superior Court. (Exhibit#27) In sum, these mishandling of Item#12 underwear stain is why Defendant declined to retest Item#12 because during trial he protested to the trial court that "Chemist Robert Martin altered and tampered evidence in this case." (Exhibit#28) Now the cat is out of the bag showing DNA evidence has been altered or tampered to fix this case. *4. Evenmore, the Defendant declined to retest Item#12 because in Chemist Gwen B. Pino's 2nd Affidavit she asserts that "The extracts [Item#12 stain] from Cellmark's testing were returned to the MSP Crime Laboratory on August 15, 2005." (Exhibit#18, par. 7)

This means Cellmark Lab held onto Item#12 stain for over five years after trial which raises suspicion upon the DNA evidence that the Commonwealth presented at trial.

*3. On October 7, 1999, the trial judge allowed motion to preserve evidence before the "notation to destroy" was written on July 21, 2000. See (Paper Entry#92; And Exhibits#29-to-30)

*4. In according to G.L.c. 278A, §7(b)(2), Item#12 underwear stain has been tampered or altered such that results of forensic analysis would lack probative value.

Furthermore, the two Affidavits submitted by Crime Lab Chemist, Gwen B. Pino, are signed under the pains and penalties of perjury one year a part. See (Exhibits #16; and #19)

This newly discovered evidence of the Commonwealth's usage of forensic evidence from a different rape case "cast real doubt on the justice of defendant's convictions". See Commonwealth Vs. Salvati, 420 Mass. 499, 506 (1995), quoting Commonwealth Vs. Scanlon, 412 Mass. 664, 679-680 (1992). This defendant has presented documented proof that the new evidence is "material and credible" and also "carries a measure of strength in support of defendant's position." See Commonwealth Vs. Pike, 431 Mass. 212, at 218 (2000), quoting Commonwealth Vs. Grace, 397 Mass. 303, 305 (1986).

Here, Chemist Pino's Affidavits points to evidence from a different rape case with several miscues in the present case, and the Affidavit of Watertown Police Captain reveals there was an attempt to hide and destroy the evidence. See Commonwealth Vs. Francis, 474 Mass. 816, at 825 (2016), citing Brown V. Miller, 519 F.3d 231, 237 (5th Cir. 2008) [Crime Lab created a material inaccurate serology report]. In Francis, at 825, the Court held "where a prosecutor, investigator, or analyst whose conduct is attributable to the government, deliberately fabricates evidence, such egregious government misconduct violates a defendant's Constitutional Rights to Due Process Under the Fourteenth Amendment. "Id. There must be a new trial.

D.] TWO PROSECUTORS COMMITTED MISCONDUCT TO DENY DEFENDANT ACCESS TO SEXUAL ASSAULT NURSE EXAMINATION FORMS WHICH LINKS ANOTHER SUSPECT JERRY DIXON TO THE CRIMES.

During the defendant's request for post-conviction discovery of the Beth Israel Emergency Room sexualt assault nurse[S.A.N.E] examination rape kit forms#1-to-4,it was discovered that two prosecutors may have committed perjury. The allege victim stated she "had to go to Beth Israel Emergency Room the following day, and they did do a sexual assault kit there." (Exhibit#31)

At trial,the trial judge instructed the jury that "she tells the police or a doctor,, she speaks and she tells how it happened, that is allowed into evidence,." (Exhibit#32)

However,the Commonwealth unbeknownst that the Beth Israel rape kit forms contain evidence that links another suspect Jerry Dixon to the allege rape where in the narrative of rape kit form#2;The Patient's Report Of Incident gives a brief description of the suspect and assault. More, it must be known that the Commonwealth used the Beth Israel rape kit testimony to compel defendant for blood and saliva samples, and never produced the rape kit forms#1-to-4. At a hearing for discovery the Court asked ADA Loretta M.Lillios about the rape kit forms and stated:

Court:"that may be the form that's eluded to here.I'm not sure.You don't have it,the police don't have it,the laboratory does not have it"?

Ms.Lillios:"That'a correct." (Exhibit#33)

R.51 12-

Apparently, several years later, ADA Hallie White Speight submitted an affidavit which asserts "A document entitled "Rape Kit Form-5" had been in the box at the Watertown Police Department,."(Exhibit#34-to-36) Here, the missing Rape Kit Forms#1-to-4, contains vital information related to the crimes, particularly Form-2; Patient's Report Of Incident which provides "a narrative of the rape and injuries with a description of the suspect" Jerry Dixon. See Commonwealth Vs. Morales, 83 Mass.App.Ct.113(2013)[narrative of rape victim admissible]. The same narrative that the trial judge told the jury in this present case "that is allowed into evidence", (Exhibit#32); Also see (EXAMPLE OF FORM#2, As Exhibit#38)

Further, on appeal for access to rape kit forms#1-to-4, it was discovered through the court records that ADA Speight and Appeals Court Judge Joseph Ditzkoff worked together as prosecutors in the case of Commonwealth Vs. Horton, 63 Mass.App.Ct.571(2005)[ADA Joseph M.Ditzkoff with ADA Hallie Speight].

As here, it seems Appeals Court Judge Ditzkoff denied access to rape kit forms#1-to-4, and denied discovery as a favor for his former coworker ADA Speight. See (Exhibit#37) ADA Speight had a duty to inform her former coworker Judge Ditzkoff to remove himself from the case on appeal due to a substantial conflict of interest. This type of misconduct committed by two prosecutors violated the Due Process Rights of defendant under the 5th and 14th Amendments.

E] THE DEFENDANT WAS DEPRIVED OF HIS SIXTH AMENDMENT RIGHTS TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL WHO FAILED TO CONDUCT A PROPER INVESTIGATION FOR THE DEFENSE.

Before trial, the Defendant informed trial counsel that he has an ATM bank card with the same Bank of Boston as the allege victim. The Bank of Boston bank account was established by a Commonwealth witness, Jeffrey Hall, the defendant's employer who deposited his paycheck by direct deposit.

More, trial counsel knew the defendant had two driver's licenses and one driver's license was lost during the summer of July 1997, by the defendant's girlfriend, Christene McCallister, who wore his coat home in the rain to where she lived in the Brockton area. Christene McCallister has since died of cancer.

It was just a coincidence that his driver's license was found on the public street 50 yards away from the allege victim's car.

Further, the defendant stated to the trial judge that his "counsel kept him in the dark for quite some time." (Exhibit #40)

By keeping defendant in the dark deprived him of his rights to develop his defense to the ATM bank card and driver's license evidence that the Commonwealth used to convict him.

The defendant has now contacted the Bank of Boston and the Registry of Motorvehicle which supports his claims of having his own ATM bank card with two driver's licenses.

-14-
(R.53)

Trial counsel failed to investigate Jerry Dixon for Defense and Had trial counsel presented the evidence of the defendant having his own ATM bank card with the same bank then he would have raised reasonable doubt in the minds of the jury during deliberations. Also, counsel failed to address prosecutor's visible firearm.

The principles governing ineffectiveness claims apply in motion for a new trial. Strickland V. Washington, 466 U.S. 668, at 688(1984), and Commonwealth Vs. Saferian, 366 Mass. 89, 96(1974).

"Saferian is a functional equivalent same as Strickland." Ouber V. Guarino, 293 F.3d 19, at 32(1st.Cir.2002).

The "standard under which ineffective assistance of counsel claims are ordinarily evaluated" is recognized in Commonwealth Vs. Zinser, 446 Mass. 807(2006).

Here, trial counsel had a duty to investigate that defendant had an ATM bank card with the Bank of Boston and had two driver's licenses before the allege crime occurred to prove his innocence. The Commonwealth used the defendant's failure to appear at work to pick up his paycheck as evidence of guilt when infact the defendant had direct deposit and did not have to appear at work to pick up his paycheck. "A criminal defendant has a Sixth Amendment Right to effective assistance of counsel. The representation of a criminal defendant entails certain basic duties." Strickland, at 688, Id. Here, trial counsel failed his basic duties to investigate the defendant's claims and deprived him of evidence for his defense. These failures of trial counsel requires an evidentiary hearing. See Commonwealth Vs. Licata, 412 Mass. 654(1992).

-CONCLUSION-

WHEREFORE, This Honorable Court Should:

- 1.]Schedule an Evidentiary Hearing; And
- 2.]ORDER a New Trial since it appears that justice has not been done and newly discovered evidence casts real doubt on the justice of convictions;And
- 3.]ORDER Defendant released from custody on bail in the interest of justice.

Dated: August 29/2022

Respectfully Submitted
By Stanley Donald,

Stanley Donald

Stanley Donald
MCI-Norfolk#W66438
P.O.BOX 43, 2 Clark Street
Norfolk, Mass 02056

R.55

MIDDLESEX,ss

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT

CRIMINAL DIVISION

No.9781CR2366-01-06.

PAPER ENTRY
456

Commonwealth Of Massachusetts

Vs.

Stanley Donald

[AFFIDAVIT OF STANLEY DONALD]

Being duly sworn, Under Oath, I, Stanley Donald, depose and says:

1.] I discovered that the DNA evidence, extracts Item #12 stain in this case came from an old criminal case where I was found not guilty in Middlesex Superior Court Case #9581CR1907. See (Exhibit "C" hereto attached)

2.] My trial counsel deprived me the right to put forth evidence that shows I had an ATM bank card of my own with Bank of Boston and deprived me to show I lost a driver's license during the summer of 1997 in the City of Brockton.

3.] I used my own ATM bank card to withdraw money to buy a bus ticket to visit my sick father in Florida where I had a stop-over in New York and wrote a letter and put a prayer I had in my wallet and sent both to my mother who was concerned about me because I was admitted to hospital with stress from being falsely accused of rape and wrongfully indicted for rape crimes that happened in 1994 and 1995, which a Commonwealth witness, Jeffrey Hall, paid for my medical treatment through company insurance. See (Exhibits "A"-t-"C", Commonwealth "Nolle Prosequi" of false charges hereto attached)

4.] I believe the Beth Israel Emergency Room rape kit records links another suspect Jerry Dixon to the crimes. See (Exhibit "D")

(R 56)

5.]I seen the trial prosecutor David R.Yannetti with a dark colored 9mm firearm on his waist which was visible to the jury and I told a court officer name "Luke" that ADA Yannetti has a firearm on his waist in the courtroom during trial.

6.]Also,I seen ADA Stephen B.Barton in the courtroom give ADA Yannetti some legal documents and ADA Barton pointed at ADA Yannetti's waist as to inform ADA Yannetti the firearm was visible and then ADA Yannetti pulled his suitcoat over the firearm and then proceeded questioning witness as his suitcoat continued to move open and reveal the visible 9mm firearm to the jury.

7.]Therefore, I pray for an evidentiary hearing and a new trial as justice requires.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS

29 DAY OF August, 2022.

Stanley Donald
Stanley Donald
MCI-Norfolk#W66438
P.O.BOX 43, 2 Clark Street
Norfolk, Mass 02056

(R.57)

PAPER ENTRY
458

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
NO. 9781CR2366

COMMONWEALTH

v.

STANLEY DONALD

COMMONWEALTH'S OPPOSITION TO DEFENDANT'S "POST-CONVICTION
MOTION FOR NEW TRIAL"

The Commonwealth opposes the defendant's motion. The defendant's 1999 conviction of multiple offenses arising out of his brutal kidnapping, savage beating and rape of the victim has withstood numerous collateral attacks over more than two decades. His latest motion reprises several claims that have been raised and rejected – sometimes more than once – in previous motions; it also raises several new and completely speculative claims regarding a supposed third party culprit. Because these claims are wholly without factual support, this Court should deny the motion without a hearing.

RELEVANT PROCEDURAL HISTORY

On December 19, 1997, a Middlesex grand jury returned indictments charging the defendant, Stanley Donald, with two counts of aggravated rape, assault and battery by means of a dangerous weapon, kidnapping, carjacking, and unarmed robbery. (Docket, attached as Exhibit A, pp. 2-3, 4.) After a default warrant issued, the defendant was arraigned on June 22, 1998, and pleaded not guilty to the charges. (Exhibit A, p. 54-5.)

The defendant was tried from April 5 to April 15, 1999, before Justice Robert A. Barton and a jury. (Exhibit A, pp. 3-4, 7-8.) On April 15, 1999, the jury found the defend-

R.58

ant guilty as charged on all six indictments. (Exhibit A, p. 8.) On April 28, 1999, Justice Barton sentenced the defendant to concurrent life terms for one of the aggravated rape convictions and the unarmed robbery conviction; forty to fifty years in state prison for the other aggravated rape conviction, nine to ten years for the kidnapping conviction, nine to ten years for the assault and battery with a dangerous weapon conviction; and fourteen to fifteen years for the carjacking conviction. (Exhibit A, p. 8.) All the sentences were to be served concurrently. (Exhibit A, p. 8.)

The defendant's direct appeal was denied in October 2002. Commonwealth v. Donald, 56 Mass. App. Ct. 1102 (2002) (Memorandum and Order Pursuant to Rule 1:28 then in effect), review denied, 438 Mass. 1104 (2003). In the eleven years after the denial of his direct appeal, the defendant filed numerous post-conviction motions and petitions, both pro se and through counsel. These include several motions for new trial and for post-conviction discovery, release from unlawful restraint, for DNA testing, for access to rape kit forms, and to revise and revoke his sentence. (Exhibit A, pp. 10-24.) In addition, he appealed his sentence to the Appellate Division of the Superior Court; this appeal was unsuccessful. (Exhibit A, p. 22.) He has filed numerous appeals from various rulings of this Court in the Appeals Court as well. All have been denied. See Donald v. Commonwealth, 452 Mass. 1029 (2008); Donald v. Commonwealth, 437 Mass. 1007 (2002); Commonwealth v. Donald, 72 Mass. App. Ct. 1104, review denied, 452 Mass. 1103 (2008); Commonwealth v. Donald, 66 Mass. App. Ct. 1110, review denied, 447 Mass. 1106 (2006); Donald v. Commonwealth, 60 Mass. App. Ct. 1106 (2003), review denied, 441 Mass. 1102 (2004).

2 R.59

On October 20, 2011, the defendant filed a motion for new trial, followed by a "Supplemental Motion for New Trial and Dismissal," in which he raised several of the claims asserted in the instant motion. (Exhibit A, p. 25; motions, attached as Exhibit B.) The Commonwealth filed a combined opposition to both motions on February 9, 2012. (Opposition, attached as Exhibit C.) On April 4, Justice Diane M. Kottmyer denied the motions "for the reasons set forth in the Commonwealth's opposition." (Exhibit A, p. 26.)

The defendant filed a notice of appeal. (Exhibit A, p. 26.) At the same time, he appealed from the denial of a motion for DNA testing pursuant to G.L. c. 278A, § 3. The Supreme Judicial Court allowed the defendant's application for direct appellate review of the denial of the motion for testing, which had been consolidated in the Appeals Court with the appeal from the denial of the motion for new trial. Commonwealth v. Donald, 468 Mass. 37, 40 & n. 6 (2014). The appeal from the denial of the motion for new trial was argued in a brief submitted pursuant to Commonwealth v. Moffett, 383 Mass. 201, 208 (1981), and the SJC found "no error" in the denial of the motion. Donald, 468 Mass. at 40 n. 6.

In the years following this decision, the defendant filed a motion for "discovery of Beth Israel rape kit forms," purportedly in support of a renewed motion pursuant to G.L. c. 278A. (Exhibit A, pp. 29-30.) The Appeals Court affirmed the denial of this motion, noting that the forms were not in the Commonwealth's possession. Commonwealth v. Donald, 92 Mass. App. Ct. 1107 (2017) (Memorandum and Order pursuant to rule 1:28 then in effect). A second motion for access to rape kit forms and photographs, filed in 2018, was also denied, and the denial affirmed by the Appeals Court. (Exhibit A, pp. 33-

R.60

34.) Commonwealth v. Donald, 98 Mass. App. Ct. 1105 (2020)(Memorandum and Order Pursuant to Rule 23.0).¹

On August 29, 2022, the defendant filed the instant motion for new trial. (Exhibit A, p. 36.)

STATEMENT OF FACTS

In its decision denying the defendant's direct appeal, the Appeals Court summarized the facts of the case:

On Tuesday, October 21, 1997, Elaine Warren² left her Watertown apartment at 9:40 am. She took the elevator, alone, to the garage level of her building. The elevator door opened there to reveal a black man who mumbled some complaint about her tying up the elevator. She passed him, thinking he had entered the elevator, and headed toward her Honda Accord that was parked in its assigned spot. There was no one else in the garage.

Warren opened the back door to her Honda to place her folders inside. She noticed that the man she had passed was advancing on her. She was trapped between her car and the Mercedes parked alongside. The man stopped twelve feet from her, and they locked eyes. He mumbled something, rammed her to the ground, and smashed her face into the cement floor of the garage. Warren's nose broke, and she sustained abrasions across her forehead.

The man held her down, clamped his hand over her mouth, and ordered her not to scream. Shocked, in pain and terrified, she tried to appease him and promised not to scream. He said he was coming down from a crack cocaine high and that he needed money for drugs. She promised him anything he wanted. He said he wanted \$100. She did not have that sum, but she assured him she would get it. Instead, he asked for the car keys. He ordered her into the car, shoved her over to the passenger seat, and threatened to kill her with a gun he claimed to carry. He got in the driver's seat, locked the doors, and drove out of the garage. She tried to stem the flow of blood from her face with some napkins that were inside the car.

The man ordered Warren to recline her seat, and she complied. He demanded money, and she handed over the \$50 she had in her pocketbook.

¹ The Supreme Judicial Court allowed the defendant's application for further appellate review and reversed so much of the order as affirmed this Court's denial of a motion to test blood evidence from the scene of the kidnapping. Commonwealth v. Donald, 487 Mass. 1036 (2021). The SJC did not review the Appeals Court's disposition of the defendant's claims regarding the rape kit forms, implicitly affirming the denial of the motion.

² A pseudonym. (Footnote in original.)

R.61

He commanded her to keep her hands in view, so she placed them in her lap. He directed her to crouch down as they passed the building's guard shack, and she did. As he drove near the Arsenal Mall in Watertown, he directed her to cover her head with her jacket. She put her jacket over her head.

Through the jacket, Warren could see that he drove from Watertown, through Waltham, and then Newton. He ranted and threatened her the entire time. At one point, he abruptly stopped the car and tore the jacket from her head. She was able to see that they were near the Star Market in Newton. She considered escape, but she was afraid he would shoot her. He forced a clear liquid from a small bottle into her mouth and down her throat. At first she thought that he had poisoned her, but then realized it was some sort of alcoholic drink. He re-fastened the jacket around her head.

He asked where her bank was, and she told him. He took her license and bank access card and asked for her password for the automated teller machine (ATM). She recited it. Even though she told him the true password, he thought she was lying, so he threatened her more.

At one point, suspecting she was carrying a beeper, he groped around her waistband for it. His hand lingered on her crotch, and she pleaded, "Oh, no, please no." He re-fastened the jacket more tightly over her head. She could no longer see anything.

As he continued to drive, he became more and more agitated. He referred to her capture as a gang initiation, and he repeatedly mentioned gangs. He called her a bitch. He also recited Biblical passages and invoked the name of Jesus. He said that he was from New York.

After what seemed to Warren like hours, he stopped the car. He got out of the driver's side, walked around the car, and opened the passenger-side door. He pulled Warren out of the car, her head still covered with the jacket. Then he smashed her on the side of the head, perhaps with a rock, with such force that she felt a piercing, unimaginable pain, unlike anything she had ever experienced. She tried to play dead but he ordered her to get up and "walk over there," so she did. With the jacket still covering her head, she could see only her feet and the leaves and sticks on the ground around them. He commanded her to "Take off your things. Take off your hose and your underwear." He ordered her to the ground and instructed her to hold her legs in the air. With no shoes, no tights, no underwear, and her head still covered, she lay there on the ground grasping her own legs.

He penetrated her vagina several times with his tongue and penis.

Finally, he told her that it was all over and that she could get dressed. She heard him walk to the car and drive away. She removed the jacket from her head and realized from her surroundings that she was in someone's backyard. She soon learned that she was in Foxborough. She dressed, and left behind the bloody napkins from her facial injuries. With her head still throbbing, she ran to the road and flagged down a car. The driver took her to a nearby animal clinic, also in Foxborough, and the staff there called the police.

R.62

At 11:00 am, one hour and twenty minutes after Warren left her Watertown apartment, Foxborough police officers Timothy O'Leary and Scott Austin responded to the animal clinic. There, they saw Warren with a swollen, distorted, and obviously broken nose; blood streaming from her face; abrasions all over her forehead; cuts and scrapes on her legs and back; clothing in disarray; and hair completely disheveled. An ambulance transported her to the Southwood Hospital in Foxborough. At the hospital, Warren put her underpants back on. She said that she was the victim of an attempted sexual assault. She said this because in her mind, ejaculation was a prerequisite to rape and she was uncertain whether her attacker ejaculated inside her. Consequently, hospital staff treated her injuries and she was released.

From the victim's description of the location of the rapes, Officer Austin quickly located the crime scene at 45 Beach Street in Foxboro, about one-quarter mile from the animal clinic. There he found the house with the shed in the backyard, a flattened area where the victim had lain, and a napkin saturated in blood from her nose and face.

At 11:04 am, at the same time Warren was arriving at the animal clinic, a \$300 withdrawal was made from her bank account. The transaction occurred at the ATM machine located on Chauncy Street in Mansfield, four miles from the scene of the rapes. The transaction was recorded on videotape. The morning after the attack, on October 22, 1997, Sergeant Kozak contacted the bank's security office. The videotaped image of the withdrawal was secured, and still photographs of the transaction were developed.

At 8:00 pm on October 21, 1997, the same night of the attack, Brockton police discovered Warren's abandoned gray Honda Accord in the area of Howard Street in Brockton, in a dirt driveway, partially obscured by brush, about twenty miles from the scene of the rape. At 5:30 am the following morning, October 22, 1997, Nathaniel Young was sweeping the area around Howard Street in Brockton. Young found a driver's license on the ground only about fifty yards from the location where the victim's car was left. The name on the license was "Stanley Donald," and the picture on the license depicted a black man. Mr. Young put the license in an envelope and returned it by mail to Stanley Donald's Dorchester address that was listed on the license.

Having discovered this information, investigators tracked down Stanley Donald's employer, Educators' Publishing Service in Cambridge. In November of 1997, investigators showed the still images from the ATM transaction to the company president and to Stanley Donald's supervisor. They both identified the man depicted in the image as Stanley Donald, this defendant. They also identified him at trial. At the time of the attack, the defendant had been working steadily at the company for more than five months. He did not show up for work as scheduled on October 21, the day of the attack. He never showed up for work again and he never picked up his final paycheck.

On November 20, 1997, Warren went to the Watertown police station to view a photographic array. Warren selected a photograph of the de-

R.63

fendant and said that it looked "very, very much like the person who assaulted me." Warren also identified him at trial.

On November 22, 1997, Detective Munger had a telephone conversation with the defendant's mother. The mother gave police an envelope addressed to her in Dorchester, containing a one-page handwritten letter and a handwritten prayer. A handwriting expert and document examiner opined that all three documents were written by the defendant. The envelope was postmarked from New York within three weeks of the attack. The letter read as follows: "Dear Mom I'm Okay, I really got to high and lost my mind, I'm not in jail. I got a new name, and a job, please forgive me mama, I'm still with Jesus, I go to church everyday now and there is (no drugs here) only me and the horse and cows. Love/Stam"

On June 16, 1998, Detective Munger and Sergeant Kozak traveled to Florida with an arrest warrant for the defendant. They picked him up in Miami. By the time of the trial, he had gained weight and grown a beard.

On the afternoon of the attack, chemist Robert Martin from the Massachusetts State Police collected the clothing that the victim wore when the defendant raped her. He took a cutting from her underpants and submitted it to Cellmark Diagnostics for DNA testing, along with known samples of the defendant's and the victim's blood. Cellmark compared the DNA profile of sperm samples extracted from the evidence with the DNA profile from the defendant's sample using the polymerase chain reaction (PCR) DNA method. The result: the frequency of this profile occurred in one in 7,800 African-Americans.

Commonwealth v. Donald, 56 Mass. App. Ct. 1102 (2002) (Memorandum and Order Pursuant to Rule 1:28 then in effect) (record citations omitted).

ARGUMENT

WHERE MOST OF THE CLAIMS RAISED IN THE INSTANT MOTION HAVE BEEN CONSIDERED AND REJECTED (SOME REPEATEDLY) BY THIS COURT AND THE APPELLATE COURTS, WHERE THE DEFENDANT HAS OFFERED NO NEW EVIDENCE TO SUPPORT THOSE CLAIMS, AND WHERE THE DEFENDANT'S NEW CLAIMS ARE WHOLLY WITHOUT EVIDENTIARY SUPPORT, THIS COURT SHOULD DENY THE MOTION WITHOUT A HEARING.

The defendant presses several claims in his most recent motion. Three of them have already been considered and rejected by this Court on at least one occasion. The defendant also raises two (apparently) new claims, but fails to offer a shred of evidence to

7 (R.64)

support them. Where the issues raised have either already been adjudicated or rest on speculation and fantasy, this Court should summarily deny the defendant's motion.

Standard of Review. A motion for new trial should be granted only if "it appears that justice may not have been done." Mass. R. Crim. P. 30(b). See Commonwealth v. DeMarco, 387 Mass. 481, 482 (1982). The Rule 30(b) standard is to be applied "rigorously." Commonwealth v. Ortiz, 67 Mass. App. Ct. 349, 354 (2006). The decision to grant or deny a motion for new trial is addressed to the sound discretion of the judge, and that decision will not be reversed on appeal unless it is "manifestly unjust" or the trial was "infected with prejudicial constitutional error." Commonwealth v. Walker, 443 Mass. 213, 224-225 (2005). In postconviction proceedings, "the defendant bears the burden to rebut the presumption that [he] had a fair trial." Commonwealth v. Comita, 441 Mass. 86, 93 (2004). A defendant is not entitled to an evidentiary hearing on a motion for new trial unless the motion raises a "substantial issue" and is supported by reliable and credible evidence. Commonwealth v. Lopez, 426 Mass. 657, 663 (1998). Failure to raise a claim of error at the first opportunity constitutes waiver of that claim. Commonwealth v. Hicks, 50 Mass. App. Ct. 215, 216 (2000); Mass R. Crim. P. 30 (c) (2).

In this case, the defendant has filed numerous motions for postconviction relief, and has (unsuccessfully) appealed from the denial of many of those motions. In the instant motions he raises no issue that could not have been raised earlier; indeed, some of the issues have been fully litigated already in the protracted history of this case. Therefore, this court should not reach the merits of the issues raised. See Commonwealth v. Gagliardi, 418 Mass. 562, 565 (1994) (motion for new trial is not vehicle to compel review of questions of law on which defendant has had his day in appellate court, or on which he has foregone

that opportunity). Should this Court address the substance of the defendant's arguments, it will find that they are meritless.

- A. Where the assertion that the trial prosecutor displayed a "visible firearm" during jury selection has already been rejected, and where the defendant still has produced no credible evidence to support it, the claim fails.

First, the defendant repeats a claim made in the 2011-2012 motion that the trial prosecutor had a "visible firearm on his waist" during the trial. (Defendant's motion, p. 5.) This claim is unsupported by any evidence beyond the defendant's self-serving affidavit. (Defendant's affidavit, ¶¶ 5-6.) There is no reason for this Court to credit the defendant's assertion, particularly where he waited more than a decade to bring it to this Court's attention. See Commonwealth v. Comita, 441 Mass. 86, 93 (2004) (defendant has burden to establish any facts not agreed upon or evident from face of record). See also Commonwealth v. Perryman, 55 Mass. App. Ct. 187, 195 (2002) ("fundamental rules of trial practice" require that defendant bring problems to attention of judge at a time when problems can be corrected). That the defendant waited more than ten years to mention this supposed fact severely undermines the credibility of his uncorroborated assertion.³ The claim is incredible on its face and must be rejected.

³ The defendant has claimed in a letter to undersigned counsel that he intends to contact certain members of the jury and have them interviewed by "an investigator from the Department of Justice" to determine whether they remember seeing a firearm on the trial ADA's waist. (Letter, attached as Exhibit D.) The Commonwealth does not agree that such contact would be appropriate, but should these jurors corroborate the defendant's assertion (and have a plausible reason for not having said something twenty years ago), this Court would be entitled to take their statements into account.

9
R.66

- B. Where the defendant offers no actual evidence of a third party culprit, the Commonwealth's supposed "withholding" of evidence related to that culprit was not error, and the defendant is not entitled to relief.

The defendant next complains that the Commonwealth supposedly was "aware" of another suspect named Jerry Dixon and that the Commonwealth did not disclose purported evidence of that third party culprit. (Defendant's memorandum, pp. 6-7.) This claim, too, must fail.

The problem with the defendant's argument is that he has offered absolutely no evidence to support the allegation that Jerry Dixon is the true perpetrator of these crimes or that the Commonwealth considered him a suspect. Nor has he explained when or how he became aware of this supposed information that Dixon is the real perpetrator, or why he has not mentioned it previously, despite filing dozens of new trial motions in the twenty-three years since he was convicted. See Mass. R. Crim. P. 30 (c)(2) (grounds for new trial not raised in first motion are waived). If the defendant truly believes that this was Brady evidence that was improperly withheld from him before trial, he must explain why he has failed to raise the issue in any of his previous motions. If, on the other hand, he means to assert that the evidence of Dixon's supposed guilt is newly discovered, he must show that it could not reasonably have been discovered before trial or in the course of one of his many previous motions. See, e.g., Commonwealth v. Lowe, 405 Mass. 1104, 1104 (1989) (defendant obligated to raise issues "at the earliest possible time"); Commonwealth v. Elangwe, 85 Mass. App. Ct. 189, 194 (2014) (defendant has burden to show that new evidence was unknown and not reasonably discoverable before trial).

In any event, the defendant has offered no evidence to support his claim that Jerry Dixon is the true perpetrator of these crimes. It appears that a person named Jerry Dixon does exist, and that he has pleaded guilty to charges including rape, as indicated in the list

10 B.67

provided by the defendant and marked "D" in his record appendix. That another rapist exists in southeastern Massachusetts, however, does nothing to prove that he is guilty, or that the defendant is innocent, in this particular case.

The defendant seems to claim that the victim in this case selected Jerry Dixon's photo from the array "at the same time when she selected the defendant's photo." (Defendant's memorandum, p. 6.) But he provides no record support for this assertion, and indeed does not even make clear which photo in the array (which he has attached to his motion) he believes is Dixon's. This is insufficient to prove the assertion or to cast doubt on his conviction.⁴ See Commonwealth v. Bernier, 359 Mass. 13, 15-16 (1971) (defendant has burden to prove facts that are not agreed upon nor apparent from the record). The defendant also notes that forensic investigators compared fingerprints found on the victim's car to record fingerprints of Dixon as well as the defendant; since the prints matched neither man, this fact has no relevance. (Defendant's attachment 4; Tr. V:151.) The defendant has produced no evidence regarding Jerry Dixon that casts doubt on the justice of his own conviction. This Court should deny the motion.

- C. Where discrepancies in two affidavits by a Crime Lab chemist have already been determined not to warrant relief, and where the defendant has not shown that the Watertown Police destroyed evidence or that any other misconduct has occurred, this Court should deny the motion.

The defendant next seeks to resurrect another claim that was laid to rest in the Appeals Court some fifteen years ago: he claims that a minor error in an affidavit by Crime Lab chemist Gwen Pino, corrected a short time afterward in a subsequent affidavit, consti-

⁴ The defendant attaches a notice of nolle prosequi filed by the Commonwealth in a different case, dropping a charge against him where the victim "failed to choose the defendant from the lineup" and noting that the Commonwealth had indicted another person for the charged offense. (Defendant's attachment B.) The relevance of an action taken in another case by a different prosecutor is left unexplained.

tutes "perjury" on Pino's part and also somehow proves that the Commonwealth tampered with the DNA evidence in order to frame him for the instant offenses. (Defendant's memorandum, pp. 8-11.) This claim fails, and the defendant's attempts to bolster it with fanciful stories of destruction of evidence (which did not occur) do not assist him.

In connection with one of the defendant's many prior motions for DNA testing, State Police Crime Lab Chemist Gwen Pino submitted an affidavit attesting that "the vaginal sample in this case identified seminal fluid residue containing sperm cells," and that the sample was tested at Orchid Cellmark. (Defendant's Appendix p. 16, ¶ 7.) This statement was inconsistent with the trial testimony of chemist Paula Yates that DNA testing had been carried out on sperm cells from the victim's underwear. (Tr. VI:159-160.) Some time later, chemist Pino corrected her initial affidavit, stating that seminal fluid and sperm cells had been found not on the vaginal swab but on the victim's underwear, and that this was the item that Cellmark had tested for DNA. (Defendant's Appendix p. 18, ¶¶ 9-11.) Pino clarified that the underwear cutting was the only item on which seminal fluid or sperm cells had been found. (Defendant's Appendix p. 18, ¶ 11.) The defendant argued that this discrepancy constituted "newly discovered evidence" that entitled him to relief; this Court disagreed, and the Appeals Court affirmed. (2006 "Motion for Post-Conviction Relief" and Commonwealth's opposition, attached as Exhibit E.) Commonwealth v. Donald, 72 Mass. App. Ct. 1104 (memorandum and order pursuant to Rule 1:28 then in effect, 2008).

