

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
DAR NO. _____

APPEALS COURT
NO. 2022-P-0609

COMMONWEALTH OF MASSACHUSETTS

v.

TIMMY HUNT

**DEFENDANT'S APPLICATION FOR
DIRECT APPELLATE REVIEW**

Now comes the defendant in the above-entitled case and requests direct appellate review of his appeal pursuant to Mass. R. App. P. 11.

STATEMENT OF PRIOR PROCEEDINGS

On February 26, 2019, Timmy Hunt was arraigned in Suffolk Superior Court on charges of possession of a firearm, in violation of G.L. c. 269, § 10(a), armed career criminal, in violation of G.L. c. 269, § 10G(b), subsequent offense, in violation of G.L. c. 269, § 10(a), carrying a loaded firearm, in violation of G.L. c. 269, § 10(n),

and unlawful possession of ammunition, in violation of G.L. c. 269, § 10(h).¹ (RA 8,25-29).

On April 9, 2019 and June 26, 2019, to support an equal protection claim that the law enforcement actions in this case were the product of selective enforcement based on race, Daquan Dooley², a co-defendant, filed motions for discovery of any records and information that involved Officer Marc McBrien and Officer Christopher Dunn. (RA 30-35). On September 20, 2019, the court (Sullivan, J.) allowed this motion (as joined by Hunt and the other co-defendant, Tamari Tubbs). (RA 47, 51). On November 4, 2020, Hunt filed two motions to suppress, one related to unreasonable search and seizure and the other related to the violation of the Equal Protection Clause. (RA 109-138).

From February 8 to July 8, 2021, the court (Krupp, J.) held an evidentiary hearing on the suppression motions. (RA 18-21). On July

¹ The transcript of the motion to suppress is in five volumes and will be cited by volume and page number as follows: T I: __ (dated Feb. 8, 2021); T II: __ (dated April 26, 2021); T III: __ (dated May 3, 2021); T IV: __ (dated May 11, 2021); and T V: __ (dated July 8, 2021). The defendant's Record Appendix is cited as RA __.

² Mr. Dooley's appeal is also pending. See Commonwealth v. Dooley, Appeals No. 2022-P-1163.

8, 2021, the court denied the suppression motions with verbal findings. (T V:4-17). On January 26, 2022, Hunt tendered a guilty plea on count one, carrying a firearm without a license, second offense and count three, possession of ammunition without an FID card. (RA 22). On count one, the court sentenced him to five years in state prison and, on count three, a term of two years, to be served concurrently. (RA 22). Count two, carrying a loaded firearm, was dismissed by the Commonwealth. (Id.) Hunt, the Commonwealth, and the court agreed by way of written agreement that the plea was conditional, pursuant to Mass. R. Crim. P. 12(b)(6). (RA 321-322). That same day, Hunt filed his notice of appeal. (RA 323).

On June 27, 2022, the Appeals Court entered his appeal. Hunt filed his principal brief and record appendix on June 30, 2023. The Commonwealth's brief is currently due on August 4, 2023.

STATEMENT OF RELEVANT FACTS

I. Dr. Mary Fowler’s findings established that Officer Dunn and Officer McBrien, who stopped Hunt, had racially profiled Black people during their patrols in Roxbury.

Dr. Mary Fowler, a math professor and statistician, testified as to whether Boston Police Department (BPD) Officers Dunn and McBrien engaged in racial profiling in their stops of Black people and in their actions with respect to Black people. (T III:6; RA 223-224). Applying the same general methodology as she did as the defense expert in Commonwealth v. Long, 485 Mass. 711 (2020), she determined that they had. (T III:8-10; RA 247-248).

From Dunn’s and McBrien’s Field Interrogation and Observation (FIO) reports and Incident Reports (IR) reports, Dr. Fowler culled a total of 55 reports which involved discretionary police action. (T III:21-22). 78% of all individuals recorded in these FIOs and IRs were Black. (RA 228). 83% of all individuals recorded in their IRs and FIOs for Violation of Automobile Law (VAL) were Black. (RA 228). From this data, Dr. Fowler calculated a probability ratio of “the number of times more likely a Black person is to be recorded in a discretionary FIO or IR than a not Black person.” (RA 237). That probability ratio is 7.66-7.84 for all discretionary actions

and 10.14-10.38 for those with respect to VALs. (RA 240). When applying weighted averages, it is 3.56-3.63 for all discretionary actions and 4.70-4.80 for those with respect to VALs. (RA 240). No matter the available estimates of demographic distribution, such probability is “considerably greater” for a Black person than for a not Black person. (RA 242).

After reading Dr. Fowler’s report, the court concluded that “there is a likelihood that race played a role...And I do think it’s sufficient to shift the burden to [the Commonwealth] to demonstrate a non-racial reason for the police officers’ actions in this context.” (T I:54). The Commonwealth neither presented expert testimony nor submitted its own statistical analysis or expert report. The court did not find that the Commonwealth had contravened the statistical evidence, Dr. Fowler’s analysis, or her methodology.

II. Officer Dunn testified that nearly all of the people he encounters during his patrols with Officer McBrien are Black and they usually avoid areas with larger white populations.

Dunn and McBrien are BPD partners who, for approximately three years before this stop, worked the 11:45 pm – 7:30 am shift patrolling District 2 which covers all of Roxbury and some sections of Dorchester. (T I:8; T II:8,98). Although Dunn claimed that their

patrols were “pretty even” across neighborhoods in their district, Dunn also testified that they “spend the least amount of time in, like, Mission Hill.” (T II:16). Officers generally adverted to gang activity in the Mount Pleasant area. (T I:34-35; T II:61). Dunn testified that the Mount Pleasant gang consisted of “pretty close” to 100% young Black men. (T II:67).

Dunn testified that “Mass Ave and Melnea Cass is the biggest” area where people hang out and loiter. (T II:21). Other major loitering areas are the “Dudley Triangle, and then up Grove Hall area.” (Id.) He then testified: “I don’t see many white people in B2 on my shift. The Mass Ave area, which is, like, C4, C6, B2, kind of in a circle, there’s a large amount of white people down there. But as far as, like, the district and the radio calls, I would say it’s 80, 90% black, Hispanic.” (T II:21-22). After the court inquired for more clarification, the following exchange ensued with the prosecutor:

A I would say 95% of the people I interact with at work are black.

Q And would you say that the racial make-up of people you interact with you – so you know that the – that there’s a – there’s more white people in the Mass and Cass area, is that correct?

A Right. Yes.

Q Are there any other areas of area B2 that have a larger percentage of white population in your – what you’ve observed?

A I would say Mass and Cass – none of them are really from the city. They kind of come elsewhere and just loiter there. But Mission Hill is -- has a lot of the -- a lot of, like -- same thing, young people that aren’t from the city that, that move in. So it’s a large white population.

(T II:24). On cross-examination, Dunn testified: “I would say that 95% of the people I encounter during my shift are black. I know there’s people of other races that drive through the areas I work. But the people that I deal with on a nightly basis are mostly black.” (T II:68-69).

III. Given that it was a slow night during their patrol on November 26, 2018, Dunn decided to run a Kia’s license plate, knowing that the driver would probably be Black.

On November 26, 2018, while on directed patrol in the Mount Pleasant area, McBrien was the driver and Dunn was the front passenger in their marked cruiser. (T II:100). It had been a slow night with no 911, radio, or BOLO calls on their shift. (T I:22; T II:47). Unless there is a radio call, whenever they are on patrol, Dunn runs license plates “all night, just nonstop.” (T II:26). During any shift, they conduct traffic stops of an average number of eight cars. (T II:24-25). Based on the areas they target and his frequent encounters with

Black people, Dunn acknowledged that “it’s more likely than not that if we do a traffic stop, it’s usually a black operator on my shift.” (T II:69).

At around 2:30 a.m., Dunn and McBrien were at the Mount Pleasant and Dudley intersection. (T II:30,32-33). A Kia Optima was stopped across from them at the red light. (T II:33,39). While they were at the red light, Dunn ran the Kia’s license plate in the Criminal Justice Information Services (CJIS) system. (T II:33). Dunn had no “particular reason” for running this plate. (T II:33). Neither Dunn nor McBrien could see the occupants in the car due to the darkness of the hour and the Kia’s headlight beams. (T II:34,69-70,92,115-116).

The Kia turned on Blue Hill Ave. while McBrien drove in the opposition direction towards Harrison and Warren. (T II:33,70). Dunn then told McBrien to “loop around” because “that operator’s license is suspended” although Dunn did not know who was operating the Kia. (T II:33,35). The CJIS information was that the Kia was registered to Hunt and Hunt’s license was suspended. (T II:35). The stop and recovery of firearms followed.

STATEMENT OF THE ISSUE AND PRESERVATION

1. Where a defendant has established a reasonable inference of racial profiling in violation of the Equal Protection Clause, the Commonwealth rebuts that inference only after grappling with all reasonable inferences and all evidence that the defendant has presented. Here, the Commonwealth did not rebut Timmy Hunt's statistical evidence or neutrally explain the Boston Police Department's longstanding, disproportionate targeting of Black people. Must the evidence resulting from Officer Dunn's license plate query in a predominantly Black neighborhood be suppressed?

Mr. Hunt through counsel filed a motion to suppress arguing that the law enforcement actions including the license plate query violated the Equal Protection Clause of the Fourteenth Amendment and arts. 1 and 10 of the Declaration of Rights.

ARGUMENT

I. The Boston Police Department's racial targeting of Black neighborhoods, leading to the disproportionate surveillance of Black people, violated Hunt's Equal Protection rights when Officer Dunn conducted a suspicionless check of his license plate in a predominantly Black area.

When Officer Dunn admitted that 95% of the people whom he encounters during his shift are Black despite the Black population comprising 30-50% of his district (see RA 231-233), he inadvertently acknowledged that racial profiling is *central* to his work. Dunn need not be explicitly biased against Black people to profile them. Implicit bias is sufficient for the task. “Unconscious or implicit bias is a discriminatory belief or association likely unknown to its holder...That is, even people who do not believe themselves to harbor implicit bias may in fact act in ways that disfavor people of color.” Commonwealth v. Buckley, 478 Mass. 861, 878 n.4 (2018). “Implicit bias may lead an officer to make race-based traffic stops without conscious awareness of having done so” and thus, an officer’s “simple denial” that race played any role is “insufficient to rebut the reasonable inference.” Commonwealth v. Long, 485 Mass. 711, 734 (2020).

Implicit bias can be proven “by demonstrating that an officer’s pattern of behavior toward members of the protected class of which the defendant is a member showed discrimination, regardless of the officer’s lack of awareness of any bias.” Long, 485 Mass. at 720. Here, both Dunn’s admissions and the statistical evidence, compiled and analyzed by Dr. Fowler, prove this pattern. “[S]tatistical evidence...has unique advantages for reaching the thorny question of intent, particularly when implicit bias is at issue...In terms of systemic change, statistics provide potentially the *strongest tool* to demonstrate that bias, particularly where it is implicit[.]” Long, supra at 730-731 (emphasis added).

