

No. _____

In The
Supreme Court Of The United States

ADALBERTO MARTINEZ,
PETITIONER,

v.

COMMONWEALTH OF MASSACHUSETTS
Respondent.

*On Petition For Writ Of Certiorari
To The Massachusetts Appeals Court*

APPENDIX

Brad P. Bennion
Counsel of Record
P.O. Box 890118
East Weymouth, Massachusetts 02189
(617) 943-6164
bradpbennion@gmail.com

August 2026

Table of Contents

1.	SJC FAR Denial	3
2.	Mass. Appeals Court Opinion	4
3.	Docket (No. 2084CR00326)	14
4.	Indictments (No. 20-326)	44
5.	Comm.'s Motion for Joinder	47
6.	Motion for Relief From Prejudicial Joinder	48
7.	Decision & Order As To Joinder	52
8.	Defendant's Response to Joinder	57
9.	Motion for Required Finding	60
10.	Jury Verdict Slip	61
11.	Notice of Appeal	62
12.	Testimony of Transcript of Marielena Ruiz-Marte (Vol. 5, pp. 169-208)	63

From: SJC Full Court Clerk SJCCommClerk@sjc.state.ma.us
Subject: FAR-30890 - Notice: FAR denied
Date: June 11, 2026 at 4:57 PM
To: bradpbennion@gmail.com



Supreme Judicial Court for the Commonwealth of Massachusetts

Telephone

RE: Docket No. FAR-30890

COMMONWEALTH

vs.

ADALBERTO MARTINEZ

Suffolk Superior Court No. 2084CR00326

A.C. No. 2025-P-0223

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

Please take note that on June 11, 2026, the application for further appellate review was denied.

Very truly yours,
The Clerk's Office

Dated: June 11, 2026

To: Molly Paris, A.D.A.
Brad P. Bennion, Esquire

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

25-P-223

COMMONWEALTH

vs.

ADALBERTO MARTINEZ.

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

Following two Superior Court jury trials, the defendant, Adalberto Martinez, was convicted of three counts of aggravated statutory rape of a child, G. L. c. 265, § 23A. On appeal, the defendant argues that (1) both trial judges improperly admitted prior bad act evidence, and (2) the second trial judge improperly admitted hearsay statements of a codefendant. We affirm.

Background. We summarize the procedural history and the relevant facts as the jury could have found them, reserving some facts for later discussion. At the first trial, the defendant

was charged with two counts of conduct,¹ one perpetrated against the daughter of the defendant's then-girlfriend (victim one), and the other against victim one's friend (victim two), both at victim one's home in 2015 when the victims were approximately ten years old. Victim two would often sleep over at victim one's house. One evening in 2015, the victims were lying in bed talking when the defendant entered the room, lay between the two girls in the bed, and touched both girls' genitals. Victim one told her mother, the defendant's then-girlfriend, about the incident shortly thereafter, though not immediately afterwards; victim one's mother told her not to tell anyone else. Victim two disclosed the incident to her cousin in approximately March, 2020. Sometime between March and May of 2020, victim one disclosed the incident to victim two's sister.

At the second trial, the defendant was tried on the first count of the indictment with his codefendant, victim one's mother (hereinafter, codefendant). This count charged the defendant and the codefendant with conduct perpetrated against the codefendant's sister (victim three), also in 2015, when victim three was fifteen years old. In the summer of 2015, victim three and another sister visited the codefendant at her

¹ Counts two and three were severed at the defendant's request, and on those counts he was tried alone. On count one he was tried with his codefendant.

home twice. On their second visit to the codefendant's house that summer, the codefendant told victim three that, at some point in the past, the codefendant had had sexual relations with one of the defendant's cousins and, because the defendant was angry about it, he physically abused the codefendant. The codefendant cried and showed victim three a bruise on her arm. The codefendant told victim three that "the only way to fix" the situation would be if the defendant "had sex with someone close to her." The codefendant offered victim three money "and [the codefendant's] wellbeing" to have sex with the defendant. Victim three agreed. Victim three went into the codefendant's bedroom where the codefendant and the defendant were waiting. The codefendant held one of victim three's legs open with a tight grip while the defendant had sex with her.

Victim three testified that she did not immediately report the incident because the codefendant asked her not to and "out of embarrassment." A few months later, victim three told her other sister about the incident with the defendant. Victim three reported the rape to the police in 2016, but recanted in October, 2016. Victim three testified that at the time that she recanted she was living with the codefendant and that the codefendant begged her not to move forward with the allegations. In May 2020, victim three reported to the police that she wished to move forward with the case.

Discussion. 1. Prior bad act evidence. Prior to both trials, the Commonwealth moved in limine to admit evidence of uncharged conduct in the codefendant's bedroom by the defendant against victim two's sister and a close friend of the codefendant, who was around fifteen years old at the time. The defendant encouraged victim two's sister to drink alcohol, take off her shirt and dance for him, and when victim two's sister got sick, he grabbed her and tried to pull her into another bedroom. The defendant also made comments to victim two's sister relating to her virginity and genitals.

The Commonwealth argued, at both trials, that the defendant's conduct with victim two's sister showed a common scheme and pattern of behavior with the indicted conduct, and should be admitted at trial under Mass. G. Evid. § 404(b)(2) (2025). The defendant moved to exclude victim two's sister's testimony, arguing that the testimony would be used as impermissible character evidence, and that even if the testimony were admitted to show a common scheme or pattern of behavior, the probative value of the testimony was outweighed by the risk of unfair prejudice to the defendant. The judge in the first trial allowed the Commonwealth's motion to admit victim two's sister's testimony "in connection with [d]efendant's state of mind and course of conduct towards female children." The judge

in the second trial allowed the Commonwealth's motion to admit the testimony for "state of mind, motive, intent, and methods."

On appeal, the defendant argues that the rulings of both judges were abuses of discretion. "We review a trial judge's evidentiary decisions under an abuse of discretion standard." N.E. Physical Therapy Plus, Inc. v. Liberty Mut. Ins. Co., 466 Mass. 358, 363 (2013). "[A] judge's discretionary decision constitutes an abuse of discretion where we conclude the judge made a clear error of judgment in weighing the factors relevant to the decision, such that the decision falls outside the range of reasonable alternatives" (quotation and citations omitted). L.L. v. Commonwealth, 470 Mass. 169, 185 n.27 (2014). See Nyberg v. Wheltle, 101 Mass. App. Ct. 639, 648 (2022). Because the defendant's objection was preserved at the second trial, we review it for prejudicial error. See Commonwealth v. Reyes, 483 Mass. 65, 78 (2019).

Prior bad act evidence is inadmissible for the purpose of demonstrating a defendant's bad character or propensity to commit the crimes charged. See Commonwealth v. Crayton, 470 Mass. 228, 249 (2014). "However, such evidence may be admissible for some other purpose, for instance, to establish motive, opportunity, intent, preparation, plan, knowledge, identity, or pattern of operation" (quotation and citation omitted). Commonwealth v. Almeida, 479 Mass. 562, 568 (2018).

See Mass. G. Evid. § 404(b)(2). Both judges allowed victim two's sister's testimony to show a common scheme or pattern. The judge in the first trial found that "[t]he conduct regarding victim [two]'s sister may be considered in connection with Defendant's state of mind and course of conduct toward female children." The judge in the second trial found that the jury could consider the testimony as evidence that (1) the defendant "had a sexual interest in teenage girls;" (2) the defendant's "attraction to teenage girls included girls who had close relationships with [the codefendant];" (3) "the defendants would work together to pursue [the defendant's] sexual interest;" (4) "the defendants used alcohol as part of their plan;" and (5) "the defendants' plan included using [the codefendant]'s bedroom as the site of the sexualized activity." The testimony was properly admitted "for state of mind, motive, intent, and methods" in both trials.

The defendant argues that even if victim two's sister's testimony is admissible to show a common pattern, motive, or scheme, that it is inadmissible because "its probative value is outweighed by the risk of unfair prejudice to the defendant, even if not substantially outweighed by that risk." Crayton, 470 Mass. at 249 n.27. See Mass. G. Evid. § 404(b)(2). Both judges determined that the probative value of victim two's

sister's testimony outweighed the prejudicial effect.² We discern no error from these determinations. Moreover, both judges gave forceful limiting instructions in their final charge to the jury as to how the jury could use victim two's sister's testimony, mitigating its prejudicial effect.³ Given the thoughtful reasoning of both judges, and the limiting instructions given to both juries, we discern no abuse of discretion or prejudicial error in the admission of victim two's sister's testimony.

2. Hearsay statement admitted under the joint venture exception. The codefendant's mother testified at the second trial that the codefendant contacted her in 2019 to reestablish their relationship. The codefendant's mother told the codefendant that, if she wanted to reconcile, the codefendant had to tell the truth about the incident with victim three. The codefendant and her mother met, and the codefendant told her mother that the defendant had sex with victim three in the

² At sidebar in the second trial, the judge noted that the defendant's attempt to raise a defense of fabrication reinforced the probative value of victim two's sister's testimony. He also concluded "that the probative value [of the testimony] is significant and outweighs the prejudicial effect of informing the jury of uncharged noncriminal conduct."

³ In addition to the limiting instruction in the final charge to the jury, the judge in the first trial gave a contemporaneous limiting instruction on prior bad acts during victim two's sister's testimony.

summer of 2015 "to make it even" because the codefendant had had sex with the defendant's family member. The defendant argues that the codefendant's statements to her mother should not have been admitted against him under Mass. G. Evid. § 801(d)(2)(E) because the statement was not made during a cooperative effort or in furtherance of a joint venture, but that the joint venture had ended.

"[T]he joint venture exception to the hearsay rule does not apply to statements made after the joint venture has ended."

Commonwealth v. Winguist, 474 Mass. 517, 522 (2016). However, "[s]tatements made in an effort to conceal a crime, made after the crime has been completed, may be admissible under the joint venture exception because the joint venture [remains] ongoing" (citation omitted). Id. Before admitting testimony under the joint venture exception, "a trial judge must first determine, based on a preponderance of admissible evidence other than the offered statement, that a criminal joint venture existed between the declarant and the defendant and that the offered statement was made during and in furtherance of the joint venture."

Commonwealth v. Steadman, 489 Mass. 372, 379 (2022). A statement can be determined to be in furtherance of the joint venture based "on direct or circumstantial evidence that the coventurers had planned to conceal the crime or their involvement in the crime." Commonwealth v. Brown, 474 Mass.

576, 587 (2016). "A judge's determination as to the existence and scope of a joint venture is reviewed under the abuse of discretion standard." Winguist, 474 Mass. at 521.

Here, the Commonwealth established the existence of a joint venture independently of the codefendant's statements. The judge then found that the codefendant's mother, who had been "aware of the allegations," and had been involved in having victim three "go[] to the police once," "could have been the one to get this whole thing reactivated." Contrary to the defendant's contention that the joint venture had ended, the judge concluded that the codefendant "was trying to enlist her mother's loyalty so that she would not speak up." Where the

statements furthered the efforts to conceal the crime, we discern no abuse of discretion in admitting the testimony.⁴

Judgments affirmed.

By the Court (Meade,
Hodgens & Allen, JJ.⁵),

A handwritten signature in blue ink that reads "Paul Little". The signature is stylized with a large, sweeping "P" and a cursive "Little".

Clerk

Entered: April 13, 2026.