The defendant has produced no new evidence to undermine this result or to support his claim that Pino's misstatement about the source of the sperm cells revealed a nefarious plot to frame him using DNA from a different case. (Defendant's memorandum, pp. 9-11.) He attempts to bolster the argument by insinuating (again, without evidence) that another

State Police chemist, Robert Martin, allegedly tried to order the destruction of evidence in the case. (Defendant's memorandum, p. 11; defendant's appendix 24-26.) The defendant offers nothing beyond speculation to show that it was Martin who wrote the "destroy" note, or that the destruction was ordered for the purpose of concealing evidence.⁵ Therefore, he is not entitled to relief. See Commonwealth v. Laguer, 410 Mass. 89, 94 (1991) (motion for new trial properly denied where arguments were "either predicated on facts that have not been established or . . . grounded on mere speculation").

- D. Where the claim that the Commonwealth is withholding the rape kit forms from the defendant has been repeatedly rejected, and where the defendant's new allegation that the forms would have identified another person as the perpetrator is based on nothing but speculation, there has been no error.

The defendant next reprises a claim he has made repeatedly⁶ over the twenty-three years since his conviction: that the Commonwealth has been improperly withholding rape kit forms from him. This claim, too, must fail yet again.

As this Court has repeatedly held, and the Appeals Court has affirmed, the Commonwealth is not in possession of rape kit forms 1-4.⁷ The defendant has offered no new

⁵ The evidence was not destroyed, and to the best of undersigned counsel's knowledge it remains at the Watertown Police Department to this day. An attorney who was then representing the defendant examined and photographed the contents of the box in October 2015 in the presence of undersigned counsel; they found nothing that would cast doubt on the conviction. (Defendant's Appendix 25-26, 34.)

⁶ At a minimum, papers #147, 177, 216, 260, 277, 382 and 426 have sought disclosure of the rape kit forms. (Exhibit A, pp. 10-33.) At least three appellate decisions have affirmed this Court's conclusions that the Commonwealth does not possess these forms. Commonwealth v. Donald, 98 Mass. App. Ct. 1105 (Memorandum and order pursuant to Rule 23.0, 2020); Commonwealth v. Donald, 92 Mass. App. Ct. 1107 (Memorandum and order pursuant to Rule 1:28 then in effect, 2017); Commonwealth v. Donald, 66 Mass. App. Ct. 1110 (Memorandum and order pursuant to Rule 1:28 then in effect, 2006).

⁷ Form 5 was located in the box of evidence at the Watertown Police Department. It has been provided to the defendant and is attached to the instant motion. (Defendant's appendix 34-36.) --

evidence to contradict that conclusion. Nor has he offered any actual evidence, other than the products of his "fertile imagination," Commonwealth v. Kee, 449 Mass. 550, 554 (2007), to support his claim that the missing forms would provide evidence tending to show that Jerry Dixon, or any person other than the defendant, committed the assault and battery with dangerous weapon, kidnapping, carjacking, rape, and robbery of the victim. His allegations of prosecutorial and judicial misconduct are similarly unsupported by any actual facts, but only by conclusory assertions that assume the truth of the proposition that they are meant to prove. See Commonwealth v. Laguer, 89 Mass. App. Ct. 32, 39 (2016) (allegation of flaws in DNA testing "is simply speculation based on the conclusory argument that the defendant is innocent"). The claims fail.

E. Where the defendant presents no evidence to support the theories of innocence that he belatedly claims his trial counsel should have investigated, his claim of ineffective assistance fails.

Finally, for the first time in the twenty-three years since his trial and after innumerable motions and appeals, the defendant complains that his trial counsel should have investigated his banking affiliation, his duplicate driver's license, and the loan of his coat to a now-deceased girlfriend, and that he is entitled to a new trial based on this lapse. (Defendant's memorandum, pp. 14-15.) This claim is waived and is in any event meritless.

The defendant made various claims of ineffective assistance in the course of his direct appeal two decades ago; the Appeals Court properly rejected them. Commonwealth v. Donald, 56 Mass. App. Ct. 1102 (Memorandum and order pursuant to Rule 1:28 then in effect, 2002). Since that time, he has filed numerous motions for new trial and for other forms of relief, and has appealed from the denial of those motions; however, to the best of undersigned counsel's recollection, he has not mentioned direct deposit, a duplicate driv-

er's license, or a girlfriend wearing his coat. These matters were entirely within the defendant's knowledge and presumably were known to him at the time of trial. Yet he offers no explanation for his failure to raise this issue at an earlier time. See Commonwealth v. Poitras, 55 Mass. App. 691, 696-697 (2002). See also Commonwealth v. McLaughlin, 364 Mass. 211, 229 (1973) (motion for new trial may not be used as vehicle to compel considerations of claim that could have been raised at trial or on direct appeal); Mass. R. Crim. P. 30 (c)(2) (all available claims must be raised in first motion for new trial). Nor does the defendant offer any evidentiary support for the supposedly exculpatory facts that his counsel should have investigated, or any assertion that he told counsel of the supposed facts. See Commonwealth v. Colonna, 33 Mass. App. Ct. 914, 914 (1992) (counsel not ineffective for not having called witnesses where no evidence defendant informed him of witnesses' existence). The claim fails.

CONCLUSION

The defendant has offered no new arguments of substance to support his latest request for relief. Nor has he raised a substantial issue warranting an evidentiary hearing. See, e.g., Commonwealth v. Gagliardi, 418 Mass. 562, 572 (1994). The motion should be denied without hearing.

Respectfully submitted

For the Commonwealth,

MARIAN T. RYAN
DISTRICT ATTORNEY

/s/ HALLIE WHITE SPEIGHT

Hallie White Speight
BBO No. 667492
Assistant District Attorney
15 Commonwealth Avenue
Woburn, MA 01801
Tel: (781) 897-6841

Date: October 27, 2022

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT DEPARTMENT
CRIMINAL DIVISION
No.1997-2366-001-006.

Commonwealth Of Massachusetts

Vs.

Stanley Donald(AKA Fleming)

DEF'S.RENEWED MOTION FOR POST-CONVICTION DISCOVERY
OF [SANE RECORDS]SEXUAL ASSAULT NURSE EXAMINATION

Pursuant to Mass.R.Crim.P.Rule 30(c)(4),this Court shall issue an order[hereto attached]for discovery of sexual assault nurse examination records in custody of Beth Israel Hospital Emergency Room since newly discovered information provides that this Court denied defendant's prior motions based on misleading and false forensic DNA and rape kit information submitted to this Court by the Commonwealth through State Crime Lab Chemist, Gwen B.Pino,in an affidavit in violation of DNA Statute c.22E §14 ,and since the Commonwealth used the allege victim's rape kit testimony to compel the defendant,Stanley Donald,for blood and saliva samples. The defendant attaches his affidavit and states the following:

- 1.]The allege victim testified before the grand jury that she went to "Beth Israel Hospital Emergency Room and they did do a sexual assault kit there." See(Exhibit-1,hereto attached)
- 2.]Thereafter, on November 24,1998,the Commonwealth submitted affidavits from ADA David R.Yannetti and State Crime Lab Chemist, Robert J.Martin using the allege victim's Beth Israel Hospital rape kit testimony to obtain a Court order for blood and saliva samples.See(Exhibits-2-to-5)

(R.74)

3.]This defendant over twenty-one years has requested access to the [SANE]Sexual Assault Nurse Examination records by filing a total of 28-motions but the Commonwealth refuses access to the SANE records by stating to this Court "(they)you don't have it, the police don't have it,the laboratory does not have it."

"Ma.Lillios:That's correct."(Exhibit-6)

4.]Evan as the defendant protested for access to SANE records ,on August 1,2002,ADA Loretta M.Lillios sent a letter to the Court ,Judge Charles M.Grabau, stating,"I also inquired of the Crime Lab and the Watertown Police Dept. as to whether they possessed the[SANE records]victim's medical records.They never had any such records."(Exhibit-7)

5.]However, several years later, on October 16,2015,the ADA Hallie White Speight submitted an affidavit to the Court which states "Rape Kit Form-5)which is part of SANE,had been in the box at the Watertown Police Department."(Exhibits-8-to-11)

6.]Now ADA Speight's affidavit clearly reveals that perjury was committed when ADA Lillios stated to the Court in a letter that "Watertown Police Dept. never had any such records."See (Exhibit-7)

7.]As this defendant continue to protest for access to the SANE records,rape kit#10330 in possession of the State Crime Lab report-C97-1059,shows "item-8 vaginal swabs(4)and smears(2) no seminal fluid residue or sperm cells were detected."(Ex-12)

R.75

8.]However, on July 29, 2005, a State Crime Chemist, Gwen B. Pino, submitted an affidavit for the Commonwealth which states on paragraph-7, "the vaginal sample in this case identified seminal fluid residue containing sperm cells." (Exhibits-13-to-15)

9.]Thereafter, on December 7, 2006, the same State Crime Lab Chemist, Gwen B. Pino, submitted a 2nd affidavit which basically supports she made mistakes and stated in part on paragraph-10, "No seminal fluid or sperm cells were detected on the genital swabs, vaginal swab, and smears." (Exhibits-16-to-18)

10.]However, the State Crime Lab Chemist, Gwen B. Pino's, 2nd affidavit also contains false rape kit and forensic information on paragraph-7, which states "the extracts [victim's underwear cutting item#12] from Cellmark's testing were returned to the MSP Crime Laboratory on August 15, 2005." which is basically five years Cellmark held onto vital evidence before returning to State Crime Lab that could have contaminated item#12 that this defendant also seeks to retest. (Exhibit-17, par. 7)

11.]Plus, the Commonwealth used the false contents of the 2nd affidavit of Chemist Gwen B. Pino to persuade the Court to deny the defendant's new trial motion and access to forensic DNA testing and access to SANE records which the Court relied on the 2nd affidavit when the Court denied the defendant's prior motion. See (Exhibits-19-to-22)

12.]The Court ruled on July 27, 2007, that the 2006 affidavit of Chemist Gwen B. Pino explains the mistakes and "the inconsistency no longer exists." (Exhibit-22)

R.76

(Page#4)

13.]However, on July 27,2007,the Court was unaware that the 2nd affidavit of Chemist Pino also contained perjury with inconsistency because the Court believed Cellmark returned the extracts[victim's underwear cutting item#12]on August 15, 2005, when the Court denied defendant's prior motions.

14.]In sum,the allege victim's injuries should be recorded in the SANE records and enhance her credibility which would corroborate her account of the allege rape and assault with the cement floor.

15.In accordance with Rule 30(c)(4)this Court may authorize such discovery and more in Commonwealth Va.Bishop,416 Mass.169, at 176(1993) the Court stated "disclosure of relevant material ordinarily promotes the proper administration of criminal justice."Id.

16.]In closing, the Commonwealth intruded on Mr.Donald's 4th and 5th Amendment rights by compelling blood and saliva samples from him using the allege victim's rape kit testimony of the SANE records and fundamental principles of Due Process entitles such an in court examination of those SANE records once the Court ordered Mr.Donald to submit a blood and saliva sample relevant to the rape kit testimony.

Dated: _____

Respectfully Submitted
By Defendant,

Stanley Donald
MCI-Norfolk#W66438
P.O.BOX 43
Norfolk,Mass 02056

R.77

GRAND JURY Exhibit "F"

19

Q (Juror.) I have one other question, you said that a rape kit was not completed. Did anybody suggest that at the hospital?

A Well, unfortunately, apparently the people at the Southwick Community Hospital were a little upset just to see someone so badly beaten and battered, so I think it apparently threw them a little bit; so not only did I not get a sexual assault kit, but they didn't clean out my wounds or anything on my face, so I had to go to the Beth Israel Emergency Room the following day, and they did do a sexual assault kit there.

Q (Juror.) Had you ever seen this man before that?

A A complete stranger.

Q (Juror.) But you did get a good look at him?

A I did get a really good look at him when I locked eyes with him; kind of burns into your memory.

Q (Juror.) What was the date of this again?

Q (Yannetti.) Was the date, ma'am, October 21st of 1997?

A Yes, it was.

MR. YANNETTI: Anybody else? Okay, thank you.

(Witness excused.)

#1 R.78

X
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FORM 1

RECORD OF REPORTED SEXUAL ASSAULT

KIT NUMBER

"EXAMPLE" OF
S.A.N.E. RAPE KIT FORM

PLEASE PRINT CLEARLY

PATIENT'S: NAME: _____

ADDRESS: _____

DATE OF BIRTH: _____ SEX: Female RACE: _____DATE OF ASSAULT: 8/3/95 TIME OF ASSAULT (APPROXIMATELY): _____DATE OF ADMISSION: 8/3/95 TIME OF ADMISSION: _____CLINICIANS: Carine Lenders MDMEDICAL FACILITY: Cambridge Hospital

PATIENT'S CONSENT

I consent and authorize Dr. Lenders and/or the medical staff of Cambridge Hospital to obtain history, to perform a physical examination, to administer appropriate medical treatment, and to collect and release evidence (including but not limited to specimens, clothing, and photographs) in connection with this reported sexual assault.

A Krochek Zadek MD

Witness' Signature

8/3/95

Date

1/1 Signature of Patient (or guardian)

Date

R.79

(RETAIN THIS FORM FOR HOSPITAL RECORDS)

1. PATIENT'S REPORT OF INCIDENT

NOTE: TO BE COMPLETED BY ONE CLINICIAN

Brief description of assault in patient's own words (include physical surroundings, threats, force and trauma, sexual acts demanded and performed, penetration (or attempted penetration) by penis or other body part or object, ejaculation, suggestion or evidence of weapons):

CLINICIAN'S SIGNATURE _____

DATE:



(RETAIN THIS FORM FOR HOSPITAL RECORDS)

1963

FORM 3

MEDICAL HISTORY: Document major medical problems (allergies and medications, including contraceptives - DO NOT include prior STD, pregnancies, abortions, unless medically indicated):

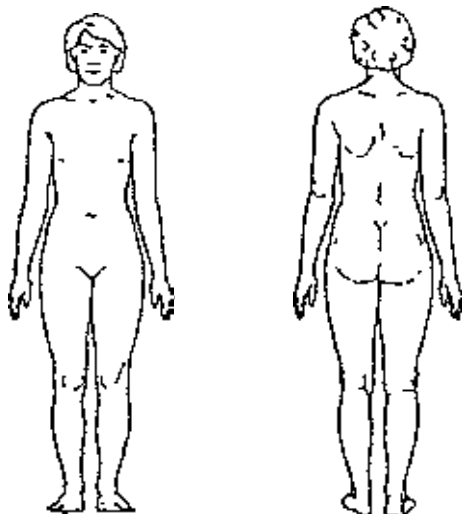
EXAMINATION

A. GENERAL PHYSICAL APPEARANCE: _____

B. EMOTIONAL STATUS: _____

C. PHYSICAL EXAMINATION: Note all signs of trauma (use diagrams if desired) Include notations of patient's indications of tenderness, if applicable.

DESCRIBE ABNORMAL/SIGNIFICANT FINDINGS BELOW



Skin	NL	ABNL
Hair	NL	ABNL
Face	NL	ABNL
Mouth	NL	ABNL
Throat	NL	ABNL
Breasts	NL	ABNL
Abdomen	NL	ABNL
Back	NL	ABNL
Extremities	NL	ABNL

RESULTS OF PELVIC/GENITAL EXAMINATION: Use non-lubricated, warm water-moistened speculum.

Include all signs of trauma (extent, location). Be certain to examine cervix for parity and signs of pregnancy, menstruation, trauma and infection. Document signs of foreign material and nature of fluid/discharge, if any.

GLI

SIGNATURE

(RETAIN THIS FORM FOR HOSPITAL RECORDS)

NOTE: EXAMINATION OF STAINED, DRIED SMAPS WILL BE PERFORMED IN THE CRIME LABORATORY

Рис. 2. План

Chlamydia type:

Urine for UCG

~~Blood for RFR~~

Blood for pregnancy test

Blood for typing

Other

Antibiotic therapy

YES

. NO

drug

dose

drug

dose

Contraception medication

YES

No

drug

dose

Other medications prescribed:

Other treatment:

1. Primary health care (site or clinical):

2. Patient's telephone number:

evening.

3. Discharge instructions and information regarding sexual assault given to patient ☐ YES ☐ NO

4. a. DSS involved

YES

NO

b. 51A filed

~~YES~~

NO

c. police involved

YES

NO

VI. SIGNATURES OF EXAMINING CLINICIANS:

(RETAIN THIS

INITIAL RECORDS

FORM 5

INFORMATION PERTAINING TO ASSAULT

KIT NUMBER (use same number that appears on labels): _____

PATIENT'S YEAR OF BIRTH: _____ SEX: _____ RACE: _____

DATE OF ASSAULT: _____ TIME OF ASSAULT (approximately): _____

DATE OF ADMISSION: _____ TIME OF ADMISSION: _____

KIT USED: ☐ YES ☐ NO If not, why not: _____

1. Date of last normal menstrual period: _____
2. Were there multiple assailants: YES ☐ NO ☐ If yes, number: _____
3. Assailant(s) relationship to victim: stranger ☐ acquaintance ☐ other ☐
4. Lacerations on patient resulting in bleeding: YES ☐ NO ☐
5. Lacerations on assailant(s) resulting in bleeding: YES ☐ NO ☐ UNCERTAIN ☐
6. Penetration occurred (check all that apply): vaginally ☐ orally ☐ anally ☐
7. Did the assailant(s) ejaculate (check all that apply):
 vaginally ☐ orally ☐ anally ☐ externally ☐
☐ uncertain if ejaculation occurred ☐ did not ejaculate
8. Did assailant(s): use lubricant ☐ insert foreign object(s) ☐
9. Indicate types of coercion used: gun ☐ knife ☐ choke ☐
 fists/hands ☐ verbal threats ☐ other ☐
10. Was a condom worn by the assailant(s): YES ☐ NO ☐ UNCERTAIN ☐
11. If vaginal assault, has the patient used any of the following types of contraception within 24 hours before the assault:
 - ☐ Spermicidal gel or cream
 - ☐ Diaphragm with spermicidal gel or cream
 - ☐ Contraceptive sponge
12. Since the assault, has the patient:

A. wiped/washed off	YES ☐	NO ☐	UNCERTAIN ☐
B. bathed/showered	YES ☐	NO ☐	UNCERTAIN ☐
C. douched	YES ☐	NO ☐	UNCERTAIN ☐
D. urinated	YES ☐	NO ☐	UNCERTAIN ☐
E. defecated	YES ☐	NO ☐	UNCERTAIN ☐
F. vomited	YES ☐	NO ☐	UNCERTAIN ☐
G. brushed teeth	YES ☐	NO ☐	UNCERTAIN ☐
H. changed clothes	YES ☐	NO ☐	UNCERTAIN ☐
I. other _____			

13. Was there voluntary, consensual intercourse within the last 5 days prior to the assault:

YES ☐ NO ☐ UNCERTAIN ☐ Approximate date _____

(FIRST PAGE, RETAIN FOR HOSPITAL RECORDS) (TURN SECOND PAGE TO KIT BOX)

R83

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT DEPARTMENT
CRIMINAL DIVISION
No. 1997-2366-001-006.

Commonwealth Of Massachusetts

Vs.

Stanley Donald

COURT ORDER

It is hereby Ordered by this Court that the Records Department of Beth Israel Deaconess Medical Center and Emergency Room, et al., 330 Brookline Avenue, Boston, Massachusetts 02215, shall produce to this Court the SANE rape kit forms #1-to-5, related to the rape kit #10330, relevant to the victim/patient interview with sexual assault nurse examination regarding statements and injuries that is recorded on SANE rape kit forms, herein, to the Clerk's Office of Middlesex Superior Criminal Court, 200 Trade Center, Woburn, Massachusetts 01801, a copy of said rape kit forms for this Court to conduct an incamera view in the above referenced criminal case as justice requires..

SO ORDERED BY:

[Signature]
Associate Justice Of The
Superior Court Department

3/21/24
Dated

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Affix Seal Of Clerk

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EX-2 R.84
3/21/24

Certified Copy mailed 3/21/24


Beth Israel Lahey Health

April 23, 2024

The Honorable Patrick Haggan
Middlesex County Superior Court
370 Jackson Street
Floor 7
Lowell, MA 01852

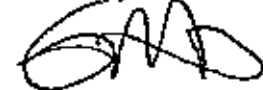
Re: The Commonwealth of Massachusetts v. Stanley Donald
Docket Number: 9781 CR 02366

Dear Judge Haggan:

I am in receipt of Mr. Donald's request for an appearance at a Court Hearing scheduled for April 23, 2024 regarding the above referenced matter. We are unable to obtain, provide and/or testify to the documents outlined in the request, in light of the fact that we do not have patient information. The letter provided by Mr. Donald, only identifies a Rape Kit number and a patient date of birth. It is the policy of Beth Israel Deaconess Medical Center to retain medical records for a period of twenty (20) years. In this instance, since the records are linked to a criminal matter, it may be that we still have them in our possession. However, with no identifying information, I cannot confirm that. If the Court issues an order to provide the information outlined in the request, with corresponding patient information, we will make every effort to comply with same.

Thank you and please contact me should you have any questions or require any additional information

Sincerely,



Emily Armstrong
Divisional Vice President
Deputy General Counsel-Metro Boston

cc: Assistant District Hallie White Speight, Esq.

Schrafft's City Center
529 Main Street, Charlestown, MA 02129
bilh.org

486

R.85

Beth Israel Lahey Health

Hannah Glass
Assistant General Counsel
hglass@bith.org

VIA FIRST CLASS MAIL:

January 8, 2025

Stanley Donald
MCI-Norfolk #W66438
P.O. Box 43
Norfolk, MA 02056

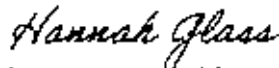
Re: Estate of Stanley Donald v. Beth Israel, et al.

Dear Mr. Donald,

Beth Israel Deaconess Medical Center (BIDMC), an affiliate of Beth Israel Lahey Health is in receipt of your letter dated December 4, 2024. In response to the same, I refer you to our September 4, 2024 letter to the Honorable Patrick Haggan, which indicates that our office has conducted a thorough search for the materials on Elizabeth Whittemore. Ms. Whittemore's SANE Kit was logged on October 22, 1997 and picked up by Sergeant Hannon (0323) of the Foxboro Police Department. The medical records you reference in your letter were produced to the Middlesex County Superior Court on April 25, 2024.

Please direct all future communications to my attention

Sincerely,



Hannah Glass
Assistant General Counsel

HSG/rc





POLICE DEPARTMENT TOWN OF FOXBOROUGH



Michael A. Grace
Chief of Police

Telephone: (508) 543-4343
Fax: (508) 543-2112

January 30, 2025

Mr. Stanley Donald
MCI-Norfolk #W66438
PO Box 43
Norfolk, MA 02056

RE: CONFIRMATION OF EMPLOYMENT

Dear Mr. Donald,

Per your request of January 28, 2025, this letter is to confirm that Sergeant Hannon was employed with the Foxborough Police Department on October 22, 1997.

Sincerely,

Robert A. Bolger
Administrative Assistant

R.87

Ex. C



POLICE DEPARTMENT TOWN OF FOXBOROUGH

Michael A. Grace
Chief of Police

Telephone: (508) 543-4343
Fax: (508) 543-2112

June 17, 2025

Mr. Stanley Donald
MCI-Norfolk #W66438
PO Box 43
Norfolk, MA 02056

RE: REQUEST FOR INFORMATION DATED MAY 22, 2025

Dear Mr. Donald,

In your letter, you requested confirmation that SANE kit record #10330 exists in our files, which it does not. This department has confirmed with the Watertown Police Department, the location of the crime, that they have possession of the requested SANE kit.

Sincerely,

Robert A. Bolger
Administrative Assistant



UNITED STATES DISTRICT COURT
OF MASSACHUSETTS No. 06-11416-MLW

Stanley Donald, Petitioner

Vs.

Lois Russo, Respondent.

FILED
Clerk's Office
USDC Mass.
Date 9-12-06
BY [Signature] Deputy Clerk

Pet's. MOTION FOR ORDER TO ENSURE PRESERVATION OF EVIDENCE

The petitioner, Stanley Donald, moves this Court to issue an order to ensure the preservation of all physical evidence, DNA samples, rape kit protocol records retained by the State and its agents, Mass. State Police Crime Lab, investigating law enforcement agencies, hospitals, and scientific testing labs pending decisions of his Federal petition, and appeals, for the following good cause:

- 1.] On September 30, 1999, the petitioner filed a motion to preserve evidence in the State Superior Court which was allowed by the trial judge for the petitioner to conduct an independent official DNA test and inspect rape kit records in order to raise substantial grounds for a new trial motion. (Exhibit "A")
- 2.] On January 6, 2004, while preparing to seek access to the preserved evidence the petitioner was informed by the Innocence Project that State County District Attorney is aware of the trial judge's order to preserve the evidence. (Exhibit "B")
- 3.] However, when the petitioner requested to test the DNA and inspect the protocol rape kit records the District Attorney refused him access to the preserved evidence for some unknown reason.
- 4.] On August 9, 2005, a different State Superior Court judge denied the petitioner access to test and inspect the evidence upon the District Attorney's opposition. (Exhibit "C")

As this motion is not opposed
and appears meritorious
is hereby recommended
So ORDERED

W. J. D. [Signature] R. 89 10 27, 2006

- 5.] On June 6, 2006, the State Appeals Court affirmed the State Superior Court's decision denying access to the evidence, and on July 26, 2006, further appellate review was denied without a hearing by the State Supreme Judicial Court. (Exhibit "D")
- 6.] On August 7, 2006, the petitioner filed a federal petition regarding access to test and inspect the evidence, and steady asserting that a newer modern DNA test and inspection of protocol rape kit records would exonerate him of the rape charges.
- 7.] The petitioner says that the State prosecution and its agents had access and opportunity to conduct scientific tests on the evidence and fairness requires a complete exposition of that evidence. See Kyles V. Whitley, 514 U.S. 419 (1995); And failure to preserve the evidence is a clear violation of the order issued by the trial judge, USSEV. Bryant, 439 F.2d 642, 652 (D.C. Cir. 1971).
- 8.] THEREFORE, an ORDER from this U.S. District Court is surely necessary to ensure that the State and its agents, hospitals do not violate the State Superior Court trial judge's order to preserve the evidence while the Federal petition and the appeal is pending.

Dated: _____

9/7/2006

Respectfully Submitted
By Petitioner Himself,
Stanley L. Donald
Stanley L. Donald, (Pet.)
S.B.C.C. #W66438
P.O. BOX 8000
Shirley, Mass 01464

(PROOF OF SERVICE)

I, Stanley L. Donald, the petitioner hereby certify that a copy of same motion with exhibits was served upon Cathryn Neaves, Chief, Appellate Division, Attorney General Office, One Ashburton Place, 18th Floor, Boston, Mass 02108-1598, for the respondent, by first class mail, postage prepaid.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Stanley L. Donald
Stanley L. Donald, Petitioner

R.90



The Commonwealth of Massachusetts

MIDDLESEX DISTRICT ATTORNEY
15 COMMONWEALTH AVENUE WOBURN, MA 01801
WWW.MIDDLESEXDA.COM

GERARD T. LEONE, JR.
DISTRICT ATTORNEY

TEL 781-897-8300
FAX 781-897-8301

EXECUTIVE

- ADMINISTRATION
- COMMUNICATIONS
- INTERVENTION & PREVENTION PROGRAMS
- PUBLIC POLICY
- LEGISLATION
- VICTIM WITNESS BUREAU

TRIAL TEAMS

- CAMBRIDGE REGION SUPERIOR COURT
- MALDEN REGION SUPERIOR COURT
- WOBURN DISTRICT COURT

SPECIALTY UNITS

- APPEALS & TRAINING BUREAU
- CYBER PROTECTION PROGRAM
- FAMILY PROTECTION BUREAU
- CHILD ABUSE UNIT
- DOMESTIC VIOLENCE UNIT
- ELDERLY/DISABLED UNIT
- PUBLIC PROTECTION, ANTI-TERRORISM, CORRUPTION & TECHNOLOGY (PACT)

STATE POLICE DETECTIVES

- COMPUTER FORENSICS
- HOMICIDE
- PACT

REGIONAL OFFICES

- CAMBRIDGE
- FRAMINGHAM
- LOWELL

DISTRICT COURT OFFICES

- AVER
- CAMBRIDGE
- CONCORD
- FRAMINGHAM
- LOWELL
- MALDEN
- MARLBOROUGH
- NATICK
- NEWTON
- SOMERVILLE
- WALTHAM
- WOBURN

MASSACHUSETTS
DISTRICT ATTORNEY
OFFICE

April 1, 2010

Mr. Brian Heaton
State Police Forensic Services Group
59 Horse Pond Rd.
Sodbury, MA 01776

Re: Commonwealth v. Stanley Donald
Middlesex Superior Court No. MICR 1997-02366
Lab No. C97-1059

Dear Mr. Heaton:

Our office recently received the enclosed reminder that an order for the preservation of evidence remains in force for the above-referenced case.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me.

Very truly yours,

Hallie White-Speight
Assistant District Attorney
781-897-6841
hallie.speight@state.ma.us

Enclosure

COPY

Printed on recycled paper

(R.91)

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
No. 9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald(AKA Fleming)

DEF'S.MOTION FOR DISCOVERY OF TRIAL EXHIBITS PHOTOS
TO SUPPORT BETH ISRAEL SANE RAPE KIT FORMS & RECORDS

Pursuant to Mass.R.Crim.P.30(c),the Defendant,Stanley Donald, requests this Court to ALLOW discovery of trial exhibits photos that is in custody of the Clerk's Office which contains allege victim's injuries relevant to the Beth Israel Sexual Assault Nurse Examination rape kit forms#1-to-5,which recorded injuries depicted in the trial exhibits photos. The defendant states:

- 1.]At trial,the Commonwealth entered photographs of victim's injuries as Exhibit#10,,and the victim testified this is a picture of her after she had been releaaed from the Beth Israel emergency room.See(Exhibits"A-to-B",hereto attached testimony)
- 2.]These trial exhibit photos will enhance the rape kit forms and corroborate the account of the incident.

WHEREFORE,this Court should Allow discovery of trial exhibit photographs of allege victim's injuries for viewing at the next scheduled hearing in October 23,2024,in this matter.

Dated:

August 20/2024

Respectfully Submitted
By Defendant

Stanley Donald
Stanley Donald, Pro-Se
MCI-Norfolk#W66438
P.O BOX 43
Norfolk,Mass 02056

[PROOF OF SERVICE]

I,hereby certify that a copy of same was served upon ADA Hallie Speight, by first class mail,postage-prepaid.

R.92

Vol. II

1 insure that we don't have to go through the whole
2 litany that she has testified to for four hours.

3 MR. YANNETTI: Okay.

4 THE COURT: So lead her to the extent
5 that the photograph was taken after this alleged
6 incident, after this incident had taken place
7 and after she returned from the hospital.

8 MR. YANNETTI: All right.

9 (End of bench conference.)

10 Q. I place the exact same photograph back before you.
11 And my question really is was that photograph taken
12 after you had been to the hospital and been cleaned
13 up quite a bit?

14 A. Yes, it was.

15 Q. And is that a fair and accurate representation of
16 what you looked like when you finally got back
17 to your residence at 151 ~~xxxxxx~~ Avenue?

18 A. Yes, it is.

19 MR. YANNETTI: I'll offer that.

20 MR. CASEY: No objection.

21 THE COURT: Thank you. Of
22 course, one can't see themselves. How do you
23 know that's a fair and accurate representation
24 of what you looked like.

R.93

1 THE WITNESS: It was the outfit
2 that I had put on the morning and had worn all
3 day minus the tights, and it was -- I had seen
4 my face in the mirror at the hospital.

5 THE COURT: Thank you. There being
6 no objection, Exhibit No. 10.

7 (Photograph of Ms. ~~XXXXXX~~ was
8 marked as Exhibit No. 10.)

9 MR. YANNETTI: I'd ask the Court
10 permission to publish this.

11 THE COURT: Yee, sir.

12 (Exhibit No. 10 displayed on the
13 monitor.)

