

SUFFOLK

COMMONWEALTH OF MASSACHUSETTS

NORFOLK SUPERIOR COURT
No. 2282CR0117

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY

No. SJ-2024-0122

TRACEY ANNE SPICUZZA, LORENA JENKINSON,
DANA STEWART LEONARD, AND PAUL CRISTOFORO

V.

COMMONWEALTH OF MASSACHUSETTS, KAREN READ,
AND SUPERIOR COURT OF NORFOLK COUNTY

No. SJ-2024-0123

FREEDOM TO PROTEST COALITION,
NICHOLAS ROCCO, AND JON SILVERIA

V.

COMONWEALTH OF MASSACHUSETTS, KAREN READ,
AND SUPERIOR COURT OF NORFOLK COUNTY

**Commonwealth's Consolidated Opposition to Petitioners' Emergency Motions to Stay
Order of Norfolk Superior Court and Petitions for Relief Under G.L. c. 211, §3**

The Commonwealth opposes the combined petitioners' G.L. c. 211, §3 petitions challenging an April 4, 2024 order of the Norfolk Superior Court establishing a 200 foot buffer zone around the Norfolk Superior Court complex for trial in Commonwealth v. Karen Read, No. 2282CR00117, scheduled to begin April 16, 2024, and accompanying emergency motions to stay that order. In sum, the petitioners do not have standing to challenge this order, and even if

standing existed, the trial judge’s findings establish the need for a buffer zone to protect the interests in a fair trial. Where the petitioners have the continued right to protest elsewhere, but the administration of justice will be irreparably harmed if potential jurors were exposed to extraneous information, the request for a stay should be denied.

PROCEDURAL HISTORY

On June 9, 2022 the Norfolk County grand jury returned indictments charging Karen Read with second-degree murder, in violation of G.L. c. 265, §1; manslaughter while operating under the influence of liquor, in violation of G.L. c. 265, §13½; and leaving the scene where death resulted, in violation of G.L. c. 90, §24(2)(a½)(2), concerning the death of John O’Keefe.¹ Trial is scheduled to commence April 16, 2024. On March 26, 2024, the Commonwealth filed a “Motion for Buffer Zone Surrounding Norfolk Superior Court and Request for Order Prohibiting Signs or Clothing in Favor of Either Party or Law Enforcement.” (Docket, #254; Attachment A). On April 3, 2024, petitioners Tracey Anne Spicuzza, Lorena Jenkinson, Dana Stewart Leonard, and Paul Cristoforo filed a “Citizens’ Motion to Intervene for the Limited Purpose of Upholding and Defending the First Amendment by Opposing the Commonwealth’s Motion for A Buffer Zone and Restraining Signs or Clothing that Express a Viewpoint About the Trial.” (Docket, #265; Attachment B). On April 4, 2024, the American Civil Liberties Union of Massachusetts filed a motion for leave to file an amicus memorandum and amicus memorandum (Docket, # 266, 267; Attachment C). At hearing on April 4, 2024, the Court (Beverly J. Cannone, RAJ.), denied the Citizens’ motion to intervene, finding that there was no support for intervention in the Massachusetts Rules of Criminal Procedure, and granted the ACLU motion for leave to file an

¹ A complaint previously issued out of Stoughton District Court.

amicus. (Docket, # 265, 266; Aff. of counsel). Defendant Read took no position on the Commonwealth's motion (Aff. of Counsel).

Later that day, the Court issued a memorandum and order that:

It is hereby, **ORDERED** that no individual may demonstrate in any manner, including carrying signs or placards, within 200 feet of the Courthouse Complex during trial unless otherwise Ordered by the Court. This complex includes the Norfolk Superior Courthouse building and the parking area behind the Norfolk County Registry of Deeds building. Individuals are also prohibited from using audio enhancing devices while protesting.

It is further **ORDERED** that no individuals will be permitted to wear or exhibit any buttons, photographs, clothing, or insignia, relating to the case pending against the defendant or relating to any trial participant, in the Courthouse during the trial. Law enforcement officers who are testifying or are members of the audience are also prohibited from wearing their department issued uniforms or any police emblems in the Courthouse.

(Docket, #274; Att. D).

ARGUMENT

The petitioners did not have standing to challenge the buffer zone order below, and should not be deemed to have standing to challenge the trial judge's order in this Court. Under G.L. c. 211, §3: "The supreme judicial court shall have general superintendence of all courts of inferior jurisdiction to correct and prevent errors and abuses therein if not other remedy is expressly provided." This power is "extraordinary" and is exercised only in "the most exceptional circumstances." McMenimen v. Passatempo, 452 Mass. 178, 184-185 (2008), quoting Planned Parenthood League of Mass., Inc. v. Operation Rescue, 406 Mass. 701, 706 (1990), quoting Costarelli v. Commonwealth, 374 Mass. 677, 679 (2008). Parties seeking the application of G.L. c. 211, §3 must show a substantial claim of violation of substantive rights and error that cannot be remedied under the ordinary review process. Planned Parenthood League of Mass., Inc., 406 Mass. at 706.

This Court should decline to exercise its extraordinary power here. The petitioners in SJ-2024-0122 filed a motion to intervene in Norfolk Superior Court, which was denied. Where the petitioners had no standing to intervene below, they should not now be allowed to invoke this Court's extraordinary power of general superintendence for a resolution of those claims. See Matter of an Impounded Case, 491 Mass. 109, 115-116 (2022), quoting Randolph v. Commonwealth, 488 Mass. 1, 6 (2021) (further citations omitted) ("As a general rule, only parties to a lawsuit, or those who properly become parties, may appeal from an adverse judgment"); see also Matter of Chapman, 482 Mass. 1012, 1015-1016 (2019) ("We reject the petitioners' contention that, despite their lack of standing in the underlying G.L. c. 123A proceeding, they are nevertheless entitled as a matter of right to invoke this court's extraordinary power of general superintendence to obtain a resolution of those claims or to enjoin [SDP respondent's] release based on those claims"). While there are exceptions in "narrow circumstances," see Matter of an Impounded Case, 491 Mass. at 115-116, those would include where "a nonparty has a direct, immediate and substantial interest that has been prejudiced by the judgment, and has participated in the underlying proceedings to such an extent that the nonparty has intervened 'in fact.'" This is not the case here. Intervention is "a concept foreign to criminal procedure." The Republican Company v. Appeals Court, 442 Mass. 218, 227 n.14 (2004). Further, this is not a closure of a public proceeding, nor a case concerning impoundment of court materials, where the petitioners are seeking access to court materials, rather this is a time, place, manner restriction but not a ban on their right to protest. Further, the "Freedom to Protest Coalition, Nicholas Rocco and Jon Silveria" petitioners did not attempt to intervene in the criminal case in Norfolk Superior Court, nor is there grounds for representative standing where the petitioners merely state that individual persons have organized themselves into an "unincorporated organization." (SJ-2024-0123 at 2-3). As the members do not

have standing, the "Freedom to Protest Coalition" does not have standing and stands in the same place as the individuals.

If the merits are reached, the judge's order should be affirmed as being narrowly tailored to protect the substantial government interest of ensuring a fair trial with a fair and impartial jury. "Protecting a defendant's right to a fair trial is undeniably a substantial government interest." Commonwealth v. George W. Prescott Pub. Co., LLC, 463 Mass. 258, 269 (2012) (citations omitted). "The Commonwealth, as well as a criminal defendant, has the right to a fair trial." Commonwealth v. Lowder, 432 Mass. 92, 102 (2000); see also Commonwealth v. Underwood, 358 Mass. 506, 511 (1970) (Commonwealth has equal right to a fair trial); see also Commonwealth v. Soares, 377 Mass. 461, 483 (1979) ("Later, the government's interest in trial by a jury not unfairly biased in favor of acquittal was recognized, and the right of the prosecution to exercise peremptory challenges is now clearly established"). Judges are charged with "an affirmative constitutional duty to minimize the effects of prejudicial pretrial publicity." Bos. Herald, Inc. v. Sharpe, 432 Mass. 593, 608-609 (2000), quoting Newspapers of New England, Inc. v. Clerk-Magistrate of the Ware Div. of the Dist. Court Dep't, 403 Mass. 628 (1988), quoting Gannett Co. v. DePasquale, 443 U.S. 368, 278 (1979).

Contrary to the petitioners' argument, the trial judge made more than sufficient factual findings to justify the creation of the buffer zone around the courthouse complex. The trial judge noted that the defendant had a right to a fair trial, but that the court could restrict speech, "so long as the restrictions do not 'burden substantially more speech than is necessary to further the government's legitimate interests.'" Order at 1-2; Attachment D, quoting Ward v. Rock Against Racism, 491 U.S. 781, 799 (1989)." The trial judge then found:

In this case, it is well documented that protestors have shouted at witnesses and confronted family members of the victim. Individuals have also taken to displaying

materials which may or may not be introduced into evidence during trial, and airing their opinions as to the guilt or innocence of the defendant on their clothing or on signage. Witness intimidation has also been a prevalent issue in this case. Given these past actions, the Court concludes there is a substantial risk that the defendant's right to a fair trial will be jeopardized if prospective jurors are exposed to the protests and messages displayed on signs or otherwise, particularly before this Court has had an opportunity to instruct the jurors about their obligations with regard to remaining fair and unbiased. The risk extends during trial where jurors and witnesses would have no choice but to be exposed daily to the messages and viewpoints of the protestors when entering and leaving the courthouse or sitting in the courtroom.

Order at 2; Attachment D.²

Reasonable restrictions may be imposed on the time, place, or manner of protected speech and assembly, "provided the restrictions 'are justified without reference to the content to the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.'"

Desrosiers v. Governor, 486 Mass. 369, 390-392 (2020), quoting Boston v. Back Bay Cultural Ass'n, Inc., 418 Mass. 175, 178-179 (1994), quoting Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989). The court order is content neutral. As found by the trial judge, the buffer zone is to effectuate the ability to have a fair and impartial jury, and to effectuate that, all demonstrations, regardless of the viewpoint, are to occur 200 feet from the courthouse complex. As noted by the prosecutor, buffer zones orders had previously been entered in Norfolk Superior Court.³ (Aff. of counsel).

² See e.g., Commonwealth v. Kearney, 2382CR00313 (eight counts of intimidation of a witness, in violation of G.L. c. 268, §13B; five counts of picketing with intent to obstruct or impeded the administration of justice with the intent to influence any witness, in violation of G.L. c. 268, §13A; and three counts of conspiracy, in violation of G.L. c. 274, §7. See also Aff. of Counsel.

³ See e.g., Commonwealth v. Czerkawski, No. 1382CR01094, Paper 119, 120 (defense motion); Commonwealth v. Czerkawski, 1482CR00117, Docket #61 (Kenneth J. Fishman, J.).

The order is narrowly tailored. “A time, place, or manner restriction must be tailored narrowly to achieve a substantial government interest, but ‘it need not be the least restrictive or the least intrusive means of doing so.’” Desrosiers, 486 Mass. at 390-392, quoting Opinion of the Justices, 430 Mass. 1205, 1211 (2000). A restriction will be upheld “[s]o long as the means chosen are not substantially broader than necessary to achieve the government’s interest.” Desrosiers, 486 Mass. at 390-391, quoting Showtime Entertainment, LLC v. Town of Mendon, 472 Mass. 102, 109 (2015), quoting Ward, 491 U.S. at 800. Here, the trial judge was uniquely suited to determine the necessity of a proper buffer zone, as the judge had had the case for over a year, has handled several pretrial motions concerning publicity, and has had the opportunity to see first-hand the various issues as to publicity. (Docket; Attachment E). Further, the trial judge is also the regional administrative justice for Norfolk Superior Court, and uniquely suited to understand and incorporate the parameters and acoustics of the courthouse complex, including where jurors park and assemble, in determining how large a buffer zone is necessary to effectuate the interests of a fair trial.

The court order also leaves open alternative channels of communication. Protests can occur elsewhere. Cf. Desrosiers, 486 Mass. at 392 (emergency COVID orders concerning assembly left open alternative channels of communication where they limited the number of people allowed at a gathering but did not ban all in-person assembly and there were alternative means to assemble such as through virtual assembly). Significantly, the court's order applies to all protesters, including those who might choose to disparage the defendant.

To the extent the petitioners raise speculation as to the broadness of such order, such arguments have been rejected in the analogous decisions of protecting the right to vote by enacting a buffer zone precluding campaigning from around a polling place. Cf. Lyons v. Secretary of the

Commonwealth, 490 Mass. 560, 588-589 (2022) (discussing G.L. c. 54, §65, providing that no materials intended to influence the action of the voter shall be posted or distributed within 150 feet of the building entrance door, and noting that a buffer zone of 150 feet “remains modest.”). The circumstances here are dissimilar from protests or buffer zones at reproductive health facilities. See e.g. McCullen v. Coakley, 573 U.S. 464 (2014). Jurors are summonsed to jury duty, it is a crime for a person summonsed for jury duty to fail to appear. It is unlawful to counsel, converse with, or distribute literature to jurors in an attempt to sway their opinions.

Further, it is illegal in Massachusetts to picket with the intent to intimidate or influence a juror. See G.L. c. 268, §13A (“Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the commonwealth, or in or near a building or residence occupied or used by such judge, juror witness, or court officer, shall be punished”). See e.g. Cox v. Louisiana, 379 U.S. 559 (1965) (analyzing analogous federal statute). The judge’s order simply effectuates notice of G.L. c. 268, §13A.⁴

Further, reasonable regulations are appropriate in the courtroom to facilitate the administration of justice. See In re Cobb, 445 Mass. 452, 471-473 (2005), quoting Bridges v. California, 314 U.S. 252 (1941) (in discussing requirement that attorneys assertions in courtroom must be grounded in fact: “This requirement may be inconsistent with the manner in which one

⁴ Indeed, counsel for the petitioners, was also counsel for a number of individuals who sought a declaratory judgment in federal district court alleging that G.L. c. 268, §13A and G.L. c. 168, §13B (the witness intimidation statute) were unconstitutional. On November 10, 2023, the Court (Denise J. Casper, J.), denied their motion for injunctive relief, finding that the plaintiffs were not reasonably likely to succeed on the merits of their as applied First Amendment challenge to G.L. c. 268, §13A & 13B. See O’Neil v. Canton Police Department, 2023 WL 7462523 (D. MA Nov. 10, 2023), appeal pending.

generally may engage in free and public debate in our society, but it is essential to the orderly and judicious presentation of cases in a court room. ‘Legal trials are not like elections, to be won through the use of the meeting hall, the radio, and the newspaper’”). Indeed, in their motion to intervene, the Citizens note their wish to wear clothing related to the case in the courtroom, where it will inevitably be seen by jurors. (Attachment B at 8).

Lastly, a stay of the Norfolk Superior Court order is not appropriate. Such stay would irreparably impair the ability of witnesses to not be intimidated or influenced, and of the parties to have a fair and impartial jury. The government, family members and friends of the deceased victim have an interest in the trial being heard by a jury that is not unfairly biased in favor of acquittal, as does the defendant have a right to a fair and impartial jury. Allowing petitioners to influence prospective and seated jurors undermines the concept of a fair trial. Where the order merely relocates petitioners right to protest as to avoid influencing the jury, petitioners have not demonstrated good cause warranting a stay. In addition to violating G.L. c. 268, § 13A's prohibitions against picketing or parading in or near a building housing a courthouse, or in or near a building used by a judge, juror or witness, allowing petitioners to "protest" as described in the petition would irreparably harm the interests of justice.

In sum, the petitioners' motions for relief under G.L. c. 211, §3, and for a stay of the Norfolk Superior Court order establishing measures to effectuate a fair trial should be DENIED.

Respectfully submitted,

For the Commonwealth,
Michael W. Morrissey
District Attorney

/s/Pamela Alford

Pamela Alford
Adam Lally
Assistant District Attorney
45 Shawmut Road
Canton, MA 02021
BBO No. 647136
(781) 830-4800

CERTIFICATE OF SERVICE

I, Assistant District Attorney Pamela Alford, certify that on April 12, 2024, I served the above opposition to the petitioners' counsel of record, Marc J. Randazza, ecf@randazza.com & Mark Trammell, MTrammell@libertyCenter.org , and on Karen Read's counsel of record David Yannetti, law@davidyannetti.com, and Alan Jackson, ajackson@werksmanjackson.com, and the Norfolk Clerk's Office, Norfolk.clerksoffice@jud.state.ma.us, by email.

/s/Pamela Alford

Pamela Alford

AFFIDAVIT OF COUNSEL

I, Adam Lally, state the following.

1. I am an assistant district attorney for the Norfolk District Attorney's Office. I am assigned as trial counsel in the case of Commonwealth v. Karen Read, No. 2282CR0117.
2. The Commonwealth filed a "Motion for Buffer Zone Surrounding Superior Court and Request for Order Prohibiting Signs or Clothing in Favor of Either Party or Law Enforcement."
3. I am aware of protests occurring nearly every time this case is in session.
4. On April 4, 2024 I appeared in Norfolk Superior Court with Assistant District Attorney Laura McLaughlin on behalf of the Commonwealth's motion before Regional Administrative Justice Beverly J. Cannone. Judge Cannone had handled previous motions concerning the extreme publicity in this matter.