⁴ The defendant's argument that the admission of the statement the codefendant made to her mother violated his right to confrontation is also unavailing. "Generally speaking, the statements of joint venturers . . . are deemed nontestimonial under Crawford v. Washington, 541 U.S. 36, 56 (2004)." Winguist, 474 Mass. at 521 n.6 (2016). See Commonwealth v. Marrero, 436 Mass. 488, 493 (2002) (joint venture exception to hearsay rule does not violate Bruton v. United States, 391 U.S. 123 [1968])).

⁵ The panelists are listed in order of seniority.

- Case Type:
- Indictment
- Case Status:
- Open
- File Date
- 11/23/2020
- DCM Track:
- C - Most Complex
- Initiating Action:
- RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A
- Status Date:
- 06/01/2023
- Case Judge:
- Wall, Hon. Joshua
- Next Event:
-

All Information Party Charge Event Tickler Docket Disposition

Party Information

Suffolk County District Attorney
- Prosecutor

Alias

Party Attorney

- Attorney
- Mark, Esq., Audrey Carin
- Bar Code
- 561735
- Address
- Suffolk County District Attorney's Office
- One Bulfinch Place
- Boston, MA 02114
- Phone Number
- (617)619-4000

[More Party Information](#)

Martinez, Adalberto
- Defendant

Alias

Party Attorney

- Attorney
- Warren, Esq., John
- Bar Code
- 685597
- Address
- Law Office of John P. Warren, P.C.
- 132 Lincoln St
- Suite 5L
- Boston, MA 02111
- Phone Number
- (617)383-4482

[More Party Information](#)

Party Charge Information

- Martinez, Adalberto
- - Defendant

Charge # 1:

265/23C-0 - Felony RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A

- Original Charge
 - 265/23C-0 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A (Felony)
 - Indicted Charge
 -

App. 14

Charge Disposition

Disposition Date
Disposition
01/24/2024

Amended Charge

Guilty Verdict

Martinez, Adalberto

- Defendant

Charge # 2:

265/23C-0 - Felony

RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A

Original Charge

265/23C-0 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A (Felony)

Indicted Charge

Amended Charge

Charge Disposition

Disposition Date

Disposition

06/09/2023

Guilty Verdict

Martinez, Adalberto

- Defendant

Charge # 3:

265/23C-0 - Felony

RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A

Original Charge

265/23C-0 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A (Felony)

Indicted Charge

Amended Charge

Charge Disposition

Disposition Date

Disposition

06/09/2023

Guilty Verdict

Events					
Date	Session	Location	Type	Event Judge	Result
12/10/2020 09:00 AM	Criminal 1		Arraignment	Locke, Hon. Jeffrey A	Held as Scheduled
12/11/2020 09:00 AM	Criminal 1		Bail Hearing	Locke, Hon. Jeffrey A	Held as Scheduled
01/12/2021 09:00 AM	Criminal 1		Pre-Trial Conference		Rescheduled
03/23/2021 09:00 AM	Criminal 1		Hearing on Withdrawal of Attorney	Sanders, Hon. Janet L	Held as Scheduled
03/25/2021 09:00 AM	Criminal 1		Pre-Trial Conference	Sanders, Hon. Janet L	Canceled
05/10/2021 09:00 AM	Criminal 1		Pre-Trial Conference	Doolin, Hon. Michael	Held as Scheduled
06/23/2021 09:00 AM	Criminal 1		Conference to Review Status	Doolin, Hon. Michael	Held as Scheduled
08/09/2021 09:00 AM	Criminal 1		Pre-Trial Conference	Freniere, Hon Diane	Held as Scheduled
09/27/2021 09:00 AM	Criminal 1		Pre-Trial Conference	Freniere, Hon Diane	Held as Scheduled
12/09/2021 09:00 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Filing of Motions	Hallal, Hon. Mark A	Rescheduled
01/19/2022 09:00 AM	Magistrate's Session	BOS-7th FL, CR 704 (SC)	Filing of Motions	Curley, Edward J	Held as Scheduled
02/10/2022 09:00 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Hearing RE: Discovery Motion(s)	O'Shea, Hon. Daniel J.	Held - Under advisement
06/02/2022 09:11 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Conference to Review Status	Doolin, Hon. Michael	Held as Scheduled
06/22/2022 09:00 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Pre-Trial Hearing	Doolin, Hon. Michael	Canceled
07/18/2022 09:00 AM	Criminal 1	BOS-7th FL, CR 704 (SC)	Pre-Trial Hearing	Doolin, Hon. Michael	Held as Scheduled
08/22/2022 12:00 PM	Criminal 1		Trial Assignment Conference	Doolin, Hon. Michael	Held as Scheduled
09/01/2022 02:00 PM	Criminal 2	BOS-8th FL, CR 806 (SC)	Final Pre-Trial Conference	Sanders, Hon. Janet L	Canceled
App. 15					

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
09/22/2022 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Sanders, Hon. Janet L	Canceled
09/22/2022 09:00 AM	Magistrate's Session	BOS-7th FL, CR 705 (SC)	Filing of Motions	Pichardo, Stacey	Rescheduled
09/29/2022 09:00 AM	Magistrate's Session	BOS-7th FL, CR 705 (SC)	Filing of Motions	Pichardo, Stacey	Held as Scheduled
10/06/2022 09:00 AM	Magistrate's Session	BOS-7th FL, CR 705 (SC)	Filing of Motions	Pichardo, Stacey	Held as Scheduled
10/31/2022 09:00 AM	Criminal 9	BOS-7th FL, CR 713 (SC)	Motion Hearing	Mulligan, Hon. Maureen	Rescheduled
12/21/2022 09:00 AM	Criminal 9		Evidentiary Hearing on Suppression	Mulligan, Hon. Maureen	Rescheduled
01/12/2023 02:00 PM	Criminal 2		Hearing on Motion to Continue	Sanders, Hon. Janet L	Held as Scheduled
01/26/2023 02:00 PM	Criminal 2	BOS-8th FL, CR 806 (SC)	Final Pre-Trial Conference	Sanders, Hon. Janet L	Canceled
01/31/2023 09:00 AM	Criminal 9		Evidentiary Hearing on Suppression	Donatelle, Hon. Sharon	Held - Under advisement
02/06/2023 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Sanders, Hon. Janet L	Rescheduled
05/01/2023 02:00 PM	Criminal 2		Motion Hearing	Squires-Lee, Hon. Debra A	Held as Scheduled
05/15/2023 02:00 PM	Criminal 2		Motion Hearing	Squires-Lee, Hon. Debra A	Held as Scheduled
05/18/2023 02:00 PM	Criminal 2		Final Pre-Trial Conference	Squires-Lee, Hon. Debra A	Held as Scheduled
05/25/2023 10:00 AM	Criminal 2		Hearing on Motion(s) in Limine	Squires-Lee, Hon. Debra A	Held via Video/Phone
06/01/2023 09:00 AM	Criminal 2		Jury Trial	Squires-Lee, Hon. Debra A	Not Held
06/01/2023 02:00 PM	Criminal 2		Bail Hearing	Squires-Lee, Hon. Debra A	Held as Scheduled
06/05/2023 09:00 AM	Criminal 2		Jury Trial	Squires-Lee, Hon. Debra A	Held as Scheduled
06/06/2023 09:00 AM	Criminal 2		Jury Trial	Squires-Lee, Hon. Debra A	Held as Scheduled
06/07/2023 09:00 AM	Criminal 2		Jury Trial	Squires-Lee, Hon. Debra A	Held as Scheduled
06/08/2023 09:00 AM	Criminal 2		Jury Trial	Squires-Lee, Hon. Debra A	Held as Scheduled
06/09/2023 09:00 AM	Criminal 2		Jury Trial	Squires-Lee, Hon. Debra A	Held as Scheduled
06/15/2023 09:00 AM	Criminal 2		Hearing for Sentence Imposition	Squires-Lee, Hon. Debra A	Held as Scheduled
06/29/2023 02:00 PM	Criminal 2		Trial Assignment Conference	Squires-Lee, Hon. Debra A	Held as Scheduled
09/18/2023 02:00 PM	Criminal 2		Hearing on Withdrawal of Attorney	Rayburn, Hon. Katie	Held as Scheduled
09/26/2023 02:00 PM	Criminal 2		Conference to Review Status	Rayburn, Hon. Katie	Held as Scheduled
10/19/2023 02:00 PM	Criminal 2		Conference to Review Status	Wall, Hon. Joshua	Held as Scheduled
11/20/2023 02:00 PM	Criminal 2		Conference to Review Status	Wall, Hon. Joshua	Held as Scheduled
12/11/2023 02:00 PM	Criminal 2		Conference to Review Status	Wall, Hon. Joshua	Not Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
12/18/2023 02:00 PM	Criminal 2		Motion Hearing	Wall, Hon. Joshua	Held as Scheduled
01/04/2024 02:00 PM	Criminal 2		Final Pre-Trial Conference	Wall, Hon. Joshua	Held as Scheduled
01/08/2024 03:00 PM	Criminal 2		Hearing on Motion(s) in Limine	Wall, Hon. Joshua	Held as Scheduled
01/16/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
01/17/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
01/18/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
01/19/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
01/22/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
01/23/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
01/24/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Jury Trial	Wall, Hon. Joshua	Held as Scheduled
02/06/2024 09:00 AM	Criminal 2	BOS-8th FL, CR 806 (SC)	Hearing for Sentence Imposition	Wall, Hon. Joshua	Held as Scheduled

Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Pre-Trial Hearing	01/19/2022	07/18/2022	180	07/18/2022
Final Pre-Trial Conference	01/19/2022	12/30/2022	345	08/22/2022
Case Disposition	01/19/2022	01/13/2023	359	01/24/2024
Under Advisement	02/10/2022	03/12/2022	30	02/14/2022
Under Advisement	01/31/2023	03/02/2023	30	02/03/2023

