

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. SJ-2020-0368

Pittsfield District Court
No. 1927CR1321

COMMONWEALTH

v.

SCOTT SMITH

RESERVATION AND REPORT

This matter came before the Court, Cypher, J., on a petition for relief under G. L. c. 211, § 3, filed by the Commonwealth, which seeks relief from an order of a District Court judge releasing Scott Smith from custody after his detention pursuant to G. L. c. 276, § 58B.¹ The judge ruled that the defendant's § 58B detention period had expired, notwithstanding the Commonwealth's argument that this court's standing order of May 4, 2020 tolled or extended that period. In its petition, the Commonwealth argues that this was an error of law and that delays occasioned by our standing order are to be excluded from the § 58B detention period. The defendant has filed an opposition.

¹ The defendant was charged with assault and battery on a household or family member and vandalism. After a dangerousness hearing pursuant to G. L. c. 276, § 58A, a judge in the District Court ordered him detained for 120 days. At the expiration of that period, the defendant was released with certain conditions. The defendant was subsequently charged with a drug offense. As a result, his bail was revoked and he was detained for ninety days pursuant to G. L. c. 276, § 58B.

Upon consideration of the parties' submission, it is hereby ORDERED that the Commonwealth's petition is reserved and reported to the full court for determination. The record comprises the following:

1. All the papers filed in No. SJ-20-0368, Commonwealth vs. Scott Smith;

2. This reservation and report; and

3. The docket sheet in No. SJ-2020-0368.

The parties shall prepare and file a statement of agreed facts in the full court.

The clerk of the county court shall assemble the record and transmit it to the full court forthwith. Oral argument shall take place in June, 2020, or at such time as the full court may direct. The parties shall confer with the clerk as to a briefing schedule. This case shall be considered along with SJ-20-347, Commonwealth vs. Cameron Lougee, and SJ-20-348, Commonwealth vs. Shawn Horton, which I previously reserved and reported.

/s/ Elspeth Cypher
Elspeth Cypher
Associate Justice

Entered: May 15, 2020