To the best of my recollection, the following occurred at that hearing. This is not intended to cover every statement that was made at the hearing.

5. I argued, in summary, that the request for a buffer zone was not a novel approach and had been done in other cases in this courthouse. What was proposed was entirely neutral regardless of viewpoint, or content of signage or clothing. The Commonwealth's motion was not about protestors but about the jurors duty to be free from extraneous influence; that a fair and impartial jury was needed. I noted that, as is practice, the judge would inquire about extraneous influences, and how would the jury be able to answer in the negative if they were bombarded each time they walked in or out of the courthouse.
6. I further noted that we recognized that protesting will happen. The concern was where it happens and how it impacts the jury.
7. I made an analogy to time and place restrictions in voting cases.
8. I noted anecdotally that in unrelated cases jurors have had to receive instructions regarding activity on this case when this case had a pre-trial hearing.
9. I also expressed a concern that as to the opposition the concern was third parties wanted to try to see if they could influence the jury in this case.
10. Tanis Yanetti, standing in for David Yanetti, did not take a position in this matter.
11. Judge Cannone noted that she could have handled this matter administratively but wanted to hear from the defendant.
12. Judge Cannone found as to the Citizens' motion to intervene that unlike civil law, there was nothing in the Massachusetts Rules of Criminal Procedure that supported intervention in criminal cases. She noted that she did receive the motion the prior day and had read it but would not hear from counsel.

13. Judge Cannone allowed the motion for leave to file an amicus by the Civil Liberties Union of Massachusetts. She stated that she read their brief, found it very helpful, that they did a great job in the memo and was persuaded on many points.
14. Judge Cannone found that it was undisputed that people's right to protest and free expression of views was preserved under the First Amendment as is the free expression of their views. There was also a bedrock principal of the trial court that the defendant receive a fair trial which included a right to a fair and impartial jury free from outside influence. She needed to balance those interests.
15. Judge Cannone found that an external buffer zone is appropriate and prudent regulation on in-court expression was needed. She found that 500 feet for a buffer zone was far too excessive. She recognized that her obligation is to reasonably accommodate the rights of all people to protest in a meaningful way and that this case was decided fairly based on the evidence without any undue interference from outside pressures or influence in accordance with the law.

Signed under the penalties of perjury.

A handwritten signature in cursive script, reading "Adam Ralby", is written over a horizontal line.

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

COMMONWEALTH

v.

KAREN READ

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**COMMONWEALTH'S MOTION FOR BUFFER ZONE SURROUNDING NORFOLK
SUPERIOR COURT AND REQUEST FOR ORDER PROHIBITING SIGNS OR
CLOTHING IN FAVOR OF EITHER PARTY OR LAW ENFORCEMENT**

The Commonwealth respectfully moves that this Honorable Court establish a buffer zone around the Norfolk County Superior Courthouse in Dedham, Massachusetts during the trial in this case. This case has been the subject of substantial media coverage. There have been demonstrations on the sidewalks in front of the courthouse, on the courthouse stairs, on the stairs and sidewalks in front of the Registry of Deeds, and instances of individuals confronting and following potential trial witnesses to and from their vehicles for appearances at court proceedings. During these demonstrations, individuals often carry "Free Karen Read" signs or posters with their interpretation of the evidence. Individuals have also amplified their voices with bullhorns to yell at potential witnesses or promote their theory of the case. The demonstrations also feature individuals and animals wearing "Free Karen Read" or similarly messaged clothing.

There is a substantial risk to both the defendant and Commonwealth's rights to a fair trial that would be jeopardized if prospective jurors are exposed to the messages contained in the demonstrations, especially before this Court has had the opportunity to instruct trial jurors about their obligations to remain fair and unbiased. Further picketing and demonstrating at the courthouse during the pendency of the case would expose jurors to extraneous matter that could

prejudice both parties. See Commonwealth v. Lowder, 432 Mass. 92, 102 (2000) (“The Commonwealth, as well as a criminal defendant, has the right to a fair trial.”); Commonwealth v. Steward, 396 Mass. 76, 79 (1985) (Affording the prosecution “one full and fair opportunity” to present its evidence at trial serves the public interest).

General Law chapter 268, § 13A (picketing court, judge, juror, witness or court officer) provides:

Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the commonwealth, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than one year, or both.

Nothing in this section shall interfere with or prevent the exercise by any court of the commonwealth of its power to punish for contempt.

The Commonwealth requests prominent posting of G.L. c. 268, § 13A in and around the courthouse immediately before April 16, 2024 and during the pendency of this trial to notify any persons planning to picket, parade, or attempt to influence jurors, or otherwise impede, interfere, or obstruct the administration of justice have actual notice of the possibility of prosecution for such actions.¹ Further, the Commonwealth requests an order prohibiting any individual from demonstrating in any manner, including carrying signs or posters, or making statements about the

¹ Anyone who contacts jurors with the intention of exposing the juror to extraneous information or opinions about this prosecution could potentially be prosecuted pursuant to G.L. C. 268, § 13B (“Whoever, directly or indirectly, willfully . . . ,misleads, intimidates or harasses another person who is . . . a juror [or] a person who is or was attending or has made known his intention to attend a civil or criminal proceeding, including . . . trial . . . with the intent to impede, disrupt, delay, harm, punish or otherwise interfere thereby, or do so with reckless disregard, with such a proceeding shall be punished . . . ”)

defendant, law enforcement, the Norfolk District Attorney's Office, potential witnesses, or the evidence, within 500 feet of the Norfolk Superior Court complex, which includes the parking area behind the Registry of Deeds building, during the trial of this case. See attached map with proposed 500' buffer.

The Commonwealth also moves for an order prohibiting anywhere where prospective jurors gather or walk to the courtroom, the wearing or carrying of papers, water bottles, tote bags, signs, buttons, pins, t-shirts, sweatshirts, hats, or any other attire or item that contains any images or writing that suggests a favorable or unfavorable opinion of either party. Information regarding opinions that members of the public have about this case are irrelevant and may be prejudicial to the Commonwealth and/or defendant.

Further, the Commonwealth requests that this Court expressly prohibit any individual in the courthouse from wearing any buttons, shirts, or insignia related to the defendant, the victim, or law enforcement; including a prohibition on law enforcement officers who are testifying or are members of the audience, from wearing their department issued uniforms or any police emblems.

To the extent that the court requires assistance or a specifically articulated mechanism to enforce the proposed buffer zone, the Commonwealth proposes that the court could request assistance from the Dedham Police and/or Massachusetts State Police, both who have been previously deployed to maintain security and safety during prior court proceedings.

Respectfully Submitted,

For the Commonwealth

Michael W. Morrissey
District Attorney

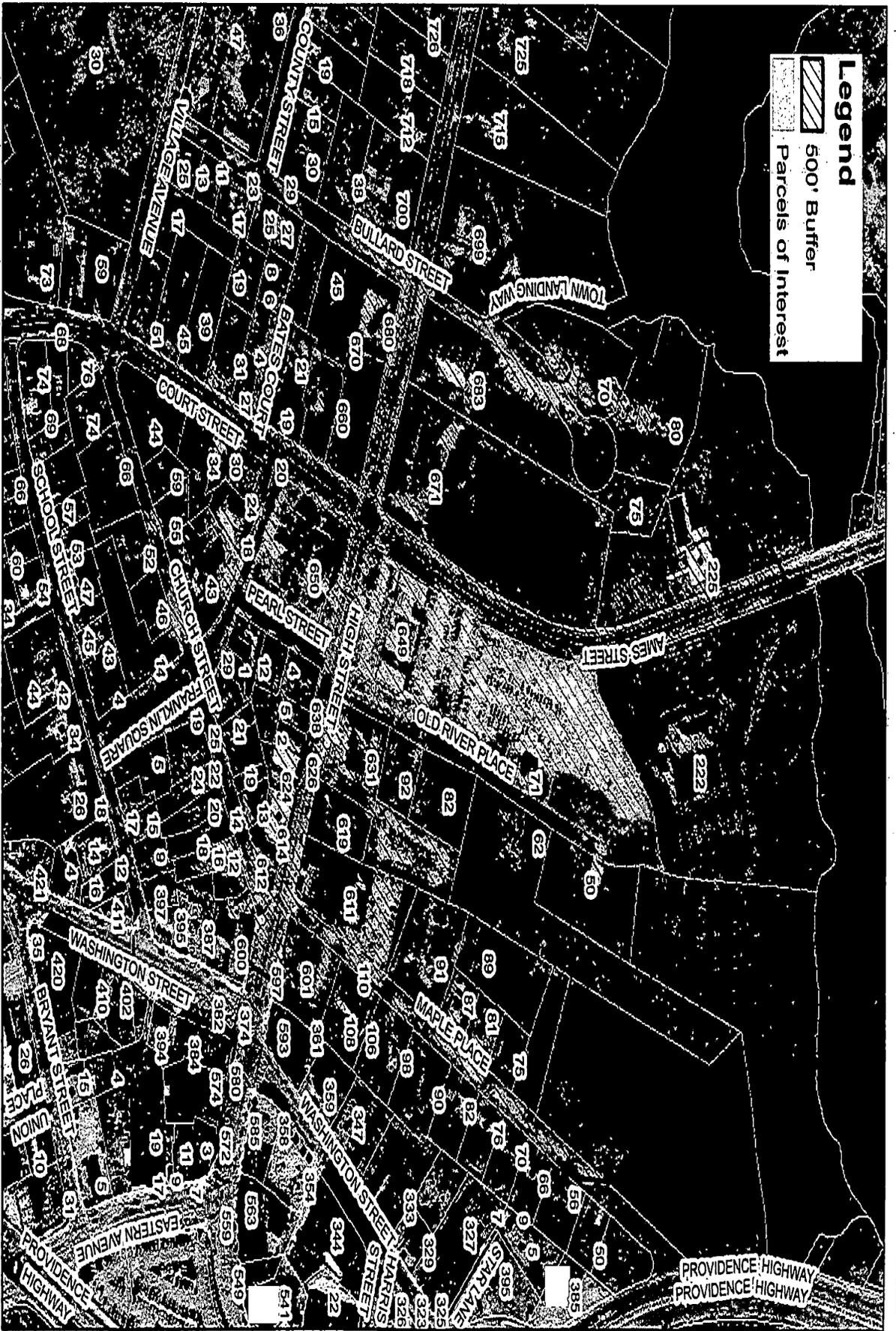
By: _____

Adam C. Lally
Assistant District Attorney



Legend

-  500' Buffer
-  Parcels of Interest



**650 HIGH STREET & ASSOCIATED PARKING
500' BUFFER**

TOWN OF DEDHAM, MASSACHUSETTS



DEDHAM GIS

NORFOLK, SS,

SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

COMMONWEALTH

V.

KAREN READ

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**CITIZENS' MOTION TO INTERVENE FOR THE LIMITED PURPOSE
OF UPHOLDING AND DEFENDING THE FIRST AMENDMENT BY
OPPOSING THE COMMONWEALTH'S MOTION FOR A BUFFER ZONE
AND RESTRAINING SIGNS OR CLOTHING THAT EXPRESS A
VIEWPOINT ABOUT THE TRIAL**

1.0 Introduction

Movants Tracey Anne Spicuzza, Lorena Jenkinson, Dana Stewart Leonard, and Paul Cristoforo are a group of concerned free American citizens who will be negatively affected by the relief the Commonwealth seeks and wish to be heard before this Honorable Court renders its decision on that requested relief. The Commonwealth seeks to unconstitutionally infringe upon the right of the people to enjoy their full and robust rights under the First Amendment and Art. 16 of the Massachusetts Declaration of Rights, as amended by art. 77 of the Amendments to the Massachusetts Constitution. The Commonwealth's desire to clamp down on criticism and dissent must not be given this Court's imprimatur.

4/4/24

Denied for
reasons stated on the record
B. Coakley

Intervenors have no intent to interfere with anyone, to obstruct anyone, nor to impede anyone. But, they do intend to engage in core First Amendment activity – speech on a matter of public concern in a traditional public forum. The Commonwealth is not satisfied that it has the unlimited power and resources that come from one-party rule, unlimited ability to tax, and a monopoly on violence. Power has become so intoxicating that the Commonwealth has, in the course of prosecuting this case, gone on an unchecked bender – pursuing the additional prosecution of journalists and demonstrators alike. But, like any addiction, eventually even those who love the addict must stop enabling them. The Commonwealth wants this Honorable Court to feed its addiction by giving it the most Constitutionally repugnant relief that can ever be fashioned – a prior restraint. Intervenors resist on their own behalf and on behalf of many others who fear further Commonwealth retaliation if they step forward.

If the Court does not permit intervention, no one will advocate for the rights of the people. These four brave Patriots¹ have come forward to do so, not only on their own behalf, but as proxies for anyone who wishes to keep freedom intact in Norfolk County.

¹ This word is not used lightly. Given the way that the Commonwealth has retaliated against other citizens for challenging its authoritarianism, it truly did take bravery for them to step forward. The Commonwealth's actions in arresting journalists and demonstrators who vocally disagreed with this prosecution have had a strong chilling effect on the speech surrounding this trial.

2.0 The Court Should Allow Movants to Intervene

The Court should grant this Motion to Intervene and consider Movants' opposition to the relief the Commonwealth has asked for.

2.1 Movants Have Standing

Courts permit intervention in criminal matters by third parties when First Amendment rights are at stake, and neither party is particularly suited to, nor motivated to, preserve those rights. *See, e.g., Commonwealth v. Clark*, 730 N.E.2d 872, 880 (Mass. 2000) (trial court granted media entities' motion to intervene to seek reconsideration of trial judge's order barring electronic media from trial). Petitioners seek to intervene for the limited purpose of being heard when the Court considers the Commonwealth's motion, as neither the Commonwealth nor the Defense are in the position to adequately stand up for the rights of the affected citizens. The Commonwealth seeks to bind and gag Lady Liberty and must not be permitted to do so without opposition. Defendant Read should not be asked to defend herself and the rights of 7 million Massachusetts citizens at the same time.

Movants have standing to intervene, relative to the Commonwealth's motion, because they intend to demonstrate outside the courthouse during the trial. It is the citizenry, not Ms. Read, who would suffer the injuries inflicted by the requested relief. Non-parties may intervene in proceedings where they would otherwise suffer "a substantial injury to a direct and certain violation of" their rights. *Eisai, Inc. v.*

Hous. Appeals Comm., 89 Mass. Ct. App. 604, 607 (2016). Movants intend to demonstrate by holding signs and wearing shirts with slogans on them.

Movant Tracey Anne Spicuzza is aware of the history of this courthouse and the fact that Nicola Sacco and Bartolomeo Vanzetti were wrongfully convicted here. It is her intent to hold a sign outside commemorating the injustice perpetrated upon them, with a statement that the Commonwealth of Massachusetts is not to be trusted. She wishes to do so outside the courthouse, because she is aware that the press will be there and the public will pass by, and this is therefore where her demonstration will be most meaningful. She has not settled on the exact content of her signs that she will hold each day, but she intends to commemorate the injustice done to Sacco and Vanzetti and to draw parallels that she sees in this prosecution. She wishes to communicate that everyone deserves a fair trial, and Sacco and Vanzetti did not get one, but Karen Read should.

Movants Lorena Jenkinson and Dana Stewart Leonard wish for the public to focus on how this trial is conducted, ensuring that the public is focused on it and they pay attention to it, even if the public cannot attend the trial themselves. They are aware that the press will be outside the courthouse, and they want the press to see what they have to say on their signs. Lorena Jenkinson particularly intends to criticize the police and the prosecutors in this case by holding up signs in support of

the “Canton 9” – who were previously charged with witness intimidation for demonstrating about this case.

Movant Paul Cristoforo wishes to demonstrate to call attention to his belief that the Commonwealth, the Norfolk District Attorney’s Office and the Canton Police are not to be trusted. He intends to hold up a sign that says “FREE TURTLEBOY” – in support of the journalist, Aidan Kearney, who has been prosecuted for engaging in journalism pertaining to this case. He also intends to hold up signs that say “FREE KAREN READ.”

Movants do not ask for permission for these statements and these statements exclusively, but offer them as nonexclusive examples of the lawful speech they intend to engage in. They do not intend to, nor should they be permitted to, engage in legally obscene demonstration, nor true threats, nor incitement to violence, nor true “fighting words,” to the extent that such doctrine still exists.² They should not

² The “fighting words” doctrine, from *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942) is a derelict adrift on the sea of jurisprudence. See 1 Smolla & Nimmer on Freedom of Speech § 2:70 (2008). David Hudson, observed courts “have reached maddeningly inconsistent results” with respect to what are “fighting words.” “FIGHTING WORDS,” Freedom Forum’s First Amendment Center. (archived at <https://www.freedomforuminstitute.org/first-amendment-center/topics/freedom-of-speech-2/personal-public-expression-overview/fighting-words/>) The doctrine is borne from a sexist notion, that there are certain things a man’s pride cannot endure hearing without resorting to fisticuffs: “Chaplinsky... is steeped in an outdated idea of toxic masculinity.” Eric Kasper, *No Essential Reason*, 53 TEX. TECH L. REV. 613, 614 (2021). Authoritarians frequently retreat to this toxically-sourced doctrine as a last resort when what they really want to say is “your honor, gag our critics.” Nevertheless, if there is to be a determination that certain statements are “fighting words,” these must be addressed *after* the words are used, not in a prior restraint.

be enjoined from other forms of demonstration, as long as such demonstration is protected by the First Amendment and/or Article 16.