Where the law enforcement action responds to entirely suspicionless conduct and thus is entirely discretionary, the Commonwealth must rebut the statistical evidence that proves that the police target Black people at a “considerably greater” rate (see RA 242) than white people. That night, Hunt was driving normally and complying with all traffic laws. There was nothing unusual about Hunt’s course of travel and the Boston Police Department (BPD) had received no calls or concerning information in the area that night. Dunn checked his license plate anyway, believing and knowing that

the driver would probably be Black. “Much like a decision to selectively perform a traffic stop based on race, the querying of plates based on race is a potential violation of the principles of equal protection.” Long, supra at 758 (Cypher, J., concurring). See also Commonwealth v. Robinson-Van Rader, 492 Mass. 1, 21 (2023) (a selective enforcement action includes a “racially motivated threshold inquiry”) and State v. Maryland, 167 N.J. 471, 489 (2001).

The court’s finding that “it was the law enforcement practice to...run the license plates of any vehicle they could” (T V:13) does not resolve *where* Officer Dunn was running these plates, *to whom* he did it, and *why* his discretion was so unfettered. “[D]iscretion of any kind is empty if uninformed, and when unguided, it is prone to abuse.” Garrett, Brandon, Remedying Racial Profiling, 33 Colum. Human Rights L. Rev. 41, 147 (Fall 2001). The Commonwealth produced no written policies or procedures that would guide BPD officers about querying license plates. See Commonwealth v. Caceres, 413 Mass. 749, 752 (1992) (“as to inventory searches themselves we have said [police discretion] must be constrained by written regulations guiding police conduct.”) A suspicionless license plate check has an even weaker “race-neutral” basis than the illustrative

basis given in Van Rader where a “nominal traffic violation” like driving slightly over the speed limit “would not suffice as an adequate, race-neutral reason to rebut an inference of racial profiling.” Van Rader, 492 Mass. at 23 n.6.

The point is inescapable that Dunn was necessarily running license plates far less often against people in areas with larger white populations since Dunn and McBrien chose to patrol the Black neighborhoods and to avoid the white neighborhoods. Even if they ran plates at the same rate, their choice to patrol Black areas rather than white areas, both of which were in their assigned patrol district, resulted in racially disproportionate enforcement. Even though on the infrequent occasions, such as the evening of Hunt’s arrest, BPD assigns Dunn and McBrien to a specific area in the patrol district, most of the time they are free to patrol anywhere in the district. Their decision to patrol Black neighborhoods rather than white neighborhoods on the evenings when they are given the choice demonstrates the bias that infects their otherwise apparently non-discriminatory act of running plates.

Also, even accounting for their more frequent patrols of areas with greater Black populations (i.e., 50% Black), according to Dr.

Fowler’s analysis, their targeting of Black people is still considerably disproportionate. (RA 240-241). Similarly, in Segars, the Supreme Court of New Jersey held that the defendant’s documentary evidence “impeached” that officer’s “race-neutral rationale” that he randomly checked license plates whenever he had the time. State v. Segars, 172 N.J. 481, 497 (2002) (per curiam). Where the State did not provide an explanation for that evidence, the court concluded that the defendant met his burden of persuasion as to racial targeting and reversed the denial of his motion to suppress. Segars, 172 N.J. at 499. See also State v. Nyema, 249 N.J. 509, 529 (2022) (adopting Segars’ Equal Protection analysis). If there is any good reason why the BPD would then hardly ever patrol white neighborhoods, the Commonwealth had the opportunity to give that reason. Where it did not, it failed to “grapple with all the reasonable inferences and all of the evidence that the defendant presented,” see Long, supra at 726, and Hunt is entitled to suppression for the BPD’s racial profiling.

**STATEMENT OF REASONS WHY DIRECT APPELLATE
REVIEW
IS APPROPRIATE**

Justice Cypher's Long concurrence presciently contended that "the start of the [Equal Protection] analysis in some cases should be the decision to query the plates." Long, supra at 758. This is just such a case which neither this Court nor the Appeals Court has yet confronted. This Court should take this case and hold, as has the Supreme Court of New Jersey, that "deterrence of impermissible investigatory behavior and maintenance of the integrity of the judicial system, apply equally, if not more so, to cases of racial targeting." Segars, 172 N.J. at 493. The Boston Police Department's constant patrolling and surveillance of Black people have become so normalized that they are practically everyday directives of its officers. As a result, running license plates nonstop in overwhelmingly Black neighborhoods when the police have nothing else to do can be masked as a "neutral" police action. It is in the substantial public interest that this Court lift the Commonwealth's camouflage of "neutral" license plate querying and reveal it for what it truly is: an entrenched police practice of racial profiling.

CONCLUSION

This Court should grant Direct Appellate Review.

Respectfully Submitted,
TIMMY HUNT
By his attorney,

/s/ K. Hayne Barnwell

K. Hayne Barnwell

BBO # 667952

401 Andover Street, Suite 201-B

North Andover, MA 01845

TEL: 978-655-5011

FAX: 978-824-7553

attorney.barnwell@gmail.com

Dated: July 31, 2023

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2023, I served one copy of the foregoing Application for Direct Appellate Review through the Electronic Filing System to:

ADA Sarah Montgomery Lewis
Office of the District Attorney/Suffolk
One Bulfinch Place
Boston, MA 02114
E-mail: sarah.lewis@mass.gov

Joseph Schneiderman, Esq.
41 Crossroads Plaza, Unit 124
West Hartford, CT 06117
E-mail: conlawjoe413@gmail.com

/s/ Kathryn Hayne Barnwell
Kathryn Hayne Barnwell

CERTIFICATE OF COMPLIANCE

I hereby certify that this Application for Direct Appellate Review complies with Rule 20(a) of the Massachusetts Rules of Appellate Procedure. The Application was produced, using Microsoft Word for Mac Version 16.16.7, in proportional font and the Argument section consists of 962 words (or less than the maximum of 2,000 words) in compliance with Rules 16(k) and 20(a)&(b).

/s/ Kathryn Hayne Barnwell
Kathryn Hayne Barnwell

1984CR00085 Commonwealth vs. Hunt, Timmy Eugene

- Case Type:
- Indictment
- Case Status:
- Open
- File Date
- 02/26/2019
- DCM Track:
- A - Standard
- Initiating Action:
- FIREARM, CARRY WITHOUT LICENSE, 2ND OFF c269 §10(a) & (d)
- Status Date:
- 02/08/2021
- Case Judge:
- Wall, Hon. Joshua
- Next Event:
-

[All Information](#) [Party](#) [Charge](#) [Event](#) [Tickler](#) [Docket](#) [Disposition](#)

Party Information

Suffolk County District Attorney
- Prosecutor

[Alias](#)

Party Attorney

- Attorney
- Campbell, Esq., Cailin
- Bar Code
- 676342
- Address
- Plymouth County District Attorney's Office
- 166 Main St
- Brockton, MA 02301
- Phone Number
- (617)619-4070
- Attorney
- Galizio, Esq., Gregory James
- Bar Code
- 694026
- Address
- Suffolk County District Attorney's Office
- One Bulfinch Place
- Boston, MA 02114
- Phone Number
- (617)619-4000

[More Party Information](#)

Hunt, Timmy Eugene
- Defendant

[Alias](#)

Party Attorney

- Attorney
- Bancroft, Esq., Alison Ruth
- Bar Code
- 654870
- Address
- Massachusetts Office of Inspector General
- One Ashburton Place Rm 1311
- Boston, MA 02108
- Phone Number
- (617)722-8842

[More Party Information](#)

BOSTON POLICE DEPARTMENT
- Other interested party

Alias

Party Attorney

[More Party Information](#)

Party Charge Information

- **Hunt, Timmy Eugene**

- - Defendant

- **Charge # 1:**

- **269/10/K-0 - Felony** FIREARM, CARRY WITHOUT LICENSE, 2ND OFF c269 §10(a) & (d)

- Original Charge

- 269/10/K-0 FIREARM, CARRY WITHOUT LICENSE, 2ND OFF c269 §10(a) & (d) (Felony)

- Indicted Charge

-

- Amended Charge

-

Charge Disposition

Disposition Date

Disposition

01/26/2022

Guilty Plea - Agreed Upon (Lesser Offense)

- **Hunt, Timmy Eugene**

- - Defendant

- **Charge # 2:**

- **269/10/EE-0 - Felony** FIREARM, CARRY WITHOUT LICENSE LOADED c269 s.10(n)

- Original Charge

- 269/10/EE-0 FIREARM, CARRY WITHOUT LICENSE LOADED c269 s.10(n) (Felony)

- Indicted Charge

-

- Amended Charge

-

Charge Disposition

Disposition Date

Disposition

01/26/2022

Dismissed - Request of Commonwealth

- **Hunt, Timmy Eugene**

- - Defendant

- **Charge # 3:**

- **269/10/TT - Misdemeanor - more than 100 days incarceration (1)** AMMUNITION WITHOUT FID CARD, POSSESS c269 §10(h)

- Original Charge

- 269/10/TT AMMUNITION WITHOUT FID CARD, POSSESS c269 §10(h)(1) (Misdemeanor - more than 100 days incarceration)

- Indicted Charge

-

- Amended Charge

-

Charge Disposition

Disposition Date

Disposition

01/26/2022

Guilty Plea - Agreed Upon

Events

Date	Session	Location	Type	Event Judge	Result
03/14/2019 09:00 AM	Magistrate's Session	BOS-7th FL, CR 705 (SC)	Arraignment	Medeiros, Lisa B	Held as Scheduled
04/09/2019 09:30 AM	Magistrate's Session		Pre-Trial Conference	Medeiros, Lisa B	Rescheduled
05/16/2019 09:30 AM	Magistrate's Session		Pre-Trial Conference	Medeiros, Lisa B	Not Held

05/16/2019 09:30 AM	Magistrate's Session		Motion Hearing	Medeiros, Lisa B	Held as Scheduled
06/07/2019 09:00 AM	Criminal 5		Conference to Review Status	Tochka, Hon. Robert N	Held as Scheduled
06/25/2019 09:00 AM	Criminal 5		Pre-Trial Hearing	Tochka, Hon. Robert N	Held as Scheduled
06/26/2019 02:00 PM	Criminal 5		Pre-Trial Hearing	Tochka, Hon. Robert N	Rescheduled
07/11/2019 09:30 AM	Criminal 1		Motion Hearing	Sullivan, Hon. William F	Held as Scheduled
07/18/2019 09:30 AM	Criminal 1		Motion Hearing	Sullivan, Hon. William F	Not Held
08/15/2019 09:00 AM	Criminal 9		Evidentiary Hearing on Suppression	Sullivan, Hon. Susan E	Canceled
08/20/2019 12:30 PM	Criminal 1		Bail Hearing	Sullivan, Hon. William F	Held as Scheduled
09/09/2019 09:30 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Motion Hearing	Sullivan, Hon. William F	Held as Scheduled
09/30/2019 09:30 AM	Criminal 1		Conference to Review Status	Sullivan, Hon. William F	Held as Scheduled
10/04/2019 09:30 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Probation Administrative Conference	Sullivan, Hon. William F	Held as Scheduled
10/09/2019 02:00 PM	Criminal 5		Final Pre-Trial Conference		Canceled
10/21/2019 09:00 AM	Criminal 5		Jury Trial		Canceled
10/23/2019 09:30 AM	Criminal 1		Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
11/26/2019 11:00 AM	Criminal 1		Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
12/31/2019 09:30 AM	Magistrate's Session	BOS-7th FL, CR 705 (SC)	Conference to Review Status	Curley, Edward J	Held as Scheduled
01/21/2020 09:30 AM	Criminal 1		Conference to Review Status		Rescheduled
01/29/2020 09:30 AM	Criminal 1		Motion Hearing	Tochka, Hon. Robert N	Held as Scheduled
02/19/2020 09:30 AM	Criminal 1		Hearing RE: Discovery Motion(s)	Tochka, Hon. Robert N	Held as Scheduled
03/02/2020 09:30 AM	Criminal 1		Motion Hearing	Tochka, Hon. Robert N	Held as Scheduled
03/04/2020 02:00 PM	Criminal 5		Final Pre-Trial Conference		Canceled
03/23/2020 09:00 AM	Criminal 5		Jury Trial		Canceled
03/26/2020 09:30 AM	Criminal 9		Non-Evidentiary Hearing on Suppression	Cowin, Hon. Jackie	Canceled
03/26/2020 09:30 AM	Magistrate's Session		Filing of Motions	Curley, Edward J	Rescheduled-Covid-19 emergency
05/27/2020 02:00 PM	Criminal 5		Final Pre-Trial Conference		Canceled
06/01/2020 09:00 AM	Criminal 5		Jury Trial		Canceled
06/23/2020 09:30 AM	Criminal 5		Conference to Review Status	Ricciuti, Hon. Michael D	Held as Scheduled
06/24/2020	Criminal 1	BOS-7th FL, CR	Hearing on Request for	Tochka, Hon.	Held as Scheduled