14 Q. Placing another photograph before you, and can you
15 identify that for the Court and jury.

16 A. This is taken in the same lobby. It's a little
17 bit more of a closeup of my face.

18 Q. And is that a fair and accurate representation of
19 what your face looked like when you got back to
20 your apartment on October 21st of 1997?

21 A. Yes, it is.

22 MR. YANNETTI: I'd offer this.

23 MR. CASEY: No objection.

24 THE COURT: Thank you, Mr. Casey.

#8(R.94)

1 Exhibit No. 11.

2 (Photograph of face of Ms.
3 ~~Washington~~ was marked as Exhibit No. 11.)

4 MR. YANNETTI: I ask permission to
5 briefly publish it, Your Honor?

6 THE COURT: Yes, sir.

7 (Exhibit No. 11 displayed on the
8 monitor.)

9 Q. I place another photograph before you. Can you
10 identify that for the Court and jury.

11 A. That's a picture of my legs without the tights
12 where there are some scrapes and bruises.

13 Q. Is that a fair and accurate representation of your
14 legs as they looked in your apartment when you
15 finally got back there on October 21st of 1997?

16 A. The part that was showing, yes.

17 MR. YANNETTI: I would offer that.

18 THE COURT: Mr. Casey?

19 MR. CASEY: No objection.

20 THE COURT: Exhibit No. 12.

21 (Photograph of legs of Ms.
22 ~~Washington~~ was marked as Exhibit No. 12.)

23 MR. YANNETTI: May I have permission
24 to briefly show it to the jury?

(R.95)

1 THE COURT: Yes, sir.

2 (Exhibit No. 12 displayed on the
3 monitor.)

4 Q. I've placed an additional photograph before you.
5 Can you identify that for the Court and jury.

6 A. This is a picture taken in my bedroom, in my home on
7 -- that afternoon when I returned home, my back.

8 Q. And who took that picture of you?

9 A. My sister Holly.

10 Q. And is that a fair and accurate representation of
11 what your back looked like that day when you got
12 back to your apartment on October 21st of 1997?

13 MR. CASEY: Objection.

14 THE COURT: Overruled. You can
15 answer the question.

16 A. From what I saw in the mirror, it is fair and
17 accurate.

18 MR. YANNETTI: I would offer that,
19 Your Honor.

20 MR. CASEY: No objection.

21 THE COURT: There being no objection,
22 it may be marked Exhibit No. 13.

23 (Photograph of back of Ms. ~~Shirley~~
24 was marked as Exhibit No. 13.)

#10R96

checking me, and bashing my head down onto the concrete floor of the garage.

Q When you said, "where you are in the red shirt," were you referring to a grand juror in this room?

A Yes.

Q And is that grand juror approximately 15 feet or so from where you are or 20 feet?

A I would say.

Q You said he body slammed you onto the floor of the garage?

A Yeah, he just-- and my face just smashing onto the concrete. I broke my nose and just blood was just everywhere because of that. It was just-- and the gash, well--

Q Did he cover your mouth at one point after that?

A Yeah. So we were both on the concrete floor in between two cars, and he immediately covered my mouth and told me not to scream, and I said, "Don't worry," and he said, "I'm on crack and I have a gun." I said, "What do you want?"

Q What did he tell you at that point?

A He said that he wanted money.

Q Did you scream at that point?

A No.

(R97)

the time. With them backing off, I was happy to just let it go without getting graphic about it with total strangers.

Q Ma'am, did you take pictures of the injuries that you suffered?

A When I got home, I did.

Q Did the police also take pictures of your injuries?

A They did, mm-hmm.

MR. YANNETTI: I have no further questions of this witness. Does anybody have any questions?

Q (Juror.) Did you eventually go to a hospital?

A Yes. I was taken from the veterinary hospital in an ambulance by the EMT's to Southwick Community Hospital.

Q (Juror.) Did they ask you if you wanted to take a rape kit?

A (Witness shaking head in the negative.)

Q (Yannetti.) You have to answer that yes or no.

A Oh, no, no, they didn't.

MR. YANNETTI: Anybody else?

Q (Juror.) Did they question you about the rape at the hospital or did you indicate that you were raped?

R.98

two or three hours later, after she had--I'd say about 2:00 p.m. She was down at the hospital around noontime, so this was about 2:00 p.m.

Q Okay. By the time the photographs were taken, sir, had the excess blood been wiped off her face and had she been cleaned up quite a bit?

A She had been cleaned up quite a bit. The grass was taken-- She had combed the grass out of her hair, and she had washed the blood off of her face and stuff, but she was still--you could still see the injuries. So, I had the photographer, and he took the pictures right there in her living-room when she was at home.

Q Okay. I want to place before you three photographs, sir, and ask you if you can identify those photographs for the grand jury?

A Yeah. This is-- These are the pictures that--that we took in her living-room of her face and her--injuries to her leg and her face.

Q Okay. Do those photographs fairly and accurately reflect those injuries as you observed them on October 21st of 1997 after she had been cleaned up?

A Yes, sir.

R.99

MR. YANNETTI: I would offer all three photographs, please.

(Grand Jury Exhibits Number 5, 6 and 7 marked)
(Three Photographs)

Q Okay. Now, obviously Detective Munger, with regard to Exhibits 5, 6 and 7--Grand Jury Exhibits 5, 6 and 7, Ms. Whittemore is clothed in those exhibits; is that correct?

A Yes, sir.

Q Did you learn from Ms. Whittemore that she had received certain scraping-type injuries to her back during the course of this reported sexual assault?

A Yes, sir.

Q And as a result of that, sir, did you ask somebody else to take photographs of those injuries?

A Yes, sir. After the--those pictures were taken--

Q And you're talking about Exhibits 5, 6 and 7?

A Yes, the pictures that I just observed, I had her sister, Molly, bring her in--we adjusted

R.100

1 the camera for the distance, and had her sister,
2 Molly, bring her right around the corner in the
3 bedroom, and had her take her shirt off and had
4 her sister take the pictures. I didn't think
5 she'd feel comfortable if I took the pictures.
6

7 Q Okay. So, you took those pictures--or actually
8 you had the sister take those--that one picture
9 from behind Ms. Whittemore with her shirt off; is
10 that correct?

11 A Yes, sir.

12 Q Do you have that picture in front of you now,
13 sir?

14 A Yes, I do.

15 Q Okay. Did you learn from her sister that that
16 was a fair and accurate representation of what
17 the back looked like that day when the sister
18 took the picture?

19 A Yes, sir.

20 MR. YANNETTI: I would offer that
21 photo as well, please. *

22 (Grand Jury Exhibit Number 8 marked)

23 (Photograph)
24
25

R.101

1 assaulted with intent to commit rape, and she
2 tells the police or a doctor or a friend or a
3 neighbor, she speaks and she tells how it
4 happened, that is allowed into evidence under the
5 theory of fresh complaint, which means that she
6 told someone of the fact that she was assaulted
7 and the circumstances surrounding the assault.
8 However, it is admissible in evidence, and it can
9 only be considered by you solely to corroborate
10 the alleged victim's testimony, namely, as it
11 relates to the credibility of the alleged victim's
12 testimony at trial.

13 It is not to be considered by you
14 as any evidence as to whether or not she was, in
15 fact, raped; and it is not to be considered by you
16 on the issues of what happened behind that shed on
17 the early morning in question as far as the facts
18 relative to the alleged rape are concerned. You
19 are only to consider it relative to the fact as
20 corroboration to the extent that a complaint was
21 made and to corroborate the victim's testimony.
22 But it is not to be taken as evidence on what
23 happened at that house on that particular day.
24 Further, you may reject this proffered evidence as

(R. 102)

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

SUPERIOR COURT DEPARTMENT

CRIMINAL DIVISION

No. 9781CR02366-01-06

Commonwealth of Massachusetts,

vs.

Stanley Donald

DEF'S. POST-MOTION FOR ORDER TO DISCOVER BANK DOCUMENTS

Pursuant to Mass.R Crim P.Rule 30(c)(4), the Defendant, Stanley Donald, requests this Court to ALLOW him an Order to discover bank documents from Bank of America who retains and possess the bank records, documents of Bank of Boston bank account of Stanley Donald by merger with Bank of America which is relevant to his ATM bank card transactions in October 1997, when he was employed with Educators Publishing Services who made direct deposits of his paycheck into his Bank of Boston bank account, and he says, discovery of his bank records, documents is appropriate because the bank documents will show he was using his own Bank of Boston ATM bank card which would be able to demonstrate that he is entitled to relief since the Commonwealth presented to the jury that Donald was using the allege victim's Bank of Boston ATM bank card, and further would demonstrate that the Commonwealth's witnesses identified Defendant using his own Bank of Boston ATM bank card. Mr. Donald attaches his Affidavit with proposed Order.

R.103

[Page#2]

Dated: MARCH 23/2024

Respectfully Submitted
By Defendant,

Stanley Donald

Stanley Donald
MCT-Norfolk#W66438
P O BOX 43
Norfolk, Mass 02056

[Proof of Service]

I, Stanley Donald, hereby certify that a copy of same Motion was served upon ADA Hallie White Speight, Middlesex District Attorney Office, 15 Commonwealth Ave#3 Woburn, Mass 01801, by first class mail, postage prepaid.

R.104

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT
CRIMINAL DIVISION
No. 9781CR02366-01-06.

Commonwealth Of Massachusetts

Vs.

Stanley Donald

[AFFIDAVIT OF STANLEY DONALD]

Being under Oath, I, Stanley Donald, states the following:

- 1]I started working for Educators Publishing Services in May of 1997, and I obtained a Bank of Boston bank account at bank branch in Belmont, Massachusetts that was a few blocks from where I worked.
- 2]I requested my employer Educators Publishing Services to pay me by direct deposit into my bank account with Bank of Boston.
- 3.]In October 21, 1997, I used my own Bank of Boston ATM bank card to buy groceries for my girlfriend and her kids who lived in the city of Brockton.
- 4]Also, Bank of Boston has merged with Bank of America who now has retained the bank records, documents of ATM bank cards and accounts.
- 5]Therefore, I pray this Court to allow the attached proposed Court Order for Bank of America to release my Bank of Boston bank account records and documents for review in this matter.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

March 23/2024
Dated

Stanley Donald
Stanley Donald

R.105

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
NO. 9781CR2366

COMMONWEALTH

v.

STANLEY DONALD

COMMONWEALTH'S OPPOSITION TO DEFENDANT'S "POST-[CONVICTION]
MOTION FOR ORDER TO DISCOVER BANK DOCUMENTS"

The Commonwealth opposes the defendant's motion. The defendant's 1999 conviction of multiple offenses arising out of his brutal kidnapping, savage beating and rape of the victim has withstood numerous collateral attacks over more than two decades. His latest motion alleges, for the first time, that bank records will exonerate him. Because he has provided no explanation for his failure to raise this claim in the quarter-century since his conviction, and because the requested records – if they exist at all – would not be sufficiently probative to outweigh the overwhelming evidence against him at trial, his motion should be denied without a hearing.

RELEVANT PROCEDURAL HISTORY

On April 15, 1999, after a trial in Superior Court before Justice Robert A. Barton, a jury found the defendant guilty of two counts of rape aggravated by serious bodily injury, assault with a dangerous weapon (cement floor), carjacking, kidnapping, and unarmed rob-

R.106

bery.¹ On April 28, 1999, Justice Barton sentenced the defendant to concurrent terms of forty to fifty years on one of the rape convictions; to concurrent life terms on the other rape conviction and the conviction of unarmed robbery; nine to ten years on the convictions of kidnapping and assault and battery with a dangerous weapon; and fourteen to fifteen years on the conviction of carjacking. All committed sentences were to be served concurrently.

The defendant's direct appeal was denied in October 2002. Commonwealth v. Donald, 56 Mass. App. Ct. 1102 (2002) (Memorandum and Order Pursuant to Rule 1:28 then in effect), review denied, 438 Mass. 1104 (2003).² In the years after the denial of his direct appeal, the defendant filed numerous post-conviction motions and petitions, both pro se and through counsel. These include several motions for new trial and for post-conviction discovery, release from unlawful restraint, for DNA testing, for access to rape kit forms, and to revise and revoke his sentence. In addition, he appealed his sentence to the Appellate Division of the Superior Court; this appeal was unsuccessful. He has filed numerous appeals from various rulings of this Court in the Appeals Court as well. All have been denied. See Donald v. Commonwealth, 452 Mass. 1029 (2008); Donald v. Commonwealth, 437 Mass. 1007 (2002); Commonwealth v. Donald, 72 Mass. App. Ct. 1104, review denied, 452 Mass. 1103 (2008); Commonwealth v. Donald, 66 Mass. App. Ct. 1110, review denied, 447 Mass. 1106 (2006); Donald v. Commonwealth, 60 Mass. App. Ct. 1106 (2003), review denied, 441 Mass. 1102 (2004).

¹ The docket in this case currently runs to more than forty pages. The Commonwealth will refer to filings by paper number and date and is happy to provide a printed docket should this Court request.

² The decision is attached as an addendum to this opposition.

R.107

On August 29, 2022, the defendant filed a motion for new trial (paper #456), in which he argued, inter alia, that his trial counsel was ineffective for not having investigated his claim that he had an account at the same bank as the victim, such that supposedly the ATM surveillance video showing him using the victim's ATM card actually showed him accessing his own account. A hearing was held on March 21, 2024, during which the defendant requested discovery of records from BankBoston (now Bank of America) to support this claim. This Court allowed the defendant to file a motion for discovery of those records, and on April 3, 2024, the defendant filed the instant motion "for order to discover bank documents" (paper #480).

STATEMENT OF FACTS

The facts of the case may be found in the Appeals Court's opinion denying the defendant's direct appeal, which is attached as an addendum to this opposition. See Commonwealth v. Donald, 56 Mass. App. Ct. 1102 (2002) (Memorandum and Order Pursuant to Rule 1:28 then in effect), addendum pp. 2-5.

ARGUMENT

WHERE THE DEFENDANT HAS OFFERED NO EXPLANATION FOR HIS TWENTY-FIVE-YEAR-LONG FAILURE TO RAISE AN ISSUE THAT WAS ENTIRELY WITHIN HIS OWN KNOWLEDGE, AND WHERE THE REQUESTED EVIDENCE – IF IT EXISTS, AND IF IT ACTUALLY SHOWS WHAT HE CLAIMS IT WOULD – WOULD NOT BE SUFFICIENTLY PROBATIVE TO CAST DOUBT ON HIS CONVICTION, THIS COURT SHOULD DENY HIS MOTION.

The defendant requests that this Court order Bank of America to produce "documents of Bank of Boston bank account of Stanley Donald . . . which is relevant to his ATM bank card transactions in October 1997," claiming that on the date of the offense he used an ATM (presumably the same one where the victim's card was used) to withdraw money,

R.108

supposedly to buy groceries for his girlfriend. (Defendant's motion, p.1; defendant's affidavit, ¶ 3.) Because he has not met his burden under Mass. R. Crim. P. 30 (c)(4) to show that the requested records – if they exist – would make out a prima facie case for relief, his motion should be denied.

Standard of Review. Postconviction motions for discovery are governed by Mass. R. Crim. P. 30 (c) (4). Whether to allow discovery is a matter for this Court's discretion. Commonwealth v. Stewart, 383 Mass. 253, 261 (1981). Where a defendant's filings establish a prima facie case for relief, this Court may, "after notice to the opposing party and an opportunity to be heard, . . . order such discovery as is deemed appropriate." Mass. R. Crim. P. 30 (c)(4). To meet this standard, a defendant must make "specific, not speculative or conclusory, allegations" that the requested evidence, if explored further through discovery, might warrant granting a new trial. Commonwealth v. Holbrook, 482 Mass. 596, 605 (2019), emphasis added.

At trial, the Commonwealth presented testimony by William E. Eckert, Jr., a corporate security officer at BankBoston, who authenticated both computer-generated records, and still images from an accompanying videotape, from a BankBoston ATM in Mansfield, not far from where the victim was raped and left bleeding and seriously injured in a backyard in Foxboro. (Tr. V:58-76, 89-104.) Mr. Eckert presented records showing that the victim's card was used at that ATM at 11:04:55 am on October 21, 1997 (the date of the offense) to withdraw \$300. (Tr. V:68-69, 75-76, 90.) Stills from the ATM's surveillance video, which was activated by the initiation of a transaction, showed the defendant using the ATM at 11:04:55 am on October 21, 1997. (Tr. IV:33-37, V:65, 100-104.)

⁴ R.109

The defendant now claims that he used the ATM in question but that he was using his own ATM card and accessing his own account. He has, however, produced nothing to suggest that the time stamp on the video is not properly aligned with the times reflected on the transaction records, which show the defendant's picture at the exact moment -- 11:04:55 am -- that the transaction using the victim's card was initiated. Even assuming that the defendant used the same ATM at approximately the same time -- which the Commonwealth does not accept -- he could easily have used his own card before or after, in an attempt to cover up his theft of funds from his victim's account. Therefore, the requested records -- if they still exist³ -- would not be sufficiently exculpatory to make out a prima facie case for relief, particularly when considered against the overwhelming evidence of his guilt. See Commonwealth v. Vines, 94 Mass. 690, 692 n. 7 (2019) (when requesting postconviction discovery, defendant must show that requested material is "reasonably likely to uncover evidence that might warrant granting a new trial").

More importantly, the defendant has offered no explanation for his failure to raise this claim in the many years since he was convicted. Over the years he has filed numerous motions for postconviction relief, yet to the best of undersigned counsel's ability to determine, the first time he has alleged that BankBoston records would show he was accessing his own account was his 2022 motion for new trial (paper #456), in which he asserts (without independent evidentiary support) that he "informed trial counsel that he [had] an ATM

³ The Commonwealth notes, and this Court may take judicial notice of, the fact that BankBoston (as it was known at the time of trial) has been taken over and merged into other corporate entities twice since the time of the crime. It is now Bank of America. See <https://en.wikipedia.org/wiki/BankBoston> (last accessed April 5, 2024) (BankBoston taken over by FleetBoston Financial in 1999, and then by Bank of America in 2005). The Commonwealth does not pretend to know what happens to individual ATM records in such a situation; however, it is the defendant's burden to prove all facts not agreed to or evident from the face of the trial record. Commonwealth v. Comita, 441 Mass. 86, 93 (2004).

R.110

bank card at the same Bank of Boston as the allege[d] victim,” and that counsel was supposedly ineffective for not having sought bank records to confirm that he was allegedly accessing his own account when his face appeared on the surveillance video. (Paper #456, p. 14.) Since the asserted facts are peculiarly within his own knowledge, he must explain why he has never raised this issue before – and he has not done so.

The defendant made various claims of ineffective assistance in the course of his direct appeal two decades ago; the Appeals Court properly rejected them. (Addendum, pp. 5,6.) The defendant cannot claim to have been ignorant of the possibility of an ineffective assistance claim, yet he offers no explanation for his failure to raise this issue at an earlier time. See Commonwealth v. Poitras, 55 Mass. App. 691, 696-697 (2002). See also Commonwealth v. McLaughlin, 364 Mass. 211, 229 (1973) (motion for new trial may not be used as vehicle to compel considerations of claim that could have been raised at trial or on direct appeal); Mass. R. Crim. P. 30 (c)(2) (all available claims must be raised in first motion for new trial). At a minimum, the defendant’s decades-long silence about a matter that, if true, would have been entirely within his personal knowledge casts serious doubt on the credibility of his claim.

Indeed, this evidence – if it showed what he claims it does, which the Commonwealth does not concede – could not be grounds for a new trial based on newly discovered evidence. See Commonwealth v. Pina, 481 Mass. 413, 433 (2019) (evidence not newly discovered where it was known by defendant and thus “readily discoverable through reasonable diligence” at time of trial). Therefore, the only avenue for relief for this defendant would be to claim that he did tell his trial counsel, and counsel did not investigate. But this claim is supported only by the defendant’s own self-serving assertion, which is insufficient

R.111

to raise a substantial issue. See Commonwealth v. Linton, 456 Mass. 534, 554 (2010).

This Court should decline to indulge the defendant.

CONCLUSION

The defendant has offered neither a persuasive argument for the probative value of the requested records nor adequate evidentiary support for his request. Nor has he raised a substantial issue warranting an evidentiary hearing. See, e.g., Commonwealth v. Gagliardi, 418 Mass. 562, 572 (1994). The motion should be denied without hearing.

Respectfully submitted

For the Commonwealth,

MARIAN T. RYAN
DISTRICT ATTORNEY



Hallie White Speight
BBO No. 667492
Assistant District Attorney
15 Commonwealth Avenue
Woburn, MA 01801
Tel: (781) 897-6841

Date: April 5, 2024

R.112

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CRIMINAL
No. 9781CR2366

COMMONWEALTH

vs.

STANLEY DONALD

ORDER

It is hereby ordered by this Court that to the extent that Bank of America currently retains and possesses Bank of Boston records, the Records Department of Bank of America Financial Center, located at 101 Federal Street, Boston, MA, 02110, care of resident agent CT Corporation Systems, shall produce to the Court any and all records related to all transactions associated with an account in the name of Stanley Donald, date of birth June 6, 1992, SSN # 027-52-3472, for the Month of October 1997. Said records or response indicating that responsive records no longer exist or could not be located shall be produced on or before September 5, 2024.

SO ORDERED.


Patrick M. Haggan
Justice of the Superior Court

DATE: August 5, 2024

R.113

H. Lian

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX,ss SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

DEF'S.AMENDED MOTION FOR POST-CONVICTION RELIEF

Pursuant to Mass.R.Crim.P.Rule 30,the Defendant,Stanley Donald ,respectfully requests this Honorable Court to grant him post-conviction relief as a sanction against the Commonwealth and deem his sentence time served,since the Commonwealth has failed its duty to preserve potential exculpatory evidence within the Beth Israel Hospital rape kit protocol records as ordered by the Federal Court order hereto attached as Exhibits#1-to-2.

"The general rule is that the Commonwealth has a duty to preserve evidence for the defendant to inspect,examine, or perform test on." See Commonwealth Vs.Harwood,432 Mass.290, at 295(2000). The Defendant attaches his Affidavit with Exhibits in support hereof, and says the following:

1.]The allege victim testified before the Court that" she had to go to the Beth Israel Emergency Room the following day and they did do a sexual assault kit there",(Exhibit#3),and also testified that she "broke her nose".(Exhibit#4) The Court has held " a defendant must be allowed access to medical records so that he may consider whether being deprived of them at trial made his trial unfair." Commonwealth Vs.Pelsoi,441 Mass.257;at 264 (2004).

R.114

2.] Now on October 23, 2024, the Commonwealth stated to this Court that the Beth Israel protocol rape kit records #1-to-4, does not exist and was not preserved.

3.] The Court docket supports this defendant has filed over 10-motions requesting access to the Beth Israel protocol rape kit records (Paper Entries #95-thru-#463), and the trial judge ordered the evidence preserved. (Paper Entry #92)

4.] Prior, on November 24, 1998, the Commonwealth compelled the defendant for blood and saliva samples related to the testimony of the Beth Israel rape kit protocol records. (Paper Entries #35-36) and (Exhibits #5-to-6; Affidavit of Trial Prosecutor hereto attached, and since the Commonwealth compelled defendant for blood and saliva samples related to the rape kit protocol records then the Commonwealth had "a duty to preserve evidence" of rape kit protocol records. Harwood, at 295.

5.] At trial, the trial judge instructed the jury that "she tells a doctor, and she tells how it happened, that is allowed into evidence."

6.] In this case, the allege victim spoke to a nurse at Beth Israel hospital and told the nurse how the rape happened and the nurse recorded her injuries in the rape kit protocol records which now the Commonwealth claims no longer exist. The failure to comply to the federal court order to preserve the rape kit protocol records gives this Court the authority to grant sanction for relief. See United States V. Bryant, 439 F.2d 642 (D.C. Cir. 1971) [Sanctions for loss of evidence].

(R.115) [#2]

7.]This defendant has been deprive of his due process rights to inspect and examine a narrative of the rape and injuries with a description of the suspect recorded in the Beth Israel rape kit protocol records, and on May 25,2016,the Commonwealth stated to this Court that "they are aware there have been motions to preserve, motions to remind the Commonwealth about preservation." (Hr.Tr.page#3), and prior on August 26,2011,the Assistant Attorney General,Annette G.Benedetto,stated in Suffolk Civil Court case #2010-01628-D,that Beth Israel hospital was notified that the Federal Court ordered the rape kit protocol records preserved. WHEREFORE,this Court should grant post-conviction relief and Revise the Defendant's sentence to time deem served since the Commonwealth and hospital has failed its duty to preserve the potential exculpatory evidence within the rape kit protocol records as ordered by State and Federal Courts as justice require a sanction be imposed in this matter.

Dated: October 25/2024

Respectfully Submitted
By Defendant,

Stanley Donald
Stanley Donald
MCI-Norfolk#W66438
P.O.BOX 43
Norfolk,Mass 02056

[PROOF OF SERVICE]

I, Stanley Donald, pro-se, defendant, hereby certify that a copy of same Motion with Affidavit and Exhibits were served upon ADA Hallie Speight, Middlesex District Attorney Office, 15 Commonwealth Ave, #3, Woburn, Mass 01801, by first class mail, postage prepaid.

R.116

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

[AFFIDAVIT OF STANLEY DONALD]

Being duly sworn, under Oath, I, Stanley Donald, depose:

- 1.] In April of 1999, I was convicted of two counts rape, unarmed robbery, kidnapping, ABDW and sentence to an overall sentence of 40-to-50 years in State prison.
- 2.] The Commonwealth has no fingerprint evidence against me and identification was I kinda look likes the person and there is possiblity other evidence was altered or tampered.
- 3.] Over 26-years I been requesting access to Beth Israel rape kit protocol records for the narrative of the rape and injuries with a description of the suspect to support my defense.
- 3.] The Commonwealth for some unknown reason has filed several opposition to deny me access to the protocol rape kit records.
- 4.] So on my own on October 10, 2003, I wrote Beth Israel hospital regarding the rape kit protocol records and they requested me to obtain authorization for release of those rape kit protocol records. See (Exhibit#7)
- 5.] Also, I made an inquiry with the Middlesex District Attorney Office and received an "Example" of rape kit protocol records /forms#1-to-5 from a different rape case that the Commonwealth has a policy to obtain those records in all criminal cases for rape prosecution. See (Exhibit#8-to-12; "EXAMPLE" from the Middlesex District Attorney Office)
- 6.] More, on October 27, 2006, the Chief Judge of U.S. District Court allowed my motion to preserve the Beth Israel rape kit protocol records retained by hospitals for inspection to exonerate me of rape charges. (Exhibits#1-to-2); And the State Civil Court allowed my motion to preserve evidence retained by hospitals. (Exhibits#13-to-14)

(R.117)

7.]Now on October 23,2024,the Commonwealth stated to the Court that the Beth Israel rape kit protocol records no longer exist which is a direct violation of the Federal Court order to preserve the rape kit pprotocol records for inspect and examination.

8.]Now I have been in prison for 26-years with 4-years good time and I have problems with my health that may result in me being unable to walk or death in a few years.

9.]Therefore, due to my condition I pray this Court to impose a sanction against the Commonwealth for its failure to preserve the potential exculpatory rape kit protocol records, and Revise my sentence to time deem served with 10-years unsupervised probation to bring closure to this case in ther interest of justice.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

October 25/2024
Dated

Stanley Paul
Stanley Donald(Defendant)

R.118

COMMONWEALTH
MIDDLESEX, ss

OF

MASSACHUSETTS

SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

DEF'S.SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
AMENDED MOTION FOR POST-CONVICTION RELIEF

-Concise Introduction-

On December 17,1997,the allege victim testified she went to Beth Israel Emergency Room and they did do a sexual assault kit there. On November 24,1998,the Commonwealth compelled the Defendant,Stanley Donald,for blood and saliva samples related to the Beth Israel Sexual Assault kit testimony. Over the past 26-years Mr.Donald has been requesting access to the Beth Israel sexual assault kit records. After filing several motions and appeals for access to Beth Israel sexual assault kit records, then on October 27,2006,the Federal Court allowed Mr.Donald's motion to particularly preserve the so-call Beth Israel rape kit protocol records.

On October 23,2024,the Commonwealth stated in open Court that the Beth Israel rape kit protocol records no longer exist and are missing.

(R.119)

-Argument-

I. THE COMMONWEALTH NEGLIGENTLY OR INTENTIONALLY CAUSED BETH ISRAEL RAPE KIT PROTOCOL RECORDS TO VANISH IN VIOLATION OF FEDERAL COURT ORDER TO PRESERVE.

The Court has held " the general rule is that the Commonwealth has a duty to preserve evidence for the defendant to inspect , examine, or perform test on." See Commonwealth Vs. Harwood, 432 Mass 290, at 295(2000)

Here, the federal court particularly order "rape kit protocol records retained by hospitals" be preserved for inspection. See (Exhibits#1-to-2; Motion for Order To Ensure Preservation)

Mr. Donald contends those rape kit protocol records possess an exculpatory value where the allege victim spoke to a nurse and told the nurse how the rape happened and nurse recorded her injuries onto the rape kit protocol records that also gave a description of the suspect.

Mr. Donald presents that the Commonwealth blatantly disregarded the federal court order to preserve the rape kit protocol records and a sanction should be issued against the Commonwealth.

"A party who has negligently or intentionally lost or destroyed evidence known to be relevant for an upcoming legal proceeding should be held accountable," Keene Vs. Brigham & Women's Hospital, Inc., 439 Mass. 223, 234-235(2003)

Here, Mr. Donald submitted an Affidavit requesting a sanction of 30-years time deem served with 10-years unsupervised probation since he has been deprived of potential exculpatory rape kit evidence in violation of the due process clause of the 5th and 14th Amendments. U.S. V. Bryant, 439 F.2d 642, 652(D.C. Cir. 1971)

(R.120)

Here, since the rape kit protocol records no longer exist then the allege victim's rape kit testimony is considered false testimony and the Commonwealth used false rape kit testimony to compel Mr.Donald for blood and saliva samples. More, Mr.Donald has been deprived of evidence to support his motion for new trial(Paper Entry#455)where the rape kit contains evidence that provides a description of the other suspect known as Jerry Dixon who has been connected to several unsolved rape cases. The missing Beth Israel rape kit protocol records would have provided crucial exculpatory evidence and a sanction is necessary to remedy the violation of the federal court order to preserve the evidence. The Commonwealth's first obligation was to obey the federal court order.

Mr.Donald is entitled to relief since he has established that access to the missing or lost rape kit protocol records would have produced evidence favorable to his cause.Commonwealth Vs. Woodward,427 Mass.659,at 679(1998).

In Woodward, this Middlesex Superior Court vacated her sentence and imposed a new sentence to time deemed served where Woodward sought relief for the Commonwealth's failure to preserve evidence.Id.

Here, a sanction is appropriate remedy where the loss of evidence violated due process rights because due to the passage of time a new trial can not be had and a revised sentence is necessary. Illinois Vs. Fisher,124 S.Ct.1200(2004),citing Commonwealth Vs. Henderson,411 Mass.309,at 310-311(1991).

-Conclusion-

WHEREFORE, this Court should grant post-conviction relief with an ORDER allowing time deem served of 30-years with imposing 10-years unsupervised probation and ORDER Mr. Donald released from custody in the interest of final justice.

Dated: October 28/2024

Respectfully Submitted
By Defendant,

Stanley Donald

Stanley Donald, pro-se
MCI-Norfolk #W66438
P.O. BOX 43
Norfolk, Mass 02056

[PROOF OF SERVICE]

I, Stanley Donald, pro-se, Defendant, hereby certify that a copy of same was served upon ADA Hallie White Speight, Middlesex District Attorney Office, 15 Commonwealth Ave #3, Woburn, Mass 01801, by first class mail, postage prepaid.

Stanley Donald
Stanley Donald, pro-se counsel

R.122

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
NO. 9781CR2366

COMMONWEALTH

v.

STANLEY DONALD

COMMONWEALTH'S OPPOSITION TO DEFENDANT'S "AMENDED MOTION FOR
POST-CONVICTION RELIEF" AND "SUPPLEMENTAL MEMORANDUM IN SUP-
PORT OF AMENDED MOTION FOR POST-CONVICTION RELIEF"

The Commonwealth continues to rely on the arguments set forth in its opposition (paper #458) to the defendant's "Post-Conviction Motion for New Trial" (paper #455). The Commonwealth writes again in response to the defendant's most recent filings and asserts that the defendant has failed to meet his burden to show that he is entitled to any relief -- much less the drastic remedies he requests -- for the supposed loss of certain rape kit forms.

As an initial matter, to the best of undersigned counsel's recollection and ability to determine, undersigned counsel has never asserted that the requested documents do not exist. (Paper #500, p. 2; Paper #501, p. 1.) The Commonwealth simply does not have them.¹ Nor, it appears from recent communications, does Beth Israel Deaconess Medical Center. Assuming that the records have been irretrievably lost -- and the Commonwealth knows only that they are not in the possession of the Middlesex District Attorney's Office -- the

¹ That the Commonwealth does not have these forms was affirmed by the Appeals Court (albeit with the qualifier "apparently") most recently in 2017. Commonwealth v. Donald, 92 Mass. App. Ct. 1107 (Memorandum and order pursuant to Rule 1:28 then in effect, 2017).