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
11/20/2020	Attorney appearance On this date 11/23/2020 Mark, Esq., Audrey Carin added for Boston PD - Area A-1		
11/20/2020	Indictment(s) returned	1	 
11/20/2020	Commonwealth 's Motion for issuance of a summons Filed	2	 
11/20/2020	Endorsement on Motion for issuance of a summons , (#2.0): ALLOWED		 
11/20/2020	Endorsement on Motion to Seal, (#3.0): ALLOWED		 
11/20/2020	Commonwealth 's Motion to Seal Appendix A. Filed	3	 
11/23/2020	Attorney appearance On this date 11/23/2020 Mark, Esq., Audrey Carin added for Suffolk County District Attorney		
11/23/2020	Issued this date: Summons to Defendant Sent On: 11/23/2020 15:15:20		
12/10/2020	Attorney appearance On this date Joshua Raisler Cohn, Esq. added as Appointed Indigent Defendant for Defendant Adalberto Martinez		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
12/10/2020	Appointment made for the purpose of Case in Chief by Judge Hon. Jeffrey A Locke.		
12/10/2020	Legal Counsel Fee Waived. Judge: Locke, Hon. Jeffrey A		
12/10/2020	Defendant arraigned before Court.		
12/10/2020	Defendant waives reading of indictment		
12/10/2020	Plea of not guilty entered on all charges.		
12/10/2020	Court inquires of Commonwealth if abuse, as defined by G.L. c. 209A, § 1, is alleged to have occurred immediately prior to or in connection with the charged offense(s).		
12/10/2020	Court finds NO abuse is alleged in connection with the charged offense. G.L. c. 276, § 56A.		
12/10/2020	Docket Note: Prior bail set in District Court (\$500.00) remains until 12/11/2020 Bail Hearing.		
12/10/2020	Conditions of release on bail: Other Special Condition 1.) Stay away no contact direct or indirect with victims. 2.) Surrender Passport. Not to apply for a new passport. 3.) No unsupervised contact with anyone 16 years or younger. Judge: Locke, Hon. Jeffrey A		
12/10/2020	Finding and Order on Bail: filed Judge: Locke, Hon. Jeffrey A	4	  Image
12/10/2020	Commonwealth 's Statement of the case filed	5	  Image
12/10/2020	Defendant present via Zoom, non-custody. Arraignment held as scheduled via Zoom. Defendant arraigned before the court. Case continued by agreement to 12/11/2020 RE: Bail Hearing at 9:00 AM in Criminal 1 (CtRM 704) (Live Hearing) (Non-custody) Locke, J. - J. Pardi, ACM - A. Mark, ADA (Via Zoom) - J. Raisler-Cohn, Atty (Via Zoom) - J. Russo, CR - 12:05 PM FTR		
12/11/2020	Defendant comes into court. Hearing Re: Bail held. Event Result:: Bail Hearing scheduled on: 12/11/2020 09:00 AM Has been: Held as Scheduled Hon. Jeffrey A Locke, Presiding Staff: Rourke Donnelly, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate A. Mark, ADA J. Raisler-Cohn, Atty FTR 9:37am		
12/11/2020	Defendant 's Motion to reconsider bail with Affidavit filed and after hearing and review, Denied.	6	  Image
12/11/2020	Bail set at \$95,000.00 Surety, \$9,500.00 Cash. Added condition of bail: 1. May not leave Massachusetts. Defendant has no warrants. Defendant states he does not have a passport. Bail Warning read		
01/12/2021	Defendant on video via Zoom. (Non custody) Hearing Re: Pre-Trial Conference rescheduled. Case continued to 03/25/21 by agreement for Hearing Re: Pre-Trial Conference (Criminal 1, CTRM 704) Hon. J. Sanders - J. Pardi, ACM - A. Mark, ADA (via Zoom) - J. Raisler Cohn, Atty (via Zoom) - FTR/ Court Monitor: N. McCann (10:40 AM)		
01/29/2021	Commonwealth 's Notice of Discovery First. Filed	7	 
02/16/2021	Commonwealth 's Notice of discovery (second)-filed	8	  Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
03/23/2021	Event Result:: Pre-Trial Conference scheduled on: 03/25/2021 09:00 AM Has been: Canceled For the following reason: By Court prior to date Hon. Janet L Sanders, Presiding Staff: Danielle Bisson, Assistant Clerk Magistrate Rourke Donnelly, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate David Sheehan, Assistant Clerk Magistrate		
03/23/2021	Defendant not present via Zoom, non-custody. Hearing on Withdrawal of Attorney held as scheduled. 3/25/2021 date canceled by court prior to date. Case continued by agreement 5/10/2021 RE: Pre-Trial Conference at 9:00 AM in Criminal 1 (CtRm 704) (Via Zoom) (Non-custody) Sanders, J. - J. Pardi, ACM - A. Mark, ADA (Via Zoom) - J. Raisler- Cohn, Atty (Via Zoom) - N. McCann, CR - 10:25 AM FTR		
05/10/2021	Defendant not present, Non-Custody. Defendant's presence waived. Continued to 6-23-21 by agreement for Status in Rm 704 at 9am (Non-Custody, Zoom). Event Result:: Pre-Trial Conference scheduled on: 05/10/2021 09:00 AM Has been: Held as Scheduled Hon. Michael Doolin, Presiding Staff: Tiffany Castillo, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate A. Mark, ADA J. Raisler-Cohn, Atty C. O'Neil, CR FTR 9:30am		
05/14/2021	Commonwealth 's Notice of discovery (third) filed.	9	 
06/23/2021	Defendant present via Zoom, non-custody. Conference to Review Status held as scheduled via Zoom. Case continued by agreement to 8/9/2021 RE: Pre-Trial Conference at 9:00 AM in Criminal 1 (CtRm 704) (Non-custody, via Zoom) Doolin, J. - J. Pardi, ACM - A. Mark, ADA (Via Zoom) - J. Raisler-Cohn, Atty (Via Zoom) - J. Russo, CR - 9:15 AM FTR		Image
08/09/2021	Defendant present via Zoom, non-custody. Pre-Trial Conference held as scheduled via Zoom. Case continued by agreement to 9/27/2021 RE: Further Pre-Trial Conference at 9:00 AM in Criminal 1 (CtRM 704) (Non-custody, via Zoom) Freniere, J. - T. Castillo, ACM - A. Mark, ADA - J. Cohn, Atty (Via Zoom) - N. McCann, CR - 9:16 AM FTR		
09/27/2021	Defendant Comes into Court via Zoom Conference. Pre Trial Conference held. After hearing, Case Continued by Agreement to 12/09/2021 at 9:00am re: Motion Filing Date (Ctrm 704)(Non-Custody). Event Result:: Pre-Trial Conference scheduled on: 09/27/2021 09:00 AM Has been: Held as Scheduled Hon Diane Freniere, Presiding Staff: Tiffany Castillo, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate A. Mark, ADA J. Raisler Cohn, Atty. FTR 10:25am		
09/27/2021	Pre-trial conference report filed	10	 
12/09/2021	Defendant on Zoom, Non-Custody. Zoom Conference held. Continued to 1-19-22 by agreement for filing of motions in Rm 705 at 9am (Non-Custody). Event Result:: Filing of Motions scheduled on:		Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	12/09/2021 09:00 AM Has been: Rescheduled For the following reason: Joint request of parties Hon. Mark A Hallal, Presiding Staff: Constance Goll, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate A. Mark, ADA J. Lawrence Kelly, Atty FTR 10:03am		
01/19/2022	Case assigned to: DCM Track C - Most Complex was added on 01/19/2022		
01/19/2022	Scheduled: Event: Jury Trial Date: 09/22/2022 Time: 09:00 AM Result: Canceled		
01/19/2022	Event Result:: Filing of Motions scheduled on: 01/19/2022 09:00 AM Has been: Held as Scheduled Defendant present via zoom Note: Discovery complete Case assigned to Track C Courtroom 806 *Note: Defendant's Out of Court filing date of 1/26/22 Case continued by agreement to: 2/10/22 Hearing RE: Rule 17 Discovery Motions at 9AM in Courtroom 704 via Zoom Non-custody 6/22/22 Hearing RE: FPTC at 9AM in Courtroom 704 9/1/22 Hearing RE: FPTC at 2PM in Courtroom 806 9/22/22 Hearing RE: Trial at 9AM in Courtroom 806 Appeared: Prosecutor Audrey Carin Mark, Esq., (Zoom) Defendant Adalberto Martinez (Zoom) Joshua Raisler Cohn, Esq., Appointed - Indigent Defendant (Zoom) Staff: David Sheehan, Assistant Clerk Magistrate FTR 9:35AM		
02/08/2022	Defendant 's Motion for Production Of Department Of Children And Families Records, with Affidavit. Filed	11	 
02/08/2022	Commonwealth 's Notice of Discovery (Fourth) filed	12	  Image
02/10/2022	Defendant's presence waived. Motion for Discovery taken under advisement. Case has next date of 6-2-22 for PTH in Rm 704. Matter taken under advisement: Hearing RE: Discovery Motion(s) scheduled on: 02/10/2022 09:00 AM Has been: Held - Under advisement Hon. Daniel J. O'Shea, Presiding Staff: Constance Goll, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate A. Mark, ADA J. Raisler-Cohn, Atty - Zoom FTR 10:03am		Image
02/14/2022	ORDER: on Defendant's Motion for Production of Department of Children and Family Records Pursuant to Mass R. Crim. P 17(a)(2) (Paper No. 11) For the above reasons, it is hereby Ordered that Defendant's Motion be DENIED without prejudice. (ADA Mark and Atty Raisler Cohn notified)	13	  Image
06/02/2022	Commonwealth 's Notice of Discovery, Fifth	14	 
06/02/2022	Defendant not in Court. Case Continued by Agreement to 07/18/2022 at 9:00am re: PTH (Ctrm 704)(Non Custody) (Live Hearing) Event Result:: Conference to Review Status scheduled on: 06/02/2022 09:11AM		Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Has been: Held as Scheduled Hon. Michael Doolin, Presiding Staff: Constance Goll, Assistant Clerk Magistrate R. Figueroa Assistant Magistrate A. Mark, ADA J. Raisler, Atty. FTR 9:11am		
06/02/2022	Event Result:: Pre-Trial Hearing scheduled on: 06/22/2022 09:00 AM Has been: Canceled For the following reason: Joint request of parties Hon. Michael Doolin, Presiding Staff: Constance Goll, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate Mary Regan, Assistant Clerk Magistrate		
07/08/2022	Commonwealth 's Notice of discovery (sixth) filed.	15	 
07/18/2022	Defendant comes into court via Zoom. Pre Trial Hearing held. After hearing, case continued by agreement to 08/22/2022 at 12pm in court room 704 Re: Motion to Amend the Tracking Order (Non Custody; Live). Event Result:: Pre-Trial Hearing scheduled on: 07/18/2022 09:00 AM Has been: Held as Scheduled Hon. Michael Doolin, Presiding Staff: Michelle Pierce, Deputy Assistant Clerk Magistrate David Sheehan, Assistant Clerk Magistrate A. Mark, ADA (Live) J. Raisler Cohn, Atty (Live) FTR 9:40am		
07/21/2022	Commonwealth 's Certificate of Compliance Regarding Pre-Trial Discovery filed	16	 
08/18/2022	Commonwealth 's Notice of Seventh Discovery.Filed	17	 
08/22/2022	Defendant comes into court live, non-custody. Trial Assignment held. Jury Trial on 9-22-22 has been canceled. Final Pre-Trial Conference on 9-1-22 has been cancelled Case continued to the following agreed upon dates: 9-22-22 - Filing of Motions at 9am in courtroom 705. (Non-Custody) 10-31-22 - Motion Hearing RE: Motion to Suppress at 9am in courtroom 713. 1-26-23 - Final Pre-Trial Conference at 2pm in courtroom 806. 2-6-23 - Jury Trial at 9am in courtroom 806. Event Result:: Trial Assignment Conference scheduled on: 08/22/2022 12:00 PM Has been: Held as Scheduled Hon. Robert L Ullmann, Presiding Staff: Tiffany Castillo, Assistant Clerk Magistrate James Pardi, Assistant Clerk Magistrate A. Mark, ADA (Live) J. Cohn, Atty (Live) FTR: 12:48pm		
08/22/2022	Event Result:: Jury Trial scheduled on: 09/22/2022 09:00 AM Has been: Canceled For the following reason: Joint request of parties Hon. Janet L Sanders, Presiding Staff: Kristen Zitano, Assistant Clerk Magistrate		
08/22/2022	Scheduled: Event: Jury Trial Date: 02/06/2023 Time: 09:00 AM Result: Rescheduled		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