09:30 AM		704 (SC)	Probation Warrant	Robert N	
07/17/2020 02:00 PM	Criminal 1		Bail Hearing	Ricciuti, Hon. Michael D	Held as Scheduled
07/23/2020 11:00 AM	Criminal 1		Conference to Review Status	Ricciuti, Hon. Michael D	Held as Scheduled
08/18/2020 09:00 AM	Criminal 1		Conference to Review Status	Ricciuti, Hon. Michael D	Held as Scheduled
08/18/2020 11:00 AM	Criminal 5		Conference to Review Status	Ames, Hon. Mary K	Canceled
09/22/2020 11:15 AM	Criminal 5		Conference to Review Status	Ames, Hon. Mary K	Held as Scheduled
12/02/2020 11:00 AM	Criminal 5		Evidentiary Hearing on Suppression	Ames, Hon. Mary K	Rescheduled
02/08/2021 10:00 AM	Criminal 5		Evidentiary Hearing on Suppression	Krupp, Hon. Peter B	Held as Scheduled
03/31/2021 11:30 AM	Criminal 5		Evidentiary Hearing on Suppression	Krupp, Hon. Peter B	Not Held
04/26/2021 10:00 AM	Criminal 5		Evidentiary Hearing on Suppression	Krupp, Hon. Peter B	Held via Video/Phone
05/03/2021 02:00 PM	Criminal 5		Evidentiary Hearing on Suppression	Krupp, Hon. Peter B	Held via Video/Phone
05/11/2021 09:00 AM	Criminal 5		Evidentiary Hearing on Suppression	Krupp, Hon. Peter B	Held - Under advisement
06/21/2021 02:00 PM	Criminal 5		Conference to Review Status	Krupp, Hon. Peter B	Not Held
07/08/2021 02:00 PM	Criminal 5		Conference to Review Status	Ames, Hon. Mary K	Held via Video/Phone
08/13/2021 02:00 PM	Criminal 5		Scheduling Conference	Ames, Hon. Mary K	Rescheduled
09/28/2021 02:00 PM	Criminal 5	BOS-8th FL, CR 817 (SC)	Scheduling Conference	Ames, Hon. Mary K	Held as Scheduled
11/23/2021 02:00 PM	Criminal 5	BOS-8th FL, CR 817 (SC)	Lobby Conference	Ames, Hon. Mary K	Rescheduled
01/04/2022 02:00 PM	Criminal 5	BOS-8th FL, CR 817 (SC)	Lobby Conference	Wall, Hon. Joshua	Held as Scheduled
01/26/2022 11:00 AM	Criminal 5	BOS-8th FL, CR 817 (SC)	Hearing for Change of Plea	Wall, Hon. Joshua	Held as scheduled



Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Pre-Trial Hearing	04/09/2019	07/08/2019	90	06/25/2019
Final Pre-Trial Conference	04/09/2019	09/20/2019	164	09/30/2019
Case Disposition	04/09/2019	10/04/2019	178	01/26/2022
Under Advisement	05/11/2021	06/10/2021	30	

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/26/2019	Attorney appearance		

On this date 02/26/2019 Tohme, Esq., Marc added for Suffolk County District Attorney

02/26/2019	Indictment(s) returned	1	
02/26/2019	Commonwealth Marc Tohme, Esq.'s Motion for an arrest warrant (Filed)	2	
02/26/2019	Endorsement on Motion for an arrest warrant , (#2.0): ALLOWED Judge: Tochka, Hon. Robert N		
02/26/2019	Issued: Straight Warrant issued on 02/26/2019 for Hunt, Timmy Eugene		
03/14/2019	Defendant arraigned before Court.		
03/14/2019	Defendant waives reading of indictment		
03/14/2019	Plea of not guilty entered on all charges.		
03/14/2019	Court inquires of Commonwealth if abuse, as defined by G.L. c. 209A, § 1, is alleged to have occurred immediately prior to or in connection with the charged offense(s).		
03/14/2019	Court finds NO abuse is alleged in connection with the charged offense. G.L. c. 276, § 56A.		
03/14/2019	Bail set at \$150,000.00 Surety, \$15,000.00 Cash. GPS Prior to Release Set without prejudice		
03/14/2019	Bail warnings read		
03/14/2019	Served: Straight Warrant served on 03/14/2019 for Hunt, Timmy Eugene		
03/14/2019	Issued on this date: Mittimus in Lieu of Bail Sent On: 03/14/2019 15:27:22	3	
03/14/2019	Conditions of release on bail: Other Special Condition GPS prior to Release Home Confinement Judge: Curley, Edward J		
03/14/2019	Commonwealth 's Notice of Discovery March 14th 2019 (Filed)	4	
03/14/2019	Finding and Order on Bail: (Filed) Judge: Curley, Edward J	5	 Image
03/14/2019	Commonwealth files the statement of the case. Judge: Curley, Edward J	6	
03/14/2019	Attorney appearance On this date Charles F Jordan, Esq. added as Appointed - Indigent Defendant for Defendant Timmy Eugene Hunt Appointment made for the purpose of Case in Chief by Judge Edward J Curley.		
03/14/2019	Defendant brought into court, Arraignment, Held Case Continued by agreement to to 04/09/2019 RE: Pre-Trial Conference/ Setting Track in CTRM 705 *Jail List E. Curley, MAG M. Tohme, ADA C. Jordan, Atty		
04/09/2019	Case assigned to: DCM Track A - Standard was added on 04/09/2019		
04/09/2019	Defendant not in court. Hearing Re: Pre-Trial Conference rescheduled. > Case designated Track A: 1. Further Pre-Trial Conference on the date of 5/16/19 (CM Session, CTRM 705) *Jail List* *Notice to C. Jordan, Atty issued* 2. Pre-Trial Hearing on the date of 6/26/19 2:00 PM (Criminal 5, CTRM 817) 3. Final Pre-Trial Conference on the date of 10/09/19 at 2:00 PM (Criminal 5, CTRM 817)		

	4. Presumptive Trial on the date of 10/21/19 at 9:00 AM (Criminal 5, CTRM 817)	
	L. Medeiros, MAG - M. Tohme, ADA - FTR (9:57 AM)	
04/26/2019	Pro Se Defendant 's Motion to remove counsel and for appointment of new counsel filed with affiadvit in support thereof and writ of habeas corpus ad testificandum	 Image
05/16/2019	Endorsement on Motion to remove counsel and for appointment of new counsel filed with affiadvit in support thereof and writ of habeas corpus ad testificandum, (#7.0): ALLOWED "ALLOWED (Reasons on FTR record - Defendant very frustrated and agitated - Appointed new Atty Scott Gediman." L. Medeiros (5/16/19).	 Image
05/16/2019	Attorney appearance On this date Charles F Jordan, Esq. dismissed/withdrawn as Appointed - Indigent Defendant for Defendant Timmy Eugene Hunt	
05/16/2019	Attorney appearance On this date Scott Gediman, Esq. added as Appointed - Indigent Defendant for Defendant Timmy Eugene Hunt Appointment made for the purpose of Case in Chief by Judge Lisa B Medeiros.	
05/16/2019	Legal Counsel Fee Waived. Judge: Medeiros, Lisa B	
05/16/2019	Event Result:: Pre-Trial Conference scheduled on: 05/16/2019 09:30 AM Has been: Not Held For the following reason: Other event activity needed Lisa B Medeiros, Presiding	
05/16/2019	Defendant brought court. Hearing Re: Motion held. Case continued to 6/07/19 by agreement for Hearing Re: Conference Status on Counsel at 9:00 AM (Criminal 5, CTRM 817) *NEEDS Jail List* L. Medeiros, MAG - M. Pierce, DAC - M. Tohme, ADA - C. Jordan & S. Gediman, Atty - FTR (10:41 AM)	
06/07/2019	Defendant brought into Court. Conference to Review Status held before Tochka, J. Continued at the Request of Defense Counsel to 6/25/19 for Pre-Trial Hearing and Filing of Rule 17 Motions at 9:00AM in Courtroom 817. - At request of the Defense Counsel, Defendant's presence waived for next date. - Note: Defense Counsel unavailable on 6/26/19 when co-defendants are scheduled for Pre-Trial Hearing. - Cancel 6/26/19 Pre-Trial Hearing date. Hon. Robert N Tochka, Presiding Appeared: M. Tohme, ADA - S. Gediman, Atty. - FTR Staff: Rebeca Figueroa, Assistant Clerk Magistrate	
06/07/2019	Event Result:: Pre-Trial Hearing scheduled on: 06/26/2019 02:00 PM Has been: Rescheduled For the following reason: Request of Defendant Hon. Robert N Tochka, Presiding Staff: Rebeca Figueroa, Assistant Clerk Magistrate Michelle Pierce, Assistant Clerk	
06/25/2019	Defendant not in Court- presence waived, Pre-trial Hearing- Held as scheduled, - Continued by agreement to 07/18/19, Hearing RE: Rule 17 Motion and Filing of Motion to Suppress (Criminal Session 1, CtRm 704) *Jail List* - Continued by agreement to 08/15/19, Hearing RE: Motion to Suppress (Criminal Session 9, CtRm 713) *Jail List* Tochka, J - M. Tohme, ADA - S. Gediman, Attorney - FTR	
07/11/2019	Defendant oral motion to Attend Funeral on Friday 7/12/19 from 9:00 AM to 3:00 PM - ALLOWED	
07/11/2019	Defendant comes into court. Hearing Re: Motion held. - After hearing, Defendant's Motion to Attend Funeral: ALLOWED > Case has next date of 7/18/19 for Hearing Re: Motion (Criminal 1, CTRM 704)	

W. Sullivan, J - J. Pardi, ACM - G. Ogus for M. Tohme, ADA - FTR/Court Monitor: J. Russo
(11:57 AM)

07/18/2019 Rule 36 waived re:

07/18/2019 Defendant comes into court,
Motion Hearing, Held
Case Continued by agreement to 09/09/2019 for Motion Hearing RE: Rule 17 in CTRM 704 at 9:30am
*Presence Waived

Amended Conditions of Bail:
RE: Home Confinement - Allowed to work with Kelly Moving Services
Monday - Thursday 9:00am to 9:00pm

W. Sullivan, J
M. Tohme, ADA
G. Gediman, Atty
D. D'Avolio, ACM
FTR 10:18am

08/15/2019 Event Result:: Evidentiary Hearing on Suppression scheduled on:
08/15/2019 09:00 AM
Has been: Canceled For the following reason: Joint request of parties
Hon. Susan E Sullivan, Presiding
Staff:
Rourke Donnelly, Assistant Clerk Magistrate

Date cancelled in 1st session on prior date.

