

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS.

SJC-12949

COMMONWEALTH

V.

CAMERON LOUGEE

PARTIES' AGREED STATEMENT OF FACTS

Pursuant to the Single Justice's order that "[t]he parties shall prepare and file a statement of agreed facts in the full court," the parties submit the following:

On March 26, 2019, an arrest warrant issued in the Taunton District Court, along with a complaint charging Cameron Lougee with forcible rape of a child (G.L. c. 265, § 22A), rape of a child aggravated by a ten-year age difference (G.L. c. 265, § 23A), and indecent assault and battery on a child under fourteen (G.L. c. 265, § 13B). Mr. Lougee was arrested on the warrant and arraigned the following day. The Commonwealth filed a motion for pretrial detention under G.L. c. 276, § 58A, and Mr. Lougee was held pending a hearing on the motion. The District Court dangerousness hearing was held on April 18, 2019, on which date the judge (Brennan, J.) found Mr. Lougee dangerous but determined that he could be released on

conditions pursuant to § 58A(2). One of the conditions set by Judge Brennan was cash bail in the amount of \$25,000. Mr. Lougee was unable to post the bail, and remained held.

On July 18, 2019, the Bristol Grand Jury handed up indictments, 1973CR00216, charging Mr. Lougee with the same offenses listed in the District Court complaint. Mr. Lougee was arraigned in the Bristol Superior Court on September 5, 2019, and a new dangerousness hearing was conducted on September 9 (McGuire, J.). On September 19, 2019, Judge McGuire ordered Mr. Lougee held without bail pursuant to § 58A(3).

Trial was scheduled for March 23, 2020. On March 6th, Mr. Lougee filed a motion to continue the trial due to the unavailability of his expert witness. The motion was allowed (Pasquale, J.) over the Commonwealth's objection, and a new trial date was set for May 11. Judge Pasquale ordered the resulting period of delay to be excluded from the calculation of both Mr. Lougee's speedy trial time under Mass. R. Crim. P. 36, and from the maximum period of his pretrial detention under § 58A.

On April 24, 2020, the Supreme Judicial Court issued an Updated Order Regarding Court Operations Under The Exigent Circumstances Created By The Covid-19 (Coronavirus) Pandemic, OE-144, effective May 4th, providing that jury trials scheduled to begin between March 13, 2020, and July 1, 2020, were continued to a date no earlier than July 1, 2020.

On May 4, 2020, Mr. Lougee filed a Motion to Release the Defendant from 58A Hold and Remit to Bail. The Commonwealth filed an opposition, and a hearing was held on May 6th (Davis, J.). At the hearing, Judge Davis calculated that, after accounting for the excluded time resulting from the motion to continue the trial, Mr. Lougee's 180-day detention would expire on May 15, 2020, unless this Court's standing orders related to COVID-19 operated to toll the time permitted for detention under § 58A. The Commonwealth declared itself satisfied with the judge's calculation. Following the hearing, the judge made the following endorsement on the defendant's Motion:

After a hearing by video (Defendant) and telephone (counsel) this motion is Allowed. Under ordinary circumstances, Defendant's 180 day detention under G.L. c., 276, § 58A, would end on May 15, 2020. This Court does not read the SJC's updated Standing Order, effective May 4, 2020, as tolling or extending the end date for Defendant's

detention. It is not a "deadline" for purposes of ¶ 12 of the Standing Order, nor is it a "Speedy Trial Computation" for the purposes of ¶ 9 of the Standing Order. Accordingly, Defendant is entitled to a bail hearing, which will take place by teleconference on May 15, 2020, at 2 p.m.

The Commonwealth filed a petition pursuant to G.L. c., 211, § 3, with the Single Justice (Cypher, J.), who ordered the bail hearing to go forward as scheduled but reserved and reported the underlying question of law to the Full Court.

At the May 15th bail hearing, Judge McGuire set bail at \$75,000 with conditions, finding that, in light of Mr. Lougee's history, this amount was required to ensure his appearance for trial notwithstanding his indigency. Mr. Lougee again was unable to post bail, and presently remains incarcerated at the Bristol County Jail in North Dartmouth.

Respectfully submitted,

For the Commonwealth:

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/s/ Shoshana Stern

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May 21, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2020, in the above-referenced case, I served a copy of the Parties' Agreed Statement of Facts and Certificate of Service on defendant's counsel, Patrick Levin, via e-filing.

/s/ Shoshana Stern

Shoshana E. Stern