08/22/2022	Defendant 's Motion For Expenses For Digital Forensic Expert with Affidavit, filed and allowed "Allowed, subject to CJA Rates and CPCS protocols" Judge: Ullmann, Hon. Robert L	18	  Image
09/21/2022	Defendant not in Court. Case brought forward to reschedule 9-22-22 date. 9-22-22 date cancelled, rescheduled to 9-29-22 for filing of motions in Rm 705 (Non-custody). Event Result:: Filing of Motions scheduled on: 09/22/2022 09:00 AM Has been: Rescheduled For the following reason: Joint request of parties Stacey Pichardo, Presiding Staff: Michelle Pierce, Deputy Assistant Clerk Magistrate N. Odiaga for J. Raisler-Cohn, Atty FTR 9:24am		
09/21/2022	Defendant 's Motion to continue filing date filed and after hearing, Allowed. Judge: Pichardo, Stacey	19	  Image
09/29/2022	Defendant comes into court via Zoom, non-custody. Filing of Motions held. Case continued by agreement to 10-06-22 at 9am in courtroom 705 for a Further Filing of Motions. (Live or Zoom, Non-Custody) Event Result:: Filing of Motions scheduled on: 09/29/2022 09:00 AM Has been: Held as Scheduled Stacey Pichardo, Presiding Staff: David Sheehan, Assistant Clerk Magistrate A. Mark, ADA J. Raisler Cohn, Atty FTR: 9:48am		
10/06/2022	Defendant came into court via Zoom. Filing of motions held. Court has a next scheduled date of 10/31/2022 at 9am for a motion hearing in the ninth criminal session, courtroom 713. Event Result:: Filing of Motions scheduled on: 10/06/2022 09:00 AM Has been: Held as Scheduled Edward J Curley, Presiding Staff: Michelle Pierce, Assistant Deputy Clerk E. Murphy for A. Mark, ADA (Live) J. Raisler Cohn, Atty (Live) FTR: 9:11am, 9:18am.		
10/06/2022	Defendant 's Motion to suppress evidence obtained from a unlawful search and seizure -cellphones with affidavit. Filed.	20	  Image
10/06/2022	Defendant 's Notice to suppress evidence obtaine from illegally obtained statements with supporting documentation. Filed.	21	  Image
10/21/2022	Commonwealth 's Assented to Motion to continue hearing on motion to suppress filed with affidavit in support thereof	22	  Image
10/24/2022	Endorsement on Commonwealth 's Assented to Motion to continue hearing on motion to suppress, (#22.0): ALLOWED "As the parties agree on the request for an extension of time to hold the evidentiary hearing, good cause is shown and the trial date will not be impacted, the motion is ALLOWED" Electronic copy to A. Mark, ADA and J. Raiser, Attorney		  Image
10/24/2022	Event Result:: Motion Hearing scheduled on: 10/31/2022 09:00 AM Has been: Rescheduled For the following reason: By Court prior to date Hon. Maureen Mulligan, Presiding Staff: Constance Goll, Assistant Clerk Magistrate		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
11/16/2022	Commonwealth 's Notice of discovery (eighth). Filed.	23	 
12/06/2022	Event Result:: Evidentiary Hearing on Suppression scheduled on: 12/21/2022 09:00 AM Has been: Rescheduled For the following reason: By Court prior to date Comments: Due to court unavailability, rescheduled to January 31, 2023 Hon. Maureen Mulligan, Presiding Staff: Constance Goll, Assistant Clerk Magistrate		
12/09/2022	Commonwealth 's Notice of Discovery (Ninth) filed	24	 
01/12/2023	Defendant not in Court. Presence waived this day. Hearing Re: joint motion to amend trial date Paper # After hearing Motion paper #25 Allowed Sanders, J Rule 36 WAIVED Case continued by agreement to 5/18/2023 at 2:00 for a hearing Re: Final Pre Trial Conference Case continued by agreement to 6/1/20223 at 9:00 for trial Hon. Janet L. Sanders, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohen FTR 2:10 Kristen Zitano, Assistant Clerk Magistrate		
01/12/2023	Event Result:: Jury Trial scheduled on: 02/06/2023 09:00 AM Has been: Rescheduled For the following reason: Joint request of parties Hon. Janet L Sanders, Presiding Staff: Kristen Zitano, Assistant Clerk Magistrate		
01/12/2023	Scheduled: Event: Jury Trial Date: 06/01/2023 Time: 09:00 AM Result: Not Held		
01/12/2023	Defendant 's Joint Motion to amend trial date, filed	25	
01/12/2023	Endorsement on Joint motion to amend trial date, (#25.0): ALLOWED		 
01/23/2023	Opposition to paper #20.0 Defendant's Motion to Suppress Evidence filed by Commonwealth	26	 
01/23/2023	Opposition to paper #21.0 Defendant's Motion to Suppress Statements filed by Commonwealth	27	 
01/23/2023	Commonwealth 's Motion for Joinder, filed.	28	 
01/23/2023	Commonwealth 's Memorandum of Law in Support of Its Motion for Joinder, filed.	29	 
01/31/2023	Defendant 's Motion for funds /Expenses, filed with Affidavit and Allowed Attorney: Raisler Cohn, Esq., Joshua	30	 
01/31/2023	List of exhibits for Motion to Suppress, filed Judge: Ham, Hon. Catherine Applies To: Suffolk County District Attorney (Prosecutor)	31	 
01/31/2023	Witness list for Motion to Suppress, filed Judge: Ham, Hon. Catherine Applies To: Suffolk County District Attorney (Prosecutor)	32	
01/31/2023	Matter taken under advisement: Evidentiary Hearing on Suppression scheduled on: 01/31/2023 09:00 AM Has been: Held - Under advisement 10:09Am Deft comes into Court Motion held 10:56Am Commonwealth and Deft. Rests		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Arguments held after hearing Taken Under Advisement Hon. Catherine Ham, Presiding Appeared: ADA/A. Mark, Atty./ J. Raisler-Cohn Mary Regan, Assistant Clerk Magistrate FTR 9:07Am, 10:09AM		
02/01/2023	Commonwealth 's Notice of Tenth Discovery. Filed	34	 
02/03/2023	Endorsement on Motion to suppress - Cell Phones, (#20.0): DENIED See Court's Written Decision Parties Notified Via Email Attorney: Raisler Cohn, Esq., Joshua Applies To: Martinez, Adalberto (Defendant)		  Image Image
02/03/2023	Endorsement on Motion to suppress - Statements, (#21.0): DENIED See Court's Written Decision Parties Notified Via Email Attorney: Raisler Cohn, Esq., Joshua Applies To: Martinez, Adalberto (Defendant)		  Image
02/03/2023	ORDER: Decision on Motion to Suppress, filed this day Motions to Suppress P# 20 and 21 Denied Parties Notified via email Judge: Ham, Hon. Catherine Applies To: Martinez, Adalberto (Defendant)	33	  Image
02/06/2023	Commonwealth 's Notice of Discovery, 11th , filed Attorney: Mark, Esq., Audrey Carin	35	  Image
05/01/2023	Defendant not in Court. Defendant via zoom on phone non custody Hearing Re: Motion for joinder held before Squires-Lee, J After hearing Motion taken Under Advisement Squires-Lee, J Case has next date of 5/18 for Final Pre trial Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 2:30 Kristen Zitano, Assistant Clerk Magistrate		
05/01/2023	Defendant 's Motion for expenses for digital GPS expert, filed	36	
05/01/2023	Commonwealth 's Motion for reciprocal discovery, filed	37	 
05/01/2023	Endorsement on Motion for expenses for digital GPS expert, (#36.0): ALLOWED		  Image
05/01/2023	Defendant 's Motion for additional discovery, filed	38	  Image
05/01/2023	Defendant 's Request for Mr. Martinez to appear by zoom for hearing on Commonwealths motion for joinder, filed ALLOWED Judge: Squires-Lee, Hon. Debra A	39	  Image Image
05/01/2023	Defendant 's Motion for relief from prejudicial joinder of indictments, filed	40	
05/01/2023	Endorsement on Motion for relief from prejudicial joinder of indictments, (#40.0): ALLOWED After hearing and Review, See decision and order of todays date		  Image
05/02/2023	Endorsement on Motion for joinder, (#28.0): DENIED See order and decision of todays date		  Image
05/02/2023	MEMORANDUM & ORDER: and decision on Commonwealths motion for joinder and defendants motion for relief from prejudicial joinders of indictments Parties notified via electronic mail this day	41	  Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Judge: Squires-Lee, Hon. Debra A		
05/02/2023	Commonwealth 's Motion for joinder of defendants and memo of law in support of, filed	42	 
05/11/2023	Commonwealth 's Motion to compel defendant to provide passcode for his phone and memo of law in support of, filed	43	  Image
05/11/2023	Commonwealth 's Motion in limine to introduce first complain testimony for victim #3 and memo of law in support of, filed	44	  Image
05/11/2023	Commonwealth 's Motion in limine to introduce first complain testimony for victim #2 and memo of law in support of, filed	45	  Image
05/11/2023	Commonwealth 's Motion in limine to to introduce first complain testimony for victim #1 and memo of law in support of, filed	46	  Image
05/11/2023	Defendant 's Motion in limine to limit proposed "First complaint" testimony, filed	47	 
05/11/2023	Defendant 's Motion in limine to exclude evidence of Mr. Martinez being on GPS, filed	48	  Image
05/11/2023	Commonwealth 's Motion in limine in support of introduction of expert testimony of Alice Newton, MD and memo of law in support of, filed	49	  Image
05/11/2023	Defendant 's Motion in limine to proposed expert testimony of Dr. Alice Newton, filed	50	  Image
05/11/2023	Commonwealth 's Motion in limine to admit evidence of the defendants prior criminal conviction and memo of law in support of, filed	51	  Image
05/11/2023	Defendant 's Motion in limine to exclude evidence of defendants prior convictions or arrests, filed	52	 
05/11/2023	Commonwealth 's Motion in limine in support of introduction of expert testimony of Dr. Stephanie Block and memo of law in support of, filed	53	  Image
05/11/2023	Commonwealth 's Amended Motion in limine in support of introduction of expert testimony of Dr. Stephine Block and memo of law in support of, filed	54	  Image
05/11/2023	Defendant 's Motion to exclude proposed expert testimony of Stephanie Block, Ph.D, filed	55	 
05/11/2023	Commonwealth 's Thirteenth notice of discovery, filed	56	  Image
05/11/2023	Defendant 's Motion for discovery Re: Complaint #1, filed	57	  Image
05/12/2023	Commonwealth 's Motion for judicial approval to subpoena individuals an records from probation and affidavit in support of, filed ALLOWED	58	  Image
	Judge: Squires-Lee, Hon. Debra A		
05/15/2023	Defendant not in Court. Defendant via zoom on phone non custody Hearing Re: Motion for joinder Paper #42 held before Squires-Lee, J After hearing Motion Allowed Squires-Lee, J Case has next date of 5/18/23 for a Final Pre trial at 2:00 Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 2:30 Kristen Zitano, Assistant Clerk Magistrate		
05/15/2023	Endorsement on Motion for joinder of defendants, (#42.0): ALLOWED Judge: Squires-Lee, Hon. Debra A		  Image
05/15/2023	Defendant 's Response to Commonwealths motion for joinder of defendants, filed	59	 
05/18/2023	Defendant comes into Court. Final Pre trial conference held before Squires-Lee, J In camera hearing held regarding defendants motion to withdraw counsel After hearing defendants motion to withdraw Denied Squires-Lee, J See Finding on the record this day and endorsement on motion Case continued by agreement to 5/25/23 for a further Final Pre trial/Motions in limine at 2:00 Defendants request to appear via zoom on 5/25/23 allowed		Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 2:30 SEALED FTR 2:41:10-2:57:53 Kristen Zitano, Assistant Clerk Magistrate		