08/20/2019 Defendant comes into Court
Defendant requests that case be brought forward
After hearing curfew amended to the following
11PM to 7AM - Monday - Saturday for Work Only
Home Confinement - Sunday - All Day
W. Sullivan, presiding, G. Ogus for M. Tohme, ADA, FTR 12:35

Staff:
James Pardi, Assistant Clerk Magistrate
David Sheehan, Assistant Clerk Magistrate

08/20/2019 Event Result:: Motion Hearing scheduled on:
09/09/2019 09:30 AM
Has been: Canceled For the following reason: Joint request of parties
Hon. William F Sullivan, Presiding
Staff:
James Pardi, Assistant Clerk Magistrate
David Sheehan, Assistant Clerk Magistrate

08/29/2019 Other 's Objection to Defendant's Motion For Summons and Order for Third Party Records (filed) 8
Attorney Anthony Rizzo contacted and advised that the summons for third party records has not been
filed yet; Atty responded that he is filing the opposition proactively as he thinks the summons will be filed
shortly in the future



09/09/2019 Defendant not in Court
Hearing re: Counsel Held
After Hearing Atty S. Gediman is allowed to Withdraw
Atty R. Tobin has been appointed pursuant to Rule 53 - No Fee
COP amended:
Defendant allowed to work on Sundays from 7:30AM to 10PM
Case continued to 9-30-19 per order of the Court Re: Status 1st sess, 9:30AM
Defendant excused
Hon. William F Sullivan, Presiding, M. Tohme, ADA, S. Gediman, BPD Atty, FTR 10:35
Staff:
James Pardi, Assistant Clerk Magistrate
David Sheehan, Assistant Clerk Magistrate












09/09/2019 Defendant 's Motion to Withdraw & Appoint Succesor Counsel, and Affidavit, filed and allowed

9



09/09/2019 Attorney appearance
On this date Scott Gediman, Esq. dismissed/withdrawn as Appointed - Indigent Defendant for Defendant
Timmy Eugene Hunt

09/09/2019 Attorney appearance
On this date Robert H Tobin, Jr., Esq. added as Appointed - Indigent Defendant for Defendant Timmy
Eugene Hunt

09/09/2019	Appointment made for the purpose of Case in Chief by Judge Hon. William F Sullivan.		
09/09/2019	Legal Counsel Fee Waived. Judge: Sullivan, Hon. William F		
09/30/2019	ORDER: Protective Re: Boston Police Department Materials (Filed)	10	
09/30/2019	Endorsement on Protective Order Re: Boston Police Department Materials, (#10.0): ALLOWED Judge: Sullivan, Hon. William F		 Image
09/30/2019	Defendant oral motion to Join in BPD's Protective Order Motion (P#10): ALLOWED		
09/30/2019	Event Result:: Jury Trial scheduled on: 10/21/2019 09:00 AM Has been: Canceled For the following reason: Joint request of parties Unassigned, Presiding		
09/30/2019	Defendant comes into court. Hearing Re: Conference Status held. > Case continued to 10/23/19 by agreement for Hearing Re: Motion on Rule 17 (Criminal 1, CTRM 704) *Defendant Excused* > Case continued to 03/04/20 at the request of Commonwealth for Hearing Re: Final Pre-Trial Conference at 2:00 PM (Criminal 5, CTRM 817) > Case continued to 03/23/20 at the request of Commonwealth for Jury Trial at 9:00 AM (Criminal 5, CTRM 817) W. Sullivan, J - M. Tohme, ADA - R. Tobin, Atty - FTR (10:55 AM)		
10/04/2019	Defendant comes into court. Probation Adminstrative Conference held. RE: Motion to modify conditions of bail. Curfew amended. Defendant allowed to work additional hours as allowed by the probation department. Sullivan, J - J. Pardi, ACM - G. Ogus for M. Tohme, ADA - R. Tobin, Atty - 12:45 PM FTR		
10/23/2019	Defendant 's Motion to examine evidence in possession of the commonwealth filed	11	
10/23/2019	Defendant 's Motion to join in motions of co-defendant filed	12	 Image
10/23/2019	Defendant 's Motion for the return of personal property filed	13	 Image
10/23/2019	Defendant 's Motion for production of turret tape(s) filed	14	 Image
10/23/2019	Defendant 's Motion for discovery regarding police investigation filed	15	 Image
10/23/2019	Defendant 's Motion for discovery regarding inventory procedure filed	16	 Image
10/23/2019	Defendant 's Motion to be furnished with criminal records filed	17	 Image
10/23/2019	Defendant 's Motion for access to records (DCJIS) filed with affidavit and memorandum in support thereof with attached order	18	 Image
10/23/2019	Defendant not in court. Motion Hearing held as scheduled. Case continued by agreement to 11/26/19 RE: Motion Hearing at 11:00 AM in Criminal 1 (CtRm 704) (Defendant excused) Cannone, J. - J. Pardi, ACM - M. Tohme, ADA - R. Tobin, Atty - 10:35 AM FTR		
11/26/2019	Defendant 's Motion for allowance of costs for audio recording filed and ALLOWED (Cannone, J.)	19	 Image
11/26/2019	Defendant comes into court. Motion Hearing held as scheduled. Case continued by agreement to 1/21/20 for Conference to review status RE: Discovery at 9:30 AM in Criminal 1 (CtRm 704) Cannone, J. - J. Pardi, ACM - M. Tohme, ADA - T. Tobin, Atty - 11:20 AM FTR		
12/31/2019	Defendant comes into court. Case Brought Forward by Probation and Commonwealth due to ELMO warrant. Conference to Review Status, Held. Commonwealth not requesting that any action be taken due to ELMO violation. No action		

taken by the Court.

Court clarifies today that Defendant's current Conditions of Release are:

1. GPS, prior to release

2. Curfew Sunday 10:30 pm - Monday 7:30 am

Note: ADA Ogus represents that on 10/4/19 Judge Sullivan vacated the defendant's Home confinement on 10/4/19 and relaxed all curfews with the exception of the curfew on Sunday as noted above. ADA Ogus stated he was content with the bail and the aforementioned conditions of release.

Case has next scheduled date of 1/21/20 RE: Status (1st Criminal Session, Courtroom 704) 9:30AM

L. Medeiros, MAG

G. Ogus for M. Tohme, ADA

J. Warren, Atty (bail Only)

J. Dinardi, APO

FTR 11:06 am 11:31 am

12/31/2019	Attorney appearance On this date John Warren, Esq. dismissed/withdrawn as Appointed - Indigent Defendant for Defendant Timmy Eugene Hunt		
12/31/2019	Attorney appearance On this date John Warren, Esq. added as Appointed - Indigent Defendant for Defendant Timmy Eugene Hunt		
01/21/2020	Defendant comes into court. Hearing Re: Conference Status on Discovery reschedule. Case continued to 01/29/20 by agreement for Hearing Re: Motion (Criminal 1, CTRM 704) *Presence excused*		
	R. Tochka, J - J. Pardi, ACM - R. Tobin, Atty - FTR/Court Monitor: N. McCann (10:14 AM)		
01/29/2020	Defendant 's Motion for allowance of reasonable costs for an investigator filed with affidavit in support thereof and ALLOWED (Tochka, J.)	20	
01/29/2020	Defendant 's Motion for access to records filed with affidavit and memorandum in support thereof	21	
01/29/2020	Event Result:: Jury Trial scheduled on: 03/23/2020 09:00 AM Has been: Canceled For the following reason: By Court prior to date Hon. Robert N Tochka, Presiding Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
01/29/2020	Defendant not in court. Motion Hearing held as scheduled. Case is continued by agreement to the following dates: -2/19/2020 at 9:30 AM in Criminal 1 (CtRm 704) RE: Hearing on Discovery Motions (Defendant excused) -3/26/2020 at 9:30 AM in Criminal 9 (CtRm 713) RE: Non-Evidentiary Hearing on Motion to Suppress -5/27/2020 at 2:00 PM in Criminal 5 (CtRm 817) RE: Final Pre-Trial Conference. -6/1/2020 at 9:00 AM in Criminal 5 (CtRm 817) RE: Jury Trial		
	Tochka, J. - J. Pardi, ACM - M. Tohme, ADA - R. Tobin, Atty - 9:46 AM FTR		
02/19/2020	Commonwealth 's Notice of Discovery, February 19, 2020 (filed)	22	
02/19/2020	Defendant Comes Into Court Hearing RE: Discovery Motion(s), held Case continued to 3/26/20 by Agreement RE: Filing of Motions (Clerk Magistrate Session, Courtroom 705) 9:30am Cancel 3/26/19 Motion to Suppress Tochka, J M. Tohme, ADA R. Tobin, Atty J. Pardi, ACM FTR 10:36am		
02/19/2020	Endorsement on Motion to be furnished with criminal records filed, (#17.0): ALLOWED		
02/19/2020	Defendant 's Motion for Allowance of Reasonable Costs for a Forensics Expert (Ballistics Expert) (filed and ALLOWED)	23	
02/19/2020	Event Result:: Non-Evidentiary Hearing on Suppression scheduled on: 03/26/2020 09:30 AM Has been: Canceled For the following reason: Joint request of parties		