The Commonwealth's requested relief would directly preclude the exercise of Movants' freedom of speech under the First Amendment and Article 16 and therefore must be denied, or at least narrowly tailored. The Commonwealth asks this Court to use a sledgehammer when a fine scalpel is the only tool it should wield.

3.0 The Court Should Deny the Commonwealth's Motion

The Commonwealth's seeks a 500-foot free speech buffer. The Court should not grant what would amount to a prior restraint on free and fair discourse concerning this trial. Intervenors implore this Court to not sacrifice freedom at the altar of the Commonwealth's zeal.

3.1 Trials are Public Events

Trials are public events, and this Court should not allow the Commonwealth to keep the public from participating. The Supreme Court has recognized that public opinion in a fair and open trial is particularly important. "The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power." *In re Oliver*, 333 U.S. 257, 271 (1948). "Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account." *Id.*

In this case, Intervenors take no position on whether *judicial* power has been used in an unrestrained or unchecked manner. The default position is that it has been used wisely, with restraint and reverence for the Constitution, and the default presumption is that this Court will continue to use it when evaluating the Motion. The Court should *embrace* demonstrators outside the courthouse. Courts wield an immense amount of authority because they are seen as legitimate checks on the power of the other branches of government. Where a court *may* find itself checked by public opinion, it is more likely to be *legitimized* by wide open and robust debate. What better way for a Court to show its confidence in the process than to pronounce that it has no fear of speech outside its walls. It should invite it.

3.2 The Forums the Commonwealth Seeks to Regulate

The Commonwealth seeks to regulate two classes of turf: The Courthouse and its curtilage (inside the Court's territory), and outside the Court's territory—traditional public forums such as public sidewalks. The Commonwealth's Motion exceeds the reasonable restriction as to both classes. Intervenors recognize that there is a lower level of tolerance for speech in the courthouse itself. Nevertheless, the Court should still exercise restraint and wisdom when fashioning its remedies even in the space where it has virtually unlimited authority.

3.2.1 Inside the Courthouse

With respect to regulations *inside* the Courthouse, Intervenors have little quarrel. The Court has near plenary authority to use its best judgment inside its own realm. Intervenors do take issue with the blanket nature of the request, prior to speech occurring. The Court is in a position to observe the conduct of the proceedings, and it is able to judge *at the time of the speech* if it is disruptive or distracting. Should a member of the public sit inside the courtroom with a shirt that says “Free Karen Read,” or a button that says “Justice” or any other message, and the Court sees no disruption, then such should be permitted.³ The Commonwealth seeks a prior restraint, when this Court can observe the courtroom, day to day, and see for itself if either Read’s rights or the Commonwealth’s interests could be impacted. The Court should not bind itself and the public prior to seeing what will happen, and how it might affect things, unless there is a restriction that is so obviously necessary that it should be pre-announced. Courtroom observers should be admonished to be silent. Holding up signs seems to be disruptive, no matter what the message, or even if the sign is a blank piece of paper. But limiting the messages that people can have on water bottles? The Commonwealth is going too far.

One portion of the request is particularly calling out for caution: the Commonwealth has asked that law enforcement officers not be permitted to wear

³ Intervenors intend to also rotate to seats inside the trial wearing such expressive apparel.

their uniforms inside the courtroom. The Court should, prior to granting such a request, consider *why* the Commonwealth is asking for this restriction, and should consider the fact that the Commonwealth may be asking for this relief *in order to send a message of its own*.

In most cases involving a fallen law enforcement officer, courtrooms are packed with fellow officers, in uniform, supporting their fallen comrade. Here, despite this being a high-profile case about a fallen officer, the courtroom has been devoid of law enforcement officers in uniform. The Court should be mindful that the Commonwealth seems aware that this is a unique trial in which a fallen officer's alleged killer's trial is not being attended *en masse* by men and women in uniform. This Court should be mindful that the lack of officers in uniform may communicate one thing if the room is void of them because they chose to remain home. The Court itself will create a second narrative if they weren't coming anyway – letting the Commonwealth blame the Order for a lack of law enforcement attendance -- rather an inability to attract supporters in Blue. This is also a clear and present danger in restrictions on the Intervenors. If members can wear shirts that read “Sacco and Vanzetti's Lives Mattered” in this Courthouse, but not “Free Karen Read,” the Court may be placing its imprimatur on some displays, but not others. To the extent that any restriction is placed on displays inside the courtroom, the Court should pronounce that this is because the Commonwealth asked for the restriction (or Ms.

Read asked for it, if she asks for one). Otherwise, it may appear that observers in the courtroom are not communicating a message to anyone because they have chosen to remain silent. Choosing to remain silent is, itself, a viewpoint.

The Court should temper any “inside the courthouse” relief with mindfulness toward how the Commonwealth may be manipulating this process (on purpose or simply unwittingly) to enlist the Court into using trial observers to present a narrative of its own.

3.2.2 Outside the Courthouse

The Commonwealth seeks an order “prohibiting any individual from demonstrating in any manner, including carrying signs or posters, or making statements about the defendant, law enforcement, the Norfolk District Attorney’s Office, potential witnesses, or the evidence, within 500 feet of the Norfolk Superior Court complex, which includes the parking area behind the Registry of Deeds building, during the trial of this case.” Such a request is not narrowly tailored and constitutionally infirm.

From “time out of mind public streets and sidewalks have been used for public assembly and debate, the hallmarks of a traditional public forum.” *Frisby v. Schultz*, 487 U.S. 474, 480 (1988). The government’s ability to “limit expressive activity” in a traditional public forum is “sharply circumscribed.” *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 (1983). In *United States v. Grace*, 461 U.S.

171 (1983), the Supreme Court held that the “sidewalks forming the perimeter of the Supreme Court grounds” are traditional public forums, places where expressive activity is lightly regulated, because they are “indistinguishable from any other sidewalks in Washington, D.C.” *Id.* at 179-80. In other words, Congress tried to protect the Supreme Court from protests, and the Supreme Court itself struck down Congress’ attempts to do so. If the Supreme Court can tolerate protests, this Court can do so as well.

The Commonwealth seeks not only to regulate the sidewalks adjacent to Court grounds, but also to the streets, sidewalks, buildings, and parks within a 500-foot distance from court grounds. This request is overbroad and not narrowly tailored to a compelling state interest. The Court cannot justify banning all demonstrations within 500 feet of the courthouse, unless it articulates a compelling governmental interest in doing so, and it does so in a narrowly tailored fashion. *Perry*, 460 U.S. at 45. To do that, we must ask ourselves what *is* the government interest? The Commonwealth’s interest is to quash public displays of criticism. This is not a legitimate, let alone compelling governmental interest.

On the other hand, Intervenors accept that shielding the jury from contact that could *unduly* influence them is a compelling governmental interest. In order to meet the narrowly tailored prong of the analysis, the Commonwealth must target the exact wrong that it wants the Court to cure. *See, e.g., Frisby v. Schultz*, 487 U.S. 474, 485

(1988); *Ward v. Rock Against Racism*, 491 U.S. 781, 800 n.7 (1989); *Casey v. City of Newport*, 308 F.3d 106, 115 (1st Cir. 2002). Meanwhile, the Commonwealth just seeks to create a 500-foot wide sledgehammer and crush all disfavored speech that it lands on. This even includes private property, where the Intervenors have gathered in the past and intend to in the future. The Commonwealth seeks to create the illusion that there is no public outcry against how they have handled this case, and how they have quashed dissent by prosecuting journalists and demonstrators alike.

The proposed restriction is not limited to this case. It means, as inside the courthouse, citizens cannot demonstrate with phrases like “Back the Blue” or “Defund the Police.” It means one cannot campaign against the incumbent district attorney. It means that one cannot protest excesses by the Commonwealth like charging other demonstrators or journalists with crimes. It means that one cannot engage in pamphleteering regarding jury nullification in general, without targeting any particular case. *See Picard v. Magliano*, 42 F.4th 89 (2d Cir. 2022) (finding such pamphleteering protected). It means that the homeowners and business owners and patrons, even inside the multitude of buildings within the proposed perimeter, cannot use their property, implicating not only the First Amendment, but also the Fifth Amendment. *See Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2072 (2021) (a regulatory taking “imposes regulations that restrict a property owner’s ability to use his own property”). It means nearby employees cannot exercise their Section 7

rights and picket their employer in opposition to unfair labor practices. If anything, a restriction can only apply to the courthouse grounds and to the particulars of this specific case, and even then, the tailoring must be even more narrow than that.

3.3 Narrow Tailoring

The Commonwealth's proposal reflects no tailoring, let alone *narrow* tailoring. The Commonwealth wants to create a "free speech desert" 500 feet in all directions from the courthouse. However, this Court could readily craft narrower restrictions than this, which would target any imaginable legitimate concerns.

For example, if the Court were to require a ban during *jury selection only*, this would still likely chafe the Constitution, but Intervenor would compromise and waive any challenge to such a limitation. During trial, the jury could be brought in through the back entrance to the courthouse, and demonstrators could be banned from that entrance. After all, the public does not generally pass by the back entrance to the courthouse, and the press will be out front. Any infringement on First Amendment rights from these narrowly tailored and limited remedies would be *de minimis* enough that more zealous parties might complain, but these Intervenor would not challenge them. These suggestions alone would tailor the relief so that the Constitution was not so obviously treated with such violence.

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Intervenors suggest the following narrow tailoring devices:

1. Any restrictions on demonstrations should only be during jury *selection*, when the prospective jurors will be entering through the main entrance, and they cannot be instructed to enter through the alternate entrances.

2. Any other concerns about tainting the jury or witnesses should be limited to actual contact with jurors or witnesses. Any concerns about demonstrators influencing them should be addressed by bringing jurors and witnesses in through alternate access points, where there may be reasonable buffer zones enacted, however such buffer zones should be limited to 25 feet on either side of the rear entrance to the courthouse.

3. If there is a specific finding that it is impossible for a juror or witness to enter the courthouse through the back entrance, perhaps then, law enforcement may be called to require that demonstrators face away from the courthouse for the few seconds it takes for that person to enter the courthouse, and then the demonstrators may continue un-restricted once that affected person has entered or exited the building. However, to prevent abuse of this narrowly tailored restriction, there should be a specific factual finding as to why it would be impossible to use the back door, rather than the public facing door to the courthouse.

3.4 The Commonwealth Should Be Restrained

Demonstrators outside the Courthouse are outside the jurisdiction of this Court. However, the Commonwealth is not. And the Commonwealth, having opened this subject for discussion should have that discussion aimed at its conduct to date, and its conduct going forward.

The Commonwealth claims that it, too, has a “right” to a fair trial. It claims so citing dicta⁴ and seems to miss the entire point of the Bill of Rights. The Government does not have *rights* – the government has *powers* and those powers are tempered by the rights that are God-given *to the people* and Constitution-preserved *for the people*. In contrast, “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Intervenors would suffer irreparable harm were the proposed restrictions endorsed by the Court.

The Commonwealth is prosecuting journalists and demonstrators alike—in its quest to act without criticism. Its authoritarianism has led to people currently facing criminal charges for standing on a street corner holding innocuous signs. *See O’Neil v. Canton Police Dep’t*, No. 23-cv-12685-DJC, 2023 U.S. Dist. LEXIS 202183 (D.

⁴ The Commonwealth cites a throwaway line in a case involving a trial judge abusing his discretion by dismissing a criminal case right after opening statements. And while the SJC may have used this troubling phrase more than once, it is hardly a “right” that would be coextensive with the Fifth, Sixth, or Fourteenth Amendment, nor is it a “right” that should render the First Amendment a mere afterthought.

Mass. Nov. 10, 2023). The government reads G.L. c. 268, §§ 13A & 13B, as giving it the power to arrest demonstrators if a potential witness can even *see* a sign that pertains to the trial. *Id.* By the Commonwealth's reading of the statute, there is literally nowhere that the demonstrators can safely operate, as there are huge roving free speech voids. The Commonwealth should be ordered to limit its application of 13A and 13B only to acts that have the intent and the effect of intimidation – not the expansive reading that it seeks in its motion.

3.5 A Complete Ban Would De-Legitimize the Proceedings

The public interest favors denial of the Commonwealth's motion, and restraining the Commonwealth from abusing Sections 13A and 13B. The Courts are independent. The people presume that the judge will be free of bias and influence from public opinion. Intervenors challenge the Commonwealth's view that this Court cannot function if it knows how the public feels about its decisions. Similarly, the Court is presumed to be capable of controlling the jury and its courtroom.

In *United States v. Grace*, the Supreme Court noted:

Court decisions are made on the record before them and in accordance with the applicable law. The views of the parties and of others are to be presented by briefs and oral argument. Courts are not subject to lobbying, judges do not entertain visitors in their chambers for the purpose of urging that cases be resolved one way or another, and they do not and should not respond to parades, picketing, or pressure groups.

461 U.S. at 182-183. It is rare that judges and prospective jurors are ignorant of high-profile matters and, frankly, one would hardly think a jury of one's peers

includes those who are out of touch with society. Demonstrations show that our system is open and fair. Lockdowns and bans show that we have something to fear.

In *Grace*, the Government tried to justify a restriction on picketing outside the Supreme Court on the grounds that it might *appear to the public* that the Supreme Court is subject to influence by picketers and marchers. The Supreme Court rejected the Government's desire to protect it from demonstrators, but in doing so endorsed the notion that a ban on demonstrators would likely send the *opposite* message. If a crowd stood outside the Massachusetts Institute of Technology with signs saying "the Earth is flat!," would it change the minds of the astrophysicists at M.I.T.? Of course not. There would be no harm, because there would be no *influence*. Accordingly, a Court with confidence in itself should permit demonstrators. Otherwise, if it banned them for this trial, why not *all* trials? Is it that there are too many people focused on this trial? Would a single demonstrator outside another trial holding a sign that said "Black Lives Matter" or "Judge Not, Lest Thee Be Judged" influence the Court? Why not? If that one hypothetical person would not change the outcome of this free and fair trial, why would 100 people wearing "FREE KAREN READ" shirts change the outcome of the trial? The hundreds of protestors against police brutality outside the trial of the police officers who killed Amadou Diallo did not effect a guilty verdict, are the demonstrators here more powerful? Is there talismanic power in this case that does not exist in others,

such power that this Court lacks the ability to combat it through Constitutionally reverent means?

3.6 Attempts to Stifle Dissent Will Have the Opposite Effect

The Commonwealth should be careful what it wishes for. Should an Order issue that unjustly stifles freedom of expression, Liberty finds a way.

Dissidents are a scrappy lot. In Apartheid South Africa, the government banned newspapers from publishing stories that could call Apartheid into disrepute. So, newspapers simply published blank newspapers. Their attempts to shut down criticism metastasized into greater criticism. Even those who were not previously drawn to the cause embraced the cause of freedom of expression. Free Americans make other people fighting for Liberty look like amateurs. Since April 19, 1775, we in Massachusetts have been the O.G.s of Liberty. As another rebellion's spokesperson said, "the more [the Commonwealth] tighten[s] [its] grip, the more [Liberty] will slip through [its] fingers."⁵

The kind of people who will travel from miles around to demonstrate outside a trial for months and months will find a way to protest. The Commonwealth asks for a blanket ban on protesting within 500 feet of the courthouse – this would even place the sidewalk in front of the public library off limits. It is foreseeable that there would be protests simply about the lack of a right to protest.

⁵ STAR WARS (Lucasfilm, 1977).

If we narrow the request to just content or viewpoint based restrictions, and a demonstrator cannot hold up a sign that says “KAREN READ,” then they may hold up one that says “READING IS FUNDAMENTAL.” If the Commonwealth bans that, they will hold up books. If they cannot hold up books, they will find another way. This is not to say that these are reasonable alternate avenues of expression – they are not. But, the reaction to a clampdown is rarely silent compliance.

The Commonwealth seeks to blow out the candlelight of Liberty, and if it succeeded, it would fan those flames, not extinguish them. It will be a challenge to find jurors who are ignorant enough about this trial to serve on its jury. If the Commonwealth gets its way, it may render that quest impossible – as they will pour metaphorical gasoline on the small fire of Liberty that will otherwise calmly smolder outside this courthouse.

4.0 CONCLUSION

Leave to intervene should be granted. If the Court is inclined to grant any prior restraint, it should do so with a scalpel rather than with a sledgehammer. The Court should tread lightly outside the courthouse, and it should make its decisions as circumstances require inside the courthouse.