R.123

defendant has the initial burden to establish “a reasonable possibility, based on concrete evidence rather than a fertile imagination, that access to the [evidence] would have produced evidence favorable to his cause.” Commonwealth v. Kee, 449 Mass. 550, 554 (2007), internal quotation marks omitted. Unless and until the defendant makes this showing, this Court does not consider the Commonwealth’s culpability in the loss of the evidence or its materiality to the defendant’s case. Id. at 554-555.

The defendant has failed to meet his initial burden. In his supplemental memorandum, he offers only the conclusory, speculative, and utterly unsupported assertion that the missing documents “contain[] evidence that provides a description of the other suspect known as Jerry Dixon who has been connected to several unsolved rape cases.” (Paper #501, p. 3.) Since it is unlikely that the suspect introduced himself by name to the victim or that he showed her his identification, the defendant must show that the description in some way matched Dixon and not him. See Commonwealth v. Dinkins, 440 Mass. 715, 718 (2004) (affirming denial of relief where defendant failed to show that lost evidence “would have helped rather than hurt his cause”). This he has not even attempted to do. Therefore he has not made the threshold showing that the missing evidence would be exculpatory. He is not entitled to relief or even to any further consideration of the claim. See id. (“could have” “is merely an introduction to speculation and is not a substitute for ‘concrete evidence’”).

The defendant makes much of two motions for preservation of evidence, one in this Court (paper #92) and one in Federal District Court.² Where the defendant has produced

² The motion filed in this Court requested preservation only of “physical evidence . . . pending the defendant’s appeal”; it therefore would not encompass the documents sought here. (Paper #92, attached as Exhibit A.) The motion in Federal court was filed in a pro-

2 (R.124)

nothing but speculation to show that the missing documents are exculpatory, the existence and scope of preservation orders -- which would bear only on the question of the Commonwealth's culpability, see Commonwealth v. Woodward, 427 Mass. 659 678-679 (1998) -- is irrelevant to this Court's analysis. See Kee, 449 Mass. at 554 (defendant must meet initial burden to show evidence was exculpatory before court undertakes any balancing test). The defendant is not entitled to relief.

Respectfully submitted

For the Commonwealth,

MARIAN T. RYAN
DISTRICT ATTORNEY



Hallie White Speight
BBO No. 667492
Assistant District Attorney
15 Commonwealth Avenue
Woburn, MA 01801
Tel: (781) 897-6841
hallie.speight@mass.gov

Date: November 12, 2024

ceeding to which the District Attorney's office was not a party; it mentions "hospitals" but does not specify, and seems not to have been served on, Beth Israel Deaconess Medical Center. (Defendant's Exhibit 1.) The defendant asserts that the Assistant Attorney General handling that case "stated . . . that Beth Israel hospital was notified" of the order (paper #500, p. 3) but provides no actual record support for that assertion. Finally, a third motion attached to the defendant's amended motion and directed to the Watertown Police Department in a civil action seeks only preservation of "DNA evidence" and not rape kit forms. (Defendant's Exhibit 13.)

3 R.125

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

DEF'S RENEWED MEMORANDUM IN SUPPORT OF MOTION FOR NEW TRIAL
AND TO RECONSIDER AMENDED MOTION FOR POST-CONVICTION RELIEF

Pursuant to Mass.R.Crim.P. Rule 30(b), the Defendant, Stanley Donald, hereby enters this memorandum in support of his motion for new trial (Paper Entry#455), and to reconsider amended motion for post-conviction relief (Paper Entry#500) since it appears that "justice may not have been done" in this case. Mr. Donald solely argues that:

I.

The Commonwealth Withheld Substantial Exculpatory Identification Evidence Suggesting Another Suspect Jerry Dixon Had Opportunity To Commit The Crimes In Violation Of Brady ; And

II.

The Court Should Reconsider Amended Motion For Post-Conviction Relief (Paper Entry#500) since The Defendant Can Now Prove The Commonwealth's Agent Had Possession Of Rape Kit Examination Forms.

-Concise Introduction-

On November 22, 2024, this Court held a hearing and denied amended motion for post-conviction relief since the defendant was unable to provide that the Commonwealth possessed rape kit examination forms. However, the Westertown Police possessed the rape kit examination forms before trial and destroyed those forms after trial. Now Mr. Donald has substantial evidence to support identification evidence of Jerry Dixon was withheld and he attaches his Affidavit with Exhibits#1-to-28, and presents the following:

-1-
(R.126)

Evidence Relevant To Jerry Dixon:

In 1996, Jerry Dixon was arrested by Newton Police and charged with rape and other crimes. (Exhibit#12)

The Middlesex District Attorney Office prosecuted him for the crimes committed in City of Newton which is located near the City of Watertown where the victim in this present case was attacked. In 1996, Jerry Dixon was held in custody at the Middlesex County Jail with the description of about five ten, medium build. On September 8, 1997, Jerry Dixon was released from custody by Judge Hinkle in Middlesex Superior Court Case#9681CR00504. (Exhibits#9-to-11)

Its evident that on October 21, 1997, after Jerry Dixon was released from custody he had an opportunity to attack victim in this present case which caused the Watertown Police to place his photo in a photo array and compare his fingerprints to fingerprints recovered from victim's car. (Exhibits#4-to-5)(*)

At trial, a witness in this present case gave a description of a black man five ten, medium build she seen in the parking garage before the victim was attacked which fit description of Jerry Dixon. (Exhibit#6) Several years later, Jerry Dixon was matched through CODIS DNA database to several unsolved rapes and pleaded guilty to 10-counts of aggravated rape. (Exhibit#8)

This evidence relevant to Jerry Dixon was brought to light by the State Supreme Court in Commonwealth Vs. Stanley Donald, 468 Mass.37, at 46(2014).

(*)The evidence of Jerry Dixon having opportunity to commit the crimes would have been admissible through testimony of Watertown Police Detective Michael Munger who investigated the crimes. See (Exhibit#1), where counsel failed to investigate. See (Paper#455 page#15)

(R.127)

Legal Background.

Duty to Produce Exculpatory Evidence. When the government prosecutes someone for allegedly committing a crime, it has a duty "to disclose in a timely manner material, exculpatory evidence over which it has possession, custody, or control." *Commonwealth v. Rodriguez-Nieves*, 487 Mass. 171, 177, 165 N.E.3d 1028 (2021). Failure to do so violates the constitutional requirements of due process. *Commonwealth v. Daniels*, 445 Mass. 392, 401-02, 837 N.E.2d 683 (2010); accord *Brady v. Maryland*, 373 U.S. 83, 87, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963) (duty to produce exculpatory evidence requested by defendant); *United States v. Agurs*, 427 U.S. 97, 106-08, 96 S. Ct. 2392, 49 L. Ed. 2d 342 (1976) (duty to produce exculpatory evidence even if defendant only makes general request for exculpatory materials or makes no request at all).

The prosecution must disclose any evidence "that could materially aid the defense against the pending charges." *Daniels*, 445 Mass. at 401, quoting *Commonwealth v. Tucceri*, 412 Mass. 401, 404-05, 589 N.E.2d 1216 (1992). "Evidence may be favorable or exculpatory, and thus required to be disclosed, 'although it is not absolutely destructive of the Commonwealth's case or highly demonstrative of the defendant's innocence.'" *Id.*, quoting *Commonwealth v. Ellison*, 376 Mass. 1, 22, 379 N.E.2d 560 (1978).

The prosecution's duty to provide exculpatory evidence applies to all evidence that "tends to negate" or call into question the guilt of the accused defendant, even if the evidence does not provide "complete proof of innocence." *Commonwealth v. Caldwell*, 487 Mass. 370, 376, 167 N.E.3d 852 (2021), quoting *Commonwealth v. Healy*, 438 Mass. 672, 679, 783 N.E.2d 428 (2003). "Evidence is exculpatory if it provides some significant aid to the defendant's case, whether it furnishes corroboration of the defendant's story, calls into question a material, although not indispensable, element of the prosecution's version of the events, or challenges the credibility of a key prosecution witness." *Id.* at 375, quoting *Commonwealth v. Watkins*, 473 Mass. 222, 231, 41 N.E.3d 10 (2015).

Evidence is clearly exculpatory and must be produced by the Commonwealth if it would strengthen a defendant's third-party culprit theory or a *Bowden* defense that the police investigation was inadequate. See *Commonwealth v. Holbrook*, 482 Mass. 596, 611, 125 N.E.3d 696 (2019) (third-party culprit evidence); *Commonwealth v. Sullivan*, 478 Mass. 369, 381, 85 N.E.3d 934 (2017) (evidence that could bolster *Bowden* defense).

Discretion or Duty to Grant a New Trial. A judge may grant a motion for a new trial under Mass.R.Crim.P. 30(b) "any time it appears that justice may not have been done." *Commonwealth v. Henry*, 488 Mass. 484, 490, 173 N.E.3d 1080 (2021), quoting *Commonwealth v. Camacho*, 483 Mass. 645, 648, 135 N.E.3d 1030 (2019).

Under some circumstances a new trial is required. A new trial must be granted "if prejudicial constitutional error occurred at trial." *Commonwealth v. Brescia*, 471 Mass. 381, 389, 29 N.E.3d 837 (2015). So "if 'the original criminal proceeding was infected with prejudicial constitutional error, the motion judge has no discretion to deny a motion for a new trial.'" *Commonwealth v. Turner*, 37 Mass.App.Ct. 385, 387, 640 N.E.2d 488 (1994), quoting *Commonwealth v. Sullivan*, 385 Mass. 497, 503, 432 N.E.2d 684 (1982).

R128

I.

THE COMMONWEALTH WITHHELD SUBSTANTIAL EXCULPATORY IDENTIFICATION EVIDENCE SUGGESTING ANOTHER SUSPECT JERRY DIXON HAD OPPORTUNITY TO COMMIT THE CRIMES IN VIOLATION OF BRADY.

First, according to Detective Michael Munger he investigated the sexual assault, and he first came in contact with the victim at the hospital and he subsequently had pictures taken of her after she was transported home from the hospital. (Exhibits #1-to-2 hereto attached)

Thereafter, Detective Munger was alone with the victim in the police station and showed her a photo array procedure that was not video or audio recorded which contained eight photographs that included the photos of Stanley Donald and Jerry Dixon with six other black men. (Exhibits #3-to-4) Its evident the photo array procedure was "unduly suggestive" where Detective Munger knew the identity of Stanley Donald the suspect, and where Detective Munger was the leading investigator.

"It is undeniable that a defendant has a due process right to identification procedures meeting a certain basic standard of Fairness, ." See Commonwealth Vs. Silva-Santiago, 453 Mass. 782, at 795 (2009), citing Commonwealth Vs. Dougan, 377 Mass. 303, 316 (1979)

Here, its conceivable that during this photo array procedure Detective Munger failed to report that the victim also selected Jerry Dixon's photo but since the victim selected Mr. Donald's photo as "Kinda looks like" the person then Detective Munger abandon his pursuit of Jerry Dixon after the fingerprint evidence excluded Jerry Dixon. (Exhibit #5) "Absence of a double-blind procedure" is evident in this present case.

However, at trial, a Commonwealth witness gave a description of Jerry Dixon as "five ten, medium build" black man that she seen in the garage before the victim was assaulted. (Exhibit#6)

More, several years after trial, Mr. Donald filed a civil action for access to DNA evidence and during a video-conference an Assistant Attorney General stated "Mr. Donald does not have a constitutional right to access DNA evidence for comparison to him or Jerry Dixon even though the victim selected Dixon's photo." On January 3, 2011, Mr. Donald filed a motion for free transcripts of the video-conference which was denied. (Exhibit#7)

Mr. Donald also pursued the transcripts of video-conference with the Office of Transcription Services with no success since the Suffolk Civil Court dismissed the case.

The Commonwealth and Detective Munger failed to inform the defense before trial that Jerry Dixon's photo was also selected by the victim.

"[E]vidence that someone other than the defendant was identified as the criminal is not only probative but critical to the issue of the defendant's guilt." Pettijohn V. Hall, 599 F.2d 476, 480 (1st Cir. 1979).

Here, it is evident that the Commonwealth can not deny that they compared Jerry Dixon's fingerprints to fingerprints recovered from victim's car because the victim also selected Jerry Dixon's photo and Jerry Dixon had opportunity to commit the crimes. See Commonwealth Vs. Conkey, 443 Mass. 60, at 66 (2004)

R.130

Furthermore, after trial, "Jerry Dixon was matched through CODIS DNA database to several unsolved rapes." See Commonwealth Vs. Jerry Dixon, 458 Mass.446, at 450(2010).

Also, it was discovered from the Court docket that the Middlesex District Attorney's Office knew before trial that Jerry Dixon was charged with a similar rape and released from custody on September 8, 1997, in Middlesex Superior Court criminal case#9681CRO504, and thereafter, on October 21, 1997, Jerry Dixon had an opportunity to rape the victim in this present case which the Commonwealth failed to disclose. See (Exhibits #8-to-12; Court Docket hereto attached)

Evenmore, Jerry Dixon's attorney Veronica White stated to the news media that " he[Dixon] was out of control." (Exhibit #13)

In sum, the Commonwealth withheld this information that Jerry Dixon's photo was also selected by the victim, and withheld evidence that Jerry Dixon was released from custody on September 8, 1997, and had opportunity to commit the rape. (*1.)

(*1.) The rape evidence has been tainted through chain of custody and unable to compare to Jerry Dixon's DNA since there is suspicion of rape evidence being altered and used from an old 1995 rape case. See (Paper Entry #455, pages #8-to-11). More, "when the government prosecute someone for allegedly committing a crime, it has a duty to disclose in a timely manner material, exculpatory evidence over which it has possession, custody, or control." See Commonwealth Vs. Jenkins, 2021 Mass. Super. LEXIS 518, Docket #0384CR10364 (December 20, 2021) [Motion For New Trial Granted] (ADDENDUM Attached)

R.131

In fact, contrast to Commonwealth's prior opposition Jerry Dixon was considered a suspect through fingerprints. (P#458)

Mr. Donald contends that "Due Process of law requires that the government disclose to a criminal defendant favorable evidence in its possession that could materially aid the defense against the pending charges." Commonwealth Vs. Daniels, 445 Mass. 392, at 402 (2005), citing Commonwealth Vs. Tucceri, 412 Mass. 401, 404-405 (1992), citing Brady.

In Tucceri, the Court held that "the nondisclosure of photographs required the ordering of a new trial," Id.

Mr. Donald has the support of the Court's ruling in the case of Commonwealth Vs. Gaines, 494 Mass. 525, 544 (2024) where this type of information and evidence regarding Jerry Dixon's photo being selected by victim and having opportunity to commit the rape was within the Commonwealth's possession before or at the time of trial would have "substantially aided the defendant in seeking to create a reasonable doubt" about the integrity of victim's identification and would have been a "real factor in the jury's deliberations," Gaines, citing Commonwealth Vs. Martin, 427 Mass. 816, 823 (1998) [New Trial ALLOWED]

Here, Mr. Donald had a constitutional right to present this information and evidence regarding Jerry Dixon to the jury and nondisclosure deprived him of his Due Process Rights to the 5th and 14th Amendments to a fair trial which now entitles him to relief or a new trial. See [Affidavit Of Stanley Donald attached] The Superior Court in Jenkins granted a new trial where the trial prosecutor withheld exculpatory evidence suggesting someone else had opportunity to commit the crimes.

R.132

II. THE COURT SHOULD RECONSIDER AMENDED MOTION FOR POST-CONVICTION RELIEF(Paper Entry#500)SINCE THE DEFENDANT CAN NOW PROVE THE COMMONWEALTH'S AGENT HAD POSSESSION OF RAPE KIT EXAMINATION FORMS.

On November 22,2024, this Court denied defendant's amended motion for post-conviction relief because he failed to prove the Commonwealth possessed the rape kit examination forms.

However, the defendant searched through his files and found that the Commonwealth's agent Watertown Police did have possession of rape kit examination forms where the police reported " Victim went to Boston and Woman's hospital for a rape examination and collection kit."See(Exhibit#14; Police Report hereto attached)

Thereafter trial, on July 21,2000,the rape kit examination forms were inside a box and destroyed by an agent of the Commonwealth,(Exhibits#15-to-17,Photo of Box with notation to "Destroy")

More ,the original copy of the rape kit examination forms went missing from the hospital which the Commonwealth has confirmed at the hearing helded on November 22,2024.

The Watertown police are agents of the Commonwealth and "subject to the prosecutor's control." Kyles V. Whitley,514 U.S.419(1995); Also see Commonwealth Vs. Martin,427 Mass.816, 824(1998). Here, the Watertown Police wrote "Destroy 7/21/00" and destroyed a copy of the "rape kit examination"forms and the "collection kit" was held by State Crime Lab.(Exhibit#14)

Mr. Donald now contends that the police being agents of the Commonwealth had a duty to preserve the rape kit examination forms. Commonwealth Vs. Woodward, 427 Mass. 659, 675-679 (1998) [agents failure to preserve].

"Ordinarily the prosecutor's obligation to disclose information is limited to that in the possession of the prosecutor or police." See Commonwealth Vs. Donahue, 396 Mass. 590, 596 (1986).

In some circumstances, prosecutor "should be required to seek access to material and exculpatory evidence" not in possession of prosecutor or police. See Commonwealth Vs. Daniels, 445 Mass. 392, at 403 (2005), citing Donahue, Id.

Here, the Watertown Police being an agent of the Commonwealth had possession of the rape kit examination forms which were later destroyed that now requires some remediable action that the defendant requested in his amended motion for post-conviction relief. Long V. Hooks, 972 F.3d 442 (4th Cir. 2020) [Missing Rape Kit]

Here, the missing rape kit forms would have provided evidence favorable to Mr. Donald's cause where in the victim's own words to the nurse in form #2, described how the rape occurred with a description of injuries and description of suspect which was an issue at trial. (Exhibit #14-B, "EXAMPLE" of Form #2)

R.134

It is evident that the Commonwealth should have taken steps to preserve the rape kit examination forms when the victim testified before the Grand Jury that she had a sexual assault kit performed at hospital emergency room since the Commonwealth agreed in the pre-trial conference report to provide evidence related to Grand Jury testimony. See (Paper Entry #11)

The rape kit examination forms were in the possession of the Commonwealth through the "police who are participants in the investigation and presentation of the case." Commonwealth Vs. Gallarelli, 399 Mass. 17, 19-20 (1987), citing Brady.

-Conclusion-

For the foregoing, this Court should ORDER a new trial, or in the alternative reconsider amended motion for post-conviction relief and GRANT time deemed served in the interest of justice.

Dated:

JANUARY 3rd / 2025

Respectfully Submitted
By Defendant,

Stanley Donald

Stanley Donald, pro-se
MCI-Norfolk #W66438
P.O. BOX 43
Norfolk, Mass 02056

[PROOF OF SERVICE]

I, Stanley Donald, pro-se, hereby certify that a copy of same Memorandum with Exhibits was served upon ADA Hallie White Speight, 15 Commonwealth Ave #300, Woburn, Mass 01801, by first class mail, postage prepaid.

R.135

ADDENDUM

Commonwealth v. Shaun Jenkins
SUPERIOR COURT OF MASSACHUSETTS, AT SUFFOLK
2021 Mass. Super. LEXIS 518
Opinion No.: 147585, Docket Number: 0384CR10364
December 20, 2021, Decided
December 20, 2021, Filed

Judges: Kenneth W. Salinger, Justice of the Superior Court.

CASE SUMMARY Court granted defendant's motion for a new trial because the Commonwealth withheld exculpatory evidence suggesting that the victim's drug supplier had a motive and the opportunity to shoot the victim or have him killed, which prejudiced defendant's ability to prepare and present his defense effectively.

OVERVIEW: HOLDINGS: [1]-The court granted defendant's motion for a new trial because the Commonwealth withheld exculpatory evidence suggesting that the victim's drug supplier had a motive and the opportunity to shoot the victim or have him killed, which prejudiced defendant's ability to prepare and present his defense effectively. The evidence would also have been admissible to prove that the police knew of a possible suspect and failed to take reasonable steps to investigate that lead; [2]-Defendant was also entitled to a new trial because the prosecutor committed misconduct by telling the judge that there was no evidence that the victim was deep in debt to his drug supplier at the time of the murder.

OUTCOME: Motion for new trial granted and conviction and sentence vacated.

R.136

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

[AFFIDAVIT OF STANLEY DONALD]

Under Oath, I, Stanley Donald, depose:

1.] I was deprived of evidence that suggest Jerry Dixon had opportunity to commit the crimes and the Commonwealth failed to answer one question " why was Jerry Dixon's fingerprints compared to crime scene fingerprints? "(Exhibit#5)

22] The height of Jerry Dixon is the same height that a witness gave of the man "five ten" she seen in the parking garage before the victim was assaulted. (Exhibit#6)

33] I obtained a recent photo of Jerry Dixon which fit the same height five ten that the witness gave. (Exhibits#24-to-25)

4.] I tryed to contact the Assistant Attorney General who made reference to Jerry Dixon but she has retired and unable to appear at a hearing. (Exhibits#26-to-27)

5.] I contacted several agencies and Court records support Jerry Dixon fit the description the witness gave. (Exhibits#28)

6.] On September 8, 1997, Judge Hinkle discharged Jerry Dixon and on October 21, 1997, he had opportunity to assault victim in this present case. (Exhibit#11-to-12)

7.]Also, a Commonwealth witness testified that the victim was still using her "original card" ATM card from Bank of Boston on October 24, 1997, after the robbery. (Exhibits#18-to-19)

8.]THIS supports my claim that the ATM bank photo shown to the jury was me using my own ATM bank card from Bank of Boston to withdraw my paycheck. (Exhibit# 20-to-20-B)

9.]Further, there is reasonable belief that the DNA evidence was tainted because the State Crime Lab#C95-883, belongs to an old 1995 rape case that the Commonwealth used to obtain a verdict in this 1997 case. (Exhibit#21)

10.]This supports why I was eliminated as the source from sperm fraction and not the source of the DNA that was present, the amylase stain one found in victim's underwear. (Exhibit#22-23)

11.] I was maliciously prosecuted by an overzealous prosecutor who withheld exculpatory identification evidence suggesting that Jerry Dixon had opportunity to commit the crimes which now casts doubt on the justice of the convictions.

12.] Therefore, I pray this Court to grant remedial relief suitable for both parties due to the passage of time and release me from prison in the interest of justice.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

JANUARY 3rd/2025
Dated

Stanley Donald
Stanley Donald

R.138

MICHAEL MUNGER, SWORN

Q (Mr. Yannetti) Okay. Sir, in a good, loud voice, would you please state your name and spell your last name?

A My name is Detective Michael Munger, M-u-n-g-e-r.

Q Where do you work, sir?

A Watertown Police Department.

Q How long have you been so employed?

A Twenty years now.

Q I want to direct your attention to October 21st of 1997, and the days thereafter, sir. Did you learn that an abduction and a sexual assault was reported to the police by a woman named ~~Whittenmore~~ Whittenmore?

A Yes, I did.

Q As a result of learning that the abduction was reported to have taken place from Watertown, sir, did you become involved in this investigation?

A Yes, I did.

Q Did you work alongside Sergeant Kozak from the Foxboro Police?

A Yes, sir.

#1R.139

Q Sir, did you learn that the individual who was alleged to have done this to ~~Whittemore~~ Whittemore had taken her face and body and slammed it on the cement floor of the garage in the building that she lived in?

A Yes, I did.

Q Did you also learn that he had forced her into her own car and then driver her to Foxboro, where she alleged that he sexually assaulted her in that area?

A Yes.

Q In fact, did you come in contact with ~~Whittemore~~ Whittemore, Detective Munger?

A Yes, I did.

Q At the time that you came in contact with her, sir, did you learn that photographs were taken of some of the injuries that she received?

A When I first came in contact with her, she was at the hospital. Subsequently, I had pictures taken of her after she was transported home from the hospital.

Q All right. And when were those pictures taken to the best of your memory?

A The same day, the 21st. It was probably

#20R.140

1 A. I drove down there by myself, and I met Detective
2 Munger and went into a room with him.

3 Q. And was there anybody else present in that room
4 besides yourself and Detective Munger?

5 A. No, there was not.

6 Q. Would you tell the jury, please, what Detective
7 Munger told you?

8 A. He told me that he was going to show me some
9 photographs and for me to see if anyone were
10 familiar and to take my time to see if anyone
11 was familiar.

12 Q. And did he show you photographs?

13 A. He did.

14 Q. And how were those photographs arranged?

15 A. It was a manila folder that had kind of holes with
16 eight photographs in it, two rows of four.

17 Q. And what did you do when he showed you that manila
18 folder with the cutouts and the two rows of four?

19 A. I looked at all of the pictures, but my eyes were
20 just drawn to Number 7 in particular.

21 Q. And in response to Detective Munger's question if
22 anybody looked familiar, what did you tell Detective
23 Munger?

24 A. I told him that Picture Number 7, the man in that

R 144 #2

EXHIBIT
11
12/18/97 AM



R.142
#4



2



3



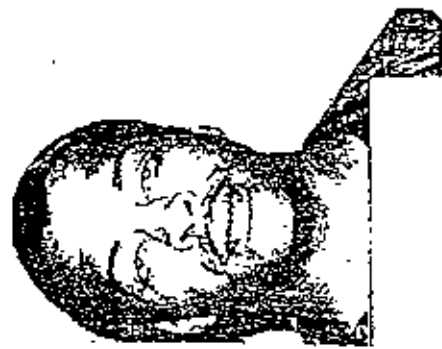
4



5



6



7



8

3567 X3537PP:Wf

EXHIBIT D

1 were they?

2 A I examined the record fingerprint cards of a
3 Stanley Donald, a Jerry Dixon, and a Mark Love.

4 Q With regard to those fingerprint cards, did you
5 compare those inked or record fingerprints with
6 the latent prints that had — or twith the latent
7 fingerprints that have been recovered by Trooper
8 Szeto from the 1997 Honda Accord with the
9 registration number 732 SKX?

10 A Yes, I did.

11 Q And what were the results?

12 A Again, there was no match made comparing those
13 latent fingerprints from the card to those cards
14 that were submitted to me.

15 Q Now, Sergeant Rebelro, with regard to the steering
16 wheel of that car, were any latent prints ...
17 recovered?

18 A No, they were not.

19 Q With regard to the gearshift of that car, were
20 there any latent prints recovered?

21 A No, there were not.

22 Q With regard to the exterior driver's door handle,
23 were there any latent prints recovered?

24 A No, there were not.

(R143) #5

1 or closed?

2 A. It was open.

3 Q. And when the elevator doors opened, Ma'am, what did
4 you see?

5 A. Well, as I headed just to the left to get to my car
6 facing the entrance at that point, I saw a
7 gentleman, which I never recognized, kind of
8 walking in a limp manner and kind of -- he had
9 a dazed look in his eyes.

10 Q. And only for purposes of identification, Ma'am, was
11 this man black, white, Asian, Hispanic?

12 A. Black.

13 Q. And was -- can you describe his physical appearance.

14 A. I would say about five ten, medium build. Not too
15 dark, not too light. But just had a very kind of
16 spacey look and was kind of walking limply, just
17 very limp.

18 Q. Did you recognize him as a resident of the building?

19 A. No, I did not.

20 Q. What, if any, contact did you have with this man?

21 A. Just some eye contact, and that was it. Just looked
22 at him. Just wondered what he was doing in the

23 building, whether he was the handyman or somebody

24 that had to -- RA 80

#6 (R.144)

01.07

87

COMMONWEALTH OF MASSACHUSETTS
 SUFFOLK, ss SUPERIOR COURT
 CIVIL ACTION
 No. 2010-01528-D

2011 JAN -5 PM 12:27

 Stanley Donald, Plaintiff,

Vs.

Watertown Police Depart., et al.,
 Defendants.

PLNF's MOTION FOR FREE TRANSCRIPT OF VIDEO-CONFERENCE

The plaintiff, Stanley Donald, respectfully requests this Court to ORDER the preparation of the transcripts to video-conference held on November 1, 2010, at 2:00pm, Conference Room#1306, before Judge Geraldine S. Hines of Suffolk Superior Civil Court Depart.

The plaintiff says he is indigent pursuant to G.L.c.261, §27-29, and he needs said transcripts for an adequate appeal "to urge a change in an establish and accepted principle of law" to access DNA evidence to prove innocence. See Britt V. North Carolina, 404 U.S. 226, 227, at 234-235 (1971) The plaintiff attaches his Affidavit in support hereof. Further, he needs the transcripts to support his pursuit for DNA testing in the interest of justice and fairness.

Respectfully Submitted
 By Plaintiff Himself,

Stanley L. Donald

Stanley L. Donald
 MCI-Norfolk #W66438
 P.O. BOX 43
 Norfolk, Mass 02056

Dated: JANUARY 3rd/2011

Denied The hearing transcript is not essential or even relevant to the appeal. The motion to dismiss was allowed.

Notre Sent

01.07.11
 S.L.D.

R.145
 FEB 1 2011
 (md)

Docket 0984CR10215

Charged with: 10 counts aggravated rape
1 count armed robbery
1 count assault with intent to rob

He pleaded guilty to 2 counts of aggravated rape, and received concurrent sentences of 10 years - 10 years and 1 day, to be served from and after the sentences in 0684CR10223.

Docket 0684CR10647

Charged with: 3 counts aggravated rape
3 counts rape
1 count armed assault with intent to rob
1 count attempted armed robbery

He pleaded guilty to the aggravated rape charges, and received concurrent sentences of 10 years - 10 years and 1 day, to be served from and after the sentences in 0984CR10215.

also found indictments under the name Jerry Dixon in Middlesex docket 9681CR00504, charging offenses which included armed robbery, armed assault in a dwelling, kidnapping, ABDW on a person over 65, and A&B. He was found not guilty of all charges after trial.

Docket 0684CR10223

Charged with: 5 counts aggravated rape
1 count kidnapping
1 count armed robbery
2 counts ABDW

He pleaded guilty to the aggravated rape charges, and received concurrent sentences of 10 years - 10 years and 1 day.

R.146
#8

9681CR00504 Commonwealth v Dixon, Jerry

Case Type:
Indictment
Case Status:
Closed
File Date:
03/27/1996
DCM Track:
I - Inventory
Initiating Action:
ROBBERY, ARMED c265 §17
Status Date:
03/27/1996
Case Judge:
Next Event:

All Information | Party | Charge | Event | Docket | Disposition

Party Information

Commonwealth
- Prosecutor

Alias

Party Attorney
Attorney
Builer, Jr., Esq., Gerard Alan
Bar Code
557176
Address
Smith Duggan Connell and Gollub LLP
55 Old Bedford Rd
Suite 300
Lincoln, MA 01773
Phone Number
(617)228-4454

[More Party Information](#)

Dixon, Jerry
- Defendant

Alias

Party Attorney
Attorney
Murphy, Jr., Esq., George E
Bar Code
361660
Address
4 Bennett St
Woburn, MA 01801
Phone Number
(781)933-2161

[More Party Information](#)

Party Charge Information

Dixon, Jerry
- Defendant

Charge # 1:
265/17/A-0 - Felony ROBBERY, ARMED c265 §17

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

Charge Disposition
Disposition Date

#9(R.147)

Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 2:
265/18A-0 - Felony ASSAULT IN DWELLING, ARMED c265 §18A

- Original Charge
- 265/18A-0 ASSAULT IN DWELLING, ARMED c265 §18A (Felony)
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 3:
CONV - Conversion Misc Action Code

- Original Charge
- CONV. Conversion Misc Action Code
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 4:
265/26/A-2 - Felony KIDNAPPING c265 §26

- Original Charge
- 265/26/A-2 KIDNAPPING c265 §26 (Felony)
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 5:
265/15A/B-0 - Felony A&B WITH DANGEROUS WEAPON +65 c265 §15A(a)

- Original Charge
- 265/15A/B-0 A&B WITH DANGEROUS WEAPON +65 c265 §15A(a) (Felony)
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Load Party Charges 6 through 8 Load All 8-Party Charges

Events

Date	Session	Location	Type	Event Judge	Result
04/01/1996 09:00 AM	Criminal 1 Rm 430		Arraignment		Held as Scheduled
04/12/1996 09:00 AM	Criminal 1 Rm 430		Bail Review		
04/17/1996 09:00 AM	Criminal 1 Rm 430		Status Review		Held as Scheduled

R.148

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr</u>	<u>Image Avail.</u>
08/26/1997	Writ of Habeas Corpus Issued To Middlesex County Jail (Cambridge) for 9/2/97	26	
08/02/1997	Appearance of Commonwealth's Atty: Butler Jr		
09/03/1997	Motion by Def: For Examination Of Jurors Filed In Court	27	
09/03/1997	Def: Files Requested Voir Dire Instructions Filed In Court	28	
09/03/1997	Def: Files Requested Voir Dire Questions Filed In Court	29	
09/03/1997	Jury Trial		
09/04/1997	Commonwealth Files Request For Jury Instructions Filed In Court	29.1	
09/04/1997	Def: Files Request For Jury Instructions Filed In Court	29.2	
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty 001- Filed In Court	30	
09/05/1997	Motion (P#30) 001 denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -002 Filed In Court	31	
09/05/1997	Motion (P#31) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -003 Filed In Court	32	
09/05/1997	Motion (P#32) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -004 Filed In Court	33	
09/05/1997	Motion (P#33) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -005 Filed In Court	34	
09/05/1997	Motion (P#34) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -006 Filed In Court	35	
09/05/1997	Motion (P#35) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -007 Filed In Court	36	
09/05/1997	Motion (P#36) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Def: For A Required Finding Of Not Guilty -008 Filed In Court	37	
09/05/1997	Motion (P#37) denied (Margaret R Hinkle, Justice)		
09/08/1997	After charge and before deliberation Jurors #5 Laurie A. McAnespie #9 Katherine Brennan were withdrawn from panel, Ch.234A,S44 as amended by the Court (Hinkle,J)		
09/08/1997	001, through 008 Verdict Slips Not Guilty	38	
09/08/1997	RE offense 1: Not guilty verdict		
09/08/1997	RE offense 2: Not guilty verdict		
09/08/1997	RE offense 3: Not guilty verdict		
09/08/1997	RE offense 4: Not guilty verdict		
09/08/1997	RE offense 5: Not guilty verdict		
09/08/1997	RE offense 6: Not guilty verdict		
09/08/1997	RE offense 7: Not guilty verdict		
09/08/1997	RE offense 8: Not guilty verdict		
09/08/1997	Defendant discharged in open court (Hinkle,J)		
09/08/1997	Reporter present: Patricia Belluscio		
11/07/1997	Motion by Def: For Return Of Property	39	
02/12/1998	Motion by Def: Renewed Motion for Return of Property	40	

#11 R.149

Details on two of the rape cases were made available in court records.