	Hon. Jackie Cowin, Presiding Staff: Rourke Donnelly, Assistant Clerk Magistrate		
03/02/2020	Defendant 's Motion for Relief from Curfew and Permission to Leave Commonwealth (Filed)	24	
03/02/2020	Endorsement on Motion for Relief from Curfew and Permission to Leave Commonwealth, (#24.0): ALLOWED Judge: Tochka, Hon. Robert N		 
03/02/2020	Defendant comes into court. Case brought forward. Hearing Re: Motion held. > Case has next date of 03/26/20 for Hearing Re: Filing of Motion (CM Session, CTRM 705) R. Tochka, J - J. Pardi, ACM - R. Tobin, Atty - FTR/Court Monitor: N. McCann (3:47 PM)		
03/18/2020	Court orders rescheduling due to State of Emergency surrounding the Covid-19 virus.: Filing of Motions scheduled on: 03/26/2020 09:30 AM Has been: Rescheduled-Covid-19 emergency For the following reason: By Court prior to date Edward J Curley, Presiding Staff: Joanne Araujo, Assistant Clerk Magistrate Michelle Pierce, Assistant Clerk		
05/04/2020	Event Result:: Final Pre-Trial Conference scheduled on: 05/27/2020 02:00 PM Has been: Canceled For the following reason: By Court due to Covid-19 Staff: Rebeca Figueroa, Assistant Clerk Magistrate Michelle Pierce, Assistant Clerk		
05/28/2020	Event Result:: Jury Trial scheduled on: 06/01/2020 09:00 AM Has been: Canceled For the following reason: By Court due to Covid-19 Hon. Michael D Ricciuti, Presiding Staff: Rebeca Figueroa, Assistant Clerk Magistrate Michelle Pierce, Assistant Clerk		
06/11/2020	Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs For An Investigator. w/Affidavit	25	
06/11/2020	Defendant 's EX PARTE Motion for Allowance of Reasonable Costs For a Forensics. w/Affidavit	26	
06/23/2020	Defendant present in court via Zoom videoconferencing. Conference to Review Status held before Ricciuti, J. Continued by Agreement as follows: 8/18/2020 Conference to Review Status of Motions Filed at 11:00AM in Courtroom 817; 9/22/2020 Conference to Review Status of Discovery Compliance at 9:30AM in Courtroom 817. Per Order of the Court, Attorney Tobin is to file a written motion for relief from curfew, allowing the Defendant to travel to the state of Florida from July 3, 2020 through July 6, 2020 to attend a family event. Defendant is to report to the Probation Department at Suffolk Superior Court on a daily basis during this time and must provide proof of airline tickets. Ricciuti, J. Hon. Michael D Ricciuti, Presiding Appeared: M. Tohme, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (9:45AM) Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
06/23/2020	ORDER: SCHEDULING ORDER	27	
06/23/2020	Endorsement on Motion for Allowance of Further Reasonable Costs for an Investigator, EX Parte, (#25.0): ALLOWED		
06/23/2020	Endorsement on Motion for Allowance of Reasonable Costs for a Forensics Expert, Ex Parte, (#26.0): ALLOWED		
06/23/2020	Defendant 's Motion for Relief from Curfew - Filed	28	

06/23/2020	Endorsement on Motion for Relief from Curfew, (#28.0): ALLOWED (Copy to Counsel of Record and Probation Department Chief M. Forbes) Judge: Ricciuti, Hon. Michael D		
06/24/2020	Event Result:: Hearing on Request for Probation Warrant scheduled on: 06/24/2020 09:30 AM Has been: Held as Scheduled. Warrant to Issue Request of Commonwealth Hon. Robert N Tochka, Presiding Staff: Carol Mullen-Maguire, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate ADA m Tohme via Zoom PO L. Miranda via Zoom FTR 12:17pm/ N. McCann		
06/24/2020	Issued: Straight Warrant issued on 06/24/2020 for Hunt, Timmy Eugene		
07/17/2020	Defendant in state custody at Wyatt Detention Center. Bail Hearing held as scheduled. NOTE: Defendant has outstanding warrant on this case. Case continued by agreement to 7/23/2020 RE: Conference to Review Status at 11:00 AM in Criminal 1 (CtRm 704) (Via Zoom) (Defendant in Federal Custody) Ricciuti, J. - D. Sheehan, ACM - M. Tohme, ADA (Via Zoom) - R. Tobin, Atty (Via Zoom) - N. McCann, CM - 2:18 PM FTR		
07/23/2020	The defendant/petitioner is committed without bail for the following reason: Per Order of the Court. mitt Faxed to Wyatt Detention Center	29	
07/23/2020	Defendant not on Zoom call, defendant in Federal Custody. Conference to Review Status held as scheduled via Zoom. After hearing, bail revoked. Case continued by agreement to 8/18/2020 RE: Conference to Review Status at 9:00 AM in Criminal 1 (CtRM 704) Ricciuti, J. - J. Pardi, ACM - M. Tohme, ADA (Via Zoom) - R. Tobin, Atty (Via Zoom) - C. O'Niell, CM - 11:10 AM FTR		
08/14/2020	Event Result:: Conference to Review Status scheduled on: 08/18/2020 11:00 AM Has been: Canceled For the following reason: By Court prior to date Hon. Mary K Ames, Presiding Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
08/18/2020	Event Result:: Conference to Review Status scheduled on: 08/18/2020 09:00 AM Has been: Held as Scheduled Hon. Michael D Ricciuti, Presiding Staff: Carol Mullen-Maguire, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate No FTR		
08/18/2020	Defendant's EX PARTE Motion for allowance of further reasonable costs for a forensics expert with Affidavit filed and allowed at CPCS rates.	30	
09/22/2020	Defendant is not present in court. Defendant is in federal custody and his presence was waived with no objection by the Commonwealth. Conference to Review Status held before Ames, J. Continued by Agreement to December 2, 2020 for Evidentiary Hearing on Suppression at 11:00 AM in Courtroom 817. Per Order of the Court: 1. Commonwealth is ordered to provide all outstanding discovery on or before October 14, 2020 (out of court). 2. Defendant's Motion to Suppress and Memorandum due on or before November 4, 2020. 3. Commonwealth's Opposition to Defendant's Motion to Suppress is due on or before November 25, 2020. Hon. Mary K Ames, Presiding Appeared: M. Tohme, ADA for G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (11:25		

	AM) Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
09/22/2020	Endorsement on Motion for Discovery Regarding Police Investigation, (#15.0): ALLOWED ALLOWED by agreement. Compliance on or before October 14, 2020. M.K. Ames, J. 9/22/2020		 Image
09/22/2020	Attorney appearance On this date Marc Tohme, Esq. dismissed/withdrawn for Prosecutor Suffolk County District Attorney		
09/22/2020	Attorney appearance On this date Gregory James Galizio, Esq. added for Prosecutor Suffolk County District Attorney		
09/28/2020	Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs for an Investigator W/ Affidavit.	31	 Image
11/02/2020	Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs for a Forensics Expert (Statistics Expert) with Affidavit Filed	32	 Image
11/04/2020	Defendant 's Motion to suppress Evidence (Warrentless) (Unreasonable Search and Seizure) Filed with Affidavit and Memorandum.	33	 Image
11/04/2020	Defendant 's Motion to suppress Evidence (Warrentless) (Equal Protection Clause Violation) Filed with Affidavit and Memorandum.	34	 Image
11/19/2020	General correspondence regarding Amendment to Report of Mary Fowler PhD	35	 Image
12/01/2020	Event Result:: Evidentiary Hearing on Suppression scheduled on: 12/02/2020 11:00 AM Has been: Rescheduled For the following reason: By Court due to Covid-19 Hon. Mary K Ames, Presiding Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
12/02/2020	Defendant 's EX PARTE Motion for funds for Allowance of Further Reasonable Costs for a Forensics Expert (Ballistics Expert), with affidavit in support thereof (filed)	36	 Image
12/22/2020	Docket Note: On this day, amended report received from Mary Fowler, Ph.D., in regards to paper #34. New report is rescanned with motion, and copy of old report remains in the file for future reference.		
02/03/2021	Commonwealth 's Memorandum in opposition to the defendant's motion to suppress filed	37	 Image
02/04/2021	Commonwealth 's Motion to Convert Suppression Hearing to a Status Hearing with Affidavit of Counsel - Filed	38	 Image
02/05/2021	Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 02/08/2021 10:00 AM Evidentiary Hearing on Suppression. ***DEFENDANT TO APPEAR VIA ZOOM*** https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWl2SXQ4TTdDUEh3dmFKZz09 Meeting ID: 160 9995 1932 Passcode: 722345 Join by SIP 16099951932@sip.zoomgov.com Please contact Assistant Clerk Magistrate Figueroa at 617-788-8156 if you have any questions. (sent to ADA Galizio via electronic mail)	39	 Image
02/08/2021	Defendant is present in court via Zoom videoconferencing from the Wyatt Detention Center. Evidentiary Hearing on Suppression held before Krupp, J. Continued by agreement to March 31, 2021 at 11:30 AM for continuation of the Evidentiary Hearing on Suppression in Courtroom 817. Hon. Peter B Krupp, Presiding Appeared: G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (10:15 AM & 11:30 AM) Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
02/08/2021	Recalled: Straight Warrant cancelled on 02/08/2021 for Hunt, Timmy Eugene		
02/08/2021	Endorsement on Motion for Allowance of Further Reasonable Costs for an Investigator, Ex-Parte, (#31.0): ALLOWED 2/8/21 ALLOWED up to \$500.00. Krupp, J.		 Image
02/08/2021	Endorsement on Motion for Allowance of Further Reasonable Costs for a Forensic Expert (Statistics Expert), (#32.0): ALLOWED 2/8/21 ALLOWED up to \$5,000.00 nunc pro tunc. Krupp, J.		 Image
02/08/2021	Endorsement on Motion for Allowance of Further Reasonable Costs for a Forensics Expert (Ballistics Expert), Ex Parte, (#36.0): DENIED		

	2/8/21 DENIED without prejudice on the existing showing. Krupp, J.		Image
02/08/2021	Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 03/31/2021 11:30 AM Evidentiary Hearing on Suppression. ***DEFENDANT TO APPEAR VIA ZOOM*** https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUEh3dmFKZz09 Meeting ID: 160 9995 1932 Passcode: 722345 Join by SIP 16099951932@sip.zoomgov.com Please contact Assistant Clerk Magistrate Figueroa at 617-788-8156 if you have any questions. (sent to ADA Galizio via electronic mail)	40	Image
02/22/2021	Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs for a Forensics Expert (Statistics Expert) with Affidavit of Counsel and Attachments - Filed	41	Image
02/24/2021	Defendant 's Motion for Discovery of Boston Police Gang Records - Filed	42	Image
02/24/2021	Defendant 's Motion for Discovery of Police Reports of Alleged Recent Firearm/Gang Activity - Filed	43	Image
03/31/2021	Defendant not present. Wyatt Center unable to honor Zoom Habe due to not having US Marshals approval. An Evidentiary Motion to Suppress was unable to be held before Krupp, J. Continued by Agreement to 4/26/21 at 12:00PM for an Evidentiary Motion to Suppress via Zoom videoconferencing. Hon. Peter B Krupp, Presiding Appeared: G. Galizio, ADA (Zoom) - R. Tobin, Atty. (via Zoom) - FTR 11:36 AM Staff: Tiffany Castillo, Assistant Clerk Magistrate		Image
03/31/2021	Endorsement on Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs for a Forensics Expert (Statistics Expert), (#41.0): ALLOWED "ALLOWED up to an additional \$1,955." J. Peter Krupp, 3/31/21.		Image
03/31/2021	Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 04/26/2021 12:00 PM Evidentiary Hearing on Suppression. ***DEFENDANT TO APPEAR VIA ZOOM*** https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUEh3dmFKZz09 Meeting ID: 160 9995 1932 Passcode: 722345 Join by SIP 16099951932@sip.zoomgov.com Please contact Assistant Clerk Magistrate Figueroa at 617-788-8156 if you have any questions. Habe sent via email to ADA Greg Galizio	44	Image
03/31/2021	Endorsement on Defendant's Motion for Discovery of Boston Police Gang Records, (#42.0): DENIED "DENIED without prejudice on the existing record as stated in open court." J. Peter Krupp, 3/31/21.		Image
03/31/2021	Endorsement on Defendant's Motion for Discory of Reports of Alleged Recent Firearm / Gang Activity, (#43.0): No Action Taken "No action taken in light of the parties agreement stated on the record." J. Peter Krupp, 3/31/21.		Image
04/23/2021	Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 04/26/2021 10:00 AM Evidentiary Hearing on Suppression. ***DEFENDANT TO APPEAR VIA ZOOM*** https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUEh3dmFKZz09 Meeting ID: 160 9995 1932 Passcode: 722345 Join by SIP 16099951932@sip.zoomgov.com Please contact Assistant Clerk Magistrate Figueroa at 617-788-8156 if you have any questions.	45	Image
04/23/2021	Defendant 's Motion for Discovery of Boston Police Gang Records, Renewed with Affidavit of Counsel in Support and Attachments - Filed	46	Image
04/26/2021	Defendant is present in court via Zoom videoconferencing from the Wyatt Detention Center. Continuation of an Evidentiary Hearing on Suppression held before Krupp, J. Continued by Agreement to May 3, 2021 for Continuation of Evidentiary Hearing on Suppression at 2:00 PM in Courtroom 817 (via Zoom). Hon. Peter B Krupp, Presiding Appeared: C. Fitzgerald, ADA for G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (10:05 AM) Staff: Rebeca Figueroa, Assistant Clerk Magistrate		
04/26/2021	Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 05/03/2021 02:00 PM	47	

Evidentiary Hearing on Suppression. ***DEFENDANT TO APPEAR VIA ZOOM***
<https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUEh3dmFKZz09>
 Meeting ID: 160 9995 1932 Passcode: 722345
 Dial by your location +1 646 828 7666 US (New York)
 Meeting ID: 160 9995 1932 Passcode: 722345



Please contact Assistant Clerk Magistrate Rebeca Figueroa at 617-788-8156 if you have any questions.