05/18/2023	Opposition to paper #43.0 Motion to compel defendant to provide passcode for his phone filed by Adalberto Martinez	60	  Image
05/18/2023	Commonwealth 's Motion for reciprocal discovery, filed	61	  Image
05/18/2023	Commonwealth 's Fourteenth notice of discovery, filed	62	  Image
05/18/2023	Defendant 's EX PARTE Motion for expenses and affidavit, filed ALLOWED	63	  Image
05/18/2023	Defendant 's Motion for expenses for GPS expert and affidavit, filed ALLOWED	64	  Image
05/18/2023	Commonwealth 's Supplemental memorandum of law in support of its motion to compel defendant to provide passcode for his cellular telephone, filed	65	  Image
05/18/2023	Endorsement on Motion to compel defendant to provide passcode for his phone, (#43.0): DENIED See decision and order of todays date Judge: Squires-Lee, Hon. Debra A		  Image
05/18/2023	Defendant 's Motion to withdraw, filed	66	
05/18/2023	Endorsement on Motion to withdraw, (#66.0): After hearing defendants reasons for seeking new counsel, confirming that counsel was ready for trial and considering the administration of justice. the is DENIED for the additional reasons stated on the sealed record of todays date. Further, the Court confirmed counsel could adequately represent the defendant consistent with the Rules of Professional Conduct Judge: Squires-Lee, Hon. Debra A		  Image
05/18/2023	Defendant 's Motion for attorney conducted voir dire, filed ALLOWED in part. See questionnaire Judge: Squires-Lee, Hon. Debra A	67	  Image
05/18/2023	Commonwealth 's Motion for attorney conducted individual voir dire, filed ALLOWED Judge: Squires-Lee, Hon. Debra A	68	  Image
05/18/2023	Endorsement on Motion in limine to to introduce first complain testimony for victim #1, (#46.0): ALLOWED Judge: Squires-Lee, Hon. Debra A		  Image
05/18/2023	Endorsement on Motion in limine to to introduce first complain testimony for victim #3, (#44.0): ALLOWED Judge: Squires-Lee, Hon. Debra A		  Image
05/18/2023	Endorsement on Motion in limine to to introduce first complain testimony for victim #2, (#45.0): ALLOWED		  Image
05/18/2023	Endorsement on Motion in limine to limit proposed "First complaint" testimony, (#47.0): DENIED		  Image
05/18/2023	Commonwealth 's Motion to admit GPS testimony and memo of law in support of, filed	69	  Image
05/18/2023	Endorsement on Motion in limine to exclude evidence of Mr. Martinez being on GPS, (#48.0): No Action Taken counsel to work on appropriate stipulation or agreement to ensure fact that defendant was being monitored by probating will not reach the jury		  Image
05/18/2023	Defendant 's Supplemental Motion in limine to exclude evidence of Mr. Martinez being on GPS, filed	70	  Image
05/18/2023	Endorsement on Motion in limine in support of introduction of expert testimony of Alice Newton, MD, (#49.0): ALLOWED Judge: Squires-Lee, Hon. Debra A		  Image
05/18/2023	Endorsement on Motion in limine to proposed expert testimony of Dr. Alice Newton, (#50.0): DENIED		  Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
05/18/2023	Endorsement on Motion in limine to admit evidence of the defendants prior criminal conviction, (#51.0): DENIED Child pornography charge too similar and prejudice cannot be ameliorated with instructions. Failure to appear denied in Courts discretion because prejudice out weighs probative value		  Image
05/18/2023	Endorsement on Motion in limine to exclude evidence of defendants prior convictions or arrests, (#52.0): ALLOWED		  Image
05/18/2023	Endorsement on Motion in limine in support of introduction of expert testimony of Dr. Stephanie Block, (#53.0): No Action Taken See Paper 54		  Image
05/18/2023	Endorsement on Amended Motion in limine in support of introduction of expert testimony of Dr. Stephine Block, (#54.0): ALLOWED		  Image
05/18/2023	Endorsement on Motion to exclude proposed expert testimony of Stephanie Block, Ph.D, (#55.0): DENIED		  Image
05/18/2023	Endorsement on Motion for discovery Re: Complaint #1, (#57.0): Moot Judge: Squires-Lee, Hon. Debra A		  Image
05/18/2023	Defendant 's Motion in limine to permit full cross examination of Dr. Newton DENIED Judge: Squires-Lee, Hon. Debra A	71	
05/18/2023	Commonwealth 's Motion for a protective order ALLOWED	72	  Image
05/19/2023	MEMORANDUM & ORDER: on motion to compel defendant to provide passcode for his phone Judge: Squires-Lee, Hon. Debra A	73	  Image
05/19/2023	Commonwealth 's Motion in limine to allow the introduction of registry of motor vehicles records, filed	74	  Image
05/19/2023	Commonwealth 's Motion in limine to allow the introduction of photograph of the alleged victims, filed	75	  Image
05/19/2023	Commonwealth 's Motion in limine to exclude evidence of victim #1's alleged bad acts, filed	76	  Image
05/19/2023	Commonwealth 's Motion in limine to introduce evidence of defendants bad acts and memo of law in support of , filed	77	  Image
05/19/2023	Commonwealth 's Motion in limine to exclude evidence of victims unrelated sexual activity and prior rape and memo of law in support of, filed	78	  Image
05/19/2023	Commonwealth 's Motion for inquiry criminal history records of potential trial jurors or in the alternative notice of intent to independently seek such information for limited purposes of jury empanelment, filed	79	  Image
05/19/2023	Commonwealth 's Motion in limine to introduce testimony related to cooperating witness's prior consistent statement and memo of law in support of, filed	80	  Image
05/23/2023	Defendant 's Motion to withdraw defendants objection to commonwealths motion for joinder of complainants/motion to reconsider prior joinder and severance orders and affidaivt, filed	81	  Image
05/25/2023	Commonwealth 's opposition to defendants motion to reconsider the courts ruling on joinder and severance, filed	81.1	  Image
05/25/2023	Defendant 's Motion to include evidence of bad acts by alleged victim #1, filed	82	  Image
05/25/2023	Defendant 's Motion to exclude evidence of alleged bad acts by Mr. Martinez, filed	83	  Image
05/25/2023	Defendant 's Opposition to evidence of prior consistent testimony by alleged victim #1, filed	84	  Image
05/25/2023	Defendant not in Court. Defendant via zoom on phone non custody Further Hearing Re: Motions in limine held before Squires-Lee, J See Record generally this day Case has next date of 6/1/2023 at 9:00 for trial Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 10:36 Kristen Zitano, Assistant Clerk Magistrate		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
05/25/2023	Endorsement on Motion to withdraw defendants objection to commonwealths motion for joinder of complainants/ motion to reconsider prior joinder and severance orders, (#81.0): DENIED		  Image
05/25/2023	Endorsement on Motion in limine to introduce testimony related to cooperating witness's prior consistent statement, (#80.0): No Action Taken Judge: Squires-Lee, Hon. Debra A		  Image
05/25/2023	Endorsement on Motion in limine to exclude evidence of victim #1's alleged bad acts, (#76.0): No Action Taken		 
05/25/2023	Endorsement on Motion in limine to allow the introduction of registry of motor vehicles records, (#74.0): ALLOWED without objection		  Image
05/25/2023	Endorsement on Motion in limine to allow the introduction of photograph of the alleged victims, (#75.0): ALLOWED		  Image
05/25/2023	Endorsement on Motion in limine to exclude evidence of victims unrelated sexual activity and prior rape, (#78.0): ALLOWED with respect to victims 2 and 3 issues, if any with respect to victim 1 will be addressed later time		  Image
05/25/2023	Endorsement on Motion for inquiry criminal history records of potential trial jurors or in the alternative notice of intent to independently seek such information for limited purposes of jury empanelment, (#79.0): ALLOWED after argument Judge: Squires-Lee, Hon. Debra A		  Image
05/30/2023	Criminal Records received from Massachusetts Probation Service.		
05/30/2023	ORDER: Decision and Order on Commonwealths motion in limine to introduce evidence on defendants bad acts	85	  Image
05/30/2023	Endorsement on Motion in limine to introduce evidence of defendants bad acts, (#77.0): ALLOWED See decision and order of todays date Judge: Squires-Lee, Hon. Debra A		  Image
05/30/2023	Commonwealth 's Motion in limine to introduce testimony related to victims state of mind in delaying disclosure and memo of law in support of, filed	86	
05/30/2023	Endorsement on Motion in limine to introduce testimony related to victims state of mind in delaying disclosure, (#86.0): ALLOWED without prejudice. To the extent fabrication or collusion are defenses in this case, the out of court statement is admissible as non hearsay and not violative of the first complaint doctrine to show victim #2's state of mind and explain delayed disclosure		  Image
06/01/2023	Issued: Straight Warrant issued on 06/01/2023 for Martinez, Adalberto		
06/01/2023	Recalled: Straight Warrant cancelled on 06/01/2023 for Martinez, Adalberto		
06/01/2023	The defendant\petitioner is committed without bail for the following reason: Bail has been revoked C.276 § 58.	87	  Image
06/01/2023	Scheduled: Judge: Squires-Lee, Hon. Debra A Event: Jury Trial Date: 06/05/2023 Time: 09:00 AM Result: Held as Scheduled		
06/01/2023	Defendant not in court case called at 9:17 Court issues a default warrant at 9:47 Defendant comes into Court at 10:36. Default warrant removed Commonwealth moves to revoke defendants bail. Hearing regarding bail will be held at 2:00 Hearing Re: Motion to withdraw held before Squires-Lee, J In camera hearing held FTR sealed 11:08:10-11:43:32 11:56:52-12:08:26 After hearing Motion Denied. Findings made on the record and written findings filed this day Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 9;17 Kristen Zitano, Assistant Clerk Magistrate		
06/01/2023	Defendant brought into Court. Bail hearing held before Squires-Lee, J Commonwealth renewed oral motion to revoke bail made and Allowed Squires-Lee, J Defendant held on a mittimus without Bail		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Prior order of bail revoked Case continued by agreement to 6/5/2023 at 9:00 for trial. jail List Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 2:46 Kristen Zitano, Assistant Clerk Magistrate		
06/01/2023	Finding by Court: and order on renewed motion to withdraw Judge: Squires-Lee, Hon. Debra A	88	  Image
06/01/2023	Defendant 's Renewed motion to withdraw, file	89	 
06/01/2023	Commonwealth 's Motion to amend indictments #2 and # 3 and memo of law in support of, filed ALLOWED	90	  Image
06/05/2023	Defendant brought into court. The Court orders fourteen (14) jurors empaneled. The Commonwealth moves for trial as to Offenses 002 and 003 The Defendant is set at the bar and the venire is sworn. Jury empanelment begins. Venire exhausted at 3:20 Twelve (12) jurors selected. Empanelment to resume on Tuesday 6/6/2023 at 9:00 Seated jurors instructed to return on Tuesday 6/6/2023 at 11:00 Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 9:41 Kristen Zitano, Assistant Clerk Magistrate		