Dated: April 2, 2024.

Respectfully Submitted,

/s/ Marc J. Randazza

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*Attorney for Intervenors; on Behalf of the
People, the Constitution, and Liberty*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served upon all pro se parties and all attorneys of record in via first-class mail, postage prepaid, on April 2, 2024, as follows:

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/s/ Marc J. Randazza
Marc J. Randazza

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2024 APR -3 AM 9:16
NORFOLKS, SS.
CLERK OF THE COURTS
NORFOLK COUNTY

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT DEPARTMENT
DOCKET NO. 2282CR0117

COMMONWEALTH

v.

KAREN READ

4/9/24
Allowed
(Connors J)
att. J. R. O'Connell

MOTION OF THE AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, INC.
FOR LEAVE TO FILE *AMICUS CURIAE* MEMORANDUM WITH REGARD TO NORFOLK
DISTRICT ATTORNEY'S REQUEST FOR AN EXPANSIVE BUFFER ZONE DURING
TRIAL AND OTHER MEASURES THAT IMPACT FREE EXPRESSION

The American Civil Liberties Union of Massachusetts, Inc. ("ACLUM") hereby respectfully seeks leave to file the enclosed *amicus curiae* Memorandum in connection with the Motion of the Norfolk District Attorney's Office for court-imposed restrictions on activities of members of the general public in and around the Courthouse Complex in connection with the upcoming trial in this matter. ACLUM is an organization dedicated to protecting civil rights and civil liberties in the Commonwealth, including the rights of free expression and assembly. The Memorandum is intended to assist the Court by laying out standards that should be applied in determining whether or not to allow any portion of the pending Motion.

Respectfully submitted on behalf of ACLUM,

Ruth A. Bourquin

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NORFOLK COUNTY

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT DEPARTMENT
DOCKET NO. 2282CR0117

COMMONWEALTH

v.

KAREN READ

AMICUS CURIAE MEMORANDUM OF THE AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, INC. WITH REGARD TO NORFOLK DISTRICT ATTORNEY’S REQUEST FOR AN EXPANSIVE BUFFER ZONE DURING TRIAL AND OTHER MEASURES THAT IMPACT FREE EXPRESSION

Introduction

The American Civil Liberties Union of Massachusetts, Inc. (“ACLUM”) respectfully submits this memorandum as *amicus curiae* with regard to the District Attorney’s Motion, filed on or about March 25, 2024, seeking four orders from this Court:

- 1) requiring “prominent posting of G.L. c. 268, § 13A in and around the courthouse immediately before April 16, 2024 and during the pendency of the trial,”
- 2) “prohibiting any individual from demonstrating in any manner, including carrying signs or poster, or making statements about the defendants, law enforcement, the Norfolk District Attorney’s Office, potential witnesses, or the evidence, within 500 feet of the Norfolk Superior Court complex, which includes the parking area behind the Registry of Deeds building, during the trial of this case,”
- 3) “prohibiting anywhere where prospective jurors gather or walk to the courtroom, the wearing or carrying of papers, water bottles, tote bags, signs, buttons, pins, t-shirts, sweatshirts,

hats, or any other attire or item that contains any images or writing that suggests a favorable or unfavorable opinion of either party,” and

4) “prohibit[ing] any individual in the courthouse from wearing any buttons, shirts, or insignia related to the defendant, the victim, or law enforcement . . .”

Each of the four orders requested in the pending Motion have an impact on free speech, expression and assembly and therefore require very close constitutional scrutiny by this Court before any order might enter. This Memorandum focuses primarily on the request for the whopping 500 foot buffer zone (request 2 above), although the analysis below is applicable to each element of the request.¹ As explained more below, the Court should proceed very carefully in ruling on the Motion – particularly the buffer zone request – given the impact on free expression protected by both the First Amendment to the U.S. Constitution and Article 16 of the Declaration of Right, which has been held to provide even greater protection for free expression than the First Amendment – including when criticism of the conduct of public officials is at issue. *See, e.g., Barron v. Kolenda*, 491 Mass. 408, 421-24 (2023).

Argument

For purposes of this *amicus*, it is assumed the request for the 500-foot buffer zone can be deemed content and viewpoint neutral.² And this Memorandum takes as a given that there is a

¹ We also have concerns about the request for posting of G.L. c. 268, § 13A at the courthouse, given it may be an overbroad and insufficiently tailored restriction speech in that it prohibits picketing “near a building housing a court of the commonwealth” which is arguably too vague. More appropriate than posting that statute might be the prominent posting of any buffer zone order the court might enter to ensure that no one inadvertently violates it due to lack of notice. Of course, the statute shows that the Legislature chose to restrict such activities undertaken with specific intent only when “near” a court – as opposed to anywhere within a 500-foot zone on every side of the entire courthouse complex.

² Given it is clearly motivated by a desire to suppress speech in favor of the defendant’s perceived innocence, that assumption may be questionable.

strong government interest in preserving the administration of justice free from undue influence.³ But even assuming those predicates, the Court still must conclude that that the requested restrictions are narrowly tailored, in that they do not “burden substantially more speech than is necessary to further the government’s legitimate interests.” *Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989). In a case out of Massachusetts concerning 35-foot buffer zones near abortion clinics that were held to not meet the narrow tailoring requirement, the Supreme Court emphasized that “by demanding a close fit between ends and means, the tailoring requirement prevents the government from too readily ‘sacrific[ing] speech for efficiency.’” *McCullen v. Coakley*, 573 U.S. 464, 486 (2014) (quoting *Riley v. National Federation of Blind of N.C., Inc.*, 487 U.S. 781, 795 (1988)).

In *McCullen*, the Court also emphasized that the burden is on the *government* to show that it “seriously undertook to address the problem with less intrusive tools readily available to it” and “considered different methods that other jurisdictions found effective.” *Id.* at 494.

Indeed, in this case where a judicial injunction – not a statute – is at issue, the standard is even higher. As the Supreme Court has explained, injunctions “carry greater risks of censorship and discriminatory application” and thus “when evaluating a content-neutral injunction, we think that our standard time, place, and manner analysis is not sufficiently rigorous. We must ask instead whether the challenged provisions of the injunction burden no more speech than necessary to serve a significant government interest.” *Madsen v. Women’s Health Ctr., Inc.*, 512 U.S. 753, 765 (1994). Of course the Supreme Court has also recognized, and discussed in

³ There is however a serious question whether the requested orders are necessary or effective to serve such an interest, given the huge amount of press attention that has already been provided to this case and the unlikelihood that many if any potential jurors or witnesses would not already have been exposed to it.

McCullen, 573 U.S. at 492, that injunctions, if carefully drawn to apply only to individuals or groups “because of [their] past actions in the context of a specific dispute between real parties,” *Madsen*, 512 U.S. at 762, may be more consistent with free expression than more general laws, because “given the equitable nature of injunctive relief, courts can tailor a remedy to ensure that it restricts no more speech than necessary,” *McCullen*, 573 U.S. at 770. “In short, injunctive relief focuses on the precise individuals and the precise conduct causing a particular problem,” as opposed to a measure that “categorically excludes non-exempt individuals from the buffer zones, unnecessarily sweeping in innocent individuals and their speech.” *McCullen*, 573 U.S. at 492.

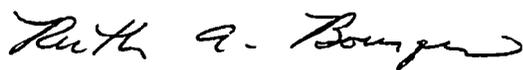
Here, the Commonwealth’s Motion makes no attempt to explain why less intrusive measures are not sufficient to protect its legitimate interests. Such alternatives may include enjoining only specific individuals from engaging in certain conduct where the government shows that they have in the past engaged in unlawful witness intimidation or interference with the administration of justice. Any such violations would need to have been proven to have occurred with an intent to interfere with or obstruct the administration of justice, because intent is an important element in the protection of free expression, as recognized by the plain language of G.L. c. 268, § 13A. *O’Neil v. Canton Police Dep’t*, No. 23-CV-12685-DJC, 2023 WL 7462523 *5 (D. Mass. Nov. 10, 2023). Moreover, any generally applicable restrictions could be much more tailored, for instance, by only prohibiting demonstrators (while expressing views about the case) from approaching within a certain number of feet of someone entering or in the courthouse; restricting noise levels within 200 feet from the courthouse complex below a reasonable decibel level so that proceedings inside are not disrupted; the Court conducting careful *voir dire* of each potential juror to ensure they can commit to judging the matter based only on the facts presented during trial and according to the Court’s instructions, and not as a

result of media coverage or the influence of demonstrators; a much smaller buffer zone; and/or a combination of the same.

Conclusion

There are serious reasons to doubt that orders of the scope sought by the Norfolk District Attorney's Office can be justified consistent with free expression principles, protected both by the First Amendment to the United States Constitution and Article 16 of the Massachusetts Declaration of Rights. Certainly, the District Attorney seems not to have met the government's burden to show why narrower alternatives are not feasible, and unless and until that high burden is met, the Motion should be denied.

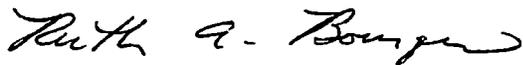
Respectfully submitted on behalf of ACLUM,



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Certification of Service

I certify that on this 2d day of April 2024, a copy of this *Amicus Curiae* Memorandum, along with the Motion for Leave to File, was served by electronic mail on Adam C. Lally, Assistant District Attorney, Norfolk District Attorney's Office and on David Yanetti, counsel for the Defendant.



Ruth A. Bourquin

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
CRIMINAL ACTION
22-00117

COMMONWEALTH

vs.

KAREN READ

**MEMORANDUM OF DECISION AND ORDER ON
COMMONWEALTH'S MOTION FOR BUFFER ZONE SURROUNDING NORFOLK
SUPERIOR COURT AND REQUEST FOR ORDER PROHIBITING SIGNS OR
CLOTHING IN FAVOR OF EITHER PARTY OR LAW ENFORCEMENT**

The Commonwealth seeks an Order from this Court (1) establishing a buffer zone around the Norfolk Superior Courthouse in Dedham during the trial of the defendant, in which demonstrations related to the case would be prohibited, and (2) prohibiting any individual from wearing any clothing or insignia related to the case in the courthouse during trial. While the Court recognizes and appreciates the constitutional right of the people to peacefully protest under the First Amendment to the United States Constitution,¹ the defendant has the right to a fair trial by an impartial jury under the Sixth Amendment to the United States Constitution. See U.S. Const. amend. VI (“the accused shall enjoy the right to a speedy and public trial, by an impartial jury”); *Skilling v. United States*, 561 U.S. 358, 377 (2010). “This right, ensuring the defendant ‘a fair trial,’ has also been characterized as ‘a basic requirement of due process.’” *In re Tsarnaev*, 780 F.3d 14, 18 (1st Cir. 2015), quoting *Skilling*, 561 U.S. at 378.

To ensure the defendant’s right to a fair trial, the Court may restrict protected speech so long as the restrictions do not “burden substantially more speech than is necessary to further the

¹ This court acknowledges the helpful *amicus curiae* memorandum submitted by the American Civil Liberties Union of Massachusetts, Inc.

government's legitimate interests." *Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989). In this case, it is well documented that protestors have shouted at witnesses and confronted family members of the victim. Individuals have also taken to displaying materials which may or may not be introduced into evidence during trial, and airing their opinions as to the guilt or innocence of the defendant on their clothing or on signage. Witness intimidation has also been a prevalent issue in this case. Given these past actions, the Court concludes there is a substantial risk that the defendant's right to a fair trial will be jeopardized if prospective jurors are exposed to the protests and messages displayed on signs or otherwise, particularly before this Court has had an opportunity to instruct the jurors about their obligations with regard to remaining fair and unbiased. The risk extends during trial where jurors and witnesses would have no choice but to be exposed daily to the messages and viewpoints of the protestors when entering and leaving the courthouse or sitting in the courtroom.

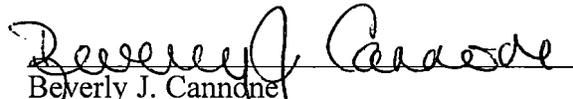
The defendant here is entitled to a fair trial with an impartial jury, free from outside influence, focused solely on the evidence presented in the courtroom during trial and the applicable law. To protect this right, this Court must reduce the risk of exposing witnesses or jurors in this case to such outside influences.

ORDER

It is, hereby, **ORDERED** that no individual may demonstrate in any manner, including carrying signs or placards, within 200 feet of the courthouse complex during trial of this case, unless otherwise ordered by this Court. This complex includes the Norfolk Superior courthouse building and the parking area behind the Norfolk County Registry of Deeds building. Individuals are also prohibited from using audio enhancing devices while protesting.

It is further **ORDERED** that no individuals will be permitted to wear or exhibit any buttons, photographs, clothing, or insignia, relating to the case pending against the defendant or relating to any trial participant, in the courthouse during the trial. Law enforcement officers who are testifying or are members of the audience are also prohibited from wearing their department issued uniforms or any police emblems in the courthouse.

Date: April 4, 2024


Beverly J. Cannone
Justice of the Superior Court

2282CR00117 Commonwealth vs. Read, Karen

- Case Type:
Indictment
- Case Status:
Open
- File Date
06/09/2022
- DCM Track:
C - Most Complex
- Initiating Action:
MURDER c265 §1
- Status Date:
06/10/2022
- Case Judge:
•
- Next Event:
04/12/2024

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

Party Information

Norfolk County District Attorney
- Prosecutor

Alias

Party Attorney

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[More Party Information](#)

Read, Karen
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Alias

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- Attorney
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[More Party Information](#)

Movants, Multiple
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Alias

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Alias

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[More Party Information](#)

Proctor, Michael

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[More Party Information](#)

Metro Corp, Dbal/ Boston Magazine

- Other interested party

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[More Party Information](#)

Albert, Kevin

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American Civil Liberties Union of MA

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[More Party Information](#)

Boston Globe Media Partners

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[More Party Information](#)

Boston Globe Media Partners

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[More Party Information](#)

Party Charge Information

- **Read, Karen**
- - Defendant
- **Charge # 1:**
265/1-0 - Felony MURDER c265 §1
- Original Charge
- 265/1-0 MURDER c265 §1 (Felony)
- Indicted Charge
- Amended Charge
- **Read, Karen**
- - Defendant
- **Charge # 2:**
265/1312-0 - Felony MANSLAUGHTER WHILE OUI c265 §13½
- Original Charge
- 265/1312-0 MANSLAUGHTER WHILE OUI c265 §13½ (Felony)
- Indicted Charge
- Amended Charge
- **Read, Karen**
- - Defendant
- **Charge # 3:**
90/24/B-0 - Felony LEAVE SCENE OF PERSONAL INJURY & DEATH c90 §24(2)(a½)(2)
- Original Charge
- 90/24/B-0 LEAVE SCENE OF PERSONAL INJURY & DEATH c90 §24(2)(a½)(2) (Felony)
- Indicted Charge
- Amended Charge

Events

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
06/10/2022 11:00 AM	Criminal 1		Arraignment		Held as Scheduled
08/12/2022 02:00 PM	Criminal 1		Pre-Trial Conference	Krupp, Hon. Peter B	Held as Scheduled
09/22/2022 02:00 PM	Criminal 1		Pre-Trial Conference	Krupp, Hon. Peter B	Held as Scheduled
10/03/2022 02:00 PM	Criminal 1		Motion Hearing		Held as Scheduled
11/21/2022 02:00 PM	Criminal 1		Hearing RE: Discovery Motion(s)	Cannone, Hon. Beverly J	Held as Scheduled
02/03/2023 02:00 PM	Criminal 1		Conference to Review Status		Rescheduled
02/08/2023 02:00 PM	Criminal 1		Conference to Review Status	Cannone, Hon. Beverly J	Held as Scheduled
05/03/2023 02:00 PM	Criminal 1		Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
05/24/2023 10:00 AM	Criminal 1		Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
05/25/2023 09:30 AM	Criminal 1		Motion Hearing	Cannone, Hon. Beverly J	Canceled
07/25/2023 02:00 PM	Criminal 1		Pre-Trial Hearing	O'Shea, Hon. Daniel J.	Held as Scheduled
09/15/2023 09:00 AM	Criminal 1		Motion Hearing	O'Shea, Hon. Daniel J.	Held as Scheduled
09/15/2023 02:00 PM	Criminal 1		Conference to Review Status	O'Shea, Hon. Daniel J.	Rescheduled
01/05/2024 09:00 AM	Criminal 1		Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
01/18/2024 03:00 PM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
02/15/2024 02:00 PM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
02/26/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Final Pre-Trial Conference	Cannone, Hon. Beverly J	Rescheduled
02/26/2024 02:00 PM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
03/12/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Jury Trial	Cannone, Hon. Beverly J	Rescheduled
03/12/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
03/20/2024 02:00 PM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
03/26/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
03/28/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Rescheduled
04/04/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
04/09/2024 02:00 PM	Criminal 1	DED-2nd FL, CR Main (SC)	Motion Hearing	Cannone, Hon. Beverly J	Held as Scheduled
04/12/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Final Pre-Trial Conference	Cannone, Hon. Beverly J	
04/16/2024 09:00 AM	Criminal 1	DED-2nd FL, CR Main (SC)	Jury Trial	Cannone, Hon. Beverly J	

Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Pre-Trial Hearing	06/09/2022	12/06/2022	180	07/25/2023
Final Pre-Trial Conference	06/09/2022	05/19/2023	344	
Case Disposition	06/09/2022	06/02/2023	358	

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/09/2022	Case assigned to: DCM Track C - Most Complex was added on 06/09/2022		
06/09/2022	Indictment(s) returned	1	
06/09/2022	Issued: Straight Warrant issued on 06/09/2022 for Read, Karen		Image
06/09/2022	Attorney appearance On this date David R Yannetti, Esq. added as Private Counsel for Defendant Karen Read		
06/10/2022	Recalled: Straight Warrant cancelled on 06/10/2022 for Read, Karen		
06/10/2022	Event Result:: Arraignment scheduled on: 06/10/2022 11:00 AM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
06/10/2022	Defendant arraigned before Court. Judge: Cannone, Hon. Beverly J		
06/10/2022	Defendant waives reading of indictment Judge: Cannone, Hon. Beverly J		
06/10/2022	Plea of not guilty entered on all charges. Judge: Cannone, Hon. Beverly J		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/10/2022	Bail set at \$1,000,000.00 Surety, \$100,000.00 Cash. Conditions: 1) stay away/no contact with victim O'Keefe's family and their residences 2) no operation of any motor vehicle		
06/10/2022	Bail warnings read Judge: Cannone, Hon. Beverly J		
06/10/2022	Issued on this date: Mittimus in Lieu of Bail Sent On: 06/10/2022 11:50:54	2	
06/10/2022	Order for the transmittal of Bail sent to the clerk of the Stoughton District Court.	3	
06/10/2022	The following form was generated: Order for Transmittal of Bail Sent On: 06/10/2022 12:02:57		
06/13/2022	Commonwealth 's Statement of the Case	5	
06/13/2022	Commonwealth 's Notice of Discovery I	6	
06/13/2022	Commonwealth 's Motion for Protective Order Regarding Discovery of Digital Video Recordings of Sain Interview	7	
06/13/2022	Finding and Order on Bail: SEE Findings (Cannone, RAJ) dated 06/10/2022 Judge: Cannone, Hon. Beverly J	8	 
06/23/2022	Financial Note: RETURN OF ASSIGNMENT OF BAIL re: surety William J. Read in the amount of \$50,000.00 dated 6/23/2022 (Check #8528)		
07/28/2022	General correspondence regarding Media Request from Court TV	10	
08/12/2022	Defendant 's EMERGENCY Motion to Compel Production of Requests for Preservation of Google Geofence Data and Confirmation from Google that Geofence Data Will Be Preserved with Exhibits - ALLOWED without objection. (Krupp, J.) dated 08/12/2022	11	 
08/12/2022	Affidavit of Counsel in Support of Defendant's Emergency Motion with Certificate of Service	12	
08/12/2022	Defendant 's Motion to Compel Production of Materials Listed in "Commonwealth's Notice of Discovery I" - No action taken in light of the Commonwealth's response. (Krupp, J.) dated 08/12/2022	13	 
08/12/2022	Affidavit of Counsel in Support of Motion to Compel with Certificate of Service	14	
08/12/2022	Defendant 's Motion to Inspect Tail Light and Housing - ALLOWED after items are back from the lab. (Krupp, J.) dated 08/12/22	15	 
08/12/2022	Affidavit of Counsel in Support of Motion to Inspect Tail Light and Housing with Certificate of Service	16	
08/12/2022	Defendant 's Motion to Inspect John O'Keefe's Clothing - ALLOWED after items are back from the lab. (Krupp, J.) dated 08/12/22	17	 
08/12/2022	Affidavit of Counsel in Support of Defendant's Motion to Inspect Clothing with Certificate of Service	18	 
08/12/2022	Event Result:: Pre-Trial Conference scheduled on: 08/12/2022 02:00 PM Has been: Held as Scheduled Hon. Peter B Krupp, Presiding		
08/18/2022	Commonwealth 's Notice of Discovery II (rec'd 08/12/2022)	19	
08/29/2022	Commonwealth 's Notice of Discovery III (rec'd 08/17/2022)	20	 
08/31/2022	Attorney appearance On this date Ian F Henchy, Esq. added for Defendant Karen Read		
09/08/2022	General correspondence regarding Request from Bruce Conover, Court TV, to Cover the Hearing	21	
09/19/2022	Defendant 's Motion to Compel Discovery with Certificate of Service (rec'd 9/16/2022) - - ALLOWED as to #'s 1, 2, 3, 4, 5, 12 as amended, 13, & 15 , - #11 , Counsel may view original exhibits through arrangements with ADA - DENIED without prejudice as to #'s 5, 6, 7, 8, 9, 10 & 14 (Cannone,	22	  

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	RAJ) dated 10/5/22) (copies sent -cm)		
09/19/2022	Defendant 's Motion for Discovery Regarding the Circumstances of Massachusetts State Trooper Michael D. Procter's Assignment to the Investigation of this Matter (rec'd 9/16/2022) - Commonwealth will provide written protocols/policies. If defendant is not satisfied that Commonwealth has responded pursuant to Mass. R. Crim. P. 14, defendant is to file a motion and supporting affidavit for the discovery - not in the form of interrogatories. (Cannone, RAJ.) dated 10/5/2022 copies sent -cm	23	 Image
09/19/2022	Affidavit of Counsel in Support with Certificate of Service (rec'd 9/16/2022)	24	 Image
09/19/2022	Defendant 's Motion for Preservation of Samples for Independent Forensic Testing with Affidavit in Support and with Certificate of Service (rec'd 9/16/2022) - ALLOWED without opposition. (Krupp, J.) dated 09/22/2022	25	  Image
09/19/2022	Defendant 's Motion to Renew Motions Previously Filed in Stoughton District Court with Affidavit and with Certificate of Service (rec'd 9/16/2022) - DENIED (Cannone, RAJ) dated 10/3/22 - copies sent -cm	26	 Image
09/19/2022	Defendant 's Motion for Order Pursuant to Mass. R. Crim. P. 17 directed to Brian Albert, Julie Albert, Colin Albert Brian Higgins and the Commonwealth and Memorandum in Support Thereof with Affidavit with Certificate of Service (rec'd 9/16/2022) (with Exhibits not Scanned) - DENIED. The defendant has not met her burden under Mass. R. Crim. P. 17 Lampron. The Court is not satisfied that the requested phones contain information that is evidentiary and relevant nor is the Court satisfied that the application is made in good faith and is not intended as a general fishing expedition. (Cannone, RAJ) dated 10/5/22 - copies sent-cm	27	  Image
09/19/2022	Defendant 's Amended Motion to Compel Modification of Google Preservation Requests and for Production of Geofence Data and Memorandum in Support Thereof with Affidavit and with Certificate of Service (rec'd 9/16/2022) - Exhibits not scanned - After hearing, no action taken at this time. (Cannone, RAJ) dated 10/5/22	28	 Image
09/21/2022	Defendant 's Motion for Admission Pro Hac Vice of Alan Jackson and Elizabeth Little with Certificate of Service and Exhibits - ALLOWED (Krupp, J.) dated 09/22/2022	29	 Image
09/22/2022	Event Result:: Pre-Trial Conference scheduled on: 09/22/2022 02:00 PM Has been: Held as Scheduled Hon. Peter B Krupp, Presiding		
09/27/2022	Attorney appearance On this date Alan Jackson added as Pro Hac Vice (SJC 3:15) for Defendant Karen Read (SEE Page #29)		
09/27/2022	Attorney appearance On this date Elizabeth S Little added as Pro Hac Vice (SJC 3:15) for Defendant Karen Read (SEE Page #29)		
09/27/2022	ORDER: RE: Preservation of Cellular Telephones (Krupp, J.) dated 9/23/2022 SEE Order	30	 Image
10/03/2022	Event Result:: Motion Hearing scheduled on: 10/03/2022 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
10/14/2022	Commonwealth 's Notice of Discovery IV	31	 Image
11/01/2022	Commonwealth 's Notice of Discovery V	32	  Image
11/18/2022	Norfolk County District Attorney's Memorandum in opposition to Defendant's Motion Pursuant to Rule 17 of Criminal Procedure	33	  Image
11/18/2022	Defendant 's Proposed Memorandum of Decision and Order on Defendant's Rule 17 Motion with Certificate of Service	34	Image
11/21/2022	Event Result:: Hearing RE: Discovery Motion(s) scheduled on: 11/21/2022 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
11/21/2022	Commonwealth 's Notice of Discovery VI	35	 Image
12/19/2022	Event Result:: Conference to Review Status scheduled on: 02/08/2023 02:00 PM Has been: Rescheduled For the following reason: Request of Defendant Hon. Beverly J Cannone, Presiding		Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
12/19/2022	Defendant 's Assented to Motion to Advance and Continue with Affidavit and Certificate of Service -* ALLOWED in so much as the Status Conference is Continued to 02/28 23 at 2PM (Kirpalani, J.) dated 12/19/2022	34.1	 Image
01/23/2023	Commonwealth 's Notice of Discovery VII	36	 Image
01/23/2023	Commonwealth 's Notice of Discovery VIII	37	 Image
02/02/2023	Defendant 's Motion for production of original photographs complete with Metadata - filed 2/2/23	38	 Image
02/02/2023	Affidavit of David R. Yannetti in support of motion for production of original photographs complete with Metadata - filed 2/2/2023	39	 Image
02/02/2023	Affidavit of Richard Green in support of motion for production of original photographs complete with Metadata - filed 2/2/23	40	 Image
02/02/2023	Defendant 's Motion for production of search warrant and missing ring video recordings from One Meadow Avenue in Canton, MA - filed 2/2/23	41	 Image
02/02/2023	Affidavit of David R. Yannetti in support of motion for production of search warrant and missing ring video recordings from One Meadows Avenue Canton, MA - filed 2/2/23	42	 Image
02/02/2023	Defendant 's Motion for production of Greykey supplemental filed - filed 2/2/23	43	 Image
02/02/2023	Affidavit of Richard Green in support of motion for production of Greykey supplemental files - filed 2/2/23	44	 Image
02/02/2023	Defendant 's Certificate of service - filed 2/2/23	45	 Image
02/02/2023	Defendant 's Motion for inspection, access and independent forensic testing of John O'Keefe's clothing - filed 2/2/23	46	 Image
02/02/2023	Affidavit of David R. Yannetti in support of motion for inspection, access and independent forensic testing of John O'Keefe's clothing filed 2/2/23	47	 Image
02/02/2023	Defendant 's Certificate of service - filed 2/2/23	48	 Image
02/02/2023	Defendant 's Motion for inspection, access and independent testing of pieces of tail light seized by the Commonwealth - filed 2/2/23	49	 Image
02/02/2023	Affidavit of of David R. Yannetti in support of motion for inspection, access and independent testing of pieces or tail light seized by the Commonwealth filed 2/2/23	50	 Image
02/02/2023	Defendant 's Motion to compel production on previously ordered discovery filed 2/2/23 - No Action Taken (Cannone, RAJ) dated 02/8/2023	51	 Image
02/02/2023	Affidavit of David R. Yannetti in support of motion to compel production of previously ordered discovery filed 2/2/23	52	 Image
02/02/2023	Defendant 's Motion for order pursuant to Mass.R.Crim.P.17 directed to Canton Animal Control and the Canton Clerk's Office - filed 2/2/23 IMPOUNDED	53	 Image
02/02/2023	Affidavit of Elizabeth S. Little in support of motion for order pursuant to Mass.R.Crim.P.17 directed to Canton Animal Control and the Canton Town Clerk - IMPOUNDED filed 2/2/23	54	
02/02/2023	Affidavit of Forensic Pathologist Frank Sheridan, M.D.in support of motion for order pursuant to Mass.R.Crim.P.17directed to Canton Animal Control and the Canton Clerk's Office - filed 2/2/23 IMPOUNDED	55	
02/02/2023	Defendant 's Motion to modify conditions of release - filed 2/2/23 IMPOUNDED	56	
02/02/2023	Affidavit of counsel in support of Defendant's motion to modify pretrial conditions of release and certificate of service - filed 2/2/23 IMPOUNDED	57	
02/08/2023	Event Result:: Conference to Review Status scheduled on: 02/08/2023 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
02/08/2023	Bail warnings read Judge: Cannone, Hon. Beverly J		
02/08/2023	Bail set at \$800,000.00 Surety, \$80,000.00 Cash. \$20,000 cash of posted bail may be returned to Surety		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
02/09/2023	Commonwealth 's Notice of Discovery IX	58	
02/09/2023	Financial Note: RETURN OR ASSIGNMENT OF BAIL re: surety William J. Read in the amount of \$20,000.00 dated 2/9/2023 (Check #8888)		Image
02/22/2023	Commonwealth 's Notice of Discovery X	59	
03/21/2023	Commonwealth 's Notice of Discovery XI	60	
03/24/2023	Commonwealth 's Notice of Discovery XII	61	
03/27/2023	Commonwealth 's Proposed Procedure RE: Communications Stored on Cell Phone for Examination of iPhone Pursuant to a Search Warrant Issued on February 2, 2022 ALLOWED WITHOUT OBJECTION (CANNONE,J) ATT.J.MCDERMOTT,AC (5/3/23)	62	 Image
04/12/2023	Commonwealth 's Notice of Discovery XIII	63	
04/12/2023	Defendant 's Motion For Order Pursuant to Mass. R. Crim. P. 17 Directed to Brian Albert, Verizon and AT&T	64	 Image
04/12/2023	Affidavit of Alan J. Jackson, Esq. in support of Motion For Order Pursuant to Mass. R. Crim. P. 17 Directed to Brian Albert, Verizon and AT&T	65	 Image
04/12/2023	Affidavit of Richard Green in support of Defendant's Motion For Order Pursuant to Mass. R. Crim. P. 17 Directed to Brian Albert, Verizon and AT&T	66	 Image
04/26/2023	Defendant 's Renewed Motion to Compel Discovery - See Rulings on Paper #131 (Cannone, RAJ) dated 09/15/2023	67	 Image
04/26/2023	Affidavit of David R. Yannetti in Support of Defendant's Renewed Motion to Compel Discovery with Certificate of Service	68	 Image
04/26/2023	List of exhibits #1 - #6 in Support of Defendant's Renewed Motion to Compel Discovery	69	 Image
05/02/2023	Norfolk County District Attorney's Memorandum in opposition to Defendant's Motion Pursuant to Rule 17 of Criminal Procedure - Directed to Brian Albert, Verizon, and AT&T	70	 Image
05/02/2023	Norfolk County District Attorney's Memorandum in opposition to Defendant's Motion Pursuant to Rule 17 of Criminal Procedure - Production of Records from Canton Animal Control and the Canton Clerk's Office	71	 Image
05/03/2023	Attorney appearance On this date Gregory D Henning, Esq. added as Private Counsel for Other interested party Brian Albert	72	 Image
05/03/2023	Opposition to Defendant's Rule 17 Motion for Cellular Devices and Records filed by Brian Albert Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party)	73	 Image
05/03/2023	Affidavit of Support of Brian Albert's Opposition to Rule 17 Motion Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party)	74	 Image
05/03/2023	Gregory D Henning, Esq.'s Motion for Copies of Grand Jury Minutes of Brian and Nicole Albert Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party)	75	 Image
05/03/2023	Affidavit of Support of Motion for Copies of Grand Jury Minutes of Brian and Nicole Albert Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party)	76	 Image
05/03/2023	Event Result:: Motion Hearing scheduled on: 05/03/2023 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
05/04/2023	Endorsement on Motion for copies of Grand Jury Mintues of Brian and Nicole Albert, (#75.0): ALLOWED dated 5/3/23. Copies mailed Judge: Cannone, Hon. Beverly J		 Image
05/04/2023	Commonwealth 's Notice of Discovery XV - filed 5/3/23	77	 Image