04/26/2021 Commonwealth 's Supplemental Memo in Opposition of the Defendant's Motion to Suppress, First - Filed 48



05/03/2021 Defendant is present in court via Zoom videoconferencing from the Wyatt Detention Center.

Evidentiary Hearing on Suppression held before Krupp, J.

Continued by agreement to May 11, 2021 at 9:00 AM for Continuation of Evidentiary Hearing on Suppression in Courtroom 817 (via Zoom).

Hon. Peter B Krupp, Presiding
 Appeared: C. Fitzgerald, ADA for G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (2:30 PM)
 Staff:
 Rebeca Figueroa, Assistant Clerk Magistrate

05/03/2021 Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 05/11/2021 09:00 AM Evidentiary Hearing on Suppression. *DEFENDANT TO APPEAR VIA ZOOM*** 49
<https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUEh3dmFKZz09>
 Meeting ID: 160 9995 1932 Passcode: 722345
 Dial by your location +1 646 828 7666 US (New York)
 Meeting ID: 160 9995 1932 Passcode: 722345



Please contact Assistant Clerk Magistrate Rebeca Figueroa at 617-788-8156 if you have any questions.

05/03/2021 List of exhibits 49.1
 Evidentiary Hearing on Suppression Krupp, J.



05/03/2021 Witness list 49.2
 Evidentiary Hearing on Suppression Krupp, J.
 Applies To: Hunt, Timmy Eugene (Defendant)

05/11/2021 Defendant is present in court via Zoom videoconferencing from the Wyatt Detention Center.
 Evidentiary Hearing on Suppression held before Krupp, J. After hearing, the matter is taken under advisement.
 Continued by agreement to June 21, 2021 at 2:00 PM for Conference to Review Status in Courtroom 817 (via Zoom).
 Hon. Peter B Krupp, Presiding
 Appeared: C. Fitzgerald, ADA for G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (in-person) - FTR (9:09 AM)
 Staff:
 Rebeca Figueroa, Assistant Clerk Magistrate

05/11/2021 Habeas Corpus for defendant issued to Wyatt Detention Center returnable for 06/21/2021 02:00 PM Conference to Review Status. ***DEFENDANT TO APPEAR VIA ZOOM*** 50
<https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUEh3dmFKZz09>
 Meeting ID: 160 9995 1932 Passcode: 722345
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Please contact Assistant Clerk Magistrate Rebeca Figueroa at 617-788-8156 if you have any questions.

06/02/2021 Appeal: FTR DVD/CD Received from OTS: RE: 04/26/2021.

06/17/2021 Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs for a Forensics Expert (Statistics Expert) with Affidavit in Support and Attachment - Filed 51



06/21/2021 Defendant is not present in court. Defendant is in custody and is now

housed at the Plymouth County House of Correction.

Conference to review status rescheduled by the Court due to the defendant not being present via Zoom videoconferencing.

Continued to July 8, 2021 at 2:00 PM for Conference to Review Status via Zoom videoconferencing before Krupp, J. sitting in Norfolk County.
- Habe to Plymouth House of Correction issued via ADA Galizio.

Hon. Peter B Krupp, Presiding

Appeared: G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (2:03 PM)

Staff:

Rebeca Figueroa, Assistant Clerk Magistrate

06/21/2021 Endorsement on Defendant 's EX PARTE Motion for Allowance of Further Reasonable Costs for a Forensics Expert (Statistics Expert), (#51.0): ALLOWED
"Up to an additional \$1,862, Nunc Pro Tunc"



[Image](#)

Judge: Krupp, Hon. Peter B

06/22/2021 Habeas Corpus for defendant issued to Plymouth County House of Correction returnable for 07/08/2021 52
02:00 PM Conference to Review Status. ***DEFENDANT TO APPEAR VIA ZOOM***
<https://www.zoomgov.com/j/16099951932?pwd=NIQ2SXdUYWI2SXQ4TTdDUeh3dmFKZz09>
Meeting ID: 160 9995 1932 Passcode: 722345
Dial by your location +1 646 828 7666 US (New York)
Meeting ID: 160 9995 1932 Passcode: 722345



[Image](#)

Please contact the Criminal Clerk's Office at 617-788-8160 if you have any questions.
(Sent to Plymouth HOC via ADA G. Galizio)

07/08/2021 Defendant is present in court via Zoom videoconferencing from the Plymouth House of Correction.

Conference to Review Status held before Krupp, J. sitting in the First Criminal Session at Norfolk Superior Court.

Continued to previously scheduled date of August 13, 2021 at 2:00 PM for Scheduling Conference in Courtroom 817.

Hon. Peter B Krupp, Presiding

Appeared: G. Galizio, ADA (via Zoom) - R. Tobin, Atty. (via Zoom) - FTR (2:00 PM, 1st Session Norfolk Superior Court)

Staff:

Rebeca Figueroa, Assistant Clerk Magistrate

07/08/2021 Endorsement on Motion to Suppress Evidence (Warrantless) (Equal Protection Clause Violation), (#34.0): DENIED
7/8/21 After hearing, DENIED based on the findings of fact and for the reasons stated on the record from Courtroom 1 in Norfolk Superior Court beginning at approximately 2 p.m. on this date. Krupp, J.



[Image](#)

07/08/2021 Endorsement on Motion to Suppress Evidence (Warrantless) (Unreasonable Search and Seizure), (#33.0): DENIED
7/8/21 After hearing, DENIED. See endorsement on Docket #34. Krupp, J.



[Image](#)

07/08/2021 Endorsement on Motion for Discovery of Boston Police Gang Records, Defendant's Renewed, (#46.0): No Action Taken
7/8/21 After hearing, no action taken on the representation of defense counsel that the motion is moot. Krupp, J.



[Image](#)

07/29/2021 Defendant 's Notice of intention to apply to single justice for leave to appeal decision filed.

53






[Image](#)

08/02/2021 Event Result:: Scheduling Conference scheduled on:
08/13/2021 02:00 PM
Has been: Rescheduled For the following reason: Joint request of parties
Hon. Mary K Ames, Presiding
Staff:
Rourke Donnelly, Assistant Clerk Magistrate












08/09/2021 Appeal: FTR DVD/CD Received from OTS: 07/08/2021.

09/28/2021 Event Result:: Scheduling Conference scheduled on:
09/28/2021 02:00 PM
Has been: Held as Scheduled
Hon. Mary K Ames, Presiding
Staff:
Rourke Donnelly, Assistant Clerk Magistrate

Defendant not present (waived); matter continued by agreement to 11/23/21 for Lobby Conference.

11/22/2021	Event Result:: Lobby Conference scheduled on: 11/23/2021 02:00 PM Has been: Rescheduled For the following reason: By Court prior to date Hon. Mary K Ames, Presiding Staff: Rourke Donnelly, Assistant Clerk Magistrate		
11/23/2021	Court received Order denying application for interlocutory appeal related to appeal	54	
01/04/2022	Event Result:: Lobby Conference scheduled on: 01/04/2022 02:00 PM Has been: Held as Scheduled Hon. Joshua Wall, Presiding Staff: Rourke Donnelly, Assistant Clerk Magistrate Defendant's presence waived; lobby conference held; matter continued by agreement to 1/26/22 for Change of plea. Wall, J. - G. Galizio, ADA - R. Tobin, Attny - FTR		
01/13/2022	Habeas Corpus for defendant issued to Plymouth County House of Correction returnable for 01/26/2022 11:00 AM Hearing for Change of Plea. Join ZoomGov Meeting https://www.zoomgov.com/j/1603120709?pwd=bEJROXhBNUxUUNILzhJR3BhcS9EQT09 Meeting ID: 160 312 0709 Passcode: 817 One tap mobile +16692545252,,1603120709#,,,817# US (San Jose) +16468287666,,1603120709#,,,817# US (New York)	55	
01/26/2022	Offense Disposition:: Charge #1 FIREARM, CARRY WITHOUT LICENSE, 2ND OFF c269 §10(a) & (d) On: 01/26/2022 Judge: Hon. Joshua Wall By: Hearing on Plea Offer/Change Guilty Plea - Agreed Upon (Lesser Offense) Charge #2 FIREARM, CARRY WITHOUT LICENSE LOADED c269 s.10(n) On: 01/26/2022 Judge: Hon. Joshua Wall By: Hearing on Plea Offer/Change Dismissed - Request of Commonwealth Charge #3 AMMUNITION WITHOUT FID CARD, POSSESS c269 §10(h)(1) On: 01/26/2022 Judge: Hon. Joshua Wall By: Hearing on Plea Offer/Change Guilty Plea - Agreed Upon		
01/26/2022	Timmy Eugene Hunt's waiver of of Physical Presence, filed	60	
01/26/2022	Defendant 's Joint Notice of Agreement of the Parties re: Conditional Plea, filed	61	
01/26/2022	Defendant sentenced:: Sentence Date: 01/26/2022 Judge: Hon. Joshua Wall Charge #: 1 FIREARM, CARRY WITHOUT LICENSE, 2ND OFF c269 §10(a) & (d) State Prison Sentence Not Less Than: 5 Years, 0 Months, 0 Days Not More Than: 5 Years, 0 Months, 1 Days Charge #: 3 AMMUNITION WITHOUT FID CARD, POSSESS c269 §10(h)(1) Committed to HOC Term: 2 Years, 0 Months, 0 Days To Serve: 2 Years, 0 Months, 0 Days Served Concurrently Charge # 1 Committed to MCI - Cedar Junction (at Walpole) Credits 790 Days		
01/26/2022	Issued on this date: Mittimus for Sentence (All Charges) Sent On: 01/26/2022 15:09:15	56	
01/26/2022	Issued on this date: Mittimus for Sentence (All Charges) Sent On: 01/26/2022 15:10:30 Mittimus faxed to MCI Cedar Junction (w/confirmation) 1/26/22 Mittimus faxed to Plymouth Correctional (w/confirmation) 1/26/22	57	
01/26/2022	Event Result:: Hearing for Change of Plea scheduled on: 01/26/2022 11:00 AM Has been: Held as scheduled Hon. Joshua Wall, Presiding Staff:		