In the first case, on March 20, 1991, a man allegedly abducted an 18-year-old woman at knifepoint while she waited at a Roxbury bus stop. He walked her to some woods on Townsend Street and repeatedly raped her, according to prosecutors. He then fled after allegedly stealing the woman's money and jewelry.

About four months later, in July 1991, a 24-year-old Medford woman looking for an art store in Jamaica Plain stopped to ask a man for directions. The man claimed to be familiar with the art shop and offered to show the woman its location. He led her to the rear of an Armory Street building, threatened her with a knife, beat her, and dragged her behind bushes and raped her, authorities allege.

Dixon was charged on multiple counts related to the crimes, including aggravated rape, rape, kidnapping, armed robbery, and assault and battery with a dangerous weapon. Wong ordered a combined \$1 million cash bail. Dixon is due back in court Aug. 20.

"We will be doing a rigorous investigation into the DNA evidence," said Dixon's lawyer, Veronica J. White, who added that she will call upon an expert to determine whether the samples were properly handled by police.

Dixon was previously charged with rape in a 1996 case in Newton but was found not guilty, prosecutors said. He also faced similar charges in Roxbury District Court in 1999, prosecutors said, but those were dismissed.

Yesterday's arraignment marked another milestone in Powell's efforts to recoup losses from his wrongful imprisonment. He sued police in federal court last year, asserting that they had twisted the results of forensic tests that cast doubt on his guilt, had used unreliable eyewitness identification techniques, and were "deliberately indifferent to evidence" that would have cleared him.

Another wrongful imprisonment case was filed this month by Guy Randolph, 50, of Hyde Park, who was exonerated in May after being wrongly convicted of molesting a 6-year-old girl and spent seven years as a registered sex offender after his release from prison in 2001.

Since 2004, 25 people have filed for compensation with the attorney general's office in connection with wrongful convictions.

Christopher J. Baxter can be reached at cbaxter@globe.com.

Credit: Christopher J. Baxter Globe Correspondent. Boston Globe

(c) The Boston Globe Jul 18, 2008

Details

Subject	DNA fingerprints; Arrests; Rape
Location	Suffolk County Massachusetts
People	Dixon, Jerry
Title- Author	DNA links defendant to 2 rapes, DA says: Wrongly convicted man at arraignment Baxter, Christopher J
Publication title	Boston Globe; Boston, Mass.
Pages	B.1
Publication year	2008
Publication date	Jul 18, 2008
Section	Metro
Publisher	Boston Globe Media Partners, LLC
Place of publication	Boston, Mass.
Country of publication	United States, Boston, Mass.
Publication subject	General Interest Periodicals--United States
ISSN	07431791
Source type	Newspaper
Language of publication	English
Document type	News
Proquest document ID	405110626
Document URL	https://ezproxy.bpl.org/login?url=https://www.proquest.com/bostonglobe/newspapers/dna-links-defendant-2-rapes-da-says/docview/405110626/sem2?docid=9679
Copyright	(c) The Boston Globe Jul 18, 2008
Last updated	2017-11-10

#12 R-150

and attacked her, again at knifepoint.

The three victims were not present yesterday, but two of them wrote impact statements that were read by Joseph.

The Amory Street victim, identified in court only by the initials E.F., said of the sexual assault, "It was a week before my birthday, and it is an event that I will never forget. I can't say that it has devastated my life, since it was 20 years ago and I have made great efforts to recover and get on with my life."

But the victim said she moved from Boston because of the attack and would never move back.

White, Dixon's attorney, said yesterday that her client grew up in a household with alcoholic parents and that his mother's drinking while pregnant may be linked to his suffering episodes of blackouts throughout his life. She said Dixon is the father of two children and that he married in 2004, but that union quickly ended in divorce.

"In 1991 he was out of control," White said. "He indicated he blacked out during those events. He said he specifically doesn't have any memory of those rapes."

Brian R. Ballou can be reached at bballou@globe.com. Follow him on Twitter at @globeballou.

29rape.ART

Credit: Brian R. Ballou, Globe Staff

Illustration

Caption: Anthony Powell went to prison for a rape he did not commit. He was freed based on DNA tests. PHOTOS BY JOSH REYNOLDS FOR THE BOSTON GLOBE; PHOTOS BY JOSH REYNOLDS FOR THE BOSTON GLOBE

(c) The Boston Globe Jul 29, 2011

Details

Subject	Convictions; Criminal sentences; Rape; False arrests & convictions
People	Powell, Anthony; Dixon, Jerry
Title	Wrongly convicted sees rapist sentenced: Man lost 12 years in jail in '91 crime
Author	Ballou, Brian R
Publication title	Boston Globe; Boston, Mass.
Pages	A.1
Publication year	2011
Publication date	Jul 29, 2011
Section	Metro
Publisher	Boston Globe Media Partners, LLC
Place of publication	Boston, Mass.
Country of publication	United States, Boston, Mass.
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ISSN	07431791
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Language of publication	English
Document type	News
ProQuest document ID	879712463
Document URL	https://ezproxy.bpl.org/login?url=https://www.proquest.com/bostonglobe/newspapers/wrongly-convicted-sees-rapist-sentenced/docview/879712463/sem-27accountid=9675
Copyright	(c) The Boston Globe Jul 29, 2011
Last updated	2017-11-18
Database	Boston Globe

#13 R.151

WATERTOWN POLICE DEPARTMENT
34 CROSS ST., WATERTOWN, MA 02172
INVESTIGATIVE REPORT

①

Incident: INVEST
Date: 10/21/97
RP: POXBORO PD

Location: 151 COOLIDGE AV / 712
Time: 1154 Incident No: 97018863

Involved Persons:

(SU) Name: DONALD, STANLEY Dob: 06/06/62
Address: 86 HOWARD AV ROXBURY MA Phone:
Rac/Sex: B/M Hair: BRO Eyes: BRO Hgt: 6-2 Wgt: Bld: HVT

(VI) Name: Dob: 05/25/68
Address: WATERTOWN MA Phone: 92
Rac/Sex: W/F Hair: BLN Eyes: BLU Hgt: Wgt: Bld: MED

Case Supplemental Report

Incident #: 97018863 Date: 11/11/97 Time: 1442 Officer: 767 MUNGER-M

Synopsis: KIDNAP AND RAPE

As indicated in the original reports, on 10-21-97, at approx 0945hrs, Ms. was approached by a large black male, while entering her MV in the Garage of the apartment complex. The man punched her in the face, slammed her to the ground against the cement floor. Suspect then put her in her car and robbed her of approx \$55 from her pocketbook.

The suspect then drove her to the Arsenal Mall, initially to get more money from her ATM machine, but drove from the area when he stated he observed other people. Victim had a jacket put over her head and made to lie down on the front seat. Suspect drove to Foxboro, where victim was sexually assaulted and left in the woods.

Suspect then left the area in her car. Suspect used her ATM card in Mansfield Stop and Shop at 1104am, 10-21-97. Victim reported crime to police at 11:03am after being found by good samaritan.

Victim MV was found by the Brockton police on Howard street later that night at 2015hrs. MV processed by Middleboro State Crime Lab. Garage scene processed by Sudbury State Crime Lab. Victim went to Boston and Woman's hospital for a Rape Examination and collection kit, that was subsequently given to State police Lab.

Det. Keefe subsequently interviewed Kimrasi Duffey, 44 Sandy beach Pky, Plymouth Mass tel#508-291-6322, who had been contracted to paint the guard rails to the access road behind the apartment complex. He stated that

Michael Munger #170
Officers signature

11-12-97
Date

Supervisor signature

Date

B.152 #14

11/97 MON 12:08 (TX/RX NO 5345) 0008

Box 5111
10011000

CONTAINS EVIDENCE

FOR CASE COMM V. STANLEY

DONALD

117 S. 4th St BE

10011000

WATSON

AND PRESERVED

- 0.4

R-153

977018863

Alpaal
07

Underpants (Vict)

SKIRT

Sweater

JACKET

Bag (Front Seat)

HHS

Pantyhose

Tape lift (Front Seat)

Paint sample

Kit (RSA)

(R.154)

DELETED

CONTAINS EVIDENCE
FROM COMRADE V. STANLEY
DONALD

IT SHOULD BE
TAKEN BACK TO
WATERTOWN PD
AND PRESERVED

- OY.

B.155
#17

1 generated for the card in the transaction.

2 The terminal location, again, 001
3 identifies it as BankBoston branch, teller number
4 -- ATM Teller 17007, which is located at Cleveland
5 Circle. And the customer did an ATM checking
6 deposit of \$1,722.07. And then the transaction
7 was completed.

8 Q Now, Mr. Eckert, this is three days after October
9 21st of 1997; is that correct?

10 A Yes.

11 Q Now, are you able to determine, sir, whether or
12 not that transaction was done with the original
13 card that ~~she had in her~~ had in her
14 possession or was it done with a replacement card?

15 A This card was done -- this transaction was done
16 with her original card.

17 Q The October 24th transaction?

18 A The October 24th transaction was done with her
19 card, with her original card. This is the card
20 that I traced out.

21 Q Well, what about three days earlier, sir, the
22 transaction that you eventually located on the
23 ATM machine at 377 Chauncy Street in Mansfield?
24 Was that done with her original card that she had

R. 156
#18

1 had prior to that date or was it done with a
2 replacement card?

3 A It was done with her original card.

4 Q So -- well, on October 21st of 1997, that
5 transaction that very day, sir --

6 A Right.

7 Q -- you testified that was done with the original
8 card?

9 A Yes, sir.

10 Q Three days later after the card was reported
11 stolen, sir, what card was used?

12 MR. CASEY: Objection. Move to
13 strike.

14 THE COURT: Objection overruled.

15 Q What card was used on October 24th of 1997?

16 A The original card that was used. This one here
17 that was assigned to her. What I recall happened,
18 that her card --

19 MR. CASEY: Objection..

20 A -- was reported stolen --

21 THE COURT: Wait a minute, please.

22 The objection is overruled.

23 Go ahead, sir.

24 A Her card was reported stolen to the bank at around

#19

R/57

1-ATM 052103

21 Oct 97

11:04:55

R.158
#20

1 testify.

2 A. The last paycheck he received would have been on
3 October 16th of 1997.

4 Q. And, so, let me ask you this, Mr. Hall, the paycheck
5 that he was entitled to as a result of working
6 since the 16th --

7 A. Yes.

8 Q. -- or actually as a result of working since when?

9 A. Since -- the next paycheck would have covered the
10 period of October 12th and for the next two weeks.

11 Q. That paycheck, sir, did Mr. Donald ever show up
12 to your work to pick it up?

13 A. No.

14 Q. On the 21st of October of 1997 did he ever show up?

15 A. No.

16 Q. Thereafter?

17 A. No.

18 Q. And since Mr. Donald left work on October 20th of
19 1997 at around five o'clock, did you ever see him
20 again prior to just seeing him in court today?

21 A. No.

22 MR. YANNETTI: I have nothing
23 further.

24 THE COURT: Thank you. Mr.

R.159
#20-B



Department of State Police



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

TERRENCE M. REIDY

Crime Laboratory

124 Acton Street

Maynard, MA 01754

October 18, 2021

CHRISTOPHER S. MASON
COLONEL/SUPERINTENDENT

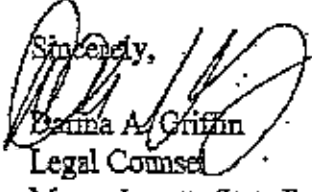
R. SCOTT WARMINGTON
DEPUTY SUPERINTENDENT

The Massachusetts State Police ("Department") received your correspondence stating that pursuant to G.L. c. 66 § 10, you are inquiring "whether the evidence in Crime Lab #C95-883, item 9, item 16, is still being preserved in your laboratory? If not, then please tell me when the evidence in Crime Lab #C95-883, was destroyed by your laboratory?" The Department considers your request pursuant to G.L. c.66, §10, the Massachusetts Public Records Law.

Although you have indicated that your request is made pursuant to the public records law contained in G.L. c.66, §10, your request does not seek a particular public record. Notwithstanding, even if the Department had a responsive record to answer your questions, the Department would withhold these documents because laboratory case records that relate to a specific case contain personal identification of Convicted Offender Record Information (CORI information), witness and victim personal identifying information, references to laboratory testing which can be both personal or medical in nature (for example, in the case of DNA or blood testing), pursuant to G. L. c. 4, § 7 cl. 26(a) and (c). Additionally, the Department has been informed that the case you are inquiring about has a motion for post-conviction tested still pending before the Superior Court. Therefore the Department relies on the investigatory exemption pursuant to G. L. c. 4, § 7 cl. 26 (f) to withhold the information that you are seeking to protect the integrity of the investigation, prosecution and defense of the case.

If you have any questions or concerns, or if you wish to discuss this matter further, please do not hesitate to contact me directly. If you wish to challenge any aspect of this response, you may appeal to the Supervisor of Public Records as set forth in 950 C.M.R. 32.08, a copy of which is available at <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-source/cmrr/>. You may also file a civil action in accordance with M.G.L. c. 66, § 10A.

Sincerely,


Emma A. Griffin
Legal Counsel

Massachusetts State Police Crime Laboratory

B.160

421

1 A That's enough to exclude somebody. The results from one
2 location is enough to eliminate a person as a source.

3 Q Did you take a further action with regard to that sperm
4 fraction sample?

5 A Yes, I then compared the profile obtained from the sperm
6 fraction, stain two, and compared it to the DNA profile
7 obtained from the blood sample labeled Donald Stanley,
8 and compared the DQA1 results for the sperm fraction to
9 the DQA1 results for the blood sample from Donald
10 Stanley. I was not able to exclude as the source of that
11 DNA. I then went to the next marker, which is LDLR, and
12 again I could not exclude him as the source, since
13 alleles A and B were detected for the sperm fraction and
14 also for the blood sample from Donald Stanley. I looked
15 at the GYPA region. Type A was obtained from the sperm
16 fraction, and type A was also obtained from the blood
17 sample from Donald Stanley, so he could not be eliminated
18 as the source. And looking at the HBGG region, A and C
19 ~~alleles were detected for sperm fraction, and A and C~~
20 ~~alleles were detected for the blood sample from Donald~~
21 ~~Stanley, and therefore he could be eliminated as the~~
22 ~~source. For D7S8, type A was obtained from sperm~~
23 ~~fraction, and type A was obtained for the blood sample~~
24 ~~from Donald Stanley. Again not able to exclude him as~~

#22 (R-161)

1 the source. And finally, for the GC region, an A and B
2 was obtained for the sperm fraction of stain two, and an
3 A and B was also obtained for the blood sample from
4 Donald Stanley.

5 Q So with regard to that sperm fraction on that one item
6 containing seminal fluid residue, what conclusion,
7 overall conclusion, did you reach?

8 A Based on the data from all six markers, Donald Stanley
9 could not be excluded as the source of the DNA obtained
10 from the sperm fraction of stain two.

11 Q Now with regard to the amylase on stain one, this is a
12 different cutting. Is that correct?

13 A Yes.

14 Q What conclusions did you reach there?

15 A That based on the data from all six markers compared to
16 the data obtained for the blood sample from Elizabeth
17 Whittemore, that she could not be excluded as a source of
18 that DNA.

19 Q And what about Stanley Donald with regard to that
20 particular cutting, the cutting that had apparently
21 saliva on it, the amylase?

22 A Well that he is not the source of the DNA that was
23 present, the amylase, stain one.

24 Q Well let's go back now to stain two, the sperm fraction.

R.162



R.163 #24



#25 R.164

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
CRIM. NO. 96-504-001-008

COMMONWEALTH

V.

JERRY DIXON

AFFIDAVIT

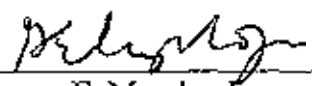
I, George E. Murphy, Jr., say the following under the pains and penalties of perjury

1. I represent the accused in the above-captioned matter.
2. Discovery provided by the Commonwealth includes police reports and Grand Jury minutes.
3. According to said discovery, on 3/12/96 at approximately 9:28 p.m. an armed robbery occurred at 219 Commonwealth Avenue. The suspect was described as a black male, five nine, wearing blue clothing.
4. Shortly after the alleged robbery, Officer Daley stopped and detained the Defendant.
5. The alleged victim was brought to the scene where a "one-on-one" identification occurred. It is my understanding, that at the time of the identification, the Defendant was surrounded by three uniformed police officers and was handcuffed from behind. Said police officer(s) held the Defendant from behind by the Defendant's handcuffs. The Defendant was also surrounded by three police cruisers with their lights on the Defendant. He was the only person the alleged victim was asked to identify and the only black male on the scene.

Respectfully submitted,
The Defendant,
By his Attorney,

R.165

#28-B


George E. Murphy, Jr.
149 Cambridge Street
Cambridge, MA 02141
(617) 876-6780

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
NO. 9781CR2366

COMMONWEALTH

v.

STANLEY DONALD

COMMONWEALTH'S MEMORANDUM IN RESPONSE TO COURT REQUEST
FOR ANALYSIS OF DEFENDANT'S BRADY CLAIM REGARDING
ALLEGED THIRD PARTY CULPRIT EVIDENCE

The Commonwealth continues to rely on the arguments set forth in its opposition (paper #458) to the defendant's "Post-Conviction Motion for New Trial" (paper #455). The Commonwealth writes again in response to this Court's request for analysis regarding whether the defendant could be entitled to relief if based on the prosecution's not having disclosed evidence that another person, Jerry Dixon, had an "opportunity" to commit the crime of which the defendant was convicted. Given the evidence reasonably alleged to have been in the prosecutor's possession – as opposed to the utterly uncorroborated story told in the defendant's filings, wherein the victim selected Dixon's picture from the photo array¹ and another witness supposedly saw Dixon in the parking-garage of the victim's

¹ In his "Renewed Motion," filed January 8, 2025 (paper #509), the defendant again claims that the victim picked Jerry Dixon's photo from the array. At times he frames this assertion as a possibility ("it is conceivable," p. 2), at others as purported fact ("[t]he Commonwealth and Detective Munger failed to inform the defense before trial that Jerry Dixon's photo was also selected by the victim," p. 3; "Jerry Dixon's photo was also selected by the victim," p. 4; "information and evidence regarding Jerry Dixon's photo being selected by victim . . . was within the Commonwealth's possession," p. 5). However framed, the defendant has yet to offer this Court a scintilla of actual evidence that this occurred. Unless and until he does so, this Court should not consider this part of the defendant's claim. Cf. Common-

R.166 #17

building on the day of the attack – the Commonwealth was not obligated to make any disclosure on this subject.

The facts that can reasonably be alleged to have been in the possession of the prosecution team in this case are: 1) Jerry Dixon existed at the time of the defendant's trial; 2) Jerry Dixon is a Black man who has been accused of, and eventually pleaded guilty to, crimes involving sexual assault; and 3) Jerry Dixon was not incarcerated on October 21, 1997, the date of the offense in this case, having been acquitted of a series of Superior Court charges on September 8, 1997.²

As an initial matter, it is not at all certain that even these minimal facts can be said to have been in the possession of the prosecution team in this case. The offense for which Dixon was tried appears to have occurred in Newton; the crimes of which the defendant was convicted began in Watertown and continued into Foxboro and Brockton. The defendant has produced no evidence that there was any kind of joint investigation, or that the Newton Police Department would otherwise have been expected to communicate with any of the officers investigating this crime. Therefore, he has not shown that the supposedly exculpatory evidence was "in the possession or control of members of the [prosecuting attorney's] staff and of any others who have participated in the investigation or evaluation of the case and who either regularly report or with reference to the particular case have reported to the office." Commonwealth v. St. Germain, 381 Mass. 256, 261 n. 8 (1980), emphasis added. See also Commonwealth v. Daye, 411 Mass. 719, 733-734 (1992) ("[t]he 'po-

wealth v. Furr, 454 Mass. 101, 106 (2009) (in considering motion for new trial, court need not credit affidavits even if undisputed).

² The charges in that case (No. 9681CR00504) involve home invasion and kidnapping but do not appear to include rape.

R.167² 18

lice' to which that [discovery] rule applies are those police who are participants in the investigation and presentation of the case").

In any event, the Commonwealth has not reasonably been alleged to have been aware of any evidence beyond Dixon's existence, the fact that he fit an extremely general description of the possible perpetrator in this case,³ and that he was not in custody at the time of the offense. The defendant has cited no case, and the Commonwealth has found none, where such meager evidence of a theoretical "opportunity" to commit a crime gave rise to a duty of disclosure pursuant to Brady v. Maryland, 373 U.S. 83 (1963), or any other applicable law. The cases on which he relies – primarily Commonwealth v. Conkey, 443 Mass. 60 (2004), and the trial court's order in Commonwealth v. Jenkins, 2021 WL 6053860 (Docket no. 0384CR10364, attached as Exhibit A) – describe far different factual situations.

Conkey, it must be pointed out, does not concern alleged discovery violations; the defendant in that case was permitted to introduce evidence of a third-party culprit, the victim's landlord, and argued on appeal that he should have been allowed to present evidence that the landlord had a history of aggressive behavior toward women who declined his sexual advances. Conkey, 443 Mass. at 63-68. The Supreme Judicial Court agreed that, where there was already evidence that the landlord "had a relationship with the victim, possessed a key to her home, had been in her bedroom recently and even had opened her linge-

³ The Commonwealth does not dispute that Jerry Dixon and the defendant are both Black men. The defendant has made much of the fact that a man seen in the garage was described as "about five ten" (Defendant's Exhibit 6; Tr. IV:65), whereas he himself claims to be six foot two. The defendant has provided no evidence as to Dixon's actual height. The Commonwealth notes, however, that in Commonwealth v. Dixon, 458 Mass. 446 (2010) – in which Dixon challenged indictments based on a DNA profile and a general description – the assailant was described as being approximately six feet tall. Dixon, 458 Mass. at 448.

R.168-119

rie drawer" and that he "had a history of sexual assault and anger when rejected by women and he had been rejected by the victim here," the proffered additional evidence should have been admitted. Id. at 70.

In Jenkins, on the other hand, the prosecution allegedly withheld evidence that the victim owed a debt to his drug supplier, that the supplier was angry because the victim had lost a large quantity of drugs that the supplier had entrusted to him, that the supplier had threatened the victim, and that the two had been in regular phone contact in the hours leading up to the victim's death. (Exhibit A, pp. 12-15.) Notably, in Jenkins, only a single eyewitness, and no physical evidence, connected the defendant to the murder. (Exhibit A, p. 2-3.) In Jenkins, therefore, the allegedly suppressed evidence was far more compelling, and cast far more doubt on the justice of the conviction, than the evidence at issue in this case.

Given the negligible probative value of the evidence at issue in this case, the Commonwealth was not obligated to disclose it even if it had been in the prosecutor's possession (which the Commonwealth does not concede). Even were this Court to find that it should have been disclosed – essentially, that the prosecution has the burden of informing the defense of every person who could theoretically have committed the crime, regardless of whether there is evidence they actually did so – this evidence is simply not material in fact; it is not strong enough to "raise a reasonable doubt as to the defendant's guilt that did not otherwise exist." Commonwealth v. Soucy, 17 Mass. App. Ct. 471, 473-474 (1984), citing Commonwealth v. Jackson, 388 Mass. 98, 111 (1983).⁴ Indeed, had the defendant

⁴ This is the standard where a defendant has not made a specific request for the evidence. Soucy, 17 Mass. App. Ct. at 473. The defendant does not claim that he made a specific request for third-party culprit evidence.

R.169-420

attempted to offer this evidence at trial to support a third-party culprit defense, it would likely have been inadmissible. See generally Commonwealth v. Rosa, 422 Mass. 18, 22-25 (1996) (evidence of supposed “look-alike” who might have committed charged crime properly excluded where defendant offered “only a few connecting links” between look-alike and charged crime and where proffered evidence could risk juror confusion). The defendant is not entitled to relief.

Respectfully submitted

For the Commonwealth,

MARIAN T. RYAN



Hallie White Speight
BBO No. 667492
Assistant District Attorney
15 Commonwealth Avenue
Woburn, MA 01801
Tel: (781) 897-6841
hallie.speight@mass.gov

Date: February 24, 2025

R.170 #21

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Va.

Stanley Donald

DEF'S.2nd SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
PAPER ENTRY#455 POST-CONVICTION MOTION FOR NEW TRIAL

The Defendant, Stanley Donald, hereby represents to this Court that he should be granted a new trial since:

I.] Its evident that the newly discovered withheld identification evidence of another suspect Jerry Dixon should have been presented to the jury even-though the Commonwealth claims forensic evidence of Mr. Donald's guilt. See Holmes V. South Carolina, 547 U.S. 319, 126 S.Ct. 1727(2006) Holmes decision held Mr. Donald has a federal constitutional right to a new trial in State Court to present the third party culprit evidence of Jerry Dixon regardless of Commonwealth's forensic evidence. Further, the Commonwealth agrees in its Memorandum In Response To Brady Claim Page#3, that Jerry Dixon "fit en extremely general description of the possible perpetrator in this case." The Commonwealth's agreement coincides with the Holmes decision entitling Mr. Donald to a new trial; And

(R.171)

II.]Mr.Donald's trial counsel failed to investigate why Jerry Dixon's fingerprints were compared to crime scene fingerprints which would have uncovered the third party culprit evidence; and trial counsel failed to investigate that Mr.Donald had an ATM bank card with the same Bank of Boston as the victim; and trial counsel failed to present that Mr.Donald was mistakenly identified in a 1994 similar attempt rape case that the Commonwealth dismissed.

Trial counsel put forth a defense of mistaken identity and then failed to develop this defense and left Mr.Donald "denuded of a defense," See Commonwealth Vs Farley 432 Mass 153(2006) Here.,same as Farley trial counsel kept Mr.Donald "in the dark for quite sometime." (Exhibit"A" attached)

In sum,the Commonwealth claims that defendant has produced no evidence that Newton Police and Watertown Police had "any kind of joint investigation."(Com.Memo.Response Brady page#2) However,the Newton Police and Watertown Police started joint investigations into rape cases in Commonwealth Vs. Jewett,392 Mass.558(1984) In Jewett " acting on information provided by the Newton Police department,the Watertown Police included the same photograph of the defendant in the array shown to victim," Jewett,at 560-561,Id

R.172

Also, in according to Jewett at 562, Mr. Donald had a right to present to the jury that in 1994 he was mistakenly identified of attempt rape which is similar to this present case. (Exhibits "B-to-D")

WHEREFORE, this Court should grant a new trial as justice requires.

Dated: March 25/2025

Respectfully Submitted
By Defendant,

Stanley Donald
Stanley Donald
MCI-Norfolk #W66438
P.O. BOX 48
Norfolk, Mass 02056

[CERTIFICATE OF SERVICE]

I, Stanley Donald pro-se, hereby certify that a copy of same ~~Memorandum~~ Exhibits was served upon ADA Hallie White Speight, Middlesex District Attorney Office, 15 Commonwealth Ave #300, Woburn, Mass 01801. by first class mail, postage prepaid.

R.173

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

[AFFIDAVIT OF STANLEY DONALD]

Under Oath, I, Stanley Donald, pro-se, depose:

- 1.] I submit this Affidavit to bring to the Court's attention that it has now been discovered through Court records that in Middlesex Criminal Case#9581CR0124, on November 7, 1996, ADA Megan Storing was with the prosecution team ADA David Yannetti when ADM Storing was also prosecuting Jerry Dixon in April 12, 1996.
- 2.] Now this is convincing evidence that ADA David Yannetti had full knowledge of Jerry Dixon from ADA Megan Storing and he failed to disclose the third party culprit evidence of Dixon in violation of Brady.
- 3.] Also, the issue with the rape kit records is that ADA Yannetti failed to file a petition to prosecute the rape charges pursuant to M.G.L.c.277, Sec.57A, in Middlesex County where the SANE rape kit protocol records were picked up by Foxboro Police since the allege rape occurred in Norfolk County.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

April 18/2025
Dated

Stanley Donald
Stanley Donald, pro-se

[PROOF OF SERVICE]

I, Stanley Donald, pro-se, hereby certify that a copy of same was served upon ADA Hallie White Speight, Middlesex District Attorney Office, 15 Commonwealth Ave#300, Woburn, Mass 01801, by first class mail, postage prepaid.

R.174

DOCKET

9252 CR 0785

ATTORNEY NAME

- ☐ Waived
☐ Retained
☒ Assigned

APR 07 2000

COURT DIVISION
CAMBRIDGE

027 52 3472

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

Trdy. Stanley Denair
Donald Stanley
86 Howard Ave.
Roxbury, MA

TERMS OF RELEASE

DATE

PROCEEDING

- ☐ Arraigned before J. *Thompson*
☒ Advised of right to counsel
☐ Advised of right to drug exam
☒ Advised of right to bail review
☐ Advised of right to F.I. Jury Trial
☐ Waives ☐ Requests F.I. Jury Trial
☐ Advised of alien rights
☐ Warrant issued ☐ Default warrant issued
☐ Default removed ☒ Warrant recalled
☐ Warrant issued ☐ Default warrant issued
☐ Default removed ☐ Warrant recalled

DEF DOB AND SEX
6/6/62 b/mOFFENSE CODE(S)
614 636DATE OF OFFENSE
3/2/94PLACE OF OFFENSE
Cambridge

COMPLAINANT

Bill Phillips, Jr.

POLICE DEPARTMENT (if applicable)

Cambridge

DATE OF COMPLAINT
3/11/94RETURN DATE AND TIME
Warrant

COUNT-OFFENSE

a. ASSAULT WITH INTENT TO MURDER c265 a15

FINE

SURFINE

COSTS

TOTAL DUE

DATE

PLEA

- ☐ Not Guilty ☐ Guilty ☐ Nolo
☐ New Plea ☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

NOLE PROSECUTED
STATEMENT OF REASONS FILED

FINAL DISPOSITION

- ☐ Discharged from probation
☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

b. ASSAULT WITH INTENT TO RAPE c265 a24

FINE

SURFINE

COSTS

TOTAL DUE

DATE

PLEA

- ☐ Not Guilty ☐ Guilty ☐ Nolo
☐ New Plea ☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

NOLE PROSECUTED
STATEMENT OF REASONS FILED

FINAL DISPOSITION

- ☐ Discharged from probation
☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

FINE

SURFINE

COSTS

TOTAL DUE

DATE

PLEA

- ☐ Not Guilty ☐ Guilty ☐ Nolo
☐ New Plea ☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

BAIL RETURNED TO SURETY

04.04.94 0913H007 BAIL

200.00

FINAL DISPOSITION

- ☐ Discharged from probation
☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

FINE

SURFINE

COSTS

TOTAL DUE

DATE

PLEA

- ☐ Not Guilty ☐ Guilty ☐ Nolo
☐ New Plea ☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

FINAL DISPOSITION

- ☐ Discharged from probation
☐ Dismissed at request of probation

DATE

CONT TO

PURPOSE

CONT TO

PURPOSE

DATE

TAPENO

START

STOP

Shirley

25/94

Shirley

APRIL 14/94

2000/2000

CASH

CASH

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

CAMBRIDGE DISTRICT COURT
NO. 94-0785

COMMONWEALTH

v. ~~Stanley Donald~~

STANLEY DONALD

NOLLE PROSEQUI

Now comes the Commonwealth and hereby files a nolle
prosequi in the interests of justice. As reasons therefore,
the Commonwealth states that the defendant participated in a
lineup on April 1, 1994 with the advice of counsel. The victim
failed to choose the defendant from the lineup. The
Commonwealth has indicted a different individual for the
underlying assault, that individual having been chosen from the
lineup by the victim.