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05/11/2023	Commonwealth 's Notice of Discovery XVI - filed 5/10/23	78	
05/19/2023	MEMORANDUM & ORDER: on Defendant's Motion for an Order Pursuant to Mass. R. Crim. P. 17 Directed to Canton Animal Control and the Canton Clerk's Office. ALLOWED. (Cannone, RAJ) dated 05/19/2023 Judge: Cannone, Hon. Beverly J (copies sent to all attorneys)	79	  
05/19/2023	ORDER: for Production of Records from Canton Animal Control and the Canton Clerk's Office (dated 05/19/2023)	80	 
05/19/2023	The following form was generated: A Clerk's Notice was generated and sent to: Defendant, Attorney: David R Yannetti, Esq. Yannetti Criminal Defense Law Firm 44 School St Suite 1000A, Boston, MA 02108 Defendant, Attorney: Alan Jackson 888 W. 6th Street 4th Floor, Los Angeles, CA 90017 Defendant, Attorney: Ian F Henchy, Esq. Yannetti Law Firm 44 School St 1000A, Boston, MA 02108 Prosecutor, Attorney: Adam C Lally, Esq. Norfolk County District Attorney's Office 45 Shawmut Rd, Canton, MA 02021 Other interested party, Attorney: Gregory D Henning, Esq. Henning Strategies 141 Tremont St Suite 300, Boston, MA 02111		
05/22/2023	Gregory D Henning, Esq.'s Motion to Quash the Subpoena of Defendant Karen Read Applies To: Albert, Brian (Other interested party)	81	 
05/22/2023	Affidavit of Gregory Henning in Opposition to Rule 17 Motion with Exhibit A Applies To: Albert, Brian (Other interested party)	82	 
05/22/2023	Opposition to to Defendant's Request for Evidentiary Hearing on Mass. R. Crim. P. 17 with Exhibit A filed by Norfolk County District Attorney	83	 
05/22/2023	Attorney appearance On this date Kevin Joseph Reddington, Esq. added as Private Counsel for Other interested party Jennifer McCabe		
05/22/2023	Kevin Joseph Reddington, Esq.'s Motion to Quash Subpoena	84	 
05/22/2023	Jennifer McCabe's Memorandum in support of Motion to Quash Subpoena Served on Jennifer McCabe, Government Witness	85	 
05/23/2023	Other Records All Records Relating to Any Animals Registered to Brian Albert received from Canton Town Hall - IMPOUNDED	86	
05/23/2023	Commonwealth 's Notice of Discovery XIV - 5/3/23	76.1	 
05/24/2023	Opposition to to Jennifer McCabe's Motion to Quash Subpoena filed by Karen Readwith Certificate of Service	87	 
05/24/2023	Opposition to to Brian Albert's Motion to Quash Subpoena filed by Karen Read	88	 
05/24/2023	Opposition to Commonwealth's Opposition to Defendant's Request for Evidentiary Hearing on Mass. R. Crim. P. 17 filed by Karen Read	89	 
05/24/2023	Event Result:: Motion Hearing scheduled on: 05/24/2023 10:00 AM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
05/24/2023	Event Result:: Motion Hearing scheduled on: 05/25/2023 09:30 AM Has been: Canceled For the following reason: By Court prior to date Hon. Beverly J Cannone, Presiding		
05/25/2023	Other Records received from Canton Animal Control - IMPOUNDED	90	
06/07/2023	Defendant 's Motion for Permission to Copy and Inspect Impounded Records Pursuant to Dwyer Protocol - ALLOWED (Cannone, RAJ) dated 06/08/2023	91	 
06/07/2023	Affidavit of Counsel in support of motion for permission to copy and inspect impounded Records with Certificate of Service	92	 

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
06/09/2023	Commonwealth 's Motion to Prohibit Prejudicial Extrajudicial Statements of Counsel in Compliance with Massachusetts Rules of Professional Conduct 3.6(a) with Exhibits	93	 Image
06/09/2023	Commonwealth 's Motion to Inspect and Copy Impounded Records from the Town of Canton	94	 Image
06/13/2023	Commonwealth 's Notice of Discovery XVII (rec'd 5/25/23)	95	 Image
06/13/2023	Commonwealth 's Notice of Discovery XVIII	96	 Image
06/20/2023	MEMORANDUM & ORDER: on Defendant's motion for order pursuant to MASS.R.CRIM.P.17 directed to Brian Albert, Verizon, and AT&T. (Cannone, RAJ) DENIED see memorandum and order. ns Judge: Cannone, Hon. Beverly J	97	 Image
06/21/2023	Opposition to to Motion to Inspect and Copy Impounded Records from the Town of Canton with Certificate of Service (rec'd 06/20/2023) filed by Karen ReadALLOWED, only as far as allowing for inspection and copying of the records. The remainder of the Motion is reserved for hearing on 7/25. (Cannone,J) 7/18/23	98	 Image
06/21/2023	Affidavit of Counsel in Support of Defendant's Opposition to Motion to Inspect and Copy Impounded Records from the Town of Canton (rec'd 6/20/2023)	99	 Image
07/17/2023	Defendant 's Motion for Recusal and Disqualification of Justice Beverly Cannone with Certificate of Service	100	 Image
07/17/2023	Affidavit of Aidan Kearney in Support of Defendant's Motion for Recusal and Disqualification of Justice Beverly Cannone	101	 Image
07/17/2023	Affidavit of Alan J. Jackson, Esq. in Support of Defendant's Motion for Recusal and Disqualification of Justice Beverly Cannone	102	 Image
07/18/2023	Opposition to Commonwealth's "Motion to Prohibit Prejudicial Extrajudicial Statements of Counsel in Compliance with Massachusetts Rules of Professional Conduct 3.6(a) with Certificate of Service filed by Karen Read	103	
07/18/2023	Affidavit of Counsel in Support of Opposition to Commonwealth's "Motion to Prohibit Prejudicial Extrajudicial Statements of Counsel	104	
07/19/2023	Commonwealth 's Notice of Discovery XIX	105	 Image
07/20/2023	Defendant 's EX PARTE Confidential Privilege Log Regarding Data Obtained From Ms. Read's Cell Phone for the Court's In Camera Review - The Court does not need to review the content of the messages referenced by counsel for the defendant. Axiom ID #104589, #122346. This Court orders that the additional referenced text messages, which contain Attorney-Client privileged information, be redacted by the appointed forensic examiner prior to the information being produced to the Commonwealth. Further, this Court orders the Digital Evidence Laboratory to provide the Commonwealth with the redacted extraction report of the defendant's cellphone forthwith (Cannone, RAJ) dated 07/25/2023	106	 Image
07/20/2023	Affidavit of Counsel in Support of Defendant's I Privilege Log Regarding Data Obtained From Ms. Read's Cell Phone for the Court's In Camera Review with Exhibit A	107	
07/24/2023	Commonwealth 's Motion to Establish Timely Protocols for Evidentiary Testing	108	 Image
07/24/2023	Commonwealth 's Motion to Compel Defendant to Comply with the Agreed Upon Privilege Filtration Procedures Relative to the Defendant's Cellphone and to Provide the Commonwealth with the Redacted Extraction Report	109	 Image
07/25/2023	Event Result:: Pre-Trial Hearing scheduled on: 07/25/2023 02:00 PM Has been: Held as Scheduled Comments: FTR Hon. Beverly J Cannone, Presiding		
07/25/2023	MEMORANDUM & ORDER: on Defendant's Motion for Recusal and Disqualification of Justice Beverly Cannone - - ORDER : Motion for recusal and disqualification is DENIED. (Cannone, RAJ) dated 7/25/2023 - SEE Memorandum of this Date Judge: Cannone, Hon. Beverly J	110	 Image
07/31/2023	MEMORANDUM & ORDER: on Commonwealth's Motion to Prohibit Prejudicial Extrajudicial Statements of Counsel in Compliance	111	 Image

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	with Massachusetts Rules of Professional Conduct 3.6(a) - It is ORDERED that the Commonwealth's Motion is DENIED without prejudice. (Cannone, RAJ) dated 7/31/2023 - SEE Memorandum (copies sent to all counsel -cm) Judge: Cannone, Hon. Beverly J		
08/11/2023	Commonwealth 's Notice of Discovery XX	112	
08/14/2023	Defendant 's Renewed Motion to Compel Discovery and Access to Evidence with Certificate of Service and Exhibits A-C	113	 Image
08/14/2023	Affidavit of David Yannetti in Support of Defendant's Renewed Motion to Compel Discovery	114	 Image
08/17/2023	Event Result:: Conference to Review Status scheduled on: 09/15/2023 02:00 PM Has been: Rescheduled For the following reason: By Court prior to date Hon. Beverly J Cannone, Presiding		Image
08/22/2023	Commonwealth 's Notice of Discovery XXI.	115	
09/01/2023	Defendant 's Motion for Order Pursuant to Mass.R.Crim. P.17 directed to the Canton Department of Public Works and the Canton Town Clerk and Certificate of Service - ** ALLOWED - no objection. (Cannone, RAJ) dated 09/15/2023 filed 9/1/23	116	 Image Image
09/01/2023	Affidavit of Private Investigator Paul Mackowski in support of Motion for Order Pursuant to Mass.R.Crim.P.17 directed to the Canton Department of Public Works and the Canton Town Clerk filed 9/1/23	117	 Image
09/01/2023	Affidavit of Alan J. Jackson in support of Motion for Order pursuant to Mass.R.Crim. P.17 directed to the Canton Department of Public Works and the Canton Town Clerk filed 9/1/23	118	 Image
09/01/2023	Commonwealth 's Motion for Records: ABC News and Affidavit in support of Commonwealth's Motion for Records with Exhibits - * DENIED without prejudice. (Cannone, RAJ.) filed 9/1/23	119	 Image
09/01/2023	Commonwealth 's Response to "Defendant's Renewed Motion to Compel Discovery and Access to Evidence" filed 9/1/23	120	 Image
09/01/2023	Commonwealth 's Motion for Records - ALARM.COM and Affidavit in support of Commonwealth's Motion for Records - ALLOWED with out objection. (Cannone, RAJ) dated 09/15/2023 filed 9/1/23	121	 Image
09/01/2023	Commonwealth 's Motion for Records NBCU News Group Legal and Affidavit in support of Commonwealth's Motion for Records with exhibits filed 9/1/23 - *DENIED without Prejudice, SEE Decision and Order. (Cannone, RAJ) dated 10/11/2023	122	 Image
09/07/2023	Defendant 's Motion to modify conditions of release - filed 9/7/23	123	
09/07/2023	Affidavit of counsel in support of Defendant's motion to modify conditions of release and certificate of service filed 9/7/23	124	  Image
09/07/2023	Defendant 's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Google, LLC. with Certificate of Service **** ALLOWED (Cannone, RAJ) dated 09/15/2023	125	 Image
09/07/2023	Affidavit of Alan J. Jackson in Support of Motion	126	
09/08/2023	Commonwealth 's Notice of Discovery XXII	127	 Image
09/08/2023	Commonwealth 's Notice of Discovery XXIII	128	 Image
09/08/2023	Commonwealth 's Notice of Discovery XXIV	129	 Image
09/08/2023	Defendant 's Supplemental Affidavit of Alan J. Jackson in Support of Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to the Canton Department of Public Works ant the Canton Town Clerk with Certificate of Service and Exhibit A	130	  Image
09/13/2023	Defendant 's Reply to Commonwealth's Response to "Defendant's Renewed Motion to Compel Discovery and Access to Evidence" with Exhibit A & B - -*** SEE All Endorsements on Scanned Motion (Cannone, RAJ) dated 9/15/2023	131	 Image
09/14/2023	Commonwealth 's Proposed Order for "Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Google, LLC"	132	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
09/14/2023	Commonwealth 's Motion to Impound the Commonwealth's Attachments in Support of "Commonwealth's Motion for Order for Exhaustive DNA Testing - Item #: 3-6.1" - ***** Attachments Exhibits A & B to be Impounded until completion of the case. (Cannone, RAJ) dated 09/15/2023	133	 Image
09/14/2023	Commonwealth 's Motion for Order for Exhaustive DNA Testing - Item #: 3-6.1	134	 Image
09/15/2023	Event Result:: Motion Hearing scheduled on: 09/15/2023 09:00 AM Has been: Held as Scheduled Hon. Daniel J. O'Shea, Presiding		Image
09/19/2023	ORDER for Other Records for William Read from Alarm.com (SEE Order dated 09/15/23)	135	
09/20/2023	Scheduled: Event: Jury Trial Date: 03/12/2024 Time: 09:00 AM Result: Rescheduled		
09/21/2023	General correspondence regarding Letter from Morgan Lewis, Attorney Jonathan M. Albano, representing American Broadcasting Companies, Inc. and NBCUniversal Media, LLC	136	
09/21/2023	Affidavit of Forensic Expert Samuel "Skip" Palenik in Support of Defendant' Request for Non-Destructive Examination of Evidence Item 3-6 (Suspected "Hair") - Declaration of Samuel Palenik	137	 Image
09/22/2023	Notice of docket entry received from Supreme Judicial Court RE: No. SJ-2023-0343 You are hereby notified that on September 15, 2023, the following was entered on the docket of the above-referenced case: MOTION for Pro Hac Vice Admission of Alan Jackson and Elizabeth Little in the Supreme Judicial Court with Certificate of Service and attachments filed by Attorney. David Yannetti. (9/22/23: "Per the within, MOTION for Pro Hac Vice Admission is ALLOWED without hearing." (Kafker, J.))	138	 Image
09/22/2023	Notice of docket entry received from Supreme Judicial Court RE: No. SJ-2023-0343 You are hereby notified that on September 18, 2023, the following was entered on the docket of the above-referenced case: Brian Albert's MOTION to Intervene with Certificate of Service, filed by Attorney Gregory Henning. (9/22/23: "Per the within, MOTION to Intervene is ALLOWED without hearing." (Kafker, J.))	139	 Image
09/22/2023	General correspondence regarding Letter from David Yannetti withdrawing the motion for bail-reduction - SEE Correspondence	140	 Image
09/25/2023	Notice of docket entry received from Supreme Judicial Court RE: No. SJ-2023-0343 You are hereby notified that on September 21, 2023, the following was entered on the docket of the above-referenced case: Petitioner/Defendant Karen Read's MOTION For Leave to File Reply Brief and to Enlarge Time For Filing with Affidavit of Counsel in Support and Certificate of Service, filed by Attorney Ian F. Henchy. (9/25/2023: "Per the within, MOTION is ALLOWED without hearing." (Kafker, J.))	141	 Image
09/27/2023	Commonwealth 's Motion to Compel Defendant to Preserve all Evidence Including Video Footage from 345 Country Hill Drive, Dighton, MA and Commonwealth's Request for Court Ordered Production (rec'd 9/15/2023) ** ALLOWED - (Cannone, RAJ) dated 09/15/2023	142	 Image
09/27/2023	ORDER: for Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Google, LLC (dated 09/27/2023)	143	 Image
09/27/2023	Defendant 's EX PARTE Affidavit	144	
09/27/2023	ORDER: for Production of Records from Canton Department of Public Works (Cannone, RAJ)	145	 Image
09/28/2023	ORDER: Modified Scheduling Order (Cannone, RAJ) dated 9/27/23	146	 Image
09/29/2023	Defendant 's Post-Hearing Motion to Amend Proposed Order Regarding Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Google, LLC.	147	 Image
09/29/2023	Affidavit of Counsel in Support of Post-Hearing Motion to Amend Proposed Order Regarding Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Google, LLC.	148	 Image
09/29/2023	ORDER for Business Records for GPS data associated with all snowplows deployed by the Canton Department of Public Works (DPW) from Canton Town Clerk (Cannone, RAJ) dated 9/27/2023 - SEE ORDER	149	 Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
10/02/2023	Commonwealth 's Notice of Discovery XXV - filed 10/2/23	150	 Image
10/10/2023	Business Records received from Town of Canton Department of Public Works (CD) --Rule 17 (a)(2) - Non Privileged Records: Not for Public Inspection	151	 Image
10/12/2023	MEMORANDUM & ORDER: on Commonwealth's Motion for Records (Paper #119 & #126) - ORDER: The Commonwealth's Motion for Records is DENIED without PREJUDICE. The Commonwealth must comply with the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. (Cannone, RAJ) dated 10/11/2023 Judge: Cannone, Hon. Beverly J	152	 Image
10/26/2023	Commonwealth 's Notice of Discovery XXVI	153	 Image
10/30/2023	Commonwealth 's Notice of Discovery XXVII	154	 Image
10/30/2023	Commonwealth 's Motion to Impound Commonwealth's Exhibit A in Support of " Commonwealth's Motion for Protective Order Pertaining to DNA Profiles of Investigating Law Enforcement Officers"	155	 Image
10/30/2023	Commonwealth 's Motion for Protective Order Pertaining to DNA Profiles of Investigating Law Enforcement Officers with Exhibits A & B	156	 Image
11/01/2023	Affidavit of Eric Shiff , (SUPPLEMENTAL)	157	 Image
11/07/2023	Commonwealth 's Notice of Discovery XXVII	158	 Image
11/07/2023	Commonwealth 's Notice of Discovery XXVIII	159	 Image
11/09/2023	Other 's Correspondence received from Google - RE: Nest Labs Inc. - Google can NOT comply with the Order - SEE Correspondence (rec'd 10/11/23)	160	 Image
11/10/2023	ORDER: In order for Nest Labs, Inc. c/o Google LLC to comply with the order to produce records, the order must be clarified. At a minimum, Google needs the Nest Cam serial number, or the email address associated with the Nest Cam device to identify the Nest Cam account. Parties are ordered to produce information to the Court within 7 days of this order. (Cannone, RAJ) dated 11/10/2023 - (SEE Order) (copies sent to all parties -cm)	161	 Image
11/14/2023	Commonwealth 's Notice of Discovery XXIV	162	 Image
11/15/2023	Notice of docket entry received from Supreme Judicial Court RE: No. SJ-2023-0343 "You are hereby notified that on November 15, 2023, the following was entered on the docket of the above-referenced case: JUDGMENT: as on file. (Kafker, J.)"	163	 Image
11/16/2023	ORDER: and Decision on Commonwealth's Motion for Exhaustive DNA Testing-Item #: 3-6.1 and Defendant 's Request for Non Destructive Examination of Item 3-6 - SEE ORDER - (Cannone, RAJ) dated 11/14/2023 (copies sent to all parties -cm)	164	 Image
11/16/2023	Pre-trial conference report filed	165	 Image
11/16/2023	Defendant 's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Jennifer McCabe, Trooper Michael Proctor, and Elizabeth Proctor with Certificate of Service	166	 Image
11/16/2023	Affidavit of Alan J. Jackson in support of Motion for Order Pursuant to Mass. R. Crim. P. 17 with Exhibits	167	 Image
11/16/2023	ORDER: to Verizon for cell phone records to be produced no later than December 15, 2023 - SEE ORDER (Cannone, RAJ)	168	 Image
11/17/2023	Gregory D Henning, Esq.'s Motion to Seal Third Party Response to Court Order of November 10, 2023 - *** ALLOWED (Cannone, RAJ) dated 11/16/2023	169	 Image
11/17/2023	Gregory D Henning, Esq.'s Third-Party Response to the Court Order of November 10, 2023 - ** SEALED 11/17/2023 - (Cannone, RAJ)	170	 Image
11/17/2023	Affidavit of Support of Third-Party Motion to Seal Response to November 10, 2023 Court Order (Sealed Pending Review) Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party)	171	 Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
11/17/2023	Affidavit of Support of Third-Party Motion to Seal Response to November 10, 2023 Court Order (Sealed Pending Review) Applies To: Albert, Brian (Other interested party)	172	
11/30/2023	Commonwealth 's Motion for Order Permitting Destructive Testing of Defendant's Lexus' Telematics Systems with Exhibit A	173	 Image
12/04/2023	Commonwealth 's Motion to Compel Defendant to Timely Provide and Opposition and Proposed Order to the "Commonwealth's Motion for Protective Order Pertaining to DNA profiles of Investigating Law Enforcement Officers"	174	
12/04/2023	Commonwealth 's Notice of Discovery Pursuant to Mass. R. Crim. P. 14(A)(1)(E)(i)	175	
12/15/2023	Attorney appearance On this date William Andrew Kettlewell, Esq. added as Private Counsel for Other interested party Elizabeth Proctor	175.1	 Image
12/26/2023	Kevin Joseph Reddington, Esq.'s Motion to continue January 5, 2024 hearing dated 12/26/23	176	 Image
12/28/2023	Witness 's Motion to join in third party's opposition to Rule 17 motion to subpoena records of third party, Proctor filed 12/28/23 - * ALLOWED (Cannone, RAJ) dated 12/28/23	177	 Image
12/28/2023	Endorsement on Motion to continue, (#176.0): DENIED ZOOM link to be sent to Counsel. (Cannone, RAJ) ns (ZOOM info emailed to Atty Reddington)		 Image
12/28/2023	Opposition to to Defendant's Rule 17 motion to subpoena records of third party, Elizabeth Proctor. filed by Elizabeth Proctor	178	 Image
12/28/2023	Affidavit of of Counsel in support of Opposition to Defendant's Rule 17 motion to subpoena records of third party, Elizabeth Proctor	179	 Image
12/28/2023	Endorsement on Motion to join in third party's opposition to Rule 17 motion to subpoena records of third party, Proctor, (#177.0): ALLOWED (Cannone,RAJ) ns		 Image
01/02/2024	Defendant 's Karen Read's opposition to motion for protective order pertaining to "Commonwealth's notice of discovery pursuant to Mass.R.Crim.P.14(A)(1)(E)(1)" with associated six attachments and certificate of service - filed 1/2/24	180	 Image
01/02/2024	Defendant 's Karen Read's opposition to motion for protective order pertaining to DNA profiles of investigating law enforcement officers and certificate of service - filed 1/2/2024	181	 Image
01/04/2024	Commonwealth 's Motion for Records	182	 Image
01/04/2024	Affidavit of in Support of Commonwealth's Motion for Records with Exhibit	183	 Image
01/04/2024	Commonwealth 's Motion for Protective Order Pertaining to "Commonwealth's Notice of Discovery Pursuant to Mass. R. Crim. P. 14 (A)(1)(E)(i)" with Associated Six Attachments	184	 Image
01/04/2024	Commonwealth 's Response to " Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Jennifer McCabe, Trooper Michael Proctor, and Elizabeth Proctor"	185	 Image
01/04/2024	Commonwealth 's Motion to Impound "Commonwealth's Supplemental Notice of Discovery Pursuant to Mass. R. Crim. P. 14(A)(1)(E)(i)" with Associated Two Attachments	186	 Image
01/04/2024	Commonwealth 's Commonwealth's Supplemental Notice of Discovery Pursuant to Mass. R. Crim. P. 14(A)(1)(E)(i)	187	
01/05/2024	Commonwealth 's Notice of Discovery XXX	188	
01/05/2024	ORDER: for " Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Google, LLC" (Cannone, RAJ) dated 01/05/24 - (REDACTED) (original is IMPOUNDED) This Order has been satisfied by Google's correspondence dated 2/28/2024.	189	 Image
01/05/2024	Attorney appearance On this date Gretchen Lundgren, Esq. added as Private Counsel for Other interested party Yuri Bukhenik Applies To: Bukhenik, Yuri (Other interested party); Lundgren, Esq., Gretchen (Attorney) on behalf of Bukhenik, Yuri (Other interested party) Applies To: Bukhenik, Yuri (Other interested party); Proctor, Michael (Other interested party); Lundgren, Esq., Gretchen (Attorney) on behalf of Bukhenik, Yuri, Proctor, Michael (Other interested party)	189.1	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
01/05/2024	Attorney appearance On this date Gretchen Lundgren, Esq. added as Private Counsel for Other interested party Michael Proctor		
01/05/2024	Event Result:: Motion Hearing scheduled on: 01/05/2024 09:00 AM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
01/05/2024	Defendant 's Motion for Sanctions and for Disqualification of the Norfolk County District Attorney and Memorandum in Support thereof with Affidavit of Counsel	190	 Image
01/05/2024	MEMORANDUM & ORDER: of Decision on Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Jennifer McCabe, Trooper Michael Proctor, and Elizabeth Proctor - SEE Memorandum and Order - (Cannone, RAJ) dated 01/05/2024 (parties notified -cm) Judge: Cannone, Hon. Beverly J	191	 Image
01/05/2024	ORDER: On Commonwealth's Motion for Protective Order Pertaining to DNA Profiles of Investigating Law Enforcement Officers dated 1/5/24	192	 Image
01/08/2024	ORDER: of Impoundment. The Court finds good cause to impound the Defendants' Motion for Sanctions and for disqualification of the Norfolk County District Attorney and memorandum in support thereof (paper #190). The order of impoundment shall be in effect until after the motion hearing scheduled on January 18, 2024	193	 Image
01/08/2024	Clarification / Correction of the docket: RE: P#190 Should read: Defendant's Motion for Sanctions and for Disqualification of the Norfolk County District Attorney and Memorandum in support thereof - IMPOUNDED		
01/08/2024	Defendant 's Notice filing of Impounded Information (Grand Jury Mintues) - filed 1/8/24	194	 Image
01/08/2024	Defendant 's Motion to Impound Defendant's Motion to Dismiss Indictments and Memorandum in support thereof; and Grand Jury Mintues and Exhibits lodged in support of Defendant's Motion to Dismiss Indictments filed 1/8/24	195	 Image
01/08/2024	Affidavit of Alan J. Jackson in support of Defendant's Motion to Impound Defendant's Motion to Dismiss and supporting exhibits and certificate of service filed 1/8/24	196	 Image
01/08/2024	Docket Note: Letter from MASS LIVE to take photographs and use a an audio recorder during the motions of Karen Read in Norfolk Superior Court, January 5, 2024. (ALLOWED J. Beverly Cannone 01/05/2024)	197	
01/10/2024	General correspondence regarding Notification of hearing via Zoom on January 18, 2024 at 3PM from David R. Yannetti sent to United States Attorney, Joshua Levy.	198	 Image
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01/18/2024	Opposition to to Commonwealth's Motion for records, and Motion for Protective Order (LIMITED) with Exhibit A filed by Non-Parties Boston Magazine and Gretchen Voss	203	 Image
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01/18/2024	Event Result:: Motion Hearing scheduled on: 01/18/2024 03:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		 Image