06/05/2023	Scheduled: Judge: Squires-Lee, Hon. Debra A Event: Jury Trial Date: 06/06/2023 Time: 09:00 AM Result: Held as Scheduled		
06/05/2023	Scheduled: Judge: Squires-Lee, Hon. Debra A Event: Jury Trial Date: 06/07/2023 Time: 09:00 AM Result: Held as Scheduled		
06/05/2023	Commonwealth 's Fifteenth notice of discovery, filed	91	 
06/05/2023	Defendant 's Motion for court clothes, filed ALLOWED	92	  Image
06/06/2023	Defendant brought into court. The Court orders remaining Two (2) jurors impaneled. Empanelment complete at 11:05 Jurors sworn Indictments formally read. Pre Charge given Opening statements made by the Commonwealth and the defendant Trial with Fourteen (14) jurors present begins before Squires-Lee, J Defendants renewed oral motion to reinstate bail made and denied. Squires-Lee, J Jurors allowed to separate at 3:45 and return on Wednesday 6/7/2023 at 9:00 for continuation of trial Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 10:00 Kristen Zitano, Assistant Clerk Magistrate		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
06/06/2023	Defendant 's Motion in limine to preclude additional testimony related to conversations about the allegations prior to the first complaint conversations, filed ALLOWED without objection Judge: Squires-Lee, Hon. Debra A	93	  Image
06/06/2023	Scheduled: Judge: Squires-Lee, Hon. Debra A Event: Jury Trial Date: 06/08/2023 Time: 09:00 AM Result: Held as Scheduled		
06/07/2023	Scheduled: Judge: Squires-Lee, Hon. Debra A Event: Jury Trial Date: 06/09/2023 Time: 09:00 AM Result: Held as Scheduled		
06/07/2023	Defendant brought into court. Trial with Fourteen (14) jurors present continues before Squires-Lee, J Commonwealth rests Defendants motion for a required fining of not guilty filed and after hearing Denied Defendants renewed oral motion to reinstate bail made and Denied Jurors allowed to separate at 3:30 and return on Thursday 6/8/2023 at 9:00 for continuation of trial Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 9:39 Kristen Zitano, Assistant Clerk Magistrate		
06/08/2023	Defendant brought into court. Charge Conference held The Court Squires-Lee holds colloquy with defendant as to his right to testify. Trial with Fourteen (14) jurors present continues before Squires-Lee, J Defendant rests Part I of Jury instructions given Closing arguments made Part II of Jury instructions given The Court Selects Juror #40 in Seat #8 A.H. as foreperson of the Jury In the final submission of the case to the jury with a panel of 14 jurors present, the Court orders the jury reduced to 12 members. By lottery method, the clerk, draws from the barrel the following: Juror #13 in S#3 (V.Y) Juror #73 in S#11 (J.S); are each designated as alternate jurors. 12 Exhibits and 2 Verdict Slip certified by Commonwealth and Defense. Deliberations begin at 12:00 Jurors allowed to separate at 1:00 and return on Friday 6/9/2023 at 9:00 to resume deliberations Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohn FTR 9:27 Kristen Zitano, Assistant Clerk Magistrate		
06/09/2023	Defendant brought into Court Jury trial continues before Squires-Lee, J Jury deliberations continue with Twelve (12) jurors present and two (2) alternates at 9:30 Verdicts returned at 11:00 AM. Court revokes all prior orders of bail.		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Case continued by agreement to 6/15/2022 at 9:00 for sentencing Jail List Hon. Debra A Squires-Lee, Presiding ADA A. Mark Atty J. Raisler-Cohn FTR Kristen Zitano, Assistant Clerk Magistrate		
06/09/2023	Offense Disposition:: Charge #2 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A On: 06/09/2023 Judge: Hon. Debra A Squires-Lee By: Jury Trial Guilty Verdict Charge #3 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A On: 06/09/2023 Judge: Hon. Debra A Squires-Lee By: Jury Trial Guilty Verdict		
06/09/2023	Verdict affirmed, verdict slip filed As to Offense 002-Guilty	94	  Image
06/09/2023	Verdict affirmed, verdict slip filed As to Offense 003-Guilty	95	  Image
06/09/2023	List of exhibits	96	  Image
06/09/2023	List of jurors filed.		Image
06/15/2023	Defendant files sentence recommendation	97	 
06/15/2023	Commonwealth files sentence recommendation	98	  Image
06/15/2023	Defendant brought into Court Sentencing held before Squires-Lee, J Commonwealth moves for sentencing Case continued by agreement to 6/29/2023 at 2:00 for a hearing Re: Trial Assignment Re: Offense 001 Hon. Debra A Squires-Lee, Presiding ADA A. Mark Atty J. Raisler-Cohn FTR 9:12 Kristen Zitano, Assistant Clerk Magistrate		Image
06/15/2023	Notice given to defendant of duty to register as a sex offender. Judge: Squires-Lee, Hon. Debra A		
06/15/2023	DNA fee WAIVED Judge: Squires-Lee, Hon. Debra A		
06/15/2023	After finding of severe financial hardship, victim/witness fee waived. Judge: Squires-Lee, Hon. Debra A		
06/15/2023	Defendant notified of right of appeal to the Appellate Division of the Superior Court within ten (10) days. Judge: Squires-Lee, Hon. Debra A		
06/15/2023	Defendant notified of right of appeal to the Appeals Court within thirty (30) days. Judge: Squires-Lee, Hon. Debra A		
06/15/2023	Defendant sentenced:: Sentence Date: 06/15/2023 Judge: Hon. Debra A Squires-Lee Charge #: 2 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A State Prison Sentence Not Less Than: 16 Years, 0 Months, 0 Days Not More Than: 20 Years, 0 Months, 0 Days Charge #: 3 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A State Prison Sentence Not Less Than: 16 Years, 0 Months, 0 Days Not More Than: 20 Years, 0 Months, 0 Days Served Concurrently Committed to Souza Baranowski Correctional Center Credits 20 Days		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
06/15/2023	Issued on this date: Mittimus for Sentence (All Charges) Sent On: 06/15/2023 09:59:26	99	  Image
06/15/2023	Findings and Order of Statutory Fees Judge: Squires-Lee, Hon. Debra A	100	  Image
06/15/2023	Notice of appeal filed. As to Offenses 002 and 003 Applies To: Martinez, Adalberto (Defendant)	101	  Image
06/23/2023	Notice of appeal from sentence to Souza Baranowski Correctional Center filed by defendant	102	  Image
06/23/2023	Notification to the Appellate Division sent.		 Image
06/26/2023	Appeal for review of sentence entered at the Appellate Division: Originating Court: Suffolk County Criminal Receiving Court: Suffolk County Criminal Case Number: 2384AD139-SU ;		
06/26/2023	Posted bail returned RAB form	103	
06/29/2023	Defendant not in court. Presence waived this day Case continued by agreement to 1/4/2024 at 2:00 for a hearing Re: Final Pre Trial conference Case continued by agreement to 1/16/2024 at 9:00 for trial Hon. Debra A Squires-Lee, Presiding Appeared ADA A. Mark FTR Kristen Zitano, Assistant Clerk Magistrate		
06/29/2023	Scheduled: Event: Jury Trial Date: 07/16/2024 Time: 09:00 AM Result: Held as Scheduled		
08/24/2023	Defendant 's EX PARTE Combined Motion for a transcript of sealed hearings and motion for funds for expedited transcripts, filed ALLOWED	104	  Image
09/14/2023	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 09/18/2023 02:00 PM Hearing on Withdrawal of Attorney. TRANSPORT TO COURT	105	  Image
09/18/2023	Defendant brought into court. Hearing Re: Motion to withdraw counsel held before Rayburn, J After hearing Motion Taken Under advisement Atty Raisler-Cohen informs the Court that Atty John Warren is able to take an appointment on this case Dates remains as to the Final Pre and Trial date Hon. Katie Rayburn, Presiding Appeared ADA A. Mark Atty J. Raisler-Cohen FTR 2:19 Kristen Zitano, Assistant Clerk Magistrate		
09/21/2023	Defendant 's Motion to withdraw, filed After careful consideration this motion is ALLOWED. New counsel will be appointed forthwith. The trial date and remaining dates remain and are not continued	106	  Image
09/26/2023	Defendant not in court. Presence waived this day Court appoints Atty J. Warren to represent the defendant pursuant to Rule 53 Case continued by agreement to 10/19/2023 at 2:00 for a hearing Re: Status Conference Habe to Norfolk needed Hon. Katie Rayburn, Presiding Appeared		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	ADA A. Mark Atty J. Warren FTR 2:26 Kristen Zitano, Assistant Clerk Magistrate		
09/26/2023	Defendant 's EX PARTE Motion for investigator funds and affidavit in support of, filed ALLOWED	107	  Image
09/26/2023	Attorney appearance On this date Joshua Raisler Cohn, Esq. dismissed/withdrawn as Appointed - Indigent Defendant for Defendant Adalberto Martinez		
09/26/2023	Attorney appearance On this date John Warren, Esq. added as Appointed - Indigent Defendant for Defendant Adalberto Martinez Appointment made for the purpose of Case in Chief by Judge Hon. Katie Rayburn.		
10/18/2023	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 10/19/2023 02:00 PM Conference to Review Status. Live Hearing, please transport.	108	  Image
10/19/2023	Defendant brought into court. Status conference held before Wall, J Case continued by agreement to 11/20/2023 at 2:00 for a hearing Re: Further status Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 3:01 Kristen Zitano, Assistant Clerk Magistrate		
11/20/2023	Defendant not in court. Presence waived this day Status conference held before Wall, J Case continued by agreement to 12/11/2023 at 2:00 for a hearing Re: Further status(Zoom habe needed) Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 2:14 Kristen Zitano, Assistant Clerk Magistrate		
11/20/2023	Defendant 's Motion for discovery-1 and affidavit in support of, filed	109	 
11/20/2023	Defendant 's Motion for criminal offender information and affidavit, filed ALLOWED (WALL, J)	110	  Image
12/08/2023	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 12/11/2023 02:00 PM Conference to Review Status. TRANSPORT TO COURT	111	  Image
12/11/2023	Event Result:: Conference to Review Status scheduled on: 12/11/2023 02:00 PM Has been: Not Held For the following reason: Court Order Hon. Joshua Wall, Presiding Staff: Kristen Zitano, Assistant Clerk Magistrate		
12/11/2023	Defendant 's Motion for discovery II, filed	112	  Image
12/18/2023	Defendant not in court. Presence waived this day Motion hearing held before Wall, J Motion to Continue Paper #113 Denied Wall J Case has next date of 1/4/2024 at 2:00 for final pre trial conference (Habe to Norfolk Issued) Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 2:26 Kristen Zitano, Assistant Clerk Magistrate		
12/18/2023	ORDER: The Court ORDERS that the transcripts of witnesses examinations in the trial of Commonwealth v Adalberto Martinez from June 2023 (Docket No. 2084CR00326) be available to counsel on or before January 3, 2024		
12/18/2023	Defendant 's Motion to continue trial for approximately 30 days, filed	113	
12/18/2023	Defendant 's Motion to stay trial on count one, pending appeal from conviction on counts two and three, filed	114	