Respectfully Submitted
For the Commonwealth,
THOMAS F. REILLY
DISTRICT ATTORNEY

by


CRISPIN BIRNBAUM
Assistant District Attorney
Middlesex Superior Courthouse
40 Thorndike Street
Cambridge, MA 02141
(617) 494-4085

April 27, 1994
0144t

R.176

Cambridge Police Department Supplemental Report

File
Number

13. Dry Case Invest. ☐	City Solicitor ☐	25. Date of Occurrence	35. Date of Report
Any Incident Report ☐	Sudden Death ☐	M _ _ _ _ Y _ _ _ _ T _ _ _ _	M _ _ _ _ Y _ _ _ _ T _ _ _ _
Follow Up Invest. ☒	Child in Custody ☐		
35. Business/Complaint ☒ Active			
Address: 5 Western Avenue, Cambridge, MA 02139			
65. Date in Court	75. Judge	85. Court	95. Disposition
Block # of reports that she			
was the victim of an Assault w/Intent to Rape.			
Person's Interviewed:			
I interviewed and she stated			
to me the following:			
On March 2, 1994 at approximately			
12:45.M., was walking from the M.B.T.A.			
Station in Central Square where she worked			
that night. stated she had parked her car			
a ways from Central Square on a side street.			
works for the M.B.T.A. as a floater			
and this was her first night working in			
Central Square.			
states that she went to her car to go			
home. As she attempted to start her car, it			
wouldn't start. She tried several times to no			
avail. She was behind the wheel of her m/v			
when a black male approached her from behind			
and asked her if he could help her. The black			
male opened the hood of the motor vehicle and			
appeared to be working. The suspect then			
walked to drivers side of car and motioned for			
to push over. At this time, the sp			
attempted to start the motor vehicle with the			
key to no avail. Suspect then grabbed her by			
105. Status of Case			
Cleared ☐ Suspend ☐			
Arrest ☐ Comp / Vile ☐			
Hearing ☐ Unfound ☐			
Station Adj ☐ Other ☐			
Continued for ☐			
115. Property Recovered			
Yes ☐ No ☐			
Total Value			
125. Juvenile Card Made			
Yes ☐ No ☐			
135. Narcotic Number			
145. Narcotic/Alcohol Sheet Made			
Yes ☐ No ☐			
155. Technical Work			
Yes No			
Photo ☐ ☐			
Finger Print ☐ ☐			
Composite ☐ ☐			
Other ☐ ☐			
By Whom			
165. Victim/Comp Cont.			
In Person ☐			
Letter ☐			
Phone ☐			
Call Card ☐			
175. Photo Viewed			
Yes ☐ No ☐			
185. Citation No.			
195. Time Expended			
Investigation			
Original Reporting Off			
Date			

205. Reporting Officer's Signature

305. Date Division

215. Reviewing Officer's Signature

Cambridge Police Department Supplemental Report

File
Number

12. Orig. Case Invest. ☐ City Solicitor ☐ 23. Date of Occurrence ☐ 35. Date of Report ☐
 Arr. Incident Report ☐ Sudden Death ☐ M ☐ D ☐ Y ☐ T ☐ N ☐ D ☐ Y ☐ T ☐
 Follow Up Invest. ☒ Child in Custody ☐ M ☐ D ☐ Y ☐ T ☐ N ☐ D ☐ Y ☐ T ☐

38. Business/Complainant's Name

Detective

Address

5 Western Ave., Cambridge, MA 02139

39. Date in Court

73. Judge

35. Court

35. Disposition

Block#

the head and the next thing the knew she was being forced to the driveway behind 847 Mass Avenue. At this timey reports that the sp. repeatedly bashed her head, face down into the snow telling her "Don't say a word or I'll kill you"! Sp kept bashing her head to the point where felt like she was going to die. As laid there on the ground face down, the sp forced her pants down half way and kept yelling "Don't move". The victim at this time tried to reach for a can of mace in her left front pocket. The sp then said "What are you doing"? He then punched the victim in the face again grabbing her by the neck. At this time, the suspect fled on Clinton Street towards Harvard Street.

105. Status of Case

Cleared ☐ Suspended ☐
 Arrest ☐ Comp/War ☐
 Hearing ☐ Unbound ☐
 Station Ad ☐ Other ☐
 Continued Inv ☐

115. Property Recovered
 Yes ☐ No ☐
 Total Value

125. Juvenile Card Made
 Yes ☐ No ☐

135. Narcotic Number

145. Narcotic/Alcohol Sheet Made
 Yes ☐ No ☐

155. Technical Work
 Yes No
 Photo ☐ ☐
 Finger Print ☐ ☐
 Composite ☐ ☐
 Other ☐ ☐
 By Whom

165. Victim/Comp. Cont
 In Person ☐
 Letter ☐
 Phone ☐
 Call Card ☐

175. Photo Viewed
 Yes ☐ No ☐

185. Citation No.

195. Time Expended
 Investigation

Original Reporting Off.

Date

205. Reporting Officer's Signature

Reviewing Officer's Signature

STANLEY DONALD
200 NASHUA ST
BOSTON, MASS

RECEIVED
DEC 24 1998

MAURA S. DOYLE, CLERK
SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY

12/19/98

SUPREME JUDICIAL COURT

ASSISTANT, GEORGE E. SLYVA

FOR SUFFOLK COUNTY

1404 NEW COURTHOUSE

BOSTON, MA 02108

RE: PS-98-0173

DEAR SIR

I AM REFUSED ACCESS TO POLICE REPORTS AND
GRAND JURY MINUTES BY MY LAWYER AND THE COURTS
OF MIDDLESEX, SO I AM UNABLE TO PROVIDE ANY DOCUMENT
TO YOU TO GIVE THE SUPREME COURT A CLEARER UNDERSTANDING
OF THIS CASE. I HAVE TRIED MY BEST TO FIRE MY LAWYER
AND OBTAIN THE DOCUMENTS BUT NOBODY WILL LISTEN TO ME
IN MIDDLESEX COURTS AND I AM ENTITLED TO KNOW MY
ALLEGED ACCUSERS AND THESE DOCUMENTS, PLEASE HELP ME
GET THESE DOCUMENTS.

Thank you.

Sincerely,

R.179

Stanley T. Donald

9c
H A H

32

are better dressed than I am.

THE DEFENDANT: It has a lot to do
with the identification and the DNA.

THE COURT: Well, you have to
understand something, sir. You've got an
attorney, and he's going to try the case for you.

THE DEFENDANT: Well, apparently,
my attorney kept me in the dark for quite some
time. I had to take matters into my own hands.

THE COURT: You've had attorneys
before Mr. Casey; haven't you?

THE DEFENDANT: Yes. But they
never kept me in the dark.

THE COURT: No, no. I understand
that. But I --

THE DEFENDANT: I have no dispute
over Mr. Casey's representation. He is just a
busy man, and I just been kept back in the dark
because he's so busy. I was not given the Grand
Jury minutes and the police reports until eight
months -- sometime after the arraignment, which he
had them a month later after the arraignment. And
that kind of forced me into taking matters into my
own hands.

R 180

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

DEF'S.SUPPLEMENTAL MOTION TO AMEND PAPER#455
POST-CONVICTION MOTION FOR NEW TRIAL

Pursuant to Mass.R.Crim.P.Rule 30(b),the Defendant,
Stanley Donald,pro-se,requests this Court to ORDER him a
new trial since newly discovered evidence cast doubt on the
justice of his conviction on the grounds that:

I.NEWLY DISCOVERED THIRD-PARTY CULPRIT EVIDENCE
OF JERRY DIXON WARRANTS A NEW TRIAL.

Mr.Donald presents that on April 15,2025,he discovered
an Affidavit of Julie K.Lynch a Senior Criminalist which
confirms Jerry Dixon is five feet,ten and fit the description
of the man a witness seen in parking garage before victim was
assaulted.(Exhibits#1-to-4,Affidavit of Julie K.Lynch attached)
More,newly discovered evidence reveals it is now impossible to
compare victim's semen stained underwear to Jerry Dixon's DNA
sample since forensic evidence has been tainted through chain
of custody where Cellmark testing lab unlawfully held onto the
semen stained underwear for over five years after testing where
according to Affidavit of Gwen B Pino Crime Lab Chemist"Cellmark
tested evidence in 1999 and returned extracts[semen stain] on
August 15,2005."(Exhibits#5-to-7,Affidavit of Gwen B.Pino,par.7)

R.181

Arguably, this Court should find that the third-party culprit evidence of Jerry Dixon "constitutes newly discovered evidence and would have been a real factor in the jury's deliberations." Commonwealth Vs. Marrero, 493 Mass.338, at 344 (2024), citing Commonwealth Vs. Mazza, 484 Mass.539, at 550-551 (2020).

Mr. Donald has presented sufficient evidence which links Jerry Dixon to the crime and shows Jerry Dixon had opportunity to commit the crime.

A vital witness says to Watertown Police that she seen a man which fit the description of Jerry Dixon and she may be able to ID him again.(Exhibit#8, Police Report#97018863)
The same witness testified at trial that the man she seen was five feet,ten and she was within about five feet in front of the man.(Exhibits#9-to-10) However, the police failed to show this witness a photo of Jerry Dixon. More,it seems Jerry Dixon was considered a suspect when the Commonwealth compared his fingerprints to crime scene fingerprint evidence.(Exhibit#11)

Now years after trial,it has been discovered that Jerry Dixon was released from jail on September 8,1997,and had opportunity to commit the crime and he fit the description of the man in the parking garage before victim was assaulted(Ex.#12-to-16)

R.182

This Court should find that the third-party culprit evidence of Jerry Dixon "constitutes newly discovered evidence and would have been a real factor in the jury's deliberations." See Commonwealth Vs. Mazza, 484 Mass. 539 (2020) Remanded for New Trial.

The well-established principles governing a motion for new trial based on newly discovered evidence are set forth in Commonwealth Vs. Grace, 397 Mass. 303, 305-306 (1986)

Mr. Donald has established both that the evidence is newly discovered and was not known until after trial and after other motions for new trial. This newly discovered third-party culprit evidence has "substantial probative value" and is "relevant" and is not to "remote" or "speculative." See Mass. G. Evid. §1105 (2023)

As a general rule, a defendant is entitled to show "the acts of such other person are so closely connected in point of time and method of operation as to cast doubt upon the identification of [the] defendant as the person who committed the crime." See Commonwealth Vs. Keizer, 377 Mass. 264, 267 (1979) Reversed.

Here,¹ Mr. Donald was deprived of his federal constitutional right under the 6th and 14th Amendments to have a meaningful opportunity to present a complete defense in this case of such mistaken identity. Holmes V. South Carolina, 547 U.S. 319, 324-325 (2006).

R.183

This newly discovered evidence "cast real doubt of the justice of defendant's conviction." Commonwealth Vs. Salvati, 420 Mass.499,509(1995),quoting Commonwealth Vs. Scanlon,412 Mass.664,679-680(1992) This new third-party culprit evidence is "material and credible" and also "carries a measure of strength in support of defendant's position."Commonwealth Vs. Pike,431 Mass.212,at 218(2000),quoting Commonwealth Vs. Grace,397 Mass.303,305(1986)

A judge should be mindful that reviewing Courts considering a motion for new trial based on newly discovered third-party culprit evidence must view such evidence "in the light most favorable to the accused and consider whether that testimony, if believed,could raise a reasonable doubt as to the defendant's guilt." Commonwealth Vs. Hampton,88 Mass.App.Ct.162,168(2015)

Mr.Donald has presented material and credible evidence which consist of Jerry Dixon having opportunity to commit the crime which also links Jerry Dixon to the crime where:

- (A)Jerry Dixon fit the description five feet,ten of the man a witness seen five feet in front of her in the parking garage before victim was assaulted;
- (B)Jerry Dixon's fingerprints was compared to crime scene prints because he was considered a suspect;
- (C)Jerry Dixon was released from jail in September 1997,and had opportunity to commit the crime on October 1997;And
- (D)Newly discovered information from Boston Crime Lab has confirmed Jerry Dixon is five feet,ten same as what the Commonwealth witness describes of man in parking garage.

R.184

A review of the Commonwealth's opposition reveals that the Commonwealth agrees that Jerry Dixon "fit an extremely general description of the possible perpetrator in this case." (Ex.#19)

Even-though the Commonwealth claims forensic evidence of Mr.Donald's guilt. Mr.Donald has a federal constitutional right to a new trial in State Court to present the newly discovered third-party culprit evidence of Jerry Dixon regardless of Commonwealth's forensic evidence. Holmes V.South Carolina, 547 U.S.319,126 S.Ct.1727(2006).

For the foregoing,the Post-Conviction Motion For New Trial should be ALLOWED.

Respectfully Submitted
By Defendant!!

May 22/2025
Dated

Stanley Donald
Stanley Donald,pro-se
MCI-Norfolk#W66438
P.O.BOX 43
Norfolk,Mass 02056

[PROOF OF SERVICE]

I,Stanley Donald,pro-se,hereby certify that a copy of same was served upon ADA Hallie White Speight, Middlesex District Attorney's Office,15 Commonwealth Ave#300,Woburn,Mass 01801,by first class mail,postage prepaid.

R.185

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
INDICTMENT NO. 06- 10223

COMMONWEALTH

v.

JOHN DOE

(a black male, approximately 20 years of age, 5'10" and 200 lbs, as of March 20, 1991, and further described by the DNA profile in Appendix A)

AFFIDAVIT OF JULIE K. LYNCH

I, Julie K. Lynch, do hereby depose and state that the following is true to the best of my knowledge:

1. I am a Senior Criminalist in charge of the day to day operations of the DNA Section of the Boston Police Crime Laboratory. I have been employed by the Boston Police Department Crime Laboratory for approximately nine years.

2. My responsibilities include managing the overall operation of the DNA Section, performing DNA casework analysis, providing expert witness testimony in court, coordinating the DNA database program, and providing training to incoming personnel.

3. In an effort to provide the highest quality forensic DNA service to the Boston Police Department and other agencies, the DNA Section has been accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB). Accreditation is a process of laboratory inspection that is performed by an independent external agency. This process includes a comprehensive review of the participating laboratory to determine if it is in compliance with nationally accepted DNA

#1 (R.186)

laboratory standards. The DNA Section of the Boston Police Crime Laboratory received its accreditation in August 1998, and became the first public DNA laboratory in New England to achieve this status. The DNA Section has been inspected every year since 1998 and continues to maintain its accredited status.

4. DNA stands for Deoxyribonucleic Acid. It is a biochemical material that a person inherits from his/her parents that serves as a blueprint to that individual's growth and development. DNA is found in most biological substances, including blood, semen, and saliva.

5. DNA analysis is now done routinely to link an individual (i.e., victim or suspect) to biological evidence recovered from a crime scene. Common types of biological evidence recovered from crime scenes are blood, semen, and saliva. Evidence of this nature is an excellent source of DNA that typically allows DNA testing to determine the DNA profile of the person who deposited the biological evidence.

6. The Combined DNA Index System, or CODIS, is a national computer database sponsored by the Federal Bureau of Investigation that can be used to generate investigative leads through the comparison of DNA profiles. The CODIS database primarily consists of two indexes, the Forensic Index and the Offender Index. The Forensic Index contains DNA profiles from casework evidence recovered from crime scenes and the Offender Index contains known DNA profiles from convicted offenders. Through the use of computers and high speed electronic communications technology, the database can rapidly compare the DNA profiles from casework evidence to the DNA profiles from convicted offenders to potentially identify a suspect in an unsolved case. The database can also compare the DNA profiles from casework evidence against each other in an attempt to identify a serial offender.

187 R.187

7. The Boston Police Crime Laboratory examined the physical evidence from this case, Lab #91-363 (CC#911582672, date of incident: July 30, 1991). Semen was identified on Vaginal Swab 1 taken from the alleged victim during the collection of a Sexual Assault Evidence Collection Kit. The semen is believed to be from the perpetrator of the alleged assault.

8. In July 2005, a DNA profile was generated from the semen recovered from Vaginal Swab 1. Initially, it was not matched to a suspect identified by the police or CODIS. The DNA profile remained in CODIS for a potential future match to a casework or convicted offender DNA profile.

9. The DNA profile from the semen recovered from Vaginal Swab 1 is listed in Appendix A.

10. This DNA profile is extremely rare, and could be expected to be found in approximately 1 in 3.6×10^{19} Caucasians, 1 in 1.3×10^{19} African Americans, and 1 in 6.1×10^{19} Southeastern Hispanics.

11. On May 30, 2008, the Boston Police Crime Laboratory issued a report indicating that the DNA profile from #91-363 was searched against the database of unsolved cases in Massachusetts and other states, as well as convicted offenders in both Massachusetts and other states. This DNA profile was found to match the DNA profile of a convicted offender from Massachusetts: Jerry Dixon, DOB April 19, 1973;

12. When a match is identified through the CODIS system, there are quality assurance procedures that are followed to ensure that the correct person has been identified. Only if the DNA profile in CODIS and the re-tested sample match do the authorities confirm that a match to a convicted offender has been made.

#91-363
R.188

13. Likewise, in order to confirm that the DNA found at the crime scene is, in fact, consistent with the DNA of Jerry Dixon, the Boston Police Crime Laboratory's protocol requires that a new oral swab of the individual suspect be obtained, and that further DNA testing be performed. Additional DNA testing is required for quality assurance purposes, to ensure that the DNA database hit is accurate. The known samples of DNA are easily collected as oral swabs, thus requiring a minimal intrusion to the individual being sampled.

14. The Massachusetts State Police Crime Laboratory and the Federal Bureau of Investigation Laboratory also require that all DNA database hits are confirmed by testing a new sample of DNA from the suspect. Boston Police investigators have been trained on how to properly collect and preserve an oral swab for use with DNA casework.

15. If Jerry Dixon is arrested and arraigned in this case, it is my understanding that the prosecutor will seek a court order for a further sample of Jerry Dixon's DNA so that this protocol may be followed.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 14th DAY OF
JULY 2008 ~~2006~~ ²⁰⁰⁸ (APU)

Julie K. Lynch
Julie K. Lynch, Senior Criminalist
Boston Police Crime Laboratory

#4
R.189

AFFIDAVIT OF GWEN B. PINO

I, Gwen Pino, do hereby depose and state the following is true to the best of my knowledge and belief:

1. I am a supervisor with the Massachusetts Department of State Police Crime Laboratory, located at 124 Acton Street, Maynard, Massachusetts. I received a Bachelor of Arts degree in Chemistry, Biology, and Medical Technology from North Adams State College in 1986 and I have been employed with the Crime Laboratory since 1986. I have been qualified as an expert in Serology, which identifies and characterizes blood and other bodily fluids using enzymatic proteins in over 180 cases. I have participated in multiple DNA training courses sponsored by the University of Virginia and the FBI. I also participated in the MSP DNA training program. I am currently assigned to the Forensic Case Management Unit of the Laboratory which coordinates, among other things, scientific identifications and characterizations of body fluids including blood, semen, saliva and urine, together with the analysis and comparisons for physical evidence including head hair, pubic hair, fibers, and other trace materials.
2. In July of 2005, I spoke to ADA Loretta M. Lillios, Deputy Chief of the Appeals Bureau of the Middlesex County District Attorney's Office regarding Massachusetts State Police Lab case #C97-1059, Commonwealth v. Stanley Donald.
3. I reviewed the report which had been prepared by chemist Robert Martin of the MSP Crime Laboratory on January 8, 1998 (hereinafter, the 01/08/1998 Report) and the testing methods which had been used to evaluate the DNA evidence in case #C97-1059.
4. According to the 01/08/1998 Report, no seminal fluid residue or sperm cells were detected on the genital swabs, vaginal swabs, and smears from Kit # 10330. Seminal fluid residue and amylase were found on a pair of underwear taken from the victim, which is identified as Item #12 in the 01/08/1998 Report.
5. According to the MSP Crime Laboratory case file in case #C97-1059, cuttings were taken from Item #12 in the areas where seminal fluid residue and amylase were detected. These cuttings were submitted to Cellmark Diagnostics for DNA testing, along with known samples of the defendant's and the victim's blood.
6. Cellmark Diagnostics compared the DNA profile of sperm samples extracted from these cuttings with the DNA profile from the defendant's sample using the polymerase chain reaction (PCR) DNA method. Cellmark determined that the profile of the DNA found on the sperm samples extracted from the underwear (Item #12) was consistent with the defendant's DNA profile, and that the frequency of this profile occurred in one in 7,800 African-Americans. It is my

#5 R.190

understanding that Paula Yates of Cellmark Diagnostics testified to these results at the defendant's trial in 1999.

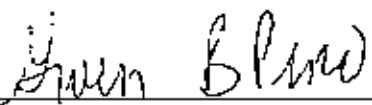
7. Cellmark Diagnostics generated an approved report on January 28, 1999. This report was received by the MSP Crime Laboratory and entered into the case file. The extracts from Cellmark's testing were returned to the MSP Crime Laboratory on August 15, 2005. Cuttings from items 2, 10, 11, 15, 16, 19, 20, 21, 22, 26 and the remaining cuttings from Item 12 generated and identified in the 01/08/1998 Report by Chemist Robert Martin remain in the custody of the MSP Crime Laboratory.
8. During the Crime Lab's evaluation of case #C97-1059 in 2005, I personally reviewed the evidence for which DNA testing had been performed. In 2005, I concluded that "[e]ven with the advances that have occurred since 1999, there is no available and reliable technology that would call into question or undermine the results of the previously performed testing performed upon the biological sample in this case."
9. In November of 2006, I spoke to ADA Meghan O'Neill of the Appeals Bureau of the Middlesex County District Attorney's Office regarding my affidavit from July of 2005 in case #C97-1059. She requested that I clarify what I meant by the "biological sample on the vaginal swab" and the "vaginal sample" which I referred to my affidavit from 2005.
10. Pursuant to that request, I have once again reviewed the evidence in this case, and in particular, which evidence was appropriate for DNA testing and what evidence was actually sent to Cellmark Diagnostics. According to the MSP Crime Laboratory case file in case #C97-1059, human blood was detected on Items 11, 15, 16, 19-22, and 26, while seminal fluid and amylase were found on Item #12 (the underwear taken from the victim). No seminal fluid or sperm cells were detected on the "genital swabs," "vaginal swabs," and "smears" from Kit # 10330, and therefore, these swabs and smears were not subjected to any further testing.
11. According to the MSP Crime Laboratory case file in case #C97-1059, the amylase and seminal fluid residue stains were cut out of the underwear (Item #12) and submitted to Cellmark for DNA testing. In my 2005 affidavit, I referred to DNA testing performed by Cellmark on the "biological sample identified on the vaginal swab" when in fact, the only seminal fluid found in this case was found on Item #12, cuttings from the victim's underwear which were then subject to DNA analysis at Cellmark.
12. According to the MSP Crime Laboratory case file in case #C97-1059, the only evidence subject to DNA analysis in this case was cuttings taken from Item #12. According to the case file, it was these cuttings which were actually submitted to Cellmark. No vaginal swabs, smears, or genital swabs were submitted to

#6
(R.191)

Cellmark for DNA testing because none of these swabs or smears was appropriate for DNA typing, as no seminal fluid was identified on these samples.

13. There have been no advances in DNA technology which would call into question or undermine the results of the testing previously performed on the biological samples recovered from Item #12, the victim's underwear, in case #C97-1059.

Signed under the pains and penalties of perjury, this 7th day of December, 2006.


Gwen B. Pino, Supervisor I
Forensic Case Manager
Massachusetts Department of State Police
Crime Laboratory

#7
R.192

WATERTOWN POLICE DEPARTMENT
34 CROSS ST., WATERTOWN, MA 02172
INVESTIGATIVE REPORT

Incident: INVEST
Date: 10/21/97
RP: FOXBORO PD

Location: 151 COOLIDGE AV / 712
Time: 1154 Incident No: 97018863

Involved Persons:

(VI) Name: WHITEMORE, ELIZABETH T Dob: 05/26/68
Address: 151 COOLIDGE AV/712 WATERTOWN MA Phone: 924-6367
Rac/Sex: W/F Hair: BLN Eyes: BLU Hgt: Wgt: Bld: MED

(DW) Name: WHITEMORE, ELIZABETH T Dob: 05/25/68
Address: 151 COOLIDGE AV/712 WATERTOWN MA Phone:
Rac/Sex: / Hair: Eyes: Hgt: Wgt: Bld:

followup ref: kidnap, sexual assault.

In reference to the above offence, on 10-21-97, under the supervision of Sgt McElroy, photo's of the parking lot and initial attack location were taken by Det Keefe. Sudbury State Police Crime Lab technicians Robert Martin and David Schudel processed the scene including the collection of the blood evidence. Det. Joseph Daignan fingerprinted the Mercedes sedan that was parked next to the victim's MV, with negative results.

On 10-21-97, when this officer arrived back in Watertown with the victim, I contacted the telephone company Security Annoyance Bureau, and arranged a phone tap, in addition to the star-57 system, to monitor any possible calls to the home by the suspect (tel.co case# X-4041).

Interviewed Mrs. Roushi Sahagen age 38, 151 Coolidge Rd, apt-310, tel# 926-0953, homemaker, who stated that at 0937hrs, 10-21-97 she was exiting the garage in her MV and observed a black male enter the garage area on the north side. She was with her husband- Gregory, however he did not have his contacts in and could not describe the suspect. She described him as a black male, tall, short hair, medium skin color, casual workman type clothes, eyes appeared slanty. She stated she may be able to ID him again.

Late evening last night, I was informed by Foxboro and subsequently Brockton police that the victim's MV was recovered undamaged in Brockton by an officer Clark. MV was left un-touched and un-entered by the recovering department and towed to their facility. On this date, 10-22-97, Foxboro called and informed me that the Middleboro State Police Crime Lab people will be processing the car today, assisted by technicians Martin and Schudel. Reportedly victim's keys and pocketbook were still in the vehicle. Her wallet however may still be missing.

Additional reports will follow.

Respectfully submitted;
Det. Michael Munger # 170

Michael Munger #170
officers signature

10-22-97
Date

R.193
#8

supervisor signature

Date

11/17/97 MON 12:09 [TX/RX NO 5345] @005

1 or closed?

2 A. It was open.

3 Q. And when the elevator doors opened, Ma'am, what did
4 you see?

5 A. Well, as I headed just to the left to get to my car
6 facing the entrance at that point, I saw a
7 gentlemen, which I never recognized, kind of
8 walking in a limp manner and kind of -- he had
9 a dazed look in his eyes.

10 Q. And only for purposes of identification, Ma'am, was
11 this man black, white, Asian, Hispanic?

12 A. Black.

13 Q. And was -- can you describe his physical appearance.

14 A. I would say about five ten, medium build. Not too
15 dark, not too light. But just had a very kind of
16 spacey look and was kind of walking limply, just
17 very limp.

18 Q. Did you recognize him as a resident of the building?

19 A. No, I did not.

20 Q. What, if any, contact did you have with this man?

21 A. Just some eye contact, and that was it. Just looked
22 at him. Just wondered what he was doing in the
23 building, whether he was the handyman or somebody
24 that had to --

#9 R.194

1 THE COURT: All right. Put the
2 letter B, please.

3 THE WITNESS: (Witness complies.)

4 Q. So, Ms. Sahagen, in order to go from point A to
5 point B you have to turn to what direction?

6 A. You have to turn to my left.

7 Q. And is that what you did that day?

8 A. Yes.

9 Q. Now, without writing on the diagram, can you point
10 to the spot where you were when you first came in
11 contact with that man that you testified about.

12 A. Right here.

13 THE COURT: Put the letter C right
14 there.

15 THE WITNESS: (Witness complies.)

16 THE COURT: And who was at C? Were
17 you there or was the man there?

18 THE WITNESS: Both of us were there.

19 THE COURT: Thank you.

20 Q. How close was the man to you at point C?

21 A. I'd say within about five feet.

22 Q. And then what direction did you -- what direction
23 was that man coming from?

24 A. Coming from the garage direction.

#10 R.195

1 were they?

2 A I examined the record fingerprint cards of a
3 Stanley Donald, a Jerry Dixon, and a Mark Love.

4 Q With regard to those fingerprint cards, did you
5 compare those inked or record fingerprints with
6 the latent prints that had — or twith the latent
7 fingerprints that have been recovered by Trooper
8 Szeto from the 1997 Honda Accord with the
9 registration number 732 SKX?

10 A Yes, I did.

11 Q And what were the results?

12 A Again, there was no match made comparing those
13 latent fingerprints from the card to those cards
14 that were submitted to me.

15 Q Now, Sergeant Rebeiro, with regard to the steering
16 wheel of that car, were any latent prints ~~recovered~~
17 recovered?

18 A No, they were not.

19 Q With regard to the gearshift of that car, were
20 there any latent prints recovered?

21 A No, there were not.

22 Q With regard to the exterior driver's door handle,
23 were there any latent prints recovered?

24 A No, there were not.

EX-107 R.196

9681CR00504 Commonwealth v Dixon, Jerry

Case Type:
Indictment
Case Status:
Closed
File Date:
03/27/1996
DCM Track:
I - Inventory
Initiating Action:
ROBBERY, ARMED c265 §17
Status Date:
03/27/1996
Case Judge:
Next Event:

All Information | Party | Charge | Event | Docket | Disposition

Party Information

Commonwealth
- Prosecutor

Alias

Party Attorney

- Attorney
- Butler, Jr., Esq., Gerard Alan
- Bar Code
- 557176
- Address
- Smith Duggan Cornell and Galtub LLP
- 55 Old Bedford Rd
- Suite 300
- Lincoln, MA 01773
- Phone Number
- (617)228-4454

[More Party Information](#)

Dixon, Jerry
- Defendant

Alias

Party Attorney

- Attorney
- Murphy, Jr., Esq., George E
- Bar Code
- 361660
- Address
- 4 Bennett St
- Woburn, MA 01801
- Phone Number
- (781)933-2151

[More Party Information](#)

Party Charge Information

Dixon, Jerry
- Defendant

Charge # 1:
265/17/A-0 - Felony ROBBERY, ARMED c265 §17

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

Charge Disposition
Disposition Date

#10 R.197

Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 2:
265/18A-0 - Felony ASSAULT IN DWELLING, ARMED c265 §18A

- Original Charge
- 265/18A-0 ASSAULT IN DWELLING, ARMED c265 §18A (Felony)
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 3:
CONV - Conversion Misc Action Code

- Original Charge
- CONV Conversion Misc Action Code
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 4:
265/26A-2 - Felony KIDNAPPING c265 §26

- Original Charge
- 265/26A-2 KIDNAPPING c265 §26 (Felony)
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Dixon, Jerry
- Defendant
Charge # 5:
265/15A/B-0 - Felony A&B WITH DANGEROUS WEAPON +65 c265 §15A(a)

- Original Charge
- 265/15A/B-0 A&B WITH DANGEROUS WEAPON +65 c265 §15A(a) (Felony)
- Indicted Charge
- Amended Charge

Charge Disposition
Disposition Date
Disposition
09/08/1997
Not Guilty Verdict

Load Party Charges 6 through 8 Load All 8 Party Charges

Events

Date	Session	Location	Type	Event Judge	Result
04/01/1996 09:00 AM	Criminal 1 Rm 430		Arraignment		Held as Scheduled
04/12/1996 09:00 AM	Criminal 1 Rm 430		Bail Review		
04/17/1996 09:00 AM	Criminal 1 Rm 430		S		Held as Scheduled

13 R.198

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
08/26/1997	Writ of Habeas Corpus Issued To Middlesex County Jail (Cambridge) for 9/2/97	26	
09/02/1997	Appearance of Commonwealth's Atty: Butler Jr		
09/03/1997	Motion by Deft: For Examination Of Jurors Filed In Court	27	
09/03/1997	Deft Files Requested Voir Dire Instructions Filed In Court	28	
09/03/1997	Deft Files Requested Voir Dire Questions Filed In Court	29	
09/03/1997	Jury Trial		
09/04/1997	Commonwealth Files Request For Jury Instructions Filed In Court	29.1	
09/04/1997	Deft Files Request For Jury Instructions Filed In Court	29.2	
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty 001- Filed In Court	30	
09/05/1997	Motion (P#30) 001 denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -002 Filed In Court	31	
09/05/1997	Motion (P#31) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -003 Filed In Court	32	
09/05/1997	Motion (P#32) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -004 Filed In Court	33	
09/05/1997	Motion (P#33) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -005 Filed In Court	34	
09/05/1997	Motion (P#34) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -006 Filed In Court	35	
09/05/1997	Motion (P#35) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -007 Filed In Court	36	
09/05/1997	Motion (P#36) denied (Margaret R Hinkle, Justice)		
09/05/1997	Motion by Deft: For A Required Finding Of Not Guilty -008 Filed In Court	37	
09/05/1997	Motion (P#37) denied (Margaret R Hinkle, Justice)		
09/08/1997	After charge and before deliberation Jurors #5 Laurie A. McAnespie #9 Kathenna Brennan were withdrawn from panel, Ch.234A,544 as amended by the Court (Hinkle,J)		
09/08/1997	001, through 008 Verdict Slips Not Guilty	38	
09/08/1997	RE offense 1: Not guilty verdict		
09/08/1997	RE offense 2: Not guilty verdict		
09/08/1997	RE offense 3: Not guilty verdict		
09/08/1997	RE offense 4: Not guilty verdict		
09/08/1997	RE offense 5: Not guilty verdict		
09/08/1997	RE offense 6: Not guilty verdict		
09/08/1997	RE offense 7: Not guilty verdict		
09/08/1997	RE offense 8: Not guilty verdict		
09/08/1997	Defendant discharged in open court (Hinkle,J)		
09/08/1997	Reporter present: Patricia Belluso		
11/07/1997	Motion by Deft: For Return Of Property	39	
02/12/1998	Motion by Deft. Renewed Motion for Return of Property	40.	