Defendant appearing on Zoom from Plymouth Correctional (Federal Wing); change of plea held (conditional). Wall, J. - G. Galizio, ADA - R. Tobin, Attny - FTR

01/26/2022	Defendant waives rights. Judge: Wall, Hon. Joshua	58	 Image
01/26/2022	Plea colloquy given. Judge: Wall, Hon. Joshua		
01/26/2022	Defendant warned pursuant to alien status, G.L. c. 278, § 29D. Judge: Wall, Hon. Joshua		
01/26/2022	Defendant warned pursuant to the habitual offender statute G.L. c. 279, § 25(d) Judge: Wall, Hon. Joshua		
01/26/2022	Defendant warned pursuant to the armed career criminal statute G.L. c. 269, § 10G Judge: Wall, Hon. Joshua		
01/26/2022	Defendant warned as to submission of DNA G.L. c. 22E, § 3 Judge: Wall, Hon. Joshua		
01/26/2022	DNA fee WAIVED Judge: Wall, Hon. Joshua		
01/26/2022	After finding of severe financial hardship, victim/witness fee waived. Judge: Wall, Hon. Joshua		
01/26/2022	Findings and Order of Statutory Fees Judge: Wall, Hon. Joshua	59	
01/26/2022	Defendant notified of right of appeal to the Appellate Division of the Superior Court within ten (10) days. Judge: Wall, Hon. Joshua		
01/26/2022	Notice of appeal filed by defendant regarding the denial of motion to suppress and judgments of conviction	62	 Image
01/26/2022	Robert H Tobin, Jr., Esq.'s Motion to Withdraw filed & allowed	63	 Image
03/18/2022	Other 's Notice of assignment received from CPCS office assigning Attorney Alison Bancroft for appeal filed	64	 Image
03/21/2022	Appeal: FTR DVD/CD Received from OTS:Re 2/8/21		
03/23/2022	Attorney appearance On this date Robert H Tobin, Jr., Esq. dismissed/withdrawn as Appointed - Indigent Defendant for Defendant Timmy Eugene Hunt		
03/23/2022	Attorney appearance On this date Alison Ruth Bancroft, Esq. added as Appointed - Appellate Action for Defendant Timmy Eugene Hunt		
03/23/2022	Defendant Alison Ruth Bancroft, Esq.'s Notice of appearance for appellate purposes filed	65	 Image
06/21/2022	CD of Transcript of 05/03/2021 02:00 PM Evidentiary Hearing on Suppression, 05/11/2021 09:00 AM Evidentiary Hearing on Suppression received from Cambridge Transcriptions. 2		
06/21/2022	Attorney appearance On this date Cailin Campbell, Esq. added as Attorney for the Commonwealth for Prosecutor Suffolk County District Attorney		
06/21/2022	Notice of assembly of record sent to Counsel Applies To: Bancroft, Esq., Alison Ruth (Attorney) on behalf of Hunt, Timmy Eugene (Defendant); Campbell, Esq., Cailin (Attorney) on behalf of Suffolk County District Attorney (Prosecutor)		 Image
06/21/2022	Notice to Clerk Joseph Stanton of the Appeals Court of Assembly of Record		 Image
06/21/2022	Appeal: Statement of the Case on Appeal (Cover Sheet).	66	 Image
06/28/2022	Appeal entered in Appeals Court on 06/27/2022 docket number 2022-P-0609	67	 Image
07/28/2022	CD of Transcript of 01/26/2022 11:00 AM Hearing for Change of Plea received from Anita Lamothe. 1		Image
08/09/2022	General correspondence regarding Letter from Mr. Timmy Hunt requesting records of his case be sent to the Records Department of USP Canaan.	68	 Image
08/09/2022	General correspondence regarding Records sent to USP Canaan and to Mr. Timmy Hunt as requested.	69	 Image

11/16/2022 Notice of docket entry received from Appeals Court
RE#7: Appellate proceedings STAYED to 12/14/2022. Status report due then concerning assembly of
the record on the co-defendant's appeal.

70

[Image](#)



[Image](#)

Case Disposition

Disposition	Date	Case Judge
Disposed by Plea	01/26/2022	Wall, Hon. Joshua

Name search is currently unavailable in Land Court. Case type and case number searches are available. For assistance, contact the Land Court Recorder's Office at 617-788-7470. We apologize for any inconvenience this may cause. ✖

Volume: III
 Pages: 1-31
 Exhibits: 0

COMMONWEALTH OF MASSACHUSETTS
 SUFFOLK, SS SUPERIOR COURT

* * * * *
 * COMMONWEALTH OF MASSACHUSETTS, *
 * * * * *
 * Plaintiff, *
 * * * * *
 * v. *
 * * * * *
 * TIMMY HUNT *
 * * * * *
 * Defendant *
 * * * * *

No. 1984CR00085

STATUS HEARING
 BEFORE THE HONORABLE PETER B. KRUPP

APPEARANCES:

For the Commonwealth, Suffolk District Attorney's
 Office.
 For the Defendant Timmy Hunt, Tobin And Tobin, PC
 For the Defendant Tamari Tubs, Moya R. Gibson, Esquire
 For the Defendant Daquon Dooley, Joseph M. Griffin,
 Esquire
 (Full appearance list on page 2.)

Dedham, Massachusetts
 July 8, 2021

(Proceedings conducted remotely.)
 (Transcript prepared from Audio Recording)
 Reporter: Darlene M. Coppola

APPEARANCES:

For the Commonwealth:
Suffolk County District Attorney's Office
One Bulfinch Place
Boston, Massachusetts 02114
By: Gregory James Galizio, Esquire

For the Defendant Hunt:
Tobin And Tobin
735 South Street
Roslindale, Massachusetts 02131
By: Robert H. Tobin, Esquire

For the Defendant Tubs:
Moya R. Gibson, Attorney at Law
50 Redfield Street, Suite 109
Dorchester, Massachusetts 02122
By: Moya R. Gibson, Esquire

For the Defendant Dooley:
Joseph M. Griffin, Jr., Attorney at Law
15 Court Square, Suite 240
Boston, Massachusetts 02108
By: Joseph M. Griffin, Esquire

1 (Court in session)

2 (2:08 p.m.)

3 THE CLERK: Court, all rise.

4 Court is in session. Please be seated.

5 Your Honor, we're on the record on a Suffolk
6 matter. It is dockets number 1984CR85, 86, and
7 1984YO204, I believe. 85 and 86 -- yeah. And maybe
8 1988.

9 Can I have Counsel for the Commonwealth identify
10 themselves?

11 MR. GALIZIO: Good afternoon, Your Honor. Greg
12 Galizio for the Commonwealth.

13 THE COURT: Mr. Galizio.

14 THE CLERK: For Mr. Hunt?

15 MR. TOBIN: Good afternoon, Your Honor. Robert
16 Tobin for Timmy Hunt.

17 THE CLERK: For --

18 THE COURT: Okay.

19 THE CLERK: -- Mr. Tubs -- or Ms. Tubs?

20 Msg Good afternoon, Your Honor. Moya Gibson for
21 Tamari Tubs.

22 THE CLERK: And for Mr. Dooley?

23 MR. GRIFFIN: Good afternoon, everyone. Joe
24 Griffin for Mr. Dooley.

25 THE COURT: All right.

1 Mr. Hunt, are you there and able to hear us?

2 MR. HUNT: Yes, sir.

3 THE COURT: Okay.

4 Mr. Tubs, are you There and able to hear us?

5 MR. TUBS: Yes.

6 THE COURT: All right. Thank you.

7 And, Mr. Dooley, are you there and able to hear
8 us?

9 MR. DOOLEY: Yes.

10 THE COURT: All right.

11 You're on -- it just shows iPhone.

12 All right?

13 All right.

14 I am in a courtroom, which is cavernous, in
15 Dedham. I am among only three other people in the
16 courtroom, who have all been vaccinated, so I am
17 going to remove my mask. I'm behind plexiglass --
18 everything else, and I think our protocols allow me
19 to do that. So I'm going to do that.

20 THE CLERK: I will.

21 THE COURT: With respect to these proceedings,
22 we're here for findings and rulings. So based on a
23 preponderance of the evidence that I find to be
24 credible at the hearings, I make the following
25 findings of fact with respect to the motions to

1 suppress.

2 On November 26, 2018, about 2:30 a.m., Officer
3 Marc McBrien and his partner were at the intersection
4 of Mount Pleasant and Dudley Streets on a directed
5 patrol because of recent gun activity in the area.
6 They came to the intersection, and facing the
7 intersection they saw a vehicle directly in front of
8 them, coming in the opposite direction across the
9 intersection.

10 It was obviously dark and nighttime, and they all
11 had their lights on. They were not able to see into
12 the vehicle that was facing them, but they were able
13 to see the motor vehicle plate on the front of the
14 vehicle that was facing them.

15 (Off the record discussion.)

16 (Back on the record.)

17 THE COURT: Officer Dunn ran the license plate,
18 and -- or keyed in the license plate to their
19 computer on -- in the vehicle. And before he had a
20 result from that inquiry, each of the vehicles took a
21 left in opposite directions.

22 After Officer McBrien in his vehicle took a left,
23 they got the results of the CJIS inquiry on the
24 license plate, which indicated that the license plate
25 for the vehicle was registered to Timmy Hunt, and

1 | that Mr. Hunt's driver's license had been suspended.

2 | Officer McBrien then took a U-turn and went back
3 | to stop the vehicle, because, although, he didn't
4 | know if Mr. Hunt was the driver of the vehicle, he
5 | had a reasonable suspicion that he was, and wanted to
6 | stop the driver of the vehicle for driving without a
7 | proper license.

8 | After the stop of the vehicle -- and the vehicle
9 | stopped appropriately -- Officer McBrien approached
10 | the driver's side of the vehicle, and Officer Dunn
11 | approached the passenger side of the vehicle.

12 | Officer McBrien told Mr. Hunt, who was driving,
13 | it turned out, that his license was suspended. And
14 | Mr. Hunt said that that was not possible. That he
15 | had just recently paid the fines the day before. And
16 | Officer McBrien offered to allow Mr. Hunt to look on
17 | his computer, aware that sometimes somebody pays
18 | fine, and it doesn't immediately show up in the
19 | computer, and the computer may still show that the
20 | license is suspended.

21 | Officer McBrien, in that context and in that
22 | conversation, was not confrontational. He offered to
23 | allow Mr. Hunt to look at the computer. And Mr. Hunt
24 | repeatedly asked why he was being arrested. And
25 | Officer McBrien told him that he wasn't under, under

1 arrest.

2 After proceeding back out of the vehicle and back
3 to Officer McBrien's vehicle to look at the computer,
4 Mr. Hunt asked if he could grab his wallet, and
5 Officer McBrien said that that was fine. Officer
6 McBrien, himself, expected Mr. Hunt just to get his
7 wallet, but in fact, he sat down in the vehicle.