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
12/18/2023	Endorsement on Motion to stay trial on count one, pending appeal from conviction on counts two and three, (#114.0): Motion will be heard when defendant is present per attorneys request		  Image
12/18/2023	Commonwealth 's Sixteenth notice of discovery, filed	115	  Image
12/18/2023	Defendant 's Motion for notice of prior bad acts that the commonwealth will seek to introduce at trial, filed	116	  Image
12/18/2023	Endorsement on Motion for notice of prior bad acts that the commonwealth will seek to introduce at trial., (#116.0): Other action taken After hearing Commonwealth agrees that on or before 1/3/24 it will give written notice of which prior bad acts it will seek to introduce, including which witnesses will give the testimony		  Image
12/18/2023	Endorsement on Motion to continue trial for approximately 30 days, (#113.0): DENIED After hearing Motion is Denied. The Courts trial schedule 30 days later is full. The Court will issue an order for production of transcripts. The first trial had a different victim and different incidents at issue. The alleged victim in this case did not testify at first trial. Counsel can listen to testimony of the witnesses (all non-percipient, 3 police officers and 2 experts on child abuse issue; no forensic evidence testimony) on FTR, which has been available since counsel was appointed. Counsel has one month to prepare and meet with his client. Counsel has met with his client. The reasons defendant did not appear for other meetings are undocumented This order will enter on the docket: The Court ORDERS that the transcripts of witnesses examinations in the trial of Commonwealth v Adalberto Martinez from June 2023 (Docket No. 2084CR00326) be available to counsel on or before January 3, 2024		  Image
12/18/2023	Defendant 's Motion for relief due to lost evidence, filed	117	  Image
12/18/2023	Opposition to paper #117.0 Motion for relief due to lost evidence filed by Suffolk County District Attorney	118	  Image
12/19/2023	ORDER: on defendants motion for relief due to lost evidence DENIED	119	  Image
12/26/2023	Commonwealth 's Motion for inquiry criminal history records of potential trial jurors or in the alternative notice of intent to independently seek such information for limited purposes of jury empanelment, filed	120	  Image
12/26/2023	Commonwealth 's Motion for attorney conducted individual voir dire, filed	121	  Image
12/26/2023	Commonwealth 's Motion in limine to introduce first complaint testimony for victim #1 and memo of law in support of, filed	122	  Image
12/26/2023	Commonwealth 's Motion in limine to exclude evidence of victim #1's alleged bad acts and memo of law in support of, filed	123	  Image
12/26/2023	Commonwealth 's Motion in limine to allow the introduction of photograph of the alleged victim, filed	124	  Image
12/26/2023	Commonwealth 's Motion in limine to allow the introduction of registry of motor vehicles records, filed	125	  Image
12/26/2023	Commonwealth 's Motion in limine to introduce testimony related to cooperating witness's prior consistent statement and memo of law in support of, filed	126	  Image
12/26/2023	Commonwealth 's Motion in limine to exclude evidence of victims unrelated sexual activity and prior rape and memo of law in support of, filed	127	  Image
12/26/2023	Commonwealth 's Motion in limine to introduce evidence of defendants bad acts and memo of law in support of , filed	128	  Image
12/26/2023	Commonwealth 's Motion for reciprocal discovery, filed	129	  Image
12/26/2023	Commonwealth 's Motion to admit GPS testimony and memo of law in support of, filed	130	  Image
12/26/2023	Commonwealth 's Motion of judicial approval to subpoena individuals and records from the commissioner of probation and affidavit in support of, filed	131	  Image
12/26/2023	Commonwealth 's Motion in limine in support of introduction of expert testimony of Dr. Stephanie Block and memo of law in support of, filed	132	
12/26/2023	Commonwealth 's Motion in limine in support of introduction of expert testimony of Alice Newton M.D. and memo of law in support of, filed	133	  Image
12/26/2023	Commonwealth 's Motion in limine to exclude evidence of collateral impeachment of Alice Newton, MD, filed	134	
01/02/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/04/2024 02:00 PM Final Pre-Trial Conference. TRANSPORT TO COURT		  Image
01/03/2024	Defendant 's Motion in limine Exclude all evidence of and reference to the allegations in counts #2 and #3, filed	135	  Image
01/03/2024	Defendant 's Motion in limine Exclude highly prejudicial, uncharged propensity/character testimony from Noemi Negron, filed	136	  Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
01/03/2024	Defendant 's Motion in limine Exclude evidence of defendants GPS monitoring, filed	137	 
01/03/2024	Defendant 's Motion in limine Exclude evidence of other alleged bad acts of defendant, filed	138	  Image
01/03/2024	Defendant 's Motion in limine- Exclude evidence of defendants alleged violence against co-defendant Ms. Santana, filed	139	  Image
01/03/2024	Defendant 's Motion in limine Allow elicitation of specific motive to lie evidence of alleged victim and her sister, filed	140	  Image
01/03/2024	Defendant 's Motion in limine Pre-trial ruling allowing admission of motive evidence without opening door to otherwise inadmissible evidence, filed	141	  Image
01/03/2024	Defendant 's Motion in limine Exclude prior consistent statement of alleged victim purportedly made to Ms. Negron in 2019, filed	142	  Image
01/03/2024	Defendant 's Motion in limine Limit first complaint testimony, filed	143	  Image
01/03/2024	Defendant 's Motion in limine Exclude the testimony of proposed expert witness Alice Newton, filed	144	  Image
01/03/2024	Defendant 's Motion in limine Exclude the testimony of proposed expert witness Stephanie Block, filed	145	  Image
01/03/2024	Defendant 's Motion in limine Preclude use of the term "victim", filed	146	  Image
01/03/2024	Defendant 's Motion in limine Permit defendant to change into court clothes, filed	147	  Image
01/03/2024	Defendant 's Motion in limine Voir dire and to admit, pursuant to Bohannon, separate false allegation of sexual assault made by the alleged victim, filed	148	  Image
01/03/2024	Defendant 's Motion in limine Defendants proposed individual examination of jurors, filed	149	  Image
01/03/2024	Defendant 's Request for notice of specific statements of defendant and co-defendant that commonwealth will seek to introduce at trial, filed	150	  Image
01/04/2024	Commonwealth 's Motion in limine and memo of law in support of its motion in limine to introduce recantation and re disclosure of abuse in opening statement and direct examination, filed	151	  Image
01/04/2024	Commonwealth 's Amended Motion in limine to introduce evidence of defendants bad acts and memo of law in support of , filed	152	  Image
01/04/2024	Commonwealth 's Notice of possible intent to offer defendants statements and memo in support of, filed	153	  Image
01/04/2024	Defendant 's EX PARTE Motion for social worker funds and affidavit in support of, filed ALLOWED (WALL, J) Judge: Wall, Hon. Joshua	154	  Image Image
01/04/2024	Defendant 's EX PARTE Motion for additional investigator funds and affidavit in support of, filed ALLOWED (WALL, J)	155	  Image
01/04/2024	Defendant brought into. Final Pre Trial Conference held before Wall, J Final Pre trial Conference/Motions held before Wall, J Case continued by agreement to 1/8/2024 at 3:00 for further hearing on Motions. Defendant requesting that is presence be waived on next date Court informs the defendant that if zoom is an option he will be appear via zoom otherwise if that can not be accommodated his presence will be waived Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 3:00 Kristen Zitano, Assistant Clerk Magistrate		
01/04/2024	Endorsement on Motion in limine Allow elicitation of specific motive to lie evidence of alleged victim and her sister, (#140.0): No Action Taken		  Image
01/04/2024	Endorsement on Notice of possible intent to offer defendants statements, (#153.0): No Action Taken		  Image
01/04/2024	Endorsement on Motion in limine Pre-trial ruling allowing admission of motive evidence without opening door to otherwise inadmissible evidence, (#141.0): ALLOWED Defense may ask about theses incidents without "opening the door" as long as victim is not asked is that why you moved out in or disclosed		  Image Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
01/05/2024	Defendant 's EX PARTE Motion for funds for clothes for defendant and affidavit in support of, filed ALLOWED follow CPCS requirements (WALL, J)	156	  Image
01/08/2024	Defendant 's Response to Commonwealths notice of possible intent to offer defendants statements, filed	157	  Image
01/08/2024	Defendant not in Court Presence waived this day at the request of the defendant Further Motions in limine held before Wall, J Case has next date of 1/16/2024 for trial (Habe to MCI Norfolk) Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 3:15 Kristen Zitano, Assistant Clerk Magistrate		Image
01/11/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/16/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	158	  Image
01/16/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/17/2024 Time: 09:00 AM Result: Held as Scheduled		
01/16/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/17/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	159	  Image
01/16/2024	Commonwealth 's Eighteenth notice of discovery, filed	160	 
01/16/2024	Commonwealth 's Second Amended notice if possible intent to offer defendants statements and memo in support of, filed	161	  Image
01/16/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/18/2024 Time: 09:00 AM Result: Held as Scheduled		
01/16/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/18/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	162	  Image
01/16/2024	Defendant brought into court. The Court orders fourteen (14) jurors empaneled. The Commonwealth moves for trial as to Offenses 001 The Defendant is set at the bar and the venire is sworn. Jury empanelment begins. Venire exhausted at 12:15 Five (5) jurors selected. Empanelment to resume on Wednesday 1/17/2024 at 9:00 Seated jurors instructed to return on Thursday 1/18/2024 at 9:00 for commencement of trial Further hearing on Motions in limine held at 2:00 Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 10:30 Kristen Zitano, Assistant Clerk Magistrate		
01/16/2024	Commonwealth 's Third amended notice of possible intent to offer defendants statements and memo of support of, filed	163	
01/16/2024	Endorsement on Request for notice of specific statements of defendant and co-defendant that commonwealth will seek to introduce at trial, (#150.0): Commonwealth has provided notice		  Image
01/16/2024	Endorsement on Motion in limine to exclude evidence of collateral impeachment of Alice Newton, MD, (#134.0): ALLOWED without objection		  Image
01/16/2024	Endorsement on Notice of possible intent to offer defendants statements, (#153.0): No Action Taken See amended notices		  Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
01/16/2024	Endorsement on Second Amended notice if possible intent to offer defendants statements, (#161.0): No Action Taken See Third amended notice		  Image
01/16/2024	Endorsement on Motion in limine to introduce first complain testimony for victim #1, (#122.0): ALLOWED		  Image
01/16/2024	Endorsement on Motion in limine to allow the introduction of registry of motor vehicles records, (#125.0): ALLOWED without objection		  Image
01/16/2024	Endorsement on Motion for inquiry criminal history records of potential trial jurors or in the alternative notice of intent to independently seek such information for limited purposes of jury empanelment, (#120.0): ALLOWED		  Image
01/16/2024	Endorsement on Motion in limine to allow the introduction of photograph of the alleged victim, (#124.0): ALLOWED after hearing		  Image
01/16/2024	Endorsement on Motion in limine Preclude use of the term "victim, (#146.0): ALLOWED		  Image
01/16/2024	Endorsement on Motion in limine Exclude the testimony of proposed expert witness Alice Newton, (#144.0): DENIED For reasons stated by Commonwealth at hearing and to give evidence to all jurors rather than having jurors speculate on these issues		  Image
01/16/2024	Endorsement on Motion in limine in support of introduction of expert testimony of Dr. Stephanie Block, (#132.0): ALLOWED See endorsement on Paper 145		  Image
01/16/2024	Endorsement on Motion in limine in support of introduction of expert testimony of Alice Newton M.D, (#133.0): ALLOWED See endorsement on Paper 144		  Image
01/16/2024	Endorsement on Motion in limine Exclude the testimony of proposed expert witness Stephanie Block, (#145.0): DENIED Expert testimony on delayed disclosure, recantation, is admissible under the case law and in my discretion the testimony is admissible because it provides information that is not widely known, understood, or experienced by jurors. The testimony will allow jurors to evaluate evidence rather than speculate these issues		  Image
01/16/2024	Commonwealth 's Nineteenth notice of discovery, filed	164	  Image
01/16/2024	Commonwealth 's Amended notice if possible intent to offer defendants statements	165	 Image
01/16/2024	Endorsement on Amended notice if possible intent to offer defendants statements, (#165.0): No Action Taken See Second amended notice		  Image
01/16/2024	Commonwealth 's Motion in limine to admit evidence of the defendant Martinez's prior criminal convictions and memo of law in support, filed	166	
01/16/2024	Endorsement on Motion in limine to admit evidence of the defendant Martinez's prior criminal convictions, (#166.0): Commonwealth has certified convictions. Reserved-Atty Warren will notify Court if defendant seeks a ruling before defendants case		  Image
01/17/2024	Defendant brought into court. The Court orders remaining Nine (9) jurors empaneled The Commonwealth moves for trial as to Offenses 001 The Defendant is set at the bar and the venire is sworn. Jury empanelment resumes. Venire exhausted at 12:40 Four (4) jurors selected. Empanelment to resume on Thursday 1/18/2024 at 9:00 Seated jurors instructed to return on Friday 1/19/2024 at 9:00 for commencement of trial Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 9:34 Kristen Zitano, Assistant Clerk Magistrate		
01/17/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/19/2024 Time: 09:00 AM Result: Held as Scheduled		
01/17/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/19/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	167	