R.199

114

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
CRIM. NO. 96-504-001-008

COMMONWEALTH

V.

JERRY DIXON

AFFIDAVIT

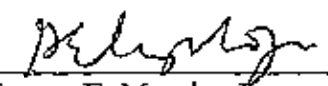
I, George E. Murphy, Jr., say the following under the pains and penalties of perjury:

1. I represent the accused in the above-captioned matter.
2. Discovery provided by the Commonwealth includes police reports and Grand Jury minutes.
3. According to said discovery, on 3/12/96 at approximately 9:28 p.m. an armed robbery occurred at 219 Commonwealth Avenue. The suspect was described as a black male, five nine, wearing blue clothing.
4. Shortly after the alleged robbery, Officer Daley stopped and detained the Defendant.
5. The alleged victim was brought to the scene where a "one-on-one" identification occurred. It is my understanding, that at the time of the identification, the Defendant was surrounded by three uniformed police officers and was handcuffed from behind. Said police officer(s) held the Defendant from behind by the Defendant's handcuffs. The Defendant was also surrounded by three police cruisers with their lights on the Defendant. He was the only person the alleged victim was asked to identify and the only black male on the scene.

Respectfully submitted:

The Defendant,

By his Attorney,


George E. Murphy, Jr.
149 Cambridge Street
Cambridge, MA 02141

(617) 876-6780



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
DOCKET NO. 96-504-001-008

COMMONWEALTH

V.

JERRY DIXON

NOTICE OF DISCOVERY II

Now comes the Commonwealth and respectfully provides the following discovery materials to counsel for the defendant by this day serving them on Attorney Stephanie Page in hand.

1. Grand Jury Minutes, dated 3/21/96 (33 pages); and
2. State Police Crime Lab results of Chemist Paul J. Zambella, dated 3/26/96 (3 pages).

Respectfully Submitted
For the Commonwealth,
THOMAS F. REILLY
DISTRICT ATTORNEY

Megan Storing

Megan Storing
Assistant District Attorney
Middlesex Superior Court
40 Thorndike Street
Cambridge, MA 02141
Tel: (617) 494-4602

Dated: April 12, 1996

#16 R.201

1440, April 12 Filed in Court

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
09/17/1996	Continued until 10/30/96 for trial		
09/17/1996	Rule 36 Waived		
09/17/1996	Reporter present Warren Greenlaw		
09/17/1996	Motion by Deft To Advance And Continue Filed	53	
09/17/1996	Motion (P#63) allowed (Bassard,J)		
10/30/1996	Case sent to 12A Trial		
10/30/1996	Reporter present Came Mathieu		
10/31/1996	Continued until 12/09/96 Trial		
11/07/1996	Appearance of Def't's Atty: Megan Storming for ADA Yannetti, filed in court		
12/02/1996	Case sent from 12A to 6A		
12/02/1996	Continued until 01/21/96 Trial		
12/10/1996	Pro Se Motion by Deft To Dismiss Indictment	54	
12/16/1996	Motion by Deft To Dismiss Indictment	55	
01/21/1997	Held for Trial		
01/31/1997	Continued until 2/6/97 for Bail Hearing		
01/31/1997	Writ of Habeas Corpus Issued To (custody for 2/6/97	56	
02/06/1997	Continued until 02/11/97 Bail Hrg		
02/11/1997	Bail set after hearing \$50,000 surety or \$5,000 cash (Charles M Grabau, Justice)		
02/11/1997	Mittimus issued not recognizing indictments		
02/11/1997	Bail warning read in open court		
02/11/1997	Continued until 3/25/97 for trial - Defendant remanded		
02/13/1997	Letter Received From Defendant	57	
02/13/1997	Motion (P#57) Treated As Motion For Reconsideration And Denied By The Court (Charles M Grabau, Justice)		
02/24/1997	Mittimus not Recog _Indictments returned with service	58	
03/25/1997	Motion (P#57) denied after hearing Case to follow case now on trial (Stephen E Noel, Justice)		
03/25/1997	Continued until 3/25/97 for trial Deft remanded		
03/25/1997	Reporter present Mary Carlton		
03/27/1997	Appearance of Def't's Atty Chaimcey Wood		
03/28/1997	Waiver of trial by jury Filed In Court	59	
03/28/1997	001 Plea of not guilty changed to guilty, as to so much of Indictment as alleges NON-Aggravated Rape		
03/28/1997	RE offense 1* Guilty plea to lesser offs		
03/28/1997	RE offense 2 Filed (no plea change)		
03/28/1997	Sentence imposed Offense 001 MCI Cedar Junction for a term not exceeding 2-1/2 years or less than 2-1/2 yrs 1 day The Court having deemed Time Served Deft having been in custody 634 days (Stephen E Noel, Justice)		
03/28/1997	Notified of right of appeal under Rule 65 (Appeals Court)		
03/28/1997	Commonwealth waives victim witness assessment		
03/28/1997	Reporter present Mary Carlton		
06/14/2000	Motion by Deft For free a transcript		

22 R.202 60

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CRO2366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

DEF'S.MOTION TO SUBPOENA COMMONWEALTH WITNESS

FILED
IN THE OFFICE OF THE
CLERK OF COURTS
FOR THE COUNTY OF MIDDLESEX

MAY 12 2025

CLERK

The Defendant, Stanley Donald, requests this Court to issue a subpoena requiring the Commonwealth to produce its witness, Jeffrey M. Hall, at the next scheduled hearing on June 2, 2025, 12:00pm noontime, since witness testified relevant to the ATM bank photo where now it has been discovered that the witness committed perjury and represented the defendant in a lawsuit settlement agreement regarding the 1994 mistaken identity rape case, and the defendant attaches his Affidavit with Exhibits in support of this matter.

Respectfully Submitted
By Defendant,

Stanley Donald
Stanley Donald
MCI-Norfolk#W66438
P.O BOX 43
Norfolk, Mass 02056

Dated: MAY 10/2025

[PROOF OF SERVICE]

I, hereby certify that a copy of same was served upon ADA Hallie White Speight, Middlesex District Attorney Office, 15 Commonwealth Ave#300, Woburn, Mass 01801, by first class mail, postage prepaid.

R.203

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
Docket#9781CR02366

Commonwealth Of Massachusetts

Vs.

Stanley Donald

[AFFIDAVIT OF STANLEY DONALD]

Under Oath, I, Stanley Donald, depose:

1.] I discovered a Commonwealth witness Jeffrey M. Hall who testified regarding the ATM bank photo committed perjury.

2.] The Witness Jeffrey M. Hall testified he is "employed at Educators Publishing Service" which is at 31 Smith Place, Cambridge. (Exhibit "A")

3.] However, after trial, on November 11, 2005, the witness Jeffrey M. Hall submitted an affidavit in a civil case which states he does not work at Educators Publishing Service, 31 Smith Place, Cambridge. (Exhibit "B")

4.] This witness Jeffrey M. Hall committed this perjury to hide that he knew the ATM bank photo was me Stanley Donald using my own Bank of Boston ATM bank card where he directly deposited my paycheck into my Bank of Boston bank account.

5.] Also, the jury was never told the Commonwealth Witness, Jeffrey M. Hall, represented me in the lawsuit for the 1994 mistaken identity rape case where the witness notarized the legal settlement agreement. (Exhibit "D")

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

May 10/2025
Dated

Stanley Donald
Stanley Donald, pro-se

(R. 204)

1 Your Honor.

2 THE COURT: Why don't you move it
3 about one foot to the right -- to your right,
4 sir.

5 JEFFREY HALL, SWORN

6 MR. YANNETTI: Mr. Yannetti, you may
7 proceed.

8 MR. YANNETTI: Thank you, Your Honor.

9 DIRECT EXAMINATION BY MR. YANNETTI:

10 Q. Good morning, sir.

11 A. Good morning.

12 Q. In a good, loud voice would you please state your
13 name and spell your last name.

14 A. Jeffrey Hall, H-a-l-l.

15 Q. And, Mr. Hall, do you work?

16 A. Yes.

17 Q. And where do you work?

18 A. I'm employed at Educators' Publishing Service.

19 Q. What is Educators' Publishing Service?

20 A. It's a publishing company. We publish books and
21 workbooks.

22 Q. And what is your position at that employment?

23 A. I'm the President.

24 Q. What does it mean to be the President?

R.205

"A"

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
CIVIL ACTION NO. 05-3233-H

STANLEY DONALD,
Plaintiff,

v.

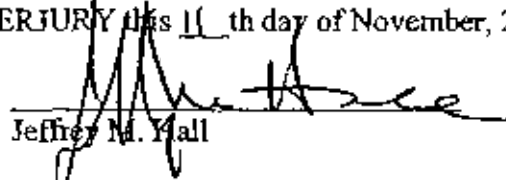
JEFFREY M. HALL,
Defendant.

AFFIDAVIT OF JEFFREY M. HALL

I, Jeffrey M. Hall, hereby depose and state that I have personal knowledge of the following facts:

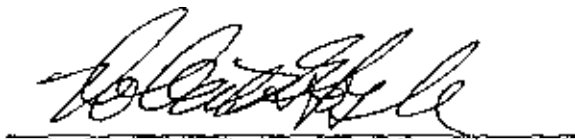
1. Educators Publishing Service ("EPS") does not maintain any office at 31 Smith Place, Cambridge, Massachusetts.
2. I do not work or maintain an office at 31 Smith Place, Cambridge, Massachusetts.
3. I do not reside at 31 Smith Place, Cambridge, Massachusetts.

SIGNED UNDER THE PENALTIES OF PERJURY this 11th day of November, 2005.


Jeffrey M. Hall

CERTIFICATE OF SERVICE

I hereby certify that on this date I served a true copy of the foregoing document on plaintiff Stanley Donald, pro se, by certified mail.


Robert B. Foster

Dated: November 14, 2005

R.206

"B"

Hall & Stewart - Exch PI - Bsn
Dolan Parker & Cohen - Cn
Hall Fahnberg PC - 10 High
nah LLP - 225 Franklin - Bsn
Dunne, LLP - 311 Main
Portland, ME 04103
lacking H&L, LLP - 5 Beacon
Hall & Stewart - Exch PI - Bsn
d Reynolds Passport &
hen 02539 Fx 827-3088
passport & Kaplan - 100 Cook
888
achanic CJ&H, LLP - 220 N
Bristol, RI 02808
n FG&P, PC - 1 Fnd Cir - Bsn
andall Sq - Cnbdg 02138
e State M&F, LLP - 1 Beacon
ool - 765 Commonwealth Av - Bsn
ardson, PC - 1 Exch PI - Wro
LLP - Exch PI - Bsn 02109
P - 155 Seaport Blvd - Bsn
dham, LLP - 75 State - Bsn
ter LLP - Exch PI - Bsn 02109
1 - N Quincy 02171
mond, VT 05477 Fx 434-3668
& Associates, PC - 251 South
0
d - Dedham 02026
eCoopers LLP - 1 PO Sq - Bsn
Inchdown 02129
& Mj - One Monarch Pl
Natch 01760 Fx 628-3622
vin 02466
er - 199 State - Bsn 02108
D&L, LLP - 100 Front - Wro
E 04402 Fx 996-1801
ass + Green - 1000 Elm
27-6121
McK B&L LLP - 1 Fnd Cir - Bsn
Pabian, LLP - 265 Franklin
46 Little Compton, RI 02831
LLP - 2800 Fnd Plz - Prov, RI
- Salem 01970 Fx 741-4971
uel Rameil Blvd - New Bedford
Vaynd 01778
J - 889 Elm - Manchester, NH
- Lmpin 02421 Fx 661-2612
taika Pln 02130
tham Law Ofc - 25 Newport
nghtn 01701 Fx 879-7015
ape Elizabeth, ME 04107
sek Ad, VT 05452
x 01240 Fx 837-0801
th 02110 Fx 482-3003
Is Univ - 415 South
5 Sam Fanzo Dr - Beverly
45 Sch - Bsn 02108
Ofc - 20 Vine - Franklin
Strong, LLP - 1 Bowdoin Sq
Main - Cnbdg 02142
LP - 55 Griffin Rd S
r - Bsn 02109
h Pl - Bsn 02114
n 01901 Fx 596-3938
102 - W Chatham 02869

Haggerty, Chas M '02 - 178 W Main - Westbrook 01581
Haggerty, Jeffrey J '90 - 372 Granite Av - Milton 02188 Fx 888-3804
Haggerty, John T '94 (Goodwin Procter LLP) - Exch PI - Bsn 02109
Fx 523-1231
Haggerty, John T '98 - 1 Thompson Sq Bx14 - Charlestown 02129
Haggerty, Jos M '70 - 167 Mx - Bsn 02109
Haggerty, Kathleen M '97 %Stanton & Long - 200 Bway Bx1080
- Lynnfield 01940 Fx 535-8854
Haglund, Kelly L '98 %Thompson & Thomson - 500 Victory Rd - N
Quincy 02171
Hagopian, Asadorian, Melane '82 %The A&S - 101 Arch - Bsn
02110
Hagopian, Michl R '87 - 212 Greenwich Av - Warwick, RI 02886
Hagopian, Robert W '71 - Bx282 - Belmont 02478 Fx 275-2731
Hague, Bruce N '92 (Hague Sahady & Co, PC) - 126 Prndal Av - Fnd
Rvr 02720 Fx 676-7859
Hague, Kurt W '98 %Goulston & Stone, PC - 400 All Av - Bsn 02110
FL 574-4112
Hague, Paige Stover '90 %Klaus Dymprnt - 1359 Centre - Newfn
02459
Hague Sahady & Co, PC - 126 Prndal Av - Fnd Rvr 02720
Fx 675-7859
Hahney, Paul F '01 - 14 Emery Rd - Townsend 01469
Hahn, C Alex '96 %Scobell & Whitley, LLP - 45 Sch - Bsn 02108
Fx 722-6003
Hahn, Cynthia Ann '94 %FleetBoston Fnd - 100 Fed - Bsn 02110
Fx 434-7860
Hahn, Edw L '77 (Murtha Collins LLP) - 99 High - Bsn 02110
Fx 482-3668
Hahn, James H '78 (Partridge Snow & Hahn LLP) - 180 S Main
- Prov, RI 02903 Fx 961-8210
Hahn & Markov - 101 Tremont - Bsn 02108 Fx 482-4388
Hahn, Rochelle '87 %Leg Adm & Race Ctr - 187 Fnd - Bsn
02114 Fx 371-1188
Hahn, Tanya Annas '02 - 12 Fairway Vw Ln - Norton 02766
Hahn, Wm A '81 (Hahn & Markov) - 101 Tremont - Bsn 02108
Fx 482-4388
Hahn, Wm L '97 - 9 Edgohill Dr - Woodbridge, CT 06525
Hal, M L '89 - 8 Highland Av - Longon 02421
Hal, Bonnie E '02 - 1240 Mass Av - N Adams 01247 Fx 684-9805
Halagazian, Rosemary '77 - Vineyard Haven Rd Bx1090 - Edgartown
02539 Fx 627-7611
Haligh, Jeffery D '99 %Brand & Associates - 572 Wshgtn - Walsley
02482 Fx 431-7844
Haligh, Barry M '93 Ofcsl Richard S Fagone & Associates - 7
Cabot Pl - Sloughon 02972
Haligh, Canon L '00 - 89 Myrie - Bsn 02114
Haligh, Gen L '98 %Menz Levin Cohn FG&P, PC - 1 Fnd Cir - Bsn
02111 Fx 542-2241
Haligh, George F '89 (Lawson & Veltzon, LLP) - 88 Black Falcon Av
- Bsn 02210 Fx 439-3987
Haligh, Hans R '77 - 225 Friend - Bsn 02114 Fx 720-6012
Haligh, Rosalie '78 Cnsl John Hancock Fnd Svcs - Hancock Pl
Bx111 - Bsn 02117 Fx 572-5859
Halims, Howard J '98 - 169 Oakwood Av - W Htrd, CT 06118
Halim, Rebekah Bogachev '92 - Bx108 - Swampscott 01907
Halim, Dallas W '83 - 40 Main - Amesbury 01913 Fx 388-1135
Halim, Daniel H '94 %Gonzalez - 1 Kendall Sq - Cnbdg 02138
Fx 252-7553
Halim, Gerard M '90 Cnsl Applied Extrusion Tech - 3 Centennial -
Peabody 01960 Fx 538-1507
Halim, Holly B '01 - 24 Quincy Way - Manchester, NH 03104
Halim, James B '90 %Putnam Investments - 1 PO Sq - Bsn 02109
Fx 292-1825
Halim, Lisa Bonner '97 (Hale and Dorr LLP) - 1100 Winter
- Waltham 02451 Fx 968-2100
Halim, Richard S '71 (Halim & Yost) - 214 Wshgtn Bx1117 - Toms
Rvr, NJ 08754 Fx 240-4830
Halim, Christopher '98 - 1400A June - Wroslr 01802
Halim, Susan Tamar '81 - 53 Border Rd - Needham 02492
Halim, George S '98 - 6 Scarlett Cir - Bradford 01835
Halim, James G '99 - 281 Cntrl - Lawrence 01840 Fx 681-6550
Halim, Jean '82 - 30 Heather Dr - Cohasset 02025
Halim, Paul S '82 - 55 Elm - Quincy 02169 Fx 472-7575
Halim, S John '91 - 21 McGrath Hwy - Quincy 02169 Fx 328-6504
Halim, Wm A '71 %IRS - 380 Wshgtnr Mnt - Prov, RI 02903
Halim, Harold H '74 - 15 Court Sq - Bsn 02108 Fx 742-8636
Halim, Carl '93 %LCP - 174 Hayden Rowe - Hopkinton
01748
Hale, Theresa Gholioy '83 - Bx876 - E Longmdw 01028
Hale, Gregory S '95 - 58 Central Sq - Cheshire 01824
Fx 244-0446
Hale, Monica '78 %GBLS - 187 Friend - Bsn 02114 Fx 371-1222
Hale, Paul '81 AS Energy Marketing - 95 Sawyer Rd - Waltham
02453 Fx 908-2299
Hale, Benjamin S '92 - 55 Omsberry - Bsn 02215
Hale, Melissa R '02 %Ropes & Gray LLP - 1 Ind Pl - Bsn 02110
Fx 951-7050
Hale, Lucy M '99 %Hogan Roache & Malone - 66 Long Wth - Bsn
02140 Fx 387-0172
Hale, Laurie M '94 - Bx969 - North Amherst 01069
Hale, Lisa L '87 %Fogel Fogel Gerard & Ghazey - 78 Main
- Northampton 01060 Fx 582-1233
Hale and Dorr LLP - 60 State - Bsn 02109 Fx 526-5000
Hale and Dorr LLP - 1100 Winter - Waltham 02451 Fx 966-2100
Hale, Douglas A '70 %Insurance - 1 South Station - Bsn 02110
Fx 521-7770
Hale, Edw E Jr '02 %Hale and Dorr LLP - 60 State - Bsn 02109
Fx 526-5000
Hale & Felich - 42 Amsway Rd - Belmont 02478 Fx 484-3419
Hale, Gregory A '85 Cnsl National Gen USA - 25 Rsrch Dr - Westboro
01581 Fx 383-3518

(568) 666-2900 - Hale, Laver L '74 - 300 Tremont - Carver 02330 Fx 866-2997
Hale, Norman A '85 - 64 Farniv Dr - Cumberland, RI 02864
(617) 238-0407 - Hale, Robt H '75 (Palmer & Dodge LLP) - 111 Hurling Av Pru Cr
- Bsn 02199 Fx 227-4420
Hale, Robt J Jr '95 - 22 Cooley - Agawam 01001
(617) 670-1252 - Hale, Robt M '83 (Goodwin Procter LLP) - Exch PI - Bsn 02109
Fx 523-1231
(617) 484-3416 - Hale, Trude J '96 (Hale & Felich) - 42 Audry Rd - Belmont 02478
Fx 484-3419
(781) 235-4655 - Halem, Samantha '01 %Mary L Marshall & Associates - 37 Walnut
- Wshley 02461 Fx 235-9083
(781) 963-0123 - Halem, Susan J Cole '85 Stokor & F, PC - Bx596 - Bodnd 01730
Fx 863-0737
(617) 343-3395 - Haley, Myron R '79 Cnsl Boston Fire Dept - 115 Southampton - Bsn
02118 Fx 343-3604
(978) 602-2373 - Haley, Arthur F '82 %District Court - 108 Matthews - Gardner
01440
(617) 670-1284 - Haley, David P '02 %Goodwin Procter LLP - Exch PI - Bsn 02109
Fx 523-1231
(978) 741-7877 - Haley, Douglas H '86 - 43 Turner - Salem 01870
Haley, Jacqueline Holmes '86 - 55 Cassandra - E Weymouth 02189
Haley, Jos W '63 (Goodwin Procter LLP) - Exch PI - Bsn 02109
Fx 523-1231
(617) 585-2199 - Haley, Karen M '98 %US HCF - 2375 JFK Fnd - Bsn 02203
(617) 384-5481 - Haley, Lla Mor '98 Harvard Sch of Pub Health, HSC - 1813 Tremont
- Bsn 02120 Fx 384-5484
(617) 965-3500 - Haley, Maureen A '97 %Schlesinger and B, LLP - 1209 Walnut
- Newin 02461 Fx 965-6824
(603) 478-7878 - Haley, Paul J '77 - 460 W Main Bx1968 - Hillsboro, NH 03244
Fx 478-5028
(617) 330-5845 - Haley, Paul R '88 Leiman Brothers - 280 Franklin - Bsn 02110
Fx 330-5833
(617) 261-0100 - Haley, Peter J '85 (Gordon Haley LLP) - 101 Fed - Bsn 02110
Fx 261-0789
(781) 649-2933 - Haley, Pierce J '85 (Kelly & Haley, LLP) - 300 Granite - Brainree
02184 Fx 249-2937
(617) 254-4400 - Haley, Richard M '88 (Bloom & Buell) - 1340 Side Fld Rd - Bsn 02135
Fx 254-7810
(617) 288-8842 - Halffeld, Gerald W '87 - 71 Adams - Milton 02186 Fx 288-3761
(617) 523-4550 - Halfford, Robt L '61 OHA-SSA - One Bowdoin Sq - Bsn 02114
Fx 248-0978
Haliketa, Kristen A '98 - 22 Edison Av - Medford 02155
Hall, Allison Johnston '99 Federal Sci Cap Ptnrs - 75 Fed - Bsn
02110
(617) 513-8886 - Hall, Antoinette L '94 - Bx1254 - Jamaica Pln 02130
Hall, Benjamin M '95 - Bx450 - Ashfd 01330
(508) 627-3700 - Hall, Benjamin Lambert Jr '86 (Benjamin Lambert Hall Jr, PC) - 45
Main Bx5155 - Edgartown 02539
Hall, Caroline G '81 - 14 Squanto Rd - Peabody 01960
Hall, Christopher '97 - 148 Bway - Wroslr 02474
Hall, Claire Kane '00 - 55 Sunset Blvd - Merrimack, RI 02882
(781) 595-3730 - Hall, David S '98 - 58 Redington - Swampscott 01907 Fx 593-9541
(617) 557-9710 - Hall, Deborah J '82 Ofcsl Hemenway & Barnes - 60 State - Bsn
02109 Fx 227-0781
(978) 250-8877 - Hall, Finnegan Ahern & Deschenes, PC - 1 Bellenza Rd
- Cheshire 01824 Fx 250-0057
(617) 252-6575 - Hall, George A Jr '85 (Anderson & Kreger LLP) - 43 Thorndike
- Cnbdg 02141 Fx 252-8899
(617) 523-3078 - Hall, Gregory M '00 %Hearings & Apple-SSA - One Bowdoin Sq
- Bsn 02114
(617) 679-6500 - Hall, Heather '01 %DA - 40 Thorndike - Cnbdg 02141
(617) 951-7000 - Hall, Henry L Jr '63 Ofcsl Ropes & Gray LLP - 1 Ind Pl - Bsn
02110 Fx 951-7050
(978) 250-8877 - Hall, Howard J '69 (Hall Finnegan Ahern & D, PC) - 1 Bellenza Rd
- Cheshire 01824 Fx 260-0057
Hall, Jacqueline M '95 - 12 York Av - Waltham 02472
(978) 250-4255 - Hall, James A '71 (Qua Hall Harvey & Walsh) - 25 Fletcher
- Cheshire 01824 Fx 244-1452
(617) 348-4968 - Hall, James C '02 %Menz Levin Cohn FG&P, PC - 1 Fnd Cir - Bsn
02111 Fx 542-2241
(617) 625-0708 - Hall, James O '74 - 403 Highland Av - Smyd 02144 Fx 666-2720
(978) 250-4255 - Hall, James P '97 %Qua Hall Harvey & Walsh - 25 Fletcher
- Cheshire 01824 Fx 244-1452
(978) 371-0328 - Hall, Jan Tor - 84 - Bx588 - Carlisle 01741
(203) 579-5881 - Hall, Janet C '73 %US District Ct - 915 Lafayette - Bridgeport, CT 06604
(413) 443-5551 - Hall, Jodi L '87 %DA - 2 North Bx1969 - Merrimack 02102 Fx 489-8343
(617) 647-8708 - Hall, Jeffrey M '92 Cnsl Educators Pub Svcs - 31 Smith Pl - Cnbdg
02138 Fx 547-0412
(617) 523-6900 - Hall, Jos M '02 Rossmore & Associates - 1 Carter Plz - Bsn 02108
Fx 227-8888
(401) 649-6363 - Hall, Jos McLean '97 %Hall & Assoc - 15 Old Beach Rd - Newport,
RI 02840
(617) 238-0136 - Hall, Laurie J '86 (Palmer & Dodge LLP) - 111 Hurling Av Pru Cr
- Bsn 02199 Fx 227-4420
(603) 673-8323 - Hall, Margaret Cunnane '78 - 37 High - Milford, NH 03055
Fx 672-2348
(617) 951-7000 - Hall, Martin '88 (Ropes & Gray LLP) - 1 Ind Pl - Bsn 02110
Fx 951-7050
Hall, Matthew S '93 %H&S&N - 573 S Main Bx724 - Cheshire, CT
06410 Fx 272-9854
Hall, Mendi F '80 - 16 Chenikea Av - Nashua, NH 03062
Hall, Michl '82 - Bx4021 - Tibury 02568
(508) 675-7894 - Hall, Michele L Pearson '88 %Peter G Collins Law Ofc - 84 N Main
Bx2519 - Fnd Rvr 02722 Fx 878-2668
(978) 499-7111 - Hall, Nancy L '82 - 102 State - Newburyport 01850 Fx 499-7177
(781) 721-6100 - Hall, Patrick C '81 (Hall & Sullivan) - 600 Main - Wroslr 01890
Fx 721-0293
(617) 287-1185 - Hall, Rakesh D '89 %DA - One Bulfinch Pl - Bsn 02114
Fx 282-2282
Hall, Ross F S '96 - Bx872 - Hingham 02043
Hall, Russell J Jr '82 - 57 Holy Hills Ln - Saunderstown, RI 02874
Hall, Sarah Kent '86 %Smith ES&O, PA - 199 Main Bx1179 - Saco,
ME 04072 Fx 283-4412

R 207

C

Sch 3
7/1/97

GENERAL RELEASE
AND
INDEMNIFICATION AGREEMENT
IN SETTLEMENT OF CLAIM

For and in consideration of the sum of Eight Hundred Dollars (\$800.00) paid to me by the City of Cambridge, the sufficiency and receipt of which is hereby acknowledged, I, Stanley L. Donald, of 5 Norwell Street, #3, Dorchester, Massachusetts 02121, do hereby, on behalf of myself, my children, assignees, successors, heirs, grantees, attorneys and agents (hereinafter the "Releasor") hereby remise, release and forever discharge the City of Cambridge, the Cambridge Police Department and William H. Phillips, Jr., their employees, agents, attorneys, officials and residents (hereinafter the "Releasees") and each of them from all debts, demands, actions, causes of action, judgments, sums of money, liabilities and any and all claims of every kind, nature and description whatsoever, both in law and equity, or otherwise which the Releasor now has, ever has had or ever could have against the Releasees, from the beginning of the world and through this date, including but not limited to all claims, allegations, assertions, and/or demands which were asserted or could have been asserted by the Releasor in the case of Stanley L. Donald v. City of Cambridge, et al., Middlesex County Superior Court Department Civil Action No. 94-04001D. The Releasor expressly acknowledges that this is a General Release and Indemnification Agreement of all outstanding and potential claims against the Releasees.

Stanley Donald expressly warrants, covenants and agrees that (1) he shall never communicate or attempt to communicate with Luz

R.208

Clarke either in person, by telephone, in writing or otherwise, either directly or indirectly or through someone else; and (2) he shall forever stay at least fifty yards from Luz Clarke; and (3) he shall never harm, threaten or attempt to harm Luz Clarke.

Stanley Donald expressly warrants, covenants and agrees that (1) he shall never communicate or attempt to communicate with Marylin Viruet either in person, by telephone, in writing or otherwise, either directly or indirectly or through someone else; and (2) he shall forever stay at least fifty yards from Marylin Viruet; and (3) he shall never harm, threaten or attempt to harm Marylin Viruet.

The Releasor expressly acknowledges that he is releasing the Releasees and each of them from all claims, whether known or unknown; that the Releasor has not been induced by any representations by the Releasees or each of them or others to enter into this release; the Releasor does so of his own free will; and that this release will remain in effect notwithstanding the discovery or existence of any additional fact or any facts different from those which the Releasor now knows or believes to be true.

It is further understood and agreed that Releasor shall not, directly or indirectly, take or initiate, authorize or assent to, or voluntarily cooperate with or assist in any way any third party or parties which may take or initiate, any action or actions of any nature whatsoever, which would derogate in any way from the effect of this General Release and Indemnification Agreement. Releasor

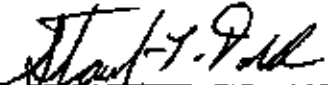
R.209

covenants, warrants, agrees and promises that he shall hereafter indemnify, defend and hold harmless the Releasees from and against any and all claims, demands, causes of action, damages, losses, costs and expenses, and explicitly waives any claim to attorney's fees, which Releasees may incur or for which they may become liable as a result of a breach by Releasor of the agreements herein set forth or any misrepresentation by Releasor.

The Releasor acknowledges that in entering into this settlement, the Releasees have not admitted liability, and to the contrary, Releasees expressly deny any wrongdoing whatsoever, and that the settlement, including the payment of which is in consideration for this release, was made solely to resolve a disputed claim and to avoid the inconvenience and expense of resolving the issues in court.

Invalidation of any one of the provisions herein by judgment or court order shall in no way affect any of the remaining provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Stanley L. Donald has caused this release to be executed as a sealed instrument this 30 day of June, 1997.