8 Because his license was suspended according to
9 the registry of motor vehicles, he wasn't authorized
10 lawfully to drive the vehicle, and Officer McBrien
11 was afraid that he would drive away having sat down
12 in the vehicle. So he, Officer McBrien, ordered Mr.
13 Hunt out of the vehicle, and actually gave that
14 directive to Mr. Hunt a number of times, and he did
15 not immediately get out of the vehicle.

16 At some point -- and this is all happening
17 relatively quickly -- Officer McBrien saw Mr. Hunt's
18 hand near the floorboards, and saw in his hand what
19 they -- what he believed to be a gun, and he yelled,
20 "Gun," alerting other officers.

21 Officer McBrien immediately grabbed at Mr. Hunt.

22 Another officer also grabbed at Mr. Hunt -- that was
23 Officer Sharkey (phonetic) -- and got Mr. Hunt out of
24 the vehicle, and located a firearm.

25 Officer Dunn -- bear with me a second --

1 testified -- and I credit his testimony -- that it is
2 his practice to run every license plate he sees, and
3 to make inquiries to whether it's a valid plate,
4 whether there are issues with respect to
5 registration. This seems to me to be a law
6 enforcement practice, and when conducted in heavily
7 black and brown communities, is likely to stop people
8 who are black and brown.

9 Before, in this instance, Officer Dunn ran the
10 license plate, he could not see the occupants either
11 because the headlights that were in Officer Dunn's
12 face.

13 Officer Dunn, after getting the CJIS report,
14 instructed his partner, Officer McBrien, to turn
15 around, and -- because the license, as I indicated,
16 came up as suspended for Timmy Hunt, who was the
17 registered owner of the vehicle.

18 When Officer Dunn went up to the passenger side,
19 he indicated that they -- a passenger should roll
20 down the window. And ultimately, Officer Dunn asked
21 to get identification from the person who was in the
22 driver's -- front driver's seat -- excuse me -- the
23 front passenger seat, and the rear seat. Mr. Tubs
24 was in the front passenger seat. Mr. Dooley was in
25 the back seat. And Officer Dunn did this while

1 Officer McBrien was dealing with Mr. Hunt.

2 The reason that Officer Dunn requested
3 identification from the two passengers was to
4 determine whether either of them had a valid license
5 and could drive the vehicle away from the scene, as
6 it appeared that Mr. Hunt did not have a valid
7 license, at least according to the registry's
8 information that the police had.

9 While Officer Dunn was checking on the
10 identifications of Mr. Dooley and Mr. Tubs, he heard
11 yelling. He got out of the cruiser, went back to the
12 passenger side, and he, and other officers who
13 responded to the stop, told Mr. Dooley to get out of
14 the vehicle. And he initially did not, and was
15 removed from the vehicle by the police officers. And
16 Officer Dunn saw, at his waistband, a firearm.

17 Initially, when Officer Dunn went to the side of
18 the -- the passenger side of the vehicle, he shined
19 his flashlight in the back and front. He saw nothing
20 unusual. He shined it in the floor area. Saw
21 nothing unusual. And that's approximately when
22 Officer McBrien invited Mr. Hunt to go back to the
23 cruiser to look. There was no reason for an exit
24 order of Mr. Hunt, or anybody else in the vehicle, at
25 that time. And there was no exit order of anybody in

1 the vehicle at that time.

2 When asked, those on the passenger side opened
3 the front and back windows, and, as I say, Officer
4 Dunn saw nothing out of the ordinary.

5 Both Mr. Tubs and Mr. Dooley, when Officer Dunn
6 was asking them for their identifications, et cetera,
7 were calm, compliant, and did not appear to be
8 nervous. Officer Dunn saw no suspicious movements by
9 Mr. Dooley or Mr. Tubs, and both of them provided
10 information and their license as requested.

11 Officer Dunn only requested Mr. Dooley to get out
12 of the vehicle, and only ultimately had to extract
13 him from the vehicle, after a gun was observed in the
14 area of Mr. Hunt.

15 Officer Beauchemin responded to the area after
16 hearing a radio call about a motor vehicle stopped.
17 The motor vehicle's license plate was broadcast, and,
18 on his way to respond to assist the officers making
19 the stop, Officer Beauchemin's partner queried the
20 license plate through CJIS to determine whether he,
21 or -- whether either person in their vehicle knew
22 anything about the individuals who were stopped. The
23 CJIS inquiry showed that it was Timmy Hunt who was
24 driving, or at least was registered to that
25 particular motor vehicle. Not that he was driving.

1 That wasn't yet known. And Officer Beauchemin knew
2 of Timmy Hunt from the three years he had worked at
3 the Nashua Street Jail as a Court officer.

4 When Officer Beauchemin arrived in the area of
5 the stop, he pulled alongside the vehicle that was
6 stopped. And at the time, Mr. Hunt and Officer
7 McBrien were discussing the status of Mr. Hunt's
8 license.

9 From his vantage point, Officer Beauchemin heard
10 Mr. -- excuse me -- Officer McBrien demand that Mr.
11 Hunt exit the vehicle after he had gotten back in.
12 And Officer Beauchemin's partner got out of the
13 vehicle that Officer Beauchemin was in, and then
14 Officer Beauchemin positioned his vehicle in front of
15 Mr. Hunt's vehicle, just by a few feet.

16 He -- Officer Beauchemin heard several officers
17 say, "Gun," and heard other officers trying to get
18 it. Officer Beauchemin exited his vehicle, went to
19 the front of the vehicle that was stopped -- that is
20 to say, Mr. Hunt's vehicle -- and observed the front
21 seat passenger, later identified as Mr. Tubs.
22 Officer Beauchemin drew his firearm and ordered Mr.
23 Tubs to show his hands, and ultimately ordered him
24 out of the vehicle because a firearm was located
25 inside the vehicle -- that is to say, on Mr. Hunt's

1 side.

2 Mr. Tubs complied with the exit order. He went
3 on the ground as ordered, and Officer Beauchemin
4 placed Mr. Tubs in handcuffs, and waited 'til the
5 back seat passenger had been placed in handcuffs
6 before he tried to roll Mr. Tubs to his side for a
7 pat frisk. Ultimately, when he was able to roll Mr.
8 Tubs to his side, he could see a bulge in his
9 waistband, lifted his shirt, and saw a handle of a
10 firearm, and alerted others to his observations.

11 Prior to the observation of a gun near Mr. Hunt's
12 right hand, there was no indication of any crime of
13 violence, or indication the occupants of the vehicle
14 were armed before the police yelled, "Gun."

15 Officer Beauchemin didn't know Tamari Tubs.

16 Officer Beauchemin heard other officers call out,
17 "Gun," but I could not find that he ever saw the
18 firearm in the vehicle, in the vicinity of Mr. Hunt.

19 I made a preliminary showing -- excuse me -- I
20 made a finding that the Defense had made a
21 preliminary showing of race having played a role in
22 the decision to stop the motor vehicle. And after
23 the evidentiary hearing, I find that the stop was
24 justified based on non-racial factors, and I could
25 not find that race played a role in the decision to

1 stop the motor vehicle.

2 I do find that it was the law enforcement
3 officer's procedure to stop every vehicle -- to run
4 the license plates of any vehicle they could. They
5 ran this license plate without race being a factor in
6 any respect. They have a practice of stopping every
7 vehicle where the registered owner is not licensed to
8 drive. That's what they did in this case. Again,
9 race did not play a factor in that determination. It
10 was learning that the owner's license was suspended
11 that gave the police reasonable suspicion to conduct
12 the stop.

13 References made to the case of Commonwealth vs.
14 Puac-Cuc -- I don't know if I'm pronouncing that
15 right. P-U-A-C-hyphen-C-U-C. 97 Mass App Court 590,
16 which is a 2020 decision on the subject of whether
17 the police have reasonable suspicion to stop a motor
18 vehicle because the owner -- the registered owner's
19 license is suspended. That case holds that the
20 police do.

21 There was probable cause to arrest Mr. Hunt for
22 driving without a license. I don't find that the
23 police were going to arrest him for driving without a
24 license. I think they probably would've summonsed
25 him in for -- on that offense, but for the fact that

1 he got back in the vehicle, failed to obey the exit
2 order, and the police then saw him in the vicinity
3 of, or holding, a firearm.

4 For officer safety, they were certainly entitled
5 to order him and the other occupants of the vehicle,
6 upon seeing a gun, out of the vehicle. And the
7 resulting search of the motor vehicle was justified
8 as an inventory search.

9 The Commonwealth has, as I said, given a race-
10 neutral reason for the stop. And I find no reason to
11 discredit the police testimony that every time they
12 run a plate and see a registered owner has suspended
13 license, they pull the car over.

14 Let me ask Counsel if they believe I should make
15 any other findings of fact.

16 Mr. Galizio?

17 MR. GALIZIO: I don't believe so, Your Honor. No.

18 THE COURT: Okay.

19 Mr. Tobin?

20 MR. TOBIN: No, Your Honor.

21 There was testimony about fact that Officer Dunn,
22 according to the records from Boston Police, that
23 close to 90% of the time on certain records, that the
24 owner of the -- that the driver of the car was not
25 the operator.

1 THE COURT: I cannot generalize from that
2 anecdotal experience of one officer to conclude that
3 there was not reasonable suspicion to stop a motor
4 vehicle, particularly in light of the law, which
5 allows and, and supports reasonable suspicion to stop
6 a motor vehicle because a registered owner of the
7 motor vehicle does not have a registered license -- a
8 proper license.

9 In this instance, there was no information that
10 the police had that the driver was anyone other than
11 the registered owner. There are cases where the
12 registered owner, say, is a elderly female, and the
13 driver is so clearly not an elderly female that it is
14 not reasonable to believe that the suspension of the
15 elderly female's license is a basis to stop the
16 driver for failing to drive with a proper license.
17 But this is not that case.

18 Anything else, Mr. Tobin?

19 MR. TOBIN: No, Your Honor.

20 Just note my objection.

21 THE COURT: Okay.

22 Ms. Gibson?

23 MS. GIBSON: I don't see anything, Your Honor.

24 THE COURT: Okay.

25 MS. GIBSON: Thank you.

1 THE COURT: Mr. Griffin?

2 MR. GRIFFIN: Nothing I need to put on the record.
3 Thank you, Your Honor.

4 THE COURT: Okay.

5 Based on these findings of fact, the motions to
6 suppress, based on the unlawful stop, the exit order,
7 and search of the vehicle, will be denied.

8 Ms. Gibson, I have a motion to suppress from you
9 on behalf of Mr. Tubs which also references in the
10 caption that you're seeking to suppress statements of
11 the Defendant. I don't see any reference in your
12 memo of law with respect to statements, and it may be
13 that we discussed this earlier, and you had indicated
14 that there were in fact no statements, and that it
15 was just a, you know, a form thing with respect to
16 your motion. But I want to make sure that we don't
17 have an issue with statements independent of the
18 search.

19 MS. GIBSON: I think that, based on the evidence
20 that came in, I don't think statements were given.

21 It's my understanding that -- well, when I filed,
22 I wasn't necessarily certain of the officers'
23 testimony regarding statements, so I wanted to make
24 sure all bases were covered.

25 I think my client may have said something, "I'm