

**COMMONWEALTH OF MASSACHUSETTS**

**Suffolk, ss.**

**Supreme Judicial Court**

**Order**

The Order regarding Applications to a Single Justice Pursuant to Mass. R. Crim. P. 15(a)(2) entered on February 1, 1997, is hereby repealed and replaced by the following Order regarding Applications to a Single Justice Pursuant to Mass. R. Crim. P. 15(a)(2). This Order shall take effect on August 1, 2016.

**ORDER regarding Applications to a Single Justice Pursuant to  
Mass. R. Crim. P. 15(a)(2)**

(a) Contents of Application. An application to a single justice for leave to appeal an order determining a motion to suppress evidence prior to trial pursuant to Mass. R. Crim. P. 15(a)(2) shall contain the following information and supporting documents: (1) the docket number of the trial court case and current docket sheet; (2) the findings and rulings by the trial court; (3) a brief memorandum of law, including an explanation of how the administration of justice would be facilitated by the grant of leave to appeal; (4) an estimate of the length of the trial; (5) the scheduled trial date or next scheduled trial court event; (6) an affirmative representation whether the application and notice of appeal are timely under Mass. R. Crim. P. 15(b)(1); (7) if the application or notice of appeal is untimely, a motion to enlarge the time for filing with a supporting affidavit setting forth in meaningful detail the reasons for the delay; and (8) in an application by the Commonwealth, a statement whether the Commonwealth has a viable case without the suppressed evidence, and the strength of that case, if viable. A transcript shall not accompany the application unless oral findings and rulings were placed on the record by the trial court. The caption of the case shall remain the same as in the trial court.

(b) Time for Filing Notice of Appeal and Application. A notice of appeal shall be filed in the trial court and an application

for leave to appeal under Mass. R. Crim. P. 15(a)(2) shall be filed in the Supreme Judicial Court for the County of Suffolk within the time prescribed by Mass. R. Crim. P. 15(b)(1).

(c) Time for Filing Opposition. Within fourteen days after the date of entry of the application for leave to appeal, or within such time as the single justice may direct, the other party or parties to the case may, but need not, file and serve a brief memorandum in opposition setting forth reasons why the application should not be granted. If the other party or parties determine not to file an opposition, a notice shall be served and filed within the time provided in this paragraph stating that no such opposition will be filed.

(d) Filing by Mail. The application for leave to appeal and any opposition shall be docketed on the date of receipt and shall be deemed timely filed if (i) received within the time fixed for filing or (ii) accompanied by an affidavit signed by counsel of record attesting that the day of mailing was within the time fixed for filing.

(e) Service. One copy of the application and supporting documents and one copy of each memorandum in opposition shall be served on all parties in the case, the chief of the appellate department for the prosecuting office, and any other interested parties. A certificate of service shall be filed for all documents setting forth the method of service and the names, addresses, telephone numbers, and e-mail addresses if any of all those upon whom service has been made.

(f) Hearing. The single justice will consider the application on the papers submitted pursuant to this order unless he or she otherwise orders.

present,

<u>RALPH D. GANTS</u>	)	Chief Justice
	)	
<u>FRANCIS X. SPINA</u>	)	
	)	
<u>ROBERT J. CORDY</u>	)	Justices
	)	
<u>MARGOT BOTSFORD</u>	)	
	)	
<u>FERNANDE R.V. DUFFLY</u>	)	
	)	
<u>BARBARA A. LENK</u>	)	
	)	
<u>GERALDINE S. HINES</u>	)	

DATE: June 8, 2016