Stanley L. Donald

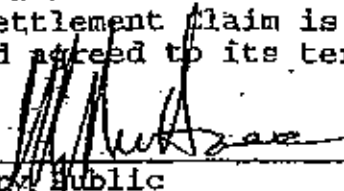
R.210

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

June 30, 1997

Then appeared before me the above-named Stanley L. Donald to me known, who made oath the execution of the within General Release and Indemnification Agreement in Settlement Claim is his free act and deed and that he understood and agreed to its terms.


Notary PublicMy commission expires: Feb 21, 2003

R.211

"D"

1997 W-2 and EARNINGS SUMMARY

This blue Earnings Summary section is included with your W-2 to help describe portions in more detail. The reverse side includes general information that you may also find helpful.

1. The following information reflects your final 1997 paystub plus any adjustments submitted by your employer.

Gross Pay	10819.91	Social Security Tax Withheld Box 4 of W-2	687.67	MA State Income Tax Box 18 of W-2 SUI/SDI Box 14 of W-2	445.30
Fed. Income Tax Withheld Box 2 of W-2	742.25	Medicare Tax Withheld Box 6 of W-2	156.15		

2. Your Gross Pay Was Adjusted as follows to produce your W-2 Statement.

	Wages, Tips, other Compensation Box 1 of W-2	Social Security Wages Box 3 of W-2	Medicare Wages Box 5 of W-2	MA State Wages, Tips, Etc. Box 17 of W-2
Gross Pay	10,819.91	10,819.91	10,819.91	10,819.91
Less Other Cafe 125	51.00	51.00	51.00	51.00
Reported W-2 Wages	10,768.91	10,768.91	10,768.91	10,768.91

3. Employee W-4 Profile To change your Employee W-4 Profile information, file a new W-4 with your payroll dept.

STANLEY DONALD
25 ALPINE
APT. #3
ROXBURY, MA 02119

Social Security Number 027-52-3472
 Taxable Marital Status SINGLE
 Exemptions/Allowances
 FEDERAL: 4
 STATE: 4

R.212

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
NO. 9781CR2366

COMMONWEALTH

v.

STANLEY DONALD

COMMONWEALTH'S MOTION TO CORRECT MARGINAL ENDORSEMENT AND
DOCKET ENTRY REGARDING PAPER #526

Now comes the Commonwealth and respectfully requests that this Court correct the marginal endorsement to paper #526, the defendant's "Motion to Subpoena Commonwealth Witness," and the attendant docket entry. As reason therefor, the Commonwealth states the following:

1. On or about May 12, 2025, the defendant filed this motion, requesting that the Commonwealth "produce its witness, Jeffrey M. Hall," to testify at a hearing on the defendant's motion for new trial. (Motion, attached as Exhibit A.)
2. This motion was discussed at some length during a hearing held on June 2, 2025, before Justice Patrick Haggan.
3. After exploring the reasons for the defendant's request, and after giving the defendant ample opportunity to explain how Mr. Hall's testimony would support his claim that justice was not done, Justice Haggan told the parties that he was denying the motion. (Transcript of June 2, 2025, hearing, pp. 16-17, attached as Exhibit B.)

R.213

#533

transcript it is clear to this court that the motion was denied, but the court erroneously endorsed it as "denied." The motion to correct the marginal endorsement on paper #526 is denied. The defendant's motion to subpoena Commonwealth witness (CH526) is denied. So ordered. Haggan J.

4. Notwithstanding this denial, Justice Haggan endorsed paper #526 "allowed." (Endorsed motion, attached as Exhibit C.) This appears to have been a mistake, as Justice Haggan had clearly stated on the record that he was denying the motion.
5. To the best of undersigned counsel's recollection, undersigned counsel never received a copy of the endorsement and so was not aware of the mistake.
6. On or about August 7, 2025, undersigned counsel received a letter from the defendant stating that the motion had been "allowed" and requesting that the Commonwealth "answer the subpoena." (Letter, attached as Exhibit D.)

Therefore, since the marginal endorsement is clearly mistaken, the Commonwealth requests that this Court correct the endorsement and the docket entry. Mass. R. Crim. P. 42. Cf. Commonwealth v. Williamson, 462 Mass. 676, 685 (2012) ("the oral pronouncement of a sentence generally controls over the written expression where there exists a 'material conflict' between the two").

Respectfully submitted
For the Commonwealth,

MARIAN T. RYAN



Hallie White Speight
BBO No. 667492
Assistant District Attorney
15 Commonwealth Avenue
Woburn, MA 01801
Tel: (781) 897-6841
hallie.speight@mass.gov

Date: August 18, 2025

2
R.214

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CRIMINAL ACTION
NO. 9781CR02366

COMMONWEALTH

vs.

STANLEY DONALD

**MEMORANDUM OF DECISION AND ORDER ON DEFENDANT'S
MOTION FOR A NEW TRIAL (and AMENDED MOTIONS FOR NEW TRIAL)
PURSUANT TO MASS. R. CRIM. P. 30 (Paper No. 455), AND AMENDED MOTION
FOR POST-CONVICTION RELIEF (Paper No. 500)**

On April 15, 1999, a Middlesex County jury found the defendant, Stanley Donald, guilty on all six charged indictments for the crimes of aggravated rape (two counts), unarmed robbery, kidnapping, carjacking, and assault and battery by means of a dangerous weapon. The defendant was sentenced by the court (Barton, J.) to multiple terms of incarceration in state prison including life in prison and forty to fifty years to be served concurrently. The convictions were affirmed on direct appeal in October of 2002. Presently before the court are the defendant's eighth¹ motion for a new trial pursuant to Mass. R. Crim. P. 30 and Amended Motion of Post-Conviction Relief (Paper No. 500). The court held multiple hearings on the motions,

¹As the defendant has filed numerous post-conviction motions (some by counsel and many as pro se) over the past twenty years with different framing and various actions by the court, it is difficult to state exactly how many Rule 30 motions for new trial have been filed and resolved by court action. The first motion for new trial was filed on April 20, 1999, which the court treated as a Rule 25(b) motion and denied. The second motion for new trial was filed on May 18, 1999. On June 7, 2000, the defendant filed a third motion for new trial. That motion was denied on January 29, 2001 (Grabau, J.) On May 21, 2003, the defendant filed what appeared to be a fourth motion for new trial. On November 4, 2003, the defendant filed a Rule 30(a) motion for release from unlawful restraint, which appeared to be a fifth motion for new trial. That motion was denied on January 20, 2005. On September 25, 2006, the defendant filed a sixth motion for new trial. That motion and related motions were denied on July 27, 2007. On appeal by the defendant, the Appeals Court affirmed the denial of those motions. Upon the defendant's appeal of this order, the SJC denied further appellate review. On October 11, 2011, the defendant filed a seventh motion for new trial. On January 17, 2012, the defendant filed a supplemental motion for new trial. That motion was denied on February 10, 2012.

R.215

supplemental pleadings to the motions, and on related discovery requests.² The court also offered to conduct an evidentiary hearing on certain claims of the defendant's motions. The defendant declined the opportunity to present testimony of relevant witnesses at an evidentiary hearing, but instead relied solely upon documentary evidence that he submitted as exhibits with his pleadings. After careful review of the parties' multiple written submissions and multiple oral arguments, as well as the documentary evidence presented by the defendant, for the following reasons, the defendant's motion for a new trial (Paper No. 455) and amended motion for post-conviction relief (Paper No. 500) are **DENIED**.

BACKGROUND

Relevant Procedural History Related to Latest Motion for New Trial

This case has a well-documented and lengthy procedural history of post-conviction motions for new trial and forensic testing, as well as appellate review of the same. The court will not re-state that procedural history, but finds the summary provided by the Commonwealth in its opposition (Paper No. 458, pp. 1-4) to be accurate. The court also adopts and incorporates by reference the factual background outlined by the Appeals Court in *Commonwealth v. Donald*, 56 Mass. App. Ct. 1102 (2002) (Memorandum and Order Pursuant to Rule 1:28), which is also included in the Commonwealth's opposition (Paper No. 458, pp.4-7).

The defendant filed the motion for new trial (Paper No. 455) now before the court on August 29, 2022. The Commonwealth filed its opposition on October 27, 2022. In this motion for new trial, the defendant raised five claims: (1) prosecutorial misconduct based on an

² This court held approximately ten separate hearings on the defendant's motions for post-conviction relief. Some of the hearings were held in person and others proceeded via Zoom. Many of those hearings were lengthy with extensive arguments from the parties. This court also repeatedly allowed the defendant to supplement his arguments with further written submissions.

R.216

allegation that trial prosecutor was wearing a visible firearm during trial; (2) the Commonwealth withheld *Brady* material related to an alleged third-party culprit, Jerry Dixon; (3) newly discovered evidence suggests the Commonwealth used forensic evidence from a different rape case deprived him of a fair trial; (4) misconduct by prosecutors in suppressing the defendant's access to SANE forms linking Jerry Dixon to the crimes; and (5) ineffective assistance of counsel for failing to conduct proper investigation.

In early 2023, the parties completed post-conviction testing forensic testing following related litigation and rulings by the SJC. On February 10, 2023, the defendant filed a renewed motion for discovery of sexual assault (SANE) nurse examination records (Paper No. 463). On March 21, 2024, following a hearing with argument, this court allowed the defendant's motion for discovery (Paper No. 463) and issued an order to Beth Israel Medical Center/Lahey for the records requested.³

On September 16, 2024, the defendant submitted a supplemental memorandum in support of his motion for new trial. In this pleading, the defendant cited the recent *Commonwealth v. Gaines*, 494 Mass. 525 (2024) decision by the SJC. Additionally, without any exhibit or supporting evidence, the defendant suggested that he obtained information from a lawsuit against the Watertown Police Department that the victim in this case selected Jerry Dixon's photo as the perpetrator⁴, and that Jerry Dixon was out of custody on the date of the crimes alleged in this case. This court held a hearing on the defendant's motions on October 23, 2024. At the

³ The court allowed this motion over the objection of the Commonwealth, and with knowledge that the same motion had previously been denied with that denial affirmed on appeal by the defendant.

⁴ Despite asserting the fact that the victim identified Jerry Dixon as her assailant, the defendant has never presented evidence to support this assertion.

3
R.217

defendant's request for post-conviction discovery during that hearing, the court issued an order for records from Bank of America.⁵

On October 29, 2024, the defendant filed an Amended Motion for Post-Conviction Relief (Paper No. 500). In that motion, the defendant essentially added a new ground to his previously filed motion for new trial. Citing the inability to locate⁶ the Beth Israel Hospital "rape kit protocol records," the defendant claims that these records contained exculpatory evidence that was withheld and destroyed/lost by the Commonwealth. Specifically, the defendant suggests that as an "example" provided of these records includes a "patient's report of incident," there would have been a statement by the victim that would have been exculpatory in her description of the assault and the assailant. On November 1, 2024, the defendant filed a supplemental memorandum in support of his amended motion for post-conviction relief. In this pleading, he again argued that the missing Beth Israel rape kit protocol records "would have provided crucial exculpatory evidence," and that the Commonwealth's failure to preserve that evidence warranted the granting of a new trial. On November 24, 2024, the Commonwealth filed an opposition to the amended motion for post-conviction relief addressing the "missing" Beth Israel records. On November 20, 2024, the defendant filed a response to the Commonwealth's opposition, with an affidavit and exhibits.

⁵ The defendant attempted to show that he had his own Bank of America account that he was accessing at the ATM where the evidence at trial established that he was using the ATM with the victim's bank card. Despite the requested order, Bank of America could not produce any of the requested records, and it is unclear if they ever existed.

⁶ The referenced "rape kit protocol records" have never been located, despite significant efforts by the Commonwealth to search for them. Pursuant to a response received by the court from Beth Israel Hospital, and representations by the Commonwealth, the so-called "rape kit protocol records" - specifically, "Form 1 and Form 2 - Record of Reported Sexual Assault" and "Patient's Report of Incident" for the victim's treatment and evidence collection could not be located twenty plus years after the convictions. It is unclear to this court if this record ever existed. Even if it did, in this court's view, it is complete speculation that it would contain exculpatory evidence

4
R.218

On November 22, 2024, this court held a lengthy hearing with extensive argument on the defendant's motion for new trial (Paper No. 455) and amended motion for post-conviction relief (Paper No. 500). At that hearing, this court essentially ruled from the bench that the only claim from the motion for new trial (Paper No. 455) that would be considered further is the defendant's claims related to the Commonwealth withholding exculpatory evidence related to potential third-party culprit Jerry Dixon. The court stated on the record and now states in writing that the remaining four grounds were without merit, failed to raise a substantial issue, or had already been advanced and denied or waived in prior post-conviction proceedings.⁷ As to the defendant's amended motion for post-conviction relief (Paper No. 500) related to the missing Beth Israel rape kit records, following exhaustive arguments of the parties, the court stated its intention to deny that motion. This court's stated ruling on this motion was based upon the conclusion that the defendant failed to sufficiently prove: (1) that the completed (filled out by the victim) record ever existed; (2) that the Commonwealth ever had these documents (if existing) in their possession or control; and (3) that even if the Commonwealth at some point had possession of the records at issue and lost them, the defendant failed to establish that the information contained in the records would have been exculpatory. Following this hearing, the court allowed the parties to file supplemental pleadings.

On January 8, 2025, the defendant filed a renewed memorandum in support of motion for new trial and to reconsider the amended motion for post-conviction relief (Paper No. 509). On that same date, the defendant also filed a motion to expand exhibits (Paper No. 510). The specific exhibit included is an affidavit of Attorney George Murphy providing a general

⁷ As reason therefore, the court agrees with the arguments advanced by the Commonwealth in its opposition. Furthermore, in the context of the assertion that the trial prosecutor displayed a gun, when this court inquired of the defendant if he had evidence to support his allegations, he failed to produce evidence beyond the self-serving statements in argument

5 R.219

description of Jerry Dixon as a black male and five feet and nine inches in height. Although not endorsing that motion, the court accepted that exhibit for what it purported to be. On January 8, 2025, the court received a letter of response from Beth Israel Lahey Health (Paper No. 496) to the previously issued court order. This letter confirmed that a thorough search was conducted, and any records related to the victim's SANE kit were turned over to the Foxboro Police Department on October 22, 1997. On February 10, 2025, the defendant filed "defendant's affidavit in support of paper entry #484" (Paper No. 514). Upon full consideration of the information (documents) submitted and the arguments made, the defendant's amended motion for post-conviction relief (Paper No. 500), and his motion to reconsider the initial denial of that motion (Paper No. 509) are both **DENIED**.

On February 24, 2025, the Commonwealth submitted Commonwealth's memorandum in response to court request for analysis of defendant's Brady claim regarding alleged third party culprit evidence (Paper No. 515). On March 3, 2025, the defendant filed a response to the Commonwealth's memorandum with exhibits (Paper No. 516) an affidavit of the defendant, and defendant's supplemental authority of U.S. Supreme Court (Paper No. 517). On March 17, 2025, the defendant filed "supplemental authority regarding third-party culprit evidence" (Paper No. 520). On March 28, 2025, the defendant filed a 2nd supplemental memorandum in support of paper entry #455 with exhibits (Paper No. 522).⁸ On April 22, 2025, the defendant filed a motion for findings of fact and ruling of law (Paper No. 525), including an affidavit where the defendant makes various assertions (Paper No. 524).

⁸ Also, in March, 2025, the defendant filed Defendant's Motion for New Sentencing Hearing (Paper No. 519) citing alleged misconduct/irregularities in another rape case conviction (958) CR0124) and requesting a new sentencing hearing on the case at bar.

6
R.220

On May 12, 2025, the defendant filed a motion to amend Paper #455 to order new trial (Paper No. 527). In this motion, he raised a new ground suggesting that the rape charges were indicted and tried in the wrong county. The court heard oral argument on this motion at the hearing on June 2, 2025. This claim lacks merit as it is a newly alleged ground not properly raised. The Commonwealth also represented that this issue was previously asserted and denied in a prior post-conviction motion filed by the defendant. Thus, the motion to amend the motion for new trial (Paper No. 527) on this ground is **DENIED**.

Also on May 12, 2025, the defendant filed a motion to subpoena Commonwealth Witness, Jeffrey M. Hall (Paper No. 526). In this motion, completely unrelated to the claims raised in the current motion for new trial, the defendant sought to explore his allegation that this witness perjured himself during his trial testimony. At the June 2, 2025 hearing with argument on the motions, the defendant unpersuasively claimed that this witness would provide testimony relevant to his claim of ineffective assistance of counsel by establishing that the defendant had a relevant bank account that should have been investigated. After extensive argument at the hearing, for reasons stated on the record, the motion (Paper No. 526) was **DENIED**.⁹

On May 16, 2025, the defendant sent a letter (Paper No. 528) to the court providing more allegedly newly discovered information relevant to Jerry Dixon. On May 30, 2026, the defendant filed another supplemental motion to amend Paper #455 post-conviction motion for new trial (Paper No. 529). In this pleading, the defendant supplemented his argument with information (affidavit of a Boston Police criminalist on Suffolk County case) essentially establishing that Jerry Dixon was a black male, 5'10" and 200 lbs. as of March 20, 1991.

⁹ After stating on the record that this motion is denied, this court mistakenly endorsed the motion as "ALLOWED." On August 18, 2025, the Commonwealth filed a motion to correct marginal endorsement and docket entry regarding Paper #526 (Paper No. 533). This court having listened to the FTR recording, it is clear that the motion was denied. Therefore, the Commonwealth's motion to correct the marginal endorsement was allowed.

7
R. 221

As stated above, on June 2, 2025, this court heard a further full argument from the parties on the defendant's allegation of newly discovered exculpatory evidence related to Jerry Dixon. At the beginning of this hearing, the court again stated that based upon the numerous hearings and prior arguments before the court, the only remaining ground of the pending motions for new trial being considered by this court was the so-called Jerry Dixon third-party culprit information. All of the other claims of Paper No. 455 and Paper No. 500 did not raise substantial issues sufficient to grant a motion for new trial.

On June 6, 2025, the defendant filed a motion to expand exhibits to include letter to SJC (Paper No. 531). The attached handwritten letter dated December 19, 1998 was purportedly sent by the defendant to the SJC essentially expressing his displeasure with his attorney at the time for failing to provide certain documents. On August 6, 2025, the defendant filed a citation of supplemental authority, pointing the court's attention to the case of *Commonwealth v. Goparian*, 496 Mass. 348 (2025) (Paper No. 534). On August 26, 2025, the defendant filed a memorandum in support of supplemental authority (Paper No. 535).

Lastly, on November 26, 2025, the defendant copied this court on a letter to the Commonwealth's attorney requesting assent to conduct additional DNA testing.

DISCUSSION

I. Rule 30 Standard

A. General Principles

A judge may grant a new trial "at any time if it appears that justice may not have been done." Mass. R. Crim. P. 30(b). "A defendant bears the burden of proof on a motion for a new trial" (citation omitted). *Commonwealth v. Marinho*, 464 Mass. 115, 123 (2013).

8
R.222

While the granting of a new trial lies within the sound discretion of the judge, “that discretion is not boundless and absolute.” *Commonwealth v. Genius*, 402 Mass. 711, 714 (1988). “A strong policy of finality limits the grant of new trial motions to exceptional situations, and such motions should not be allowed lightly” (citation and internal quotations omitted). *Commonwealth v. Ubeira-Gonzalez*, 87 Mass. App. Ct. 37, 39-40 (2015). For this reason, “[j]udges are to apply the standard set forth in rule 30(b) rigorously and should only grant such a motion if the defendant comes forward with a credible reason which outweighs the risk of prejudice to the Commonwealth.” *Commonwealth v. Wheeler*, 52 Mass. App. Ct. 631, 635-636 (2001).

B. Specific Factors Relevant to the Defendant’s Motion for New Trial

1. Non-Disclosure of Exculpatory Evidence

A prosecutor bears a “constitutional obligation to disclose exculpatory information” as well as a “broad obligation under our rules to disclose any facts that would tend to exculpate the defendant or tend to diminish his or her culpability.” *Commonwealth v. Pope*, 489 Mass. 790, 798 (2022), quoting *Matter of a Grand Jury Investigation*, 485 Mass. 641, 649 (2020). “Where the government fails to comply with this duty to turn over exculpatory evidence to the defense, a convicted defendant may be entitled to a new trial.” *Commonwealth v. Caldwell*, 487 Mass. 370, 375 (2021). To obtain a new trial on the grounds that the Commonwealth failed to disclose certain exculpatory evidence, a defendant must show that: (1) at the time of the trial, the evidence was in the possession, custody, or control of the prosecutor or a person subject to the prosecutor’s control; (2) that the evidence is exculpatory; and (3) prejudice. *Pope*, 489 Mass. at 798. Inherent in applying this standard is that the information “was actually undisclosed” and is “newly discovered.” *Id.*

R.223

2. Newly Discovered Evidence

A defendant seeking a new trial on the ground of newly discovered evidence bears the burden of demonstrating that: (1) the evidence is in fact newly discovered; (2) the newly discovered evidence is credible and material; and (3) the newly discovered evidence “casts real doubt on the justice of the conviction, which entails a showing that it probably would have been a real factor in the jury’s deliberations” (quotations and citation omitted). *Commonwealth v. Drayton*, 473 Mass. 23, 31 (2015). In determining whether new evidence raises “real doubt” on the justice of a conviction, the court must consider several factors, including: (1) whether the newly discovered evidence is cumulative or different in kind from the evidence presented at trial; (2) whether there is a substantial risk that the jury would have reached a different conclusion had the evidence been admitted at trial; and (3) the strength of the case brought by the Commonwealth. *Commonwealth v. Cowels*, 470 Mass. 607, 616 (2015).

3. Ineffective Assistance of Counsel

“To prevail on a motion for a new trial claiming ineffective assistance of counsel, a defendant must show that there has been a ‘serious incompetency, inefficiency, or inattention of counsel—behavior of counsel falling measurably below that which might be expected from an ordinary fallible lawyer,’ and that counsel’s poor performance ‘likely deprived the defendant of an otherwise available, substantial ground of defence.’” *Commonwealth v. Millien*, 474 Mass. 417, 429-430 (2016), quoting *Commonwealth v. Saferian*, 366 Mass. 89, 96 (1974). Establishing error alone is not enough; the defendant is entitled to a new trial only if he demonstrates that counsel’s incompetence deprived him of a substantial ground of defense, or, stated differently, “that ‘better work might have accomplished something material for the defense’” (citation

10
R.224

omitted). *Commonwealth v. Ng*, 489 Mass. 242, 250 (2022). The burden is on the defendant to satisfy both prongs of the test. *Id.* at 249.

II. Defendant's Basis for New Trial

A. Alleged Non-Disclosed Evidence Related to Jerry Dixon

The defendant contends that he is entitled to a new trial because the Commonwealth possessed and withheld information implicating Jerry Dixon as a suspect in the crimes charged against the defendant. According to the defendant, because the police included Jerry Dixon's fingerprints for comparison along with the defendant and others, and placed Jerry Dixon's photograph in an array with the defendant, the Commonwealth considered Jerry Dixon to be a suspect in this case. In his filings and argument, the defendant also makes reference to the fact that in 1996 Jerry Dixon was arrested and charged with rape and other crimes, and was prosecuted by the Middlesex District Attorney's Office. Additionally, according to representations of the defendant and documents he attached to his motion, Jerry Dixon was not in custody at the time of the crimes in this case. For purposes of this motion, the court accepts as true that the Commonwealth had this information. However, as the Commonwealth asserts in its opposition (Paper No. 515), there is no information that there was a "joint investigation" of the case at bar and the 1996 rape prosecution against Jerry Dixon, nor was the same prosecutor of law enforcement agency (police department) leading the investigation.

B. Court Findings of Fact Related to Jerry Dixon

Based upon the defendant's failure to present any testimony in support of his motion, this court is limited as to making findings of fact. The relevant findings of fact are drawn from the unchallenged or unrefuted documents submitted by the defendant, and/or by assertions of the Commonwealth in written responses.

11 R.225

A witness at the trial of the defendant described a suspect observed near the scene of the kidnapping as a black male "walking in a limp manner" and as 5'10", medium build, and "not too dark, not too light." In 1996, Jerry Dixon was arrested by the Newton Police and charged with rape. On or about October 21, 1997, Jerry Dixon was released from custody, and was not incarcerated at the time of the rape committed in the case at bar. At that time, Jerry Dixon was described as a black male with a height of 5'10" and weight of 200 lbs. Jerry Dixon was prosecuted by the Middlesex District Attorney's Office for rape. Jerry Dixon's fingerprints were compared to unknown latent prints recovered from the victim's car in this case. The comparison did not result in a match, and those latent prints have not been identified. Jerry Dixon's photograph was included in a photo array shown to the victim in this case in which she made a partial identification of the defendant (victim stated the defendant "looked...very much like" her attacker). There is no evidence that the victim identified Jerry Dixon from the photo array as looking like the perpetrator. In the years following 1997, Jerry Dixon was linked by DNA to multiple rapes.

1. Disclosure

The defendant bears the burden of proving that the purportedly exculpatory evidence was not disclosed by the Commonwealth at the time of trial. *Pope*, 489 Mass. 790, 799 (2022). A defendant can meet this burden through circumstantial evidence. *Commonwealth v. Mazza*, 484 Mass. 539, 550 (2020). It is unclear from the submissions of the defendant what information was disclosed to his trial attorney. This court can infer that the defendant's attorney had the names of persons compared to latent prints recovered from the victim's car, and if requested, the names of persons (even "fillers") placed in the photo array shown to the victim. However, for purposes of this motion, the court will accept that additional specific information about Jerry

Dixon (that he was charged with an earlier rape, was out of custody at the time of this incident, and very generally fit a description provided by a witness of a suspect seen prior to the assault) was not disclosed to the defendant.

2. *Exculpation*

Even if the defendant can establish that the Commonwealth did not disclose the Jerry Dixon information, a new trial is not warranted, because the documents are not exculpatory. “Evidence is exculpatory if it ‘provides some significant aid to the defendant’s case, whether it furnishes corroboration of the defendant’s story, calls into question a material, although not indispensable, element of the prosecution’s version of the events, or challenges the credibility of a key prosecution witness.’” *Commonwealth v. Barry*, 481 Mass. 388, 399 (2019), quoting *Commonwealth v. Watkins*, 473 Mass. 222, 231 (2015). “Evidence which impeaches the credibility of a key prosecution witness is exculpatory for the defendant.” *Commonwealth v. Liebman*, 388 Mass. 483, 489 (1983). As it relates to alleged third-party culprit evidence, such evidence must not be remote or speculative. *Watkins*, 473 Mass. at 233-234.

The defendant’s reliance on the argument that Jerry Dixon matched the description of the assailant is misplaced. First, the description provided by the witness was extremely general. A black male, 5’10” and medium build is not a particularly unique description and likely fits a significant portion of the local population. Furthermore, the fact that Jerry Dixon was charged with rape in an unrelated incident and was out of custody, and thus had the “opportunity” to commit the crimes in this case, is not exculpatory without more substantial connecting links. Because the unproduced documents lack probative force and do not possess clear exculpatory value, they do not warrant the extraordinary remedy of a new trial.

13 R.227

3. *Prejudice*

Notwithstanding, the defendant also cannot show that he was prejudiced by the purported nondisclosure of information related to Jerry Dixon. When the failure to disclose exculpatory evidence is knowing and intentional or follows a specific request for the evidence at issue, the defendant is entitled to a more favorable standard, which is that he “need only demonstrate a substantial basis exists for claiming prejudice from the nondisclosure.” *Pope*, 489 Mass. at 801, quoting *Tucceri*, 412 Mass. 401, 407, 412 (1992). In evaluating prejudice, the court examines the record to determine whether it “can be confident” that, even if the prosecution supplied the evidence in a timely manner, it “would not have influenced the jury.” *Commonwealth v. Healy*, 438 Mass. 672, 680 (2003), quoting *Commonwealth v. Daye*, 411 Mass. 719, 729 (1992). The defendant bears the burden of establishing a substantial basis for prejudice. *Id.*

Here, the court concludes that the defendant is not entitled to the more favorable standard of establishing prejudice because he failed to establish the lack of disclosure was knowing and intentional. However, for purposes of this motion, even applying the prejudice standard, the defendant fails to establish prejudice.

A defendant may introduce third-party culprit evidence that tends to show another person committed the crime or had the motive, intent, and opportunity to do so. *Watkins*, 473 Mass. at 233. Such evidence “must have a rational tendency to prove the issue the defense raises, and it cannot be too remote or speculative” (alterations and citations omitted). *Commonwealth v. Scott*, 470 Mass. 320, 327 (2014). There also must be “other substantial connecting links” between the proffered third-party and the crime. *Watkins*, 473 Mass. at 234. Here, the defendant cannot show any substantial connecting link between Dixon and the crimes he was convicted of other than an extremely general description, involvement in other sexual assaults and that he was

not incarcerated at the time of the rapes. *See Commonwealth v. Rosa*, 422 Mass. 18, 22-25 (1996) (evidence of “look-alike” who could have committed charged crime was properly excluded where defendant established “only a few connecting links”). Furthermore, the relatively strong evidence presented at trial implicating the defendant contradicts his theory that the crime was committed by Jerry Dixon.

C. Newly Discovered Evidence Claim

A defendant seeking a new trial based on newly discovered evidence must establish, among other requirements, that the evidence is both credible and material. *Drayton*, 473 Mass. at 31. The defendant also must show that the purported new evidence would have been admissible. *Commonwealth v. Weichell*, 446 Mass. 785, 799 (2006).

Here, the court is not persuaded that the Jerry Dixon alleged third-party culprit evidence would have been admissible. As discussed above, the defendant fails to establish “substantial connecting links” of Jerry Dixon to the crime. For these reasons, the defendant has not met his burden of establishing that the proffered materials constitute newly discovered evidence warranting a new trial.

Additionally, to constitute newly discovered evidence, the defendant must show that the evidence was unknown to the defendant, or his counsel, and not reasonably discoverable by them at the time of trial, *see Drayton*, 473 Mass. at 39, or at an earlier motion for a new trial. *Commonwealth v. Ellis*, 475 Mass. 459, 472 (2016). Additionally, the defendant must show that “reasonable pretrial diligence would not have uncovered the evidence.” *Commonwealth v. Grace*, 397 Mass. 303, 306 (1986). The defendant has not made either showing.

As noted above, the defendant did not offer testimony from trial counsel, or the defendant’s private investigator (assuming there was one) as to what they knew at the time.

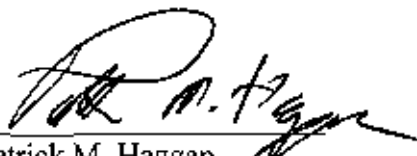
D. Ineffective Assistance of Counsel

The defendant also argues that trial counsel was ineffective because trial counsel failed to properly investigate the bank connection to determine that the defendant had his own Bank of Boston account that he was using when he purportedly used the victim's bank card, and failed to investigate that the defendant had two driver's licenses that would explain the recovery of his license from one of the crime scenes. Upon full review of the arguments made in the pleadings and at oral argument, and in consideration of the legal standard (stated above), the defendant's assertion of ineffective assistance of counsel is unpersuasive. Furthermore, ineffective assistance of counsel has been raised by the defendant repeatedly, and has been denied by both this court, and upon appellate review.

Accordingly, the defendant's motion for a new trial is **DENIED**.

ORDER

For the foregoing reasons, it is hereby **ORDERED** that the defendant's motion for new trial (Paper No. 455) and amended motion for post-conviction relief (Paper No. 500) are **DENIED**.


Patrick M. Haggan
Justice of the Superior Court

Date: February 25, 2026

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss

SUPERIOR COURT
CRIMINAL DIVISION
Docket #9781CR02366

FILED
IN THE OFFICE OF THE
CLERK OF COURTS
FOR THE COUNTY OF MIDDLESEX

MAR 02 2026

[Signature]
CLERK

Commonwealth

Vs.

Stanley Donald.

DEF.'S. NOTICE OF APPEAL

Pursuant to Mass.R.App.P.Rule 3, the Defendant,
Stanley Donald, hereby gives his notice of intent to
appeal the Court's Memorandum of Decision and Order
which denied his motions for new trial with Brady claim
and denial to subpoena witness (Paper Entrys #455; #500; #509;
and Paper Entrys #526; #527; #529) entered by the Court,
Judge Patrick M. Haggan, on February 25, 2026, presiding in
Middlesex County Superior Court in the above-matter.

Dated: *March 2nd/2026*

Respectfully Submitted
By Defendant,

Stanley Donald
Stanley Donald, pro-se
MCI-Norfolk #W66438
P.O. BOX 43
Norfolk, Mass 02056

[PROOF OF SERVICE]

I, Stanley Donald, pro-se, hereby certify
that a copy of same was served upon:
ADA Hallie Speight
Middlesex District Attorney Office
15 Commonwealth Avenue, Suite #300
Woburn, Mass 01801,
by first class mail, postage prepaid.

#5410

R. 231