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01/18/2024	Attorney appearance On this date Robert A Bertsche, Esq. added for Other interested party Dba/ Boston Magazine Metro Corp		
01/18/2024	Attorney appearance On this date Robert A Bertsche, Esq. added for Other interested party Gretchen Voss		
01/19/2024	Commonwealth 's Motion to Withdraw "Protective Order Pertaining to Commonwealth's Notice of Discovery Pursuant to mass. R. Crim. P. 14(A)(1)(E)(i) with Associated Attachments" ALLOWED 1/22/24 (Cannone,J) att.J.McDermott,ac	207	 Image
01/22/2024	Commonwealth 's Notice of Discovery XXXI	208	
01/23/2024	MEMORANDUM & ORDER: on Commonwealth's Motion for Records - ORDER: The Commonwealth's Motion for Records is ALLOWED as to the portions of the audio recordings of the June 30, 2023 and July 13, 2023 interviews that were "on the record." The Motion is DENIED without Prejudice as to the portions of the June 30, 2023 and July 13, 2023 interviews that were "off the record" and as to Gretchen Voss's handwritten notes of the July 7, 2023 interview. (Cannone, RAJ) dated 01/23/2024 Judge: Cannone, Hon. Beverly J	209	 Image
01/25/2024	Cell Phone Records received from Verizon Rec'd 1/19/24 INSPECTION BY ATTORNEYS ONLY	210	
02/09/2024	Defendant, Commonwealth 's Joint Motion of the Parties to Continue Motion-Hearing Date, Cancel Final Pre-trial Conference Date and Convert Trial Date to Motion-Hearing Date	211	 Image
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02/15/2024	Kevin Joseph Reddington, Esq.'s Submission of a Thumb Drive of all Pertinent Records and Communications Taken Off of Ms. McCabe's Phone - IMPOUNDED	213	 Image
02/15/2024	Event Result:: Motion Hearing scheduled on: 02/15/2024 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
02/16/2024	Opposition to "Defendant's Motion for Sanctions and for Disqualification of the Norfolk County District Attorney" with Exhibits A - T filed by Norfolk County District Attorney	214	 Image
02/21/2024	Event Result:: Final Pre-Trial Conference scheduled on: 02/26/2024 09:00 AM Has been: Rescheduled For the following reason: By Court prior to date Hon. Beverly J Cannone, Presiding		
02/21/2024	General correspondence regarding Thumb drive of Proctor / McCabe calls and emails (only for inspection by attorneys of record) - IMPOUNDED	215	
02/21/2024	Opposition to "Defendant's Motion to Dismiss Indictments and Memorandum in Support Thereof" filed by Norfolk County District Attorney	216	 Image
02/23/2024	Cell Phone Records received from Verizon (Attorney's of Record Only) - IMPOUNDED	217	
02/23/2024	Defendant 's Motion to Impound Defendant's Motion to Continue the Hearing on Defendant's Motion to Dismiss Indictments with Certificate of Service	218	
02/23/2024	Affidavit of of Counsel in Support of Motion to Impound Defendant's Motion to Continue the Hearing on Defendant's Motion to Dismiss Indictments	219	
02/23/2024	Defendant 's Motion to Continue the hearing on Defendant's Motion to Dismiss Indictments with Certificate of Service	220	
02/23/2024	Affidavit of Counsel in Support of Defendant's Motion to Continue the Hearing on Defendant's Motion to Dismiss Indictments	221	
02/23/2024	Commonwealth 's Notice of Discovery XXXII - filed 2/23/24	222	 Image
02/26/2024	Event Result:: Motion Hearing scheduled on: 02/26/2024 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
02/27/2024	Event Result:: Jury Trial scheduled on: 03/12/2024 09:00 AM Has been: Rescheduled For the following reason: Court Order Hon. Beverly J Cannone, Presiding		
02/27/2024	Scheduled: Event: Jury Trial		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Date: 04/16/2024 Time: 09:00 AM		
03/05/2024	Defendant 's Motion to Impound Defendant's Motion to Continue the Pretrial Hearing Dates, Briefing Schedule, and Jury Trial Dates with Affidavit and Attachments	223	
03/05/2024	Defendant 's Motion to Continue the Pretrial Hearing Dates, Briefing Schedule, and Jury Trial Dates with Certificate of Service and Affidavits from Attorney Jackson and Attorney Yannetti - **** IMPOUNDED, per request of Defense	224	
03/05/2024	ORDER: Modified Scheduling Order in Response to Defendant's Motion to Continue the Pretrial Hearing Dates, Briefing Schedule, and Jury Trial Dates - SEE ORDER (Cannone, RAJ) dated 03/05/2024 (copies sent to all counsel -cm)	225	 Image
03/06/2024	Commonwealth 's Motion for Protective Order - * So Ordered (Cannone, RAJ) 03/06/2024 - IMPOUNDED	226	
03/07/2024	Defendant 's Motion to Impound Supplemental Memorandum of Points and Authorities in Support of Defendant's Motion to Dismiss Indictments with Affidavit - **ALLOWED (Cannone, RAJ) dated 03/07/2024 - IMPOUNDED	227	
03/07/2024	Defendant 's Supplemental Memorandum of Points and Authorities in Support of Defendant's Motion to Dismiss Indictments with Affidavit of Counsel - IMPOUNDED	228	
03/11/2024	Commonwealth 's Notice of Discovery XXXVIII - filed 3/11/24	229	 Image
03/11/2024	Docket Note: Correspondence from Google - IMPOUNDED	230	
03/11/2024	Commonwealth 's Motion to Impound Commonwealth's Supplemental Opposition to Defendant's Motion to Dismiss Indictments and Defendant's Motions for Sanctions and Disqualification of The Norfolk District Attorney's Office Allowed (Cannone, RAJ) dated 3/11/24 (Exhibits in Vault)	231	
03/11/2024	Commonwealth 's Supplemental Opposition to Defendant's Motion to Dismiss Indictments and Defendant's Motion for Sanctions and Disqualification of The Norfolk District Attorney's Office - filed 3/11/24 IMPOUNDED	232	
03/12/2024	Event Result:: Motion Hearing scheduled on: 03/28/2024 09:00 AM Has been: Rescheduled For the following reason: Other event activity needed Hon. Beverly J Cannone, Presiding		
03/12/2024	Event Result:: Final Pre-Trial Conference scheduled on: 04/12/2024 09:00 AM Has been: Rescheduled For the following reason: By Court prior to date Hon. Beverly J Cannone, Presiding		
03/12/2024	Event Result:: Motion Hearing scheduled on: 03/12/2024 09:00 AM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
03/12/2024	Other Records received from Boston Magazine Received 3/12/24 IMPOUNDED	233	
03/13/2024	ORDER: And Decision Re: Service of Motions for Records Pursuant to Mass. R. Crim .P 17 dated 3/13/24 Judge: Cannone, Hon. Beverly J	234	 Image
03/13/2024	Defendant 's Motion to Impound Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Kevin Albert, Brian Higgins and Brian Albert with Affidavit	235	
03/13/2024	Defendant 's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Kevin Albert, Brian Higgins and Brian Albert with Affidavit and Certificate of Service	236	
03/13/2024	Defendant 's Motion to Impound " Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Brian Albert, Kenneth Berkowitz, Brian Higgins, Verizon, Sprint, and NEXTGEN/METROPCS" with Affidavit and Certificate of Service	237	
03/13/2024	Defendant 's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Brian Albert, Kenneth Berkowitz, Brian Higgins, Verizon, Sprint, and NEXTGEN/METROPCS" with Affidavit and Certificate of Service	238	
03/13/2024	Defendant 's Motion to Impound Clarification/Correction Docket should read "Motion to Impound" per J.McDermott 3/14/2024	239	
03/15/2024	Attorney appearance On this date Tanis M Yannetti, Esq. added as Private Counsel for Defendant Karen Read	240	 Image
03/18/2024	Defendant 's Motion for Admission Pro Hac Vice of Alan Jackson and Elizabeth Little filed 3/15/24	241	 Image

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03/19/2024	Defendant 's Motion for Order and Order are IMPOUNDED Judge: Cannone, Hon. Beverly J	242	
03/20/2024	Attorney appearance On this date Michael Romeo DiStefano, Esq. added for Other interested party Michael Proctor	243	 Image
03/20/2024	Other 's , Michael Proctor, Response to Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17 Directed to Massachusetts State Police, Internal Affairs Section	244	 Image
03/20/2024	Event Result:: Motion Hearing scheduled on: 03/20/2024 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
03/21/2024	Commonwealth 's Motion for Reciprocal Discovery and Notice of Any Experts	245	 Image
03/21/2024	ORDER for Other Records for from Massachusetts State Police - IMPOUNDED	246	Image
03/21/2024	ORDER for Cell Phone Records for from Verizon - IMPOUNDED	247	
03/21/2024	ORDER for Cell Phone Records for from Sprint - IMPOUNDED	248	
03/21/2024	ORDER for Cell Phone Records for from Nextel/Metro PCS - IMPOUNDED	249	
03/21/2024	Defendant 's Motion to Lodge Evidence of the Canton Police Department's Conflict of Interest with the Court with Exhibit A	250	 Image
03/25/2024	Attorney appearance On this date Peter Pasciucco, Esq. added for Other interested party Kevin Albert	251	 Image
03/25/2024	's Opposition of Kevin Albert to the Defendant's Rule 17 Motion For Records of Communications with Brian Higgins and Certificate of Service - filed 3/25/24	252	 Image
03/25/2024	Commonwealth 's Response to the Defendant's Motion to Compel Production of Notes, Reports, Memoranda and logs filed 3/25/24	253	 Image
03/26/2024	Commonwealth 's Motion for Buffer Zone Surrounding Norfolk Superior Court	254	 Image
03/26/2024	Event Result:: Motion Hearing scheduled on: 03/26/2024 09:00 AM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
03/26/2024	MEMORANDUM & ORDER: on Defendant's Motion to Dismiss - ** Defendant's Motion to Dismiss is DENIED. (Cannone, RAJ) dated 03/26/2024 Judge: Cannone, Hon. Beverly J	255	 Image
03/26/2024	Protective Order issued for defense counsel access to presumptively privileged records. (IMPOUNDED) Judge: Cannone, Hon. Beverly J Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party)	256	
03/26/2024	Protective Order issued for defense counsel access to presumptively privileged records. (IMPOUNDED) Judge: Cannone, Hon. Beverly J Applies To: Henning, Esq., Gregory D (Attorney) on behalf of Albert, Brian (Other interested party); Pasciucco, Esq., Peter (Attorney) on behalf of Albert, Kevin (Other interested party)	257	
03/26/2024	Protective Order issued for defense counsel access to presumptively privileged records - applies to Kenneth H. Anderson, Esq. (IMPOUNDED) Judge: Cannone, Hon. Beverly J	258	
03/26/2024	Protective Order issued for defense counsel access to presumptively privileged records - applies to William H. Connolly, Esq. (IMPOUNDED) Judge: Cannone, Hon. Beverly J	259	
03/27/2024	Opposition to to Defendant's Rule 17 Motion by Third Party with Certificate of Service - IMPOUNDED filed by	260	
03/28/2024	ORDER: and Decision on Defendant's Motion to Compel Production of Notes, Reports, Memoranda and Logs - ** So ORDERED, (Cannone, RAJ) dated 03/28/2024	261	 Image

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03/28/2024	MEMORANDUM & ORDER: and Decision on Defendant's Motion for Sanctions and for Disqualification of the Norfolk County District Attorney - * ORDER : The Defendant's Motion is DENIED. (Cannone, RAJ) dated 03/28/2024 (copies sent to all parties -cm) Judge: Cannone, Hon. Beverly J	262	 Image
03/29/2024	MEMORANDUM & ORDER: and Decision on Defendant's Motion for Order Pursuant to Mass. R. Crim. P. 17- ** ORDER: Defendant's Motion is DENIED. (Cannone, RAJ) dated 03/29/2024 (copy sent to all counsel -cm) Judge: Cannone, Hon. Beverly J	263	
04/03/2024	Attorney appearance On this date Marc J Randazza, Esq. added for Defendant Multiple Movants with Certificate of Service	264	 Image
04/03/2024	Marc J Randazza, Esq.'s Citizens' Motion to Intervene for the Limited Purpose of Upholding and Defending the First Amendment by Opposing the Commonwealth's Motion for a Buffer Zone and Restraining Signs or Clothing that Express a Viewpoint About the Trial - ** DENIED for reasons stated on the record. (Cannone, RAJ) dated 04/04/2024 (copy sent to counsel -cm)	265	 Image
04/03/2024	Attorney appearance On this date Ruth A Bourquin, Esq. added for Other interested party American Civil Liberties Union of MA		
04/03/2024	Ruth A Bourquin, Esq.'s Motion of the Civil Liberties Union for Leave to File Amicus Curiae Memorandum with Regard to Norfolk District Attorney's Request for an Expansive Buffer Zone During Trial and Other Measures that Impact Free Expression - * ALLOWED (Cannone, RAJ) dated 04/04/2024	266	 Image
04/04/2024	Ruth A Bourquin, Esq.'s Amicus Curiae Memorandum of the American Civil Liberties Union of Massachusetts, INC. with Regard to Norfolk District Attorney's Request for an Expansive Buffer Zone During Trial and Other Measures that Impact Free Expression with Certificate of Service	267	 Image
04/04/2024	Attorney appearance On this date Jonathan M Albano, Esq. added for Other interested party Boston Globe Media Partners, LLC with Certificate of Service	268	
04/04/2024	Attorney appearance On this date Samuel D Thomas, Esq. added for Other interested party Boston Globe Media Partners, LLC. with Certificate of Service	269	 Image
04/04/2024	Other 's Motion to Terminate or Modify Impoundment Orders with Certificate of Service Applies To: Albano, Esq., Jonathan M (Attorney) on behalf of Boston Globe Media Partners (Other interested party)	270	 Image
04/04/2024	Boston Globe Media Partners's Memorandum in support of Motion of Boston Globe Media Partners, LLC to Terminate or Modify Impoundment Orders with Certificate of Service Applies To: Albano, Esq., Jonathan M (Attorney) on behalf of Boston Globe Media Partners (Other interested party)	271	 Image
04/04/2024	Other 's Declaration of John R. Ellement in Support of Motion of Boston Globe Media Partners, LLC Motion to Vacate Impoundment Order with Certificate of Service filed by Samuel D. Thomas Applies To: Albano, Esq., Jonathan M (Attorney) on behalf of Boston Globe Media Partners (Other interested party)	272	 Image
04/04/2024	Event Result:: Motion Hearing scheduled on: 04/04/2024 09:00 AM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		
04/04/2024	Commonwealth 's Notice of Discovery XXXV	273	 Image
04/04/2024	MEMORANDUM & ORDER: on Commonwealth's Motion for Buffer Zone Surrounding Norfolk Superior Court and Request for Order Prohibiting Signs or Clothing in Favor of Either party or Law Enforcement - ORDER: It is Ordered that no individual may demonstrate in any manner, including carrying signs or placards, within 200 feet of the Courthouse Complex during trial unless otherwise Ordered by this Court. This complex includes the Norfolk Superior Courthouse building and the parking area behind the Norfolk County Registry of Deeds building. Individuals are also prohibited from using audio enhancing devices while protesting. It is further ORDERED that no individuals will be permitted to wear or exhibit any buttons, photographs, clothing, or insignia, relating to the case pending against the defendant or relating to any trial participant,	274	 Image

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	in the Courthouse during the trial. Law enforcement officers who are testifying or are members of the audience are also prohibited from wearing their department issued uniforms or any police emblems in the Courthouse. (Cannone, RAJ) dated 04/04/2024 Judge: Cannone, Hon. Beverly J		
04/05/2024	ORDER: This Court has received and reviewed Motion of Boston Globe Media Partners, LLC to Terminate of Modify Impoundment Orders. I intend to hold a hearing as soon as possible, preferably Tuesday April 9, 2024, at 2PM. As a preliminary matter, I Order the moving party to give notice and provide a copy of the motion to the United States Attorney's office because the motion implicates materials in which they have an interest. (Cannone, RAJ) dated 4/5/2024 (copies sent to all counsel -cm)	275	 Image
04/08/2024	ORDER: Regarding Media Protocol and Coverage dated 4/8/2024 Judge: Cannone, Hon. Beverly J	276	 Image
04/09/2024	Commonwealth 's Notice of Discovery XXXIV (rec'd 3/26/24)	277	 Image
04/09/2024	Jonathan M Albano, Esq.'s Motion of COX Media Group/WFXT-TV to Terminate or Modify Impoundment Orders with Certificate of Service	278	 Image
04/09/2024	Other 's U.S. Department of Justice , Attorney Joshua S. Levy's, Letter Regarding the Motion of Boston Globe Medial Partners,LLC to Terminate or Modify Impoundment Orders	279	 Image
04/09/2024	Defendant 's Motion to Waive Defendant's Appearance - ** ALLOWED (Cannone, RAJ) dated 04/09/2024	280	 Image
04/09/2024	Affidavit of Counsel in Support of Motion to Waive Defendant's Appearance with Certificate of Service	281	 Image
04/09/2024	Event Result:: Motion Hearing scheduled on: 04/09/2024 02:00 PM Has been: Held as Scheduled Hon. Beverly J Cannone, Presiding		Image
04/10/2024	Defendant 's Motion in limine to Exclude Irrelevant, Inadmissible, and Prejudicial Prior Bad Character and Propensity Evidence with Certificate of Service and Attachments (rec'd 4/9/24)	282	 Image
04/10/2024	Affidavit of Counsel in Support of Defendant's Motion in Limine to Exclude Irrelevant, Inadmissible and Prejudicial Prior Bad Character and Propensity Evidence (rec'd 4/9/24)	283	 Image
04/10/2024	Defendant 's Motion for Sanctions and Exclusion of Evidence Based on the Commonwealth's Failure to Timely Comply with Discovery Orders (rec'd 4/9/24)	284	 Image
04/10/2024	Affidavit of Counsel in Support of Motion for Sanctions and Exclusion of Evidence Based on the Commonwealth's Failure to Timely Comply with Discovery Orders (rec'd 4/9/24)	285	 Image
04/10/2024	Defendant 's Motion for Attorney-Conducted Panel Voir Dire with Certificate of Service (rec'd 4/9/24)	286	 Image
04/10/2024	Defendant 's Motion in limine for View with Certificate of Service (rec'd 4/9/24)	287	 Image
04/10/2024	Defendant 's Motion in limine to Exclude Irrelevant and Prejudicial Evidence Regarding Alleged Harassment and/or Intimidation of Witnesses with Certificate of Service Sanctions and Exclusion of Evidence Based on the Commonwealth's Failure to Timely Comply with Discovery Orders (rec'd 4/9/24)	288	 Image
04/10/2024	Defendant 's Motion in limine to Exclude Serum/Plasma Ethanol Concentration, Blood Ethanol Concentration Conversion, and Corresponding Retrograde Extrapolation Analysis with Certificate of Service (rec'd 4/9/24)	289	 Image
04/10/2024	Marc J Randazza, Esq.'s and Movants Notice of Filing of Petition for Interlocutory Relief Pursuant to G.L. c.231, s118, First Par with Certificate of Service and Attachment	290	
04/10/2024	Commonwealth 's Motion in limine for Appointment of Court Stenographer, Ongoing Order to Impound All Sidebar Conferences, and Impoundment of Juror Names During Trial	291	 Image
04/10/2024	Commonwealth 's Motion to Disable Ability of Observers on Remote Platforms from Being Heard in Courtroom and Commonwealth's Request for Notice Regarding Television Cameras	292	 Image
04/10/2024	Commonwealth 's Motion in limine for Sequestration Order and for Relief from that Order for Family Members of the Victim	293	 Image
04/10/2024	Commonwealth 's Motion in limine to Allow In-Court Identification	294	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Victim's Photograph	295	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Photographs of the Victim's Injuries as Observed by Medical Providers on January 29, 2022 and Photographs from the Autopsy	296	 Image

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04/10/2024	Commonwealth 's Motion in limine to Preclude Reference to and Redact the Manner of Death Contained on the Victim's Death Certificate	297	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit 911 Call	298	 Image
04/10/2024	Commonwealth 's Motion in limine to Introduce Certified Records from the Registry of Motor Vehicles	299	 Image
04/10/2024	Commonwealth 's Motion in limine of Intent to Obtain Cori Records of Potential Jurors	300	 Image
04/10/2024	Commonwealth 's Motion in limine for View	301	 Image
04/10/2024	Commonwealth 's Motion in limine Regarding the Use of Leading Questions	302	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Evidence that the Defendant was in Custody for a Period of Time After her Arrest	303	 Image
04/10/2024	Commonwealth 's Motion in limine for Order Regarding Opening Statements and Notice of Any Visual Aids Defense Intends to Display to Jury During Opening Statement	304	 Image
04/10/2024	Commonwealth 's Motion in limine Regarding Visual Presentations to Display Evidence as "Chalks"	305	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Expert Celebrite Demonstration	306	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Defendant's Out- of -Court Statements for Purposes of Medical Treatment and Certified Medical Records from Good Samaritan Hospital	307	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Defendant's Out - of -Court Statements as Statements of a Party Opponent	308	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit Recorded Statements of the Defendant Made to the Media	309	 Image
04/10/2024	Commonwealth 's Motion in limine to Introduce Evidence of Motive and Nature of Relationship	310	 Image
04/10/2024	Commonwealth 's Motion in limine to Admit the Victim's Out of Court Statements Relating to his State of Mind	311	 Image
04/10/2024	Commonwealth 's Motion in limine to Preclude Reference to any Alleged "Bad Character" and any Prior "Misconduct" of the Victim or any Witness	312	 Image
04/10/2024	Commonwealth 's Motion in limine to Exclude Character/Reputation Evidence of the Defendant	313	 Image
04/10/2024	Commonwealth 's Motion for Voir Dire of any Witness to be Asked for Opinion or Character of Defendant or any Witness	314	 Image
04/10/2024	Commonwealth 's Motion in limine to Prohibit Defense Experts from Testifying Regarding Scientific Studies or Anecdotal Experiences and Request for Voir Dire of any Proposed Defense Experts	315	 Image
04/10/2024	Commonwealth 's Motion in limine to Exclude Mention of Aidan Kearney A/K/A "Turtleboy" and his Pending Criminal Charges for Witness Intimidation	316	 Image
04/10/2024	Commonwealth 's Motion in limine to Prohibit Reference to Any Federal Investigations Conducted by the U.S. Attorney's Office and/or Federal Bureau of Investigations	317	 Image
04/10/2024	Commonwealth 's Motion in limine to Prohibit Reference to Any Pending Internal Affairs Investigations or Unfounded Allegations of Misconduct	318	 Image
04/10/2024	Commonwealth 's Motion in limine for Advances Notice if Defendant Intends to Cross-Examine any Witness about Alleged Bias and Request for Pre-Trial Ruling on Whether the Proposed Evidence Demonstrates a Plausible Showing of Alleged Bias	319	 Image
04/10/2024	Commonwealth 's Motion in limine to Preclude the Defendant from raising a Third-Party Culprit Defense	320	 Image
04/10/2024	Commonwealth 's Motion in limine for Notice and Voir Dire of Bowden Defense	321	 Image
04/10/2024	Commonwealth 's Motion for Attorney-Conducted and Individual Voir Dire of Potential Jurors and Proposed Jury Questionnaire	322	 Image
04/10/2024	ORDER: on Motion of Boston Globe Media Partners, LLC to Terminate or Modify Impoundment Orders. At the conclusion of the hearing, the motion was Allowed in Part - The Commonwealth has submitted to the Court redacted versions of the motion papers #199, #228 and #232 which are subject to that Order. (Cannone, RAJ) dated 4/10/2024 with Attachment of Exhibit A ** SEE ORDER *** Judge: Cannone, Hon. Beverly J	323	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
04/10/2024	Other 's U.S. Department of Justice , Attorney Joshua S. Levy's, Letter Regarding the Motion of Boston Globe Medial Partners, LLC to Terminate or Modify Impoundment Orders (dated 4/10/2024)	324	 Image
04/11/2024	Notice of docket entry received from Appeals Court on April 9, 2024 the following entry was made: Petition pursuant to G.L. c. 231, s. 118 filed for Tracey Anne Spicuzza, Lorena Jenkinson, Dana Stewart Leonard and Paul Christoford by Attorney Marc J. Randazza.	325	 Image
04/11/2024	Notice of docket entry received from Appeals Court Please take note that, with respect to the Motion for stay under M.R.A.P.6(a) files for Tracey Spicuzza, Lorena Jenkinson, Dana Stewart Leonard and Paul Cristoford by Attorney Marc J. Randazza. (Pater #4), on April 10,2024, the following order was entered on the docket of the above-referenced case: RE#4: See order on paper #1.	326	 Image
04/11/2024	Notice of docket entry received from Appeals Court on April 10,2024 the following entry was made: ORDER (RE #1): The Petitioner seeks review of Orders (1) denying their motion to intervene for limited purposes; and (2) creating a buffer zone around the Courthouse, and limiting certain activities in the Courthouse, at an upcoming criminal trial.	327	 Image
04/11/2024	General correspondence regarding :Clerk is directed to return this document. This pleading does not comply with the Uniform Rules of Impoundment. The only alternative would be for the Court to accept it without Impoundment. I decline to do that. (Cannone, RAJ) dated 4/11/24		

Case Disposition

<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Active	06/10/2022	