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
01/17/2024	Endorsement on Motion to stay trial on count one, pending appeal from conviction on counts two and three, (#114.0): This is trial 2 and defendant can seek to introduce evidence from trial 1 if he wishes. Defendant describes the scenario that trial 2 is an acquittal and trial is a reversal with re trial. If that scenario occurred, defendant could still seek to introduce evidence from trial 2 at the re trial. So there is no need for a stay of trial 2		  Image
01/18/2024	Commonwealth 's Request for a ruling on Paper# 130, 1378, 153 and 157, filed	168	 
01/18/2024	Commonwealth 's Motion to admit testimony from victim #1 that she reported the crime to the police in 2020, filed	169	  Image
01/18/2024	Commonwealth 's Motion to reconsider the Courts ruling on Paper #141 entitled defendants motion in limine for pre trial ruling allowing admission of motive evidence without opening door to otherwise inadmissible evidence, filed	170	  Image
01/18/2024	Commonwealth 's Twentieth notice of discovery, filed	171	  Image
01/18/2024	Defendant brought into court. The Court orders remaining Five (5) jurors empaneled The Commonwealth moves for trial as to Offenses 001 Venire is sworn. Jury empanelment resumes. Jury empanelment complete at 11:25. Six (6) jurors selected. Seated jurors instructed to return on Friday 1/19/2024 at 9:00 for commencement of trial Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 9:42 Kristen Zitano, Assistant Clerk Magistrate		
01/18/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/22/2024 Time: 09:00 AM Result: Held as Scheduled		
01/18/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/22/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	172	  Image
01/18/2024	Defendant 's Request for voir dire of Noemi Negron, filed	173	 
01/18/2024	Defendant 's Motion to exclude text messages, filed	174	  Image
01/18/2024	Endorsement on Motion in limine and memo of law in support of its motion in limine to introduce recantation and re disclosure of abuse in opening statement and direct examination, (#151.0): ALLOWED, DENIED Allowed for recantation Denied for re-disclosure details, other than victim 1's decision in 2020 to go forward with the case (fact of re disclosure but not details of re disclosure)		  Image
01/18/2024	Endorsement on Motion in limine to exclude evidence of victims unrelated sexual activity and prior rape, (#127.0): After hearing the Court orders voir dire of the alleged victim on 2 points. 1. is the prior allegation true. 2. Did the recants that prior allegation by saying it did not happen in meeting with ADA		  Image
01/18/2024	Endorsement on Motion in limine Voir dire and to admit, pursuant to Bohannon, separate false allegation of sexual assault made by the alleged victim, (#148.0): ALLOWED Voir dire to determine if she says there was a sexual assault in DR and whether she recanted in Oct 2016 meeting		  Image
01/18/2024	Endorsement on Motion in limine Exclude prior consistent statement of alleged victim purportedly made to Ms. Negron in 2019, (#142.0): ALLOWED for direct examination of opening statement. Defendants are forewarned that cross-examination about events in 2020 suggesting recent continuance could make victims 2019 statement admissible as prior consistent statement		  Image
01/18/2024	Endorsement on Motion in limine to introduce testimony related to cooperating witness's prior consistent statement, (#126.0): DENIED Unless door opened in cross, relevance would be as prior consistent statement to rebut allegation of 2020 contrivance		  Image
01/18/2024	Endorsement on Motion in limine Exclude all evidence of and reference to the allegations in counts #2 and #3, (#135.0): ALLOWED without objection. See endorsement on Paper 170 which does not change this ruling. The act and allegations will not be in evidence		  Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
01/18/2024	Endorsement on Motion in limine- Exclude evidence of defendants alleged violence against co-defendant Ms. Santana, (#139.0): ALLOWED At hearing Commonwealths states it does not seek to introduce alleged victims testimony that she heard sounds of physical beating		  Image
01/18/2024	Endorsement on Motion in limine Limit first complaint testimony, (#143.0): ALLOWED, DENIED Allowed for 1, 4, 6 (Although Court will not give the exact instruction requested) Denied for 2, 3, 5 (At hearing defendant did not show reason for voir dire)		  Image
01/18/2024	Endorsement on Motion to admit testimony from victim #1 that she reported the crime to the police in 2020, (#169.0): ALLOWED for reasons stated on record. Statement cannot be used for first complaint but is independently, admissible for reasons stated on the record		  Image
01/18/2024	Endorsement on Motion in limine Exclude evidence of defendants GPS monitoring, (#137.0): ALLOWED, DENIED See Paper 130 endorsement This motion denied for mention of GPS evidence Allowed for stipulation		  Image
01/18/2024	Endorsement on Motion to admit GPS testimony, (#130.0): ALLOWED After hearing for reasons stated in Court allowed for stipulation only. Stipulation removes the prejudice of GPS evidence and probative value outweighs prejudice. Probative value includes extent of relationship but defendants Martinez's connection to statements defendants made to police		  Image
01/18/2024	Endorsement on Motion to reconsider the Courts ruling on Paper #141 entitled defendants motion in limine for pre trial ruling allowing admission of motive evidence without opening door to otherwise inadmissible evidence, (#170.0): ALLOWED After hearing the motion is Allowed for reasons stated on the record and herein. The Courts ruling on Paper 141 was based on the misunderstanding that Commonwealth did nit seek to introduce the evidence The Court now understands the positions of all the positions of all three parties, Defendants have the evidence of 2016 recantation. If defendants cross-examine to elicit evidence of victim 1's hostile relationship with Destiny Santana in order to show hostility as the reason for re disclosure, it is fair to permit victim 1 to testify to her view of her own motivation for re disclosure. If defendants introduce state of mind evidence, victim 1 may testify to her state of mind. Probative value out weighs prejudice because the testimony will be restricted to the language the Court stated on the record and a limiting instruction will be given. Jury will not hear that victim 2 and victim 3 made allegations of sexual abuse. Defendants may object during the redirect if they believe actual cross did not open the door		  Image
01/19/2024	Defendant brought into court. Jurors sworn Indictments formally read. Pre Charge given Opening statements made by the Commonwealth and the defendant Trial with Fifteen (15) jurors present begins before Wall, J Jurors allowed to separate at 3:55 and reconvene on Monday 1/22/2024 at 9:00 for continuation of trial Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 9:24 Kristen Zitano, Assistant Clerk Magistrate		
01/19/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/23/2024 Time: 09:00 AM Result: Held as Scheduled		
01/19/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/23/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	175	  Image
01/19/2024	Endorsement on Supplemental Motion in limine to exclude highly prejudicial uncharged propensity/character testimony from Noemi Negron, (#179.0): DENIED See Paper #152 decision Judge: Wall, Hon. Joshua		  Image
01/19/2024	Endorsement on Motion in limine Exclude evidence of other alleged bad acts of defendant, (#138.0): ALLOWED for 1, 2 and 3. Witnesses have been instructed to avoid using the word "jail" when recounting Ms. Santana's statement about having sex with Mr. Martinez's relative Judge: Wall, Hon. Joshua		  Image
01/19/2024	Endorsement on Motion to exclude text messages, (#174.0): commonwealth is not seeking to introduce		  Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
01/19/2024	Endorsement on Request for voir dire of Noemi Negron, (#173.0): DENIED The Court and parties have Ms. Negron's trial testimony (transcript) from June 2023 in which there is direct and cross examination on the exact same event with cross conducted by Mr. Martinez's trial counsel. ADA Mark has conducted trial prep with the witnesses recently and reports that there is no need to update discovery. Under these circumstances which include testimony about a traumatic incident , voir dire is unnecessary and the motion is Denied		  Image
01/22/2024	Defendant 's Second amended response to Commonwealths notice of possible intent to offer defendants statements, filed	176	
01/22/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/24/2024 Time: 09:00 AM Result: Held as Scheduled		
01/22/2024	Defendant brought into court Trial with Fifteen (15) jurors present continues before Wall, J Voir dire held with witness Marelena Ruiz-Marte held Commonwealth rests at 3:40 Defendants motion for a required finding of not guilty filed and after hearing Denied Wall, J Jurors allowed to separate at 4:10 and reconvene on Tuesday 1/23/2024 at 9:00 for continuation of trial Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 9:17 Kristen Zitano, Assistant Clerk Magistrate		
01/22/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/24/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL		  Image
01/22/2024	Endorsement on Motion in limine Exclude highly prejudicial, uncharged propensity/character testimony from Noemi Negron, (#136.0): See paper #152 endorsement and defendants supplement to this motion		  Image
01/22/2024	Endorsement on Motion in limine to exclude evidence of defendants prior convictions, (#180.0): ALLOWED, DENIED Allowed for child porn Denied for failure to appear		  Image
01/22/2024	Defendant 's Motion for requiring finding of not guilty at the close of the Commonwealths case, filed DENIED	177	  Image
01/23/2024	Defendant brought into court. Charge conference held at 9:00 Trial with Fifteen (15) jurors present continues before Wall, J Defendants oral motion for a required finding of not guilty made and after hearing Denied Wall, J Defendants rests Defendants renewed oral motion for a required finding of not guilty made and after hearing Denied Wall, J Part I of Jury Instructions given Defendant and Commonwealth present closing arguments Part II of Jury instructions given The Court Selects Juror #19 n Seat #14 (J.N.) as foreperson of the Jury In the final submission of the case to the jury with a panel of 15 jurors present, the Court orders the jury reduced to 12 members. By lottery method, the clerk, draws from the barrel the following: Juror #34 in S#3 (A.T); is designated as an alternate juror. Juror #35 in S#6 (D.R) is designated as an alternate juror Juror #1 in S#10 (M.B); is designated as an alternate juror are each designated as an alternate jurors. 13 Exhibits and 1 Verdict Slip certified by Commonwealth and Defense. Deliberations begin at 1:10 Question from jury marked "D" for ID at 3:15		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Question from jury marked "E" for ID at 3:45 Question from jury marked "F" for ID at 3:45 Jurors allowed to separate at 4:00 and reconvene at 9:00 on Wednesday 1/24/2024 for further deliberations Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 9:09 Kristen Zitano, Assistant Clerk Magistrate		
01/23/2024	Scheduled: Judge: Wall, Hon. Joshua Event: Jury Trial Date: 01/25/2024 Time: 09:00 AM		
01/23/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 01/25/2024 09:00 AM Jury Trial. TRANSPORT TO COURT NEEDED TO COURT BY 8:30 FOR TRIAL	178	
01/24/2024	Defendant 's Supplemental Motion in limine to exclude highly prejudicial uncharged propensity/character testimony from Noemi Negron, filed dated 1/16/24	179	  Image
01/24/2024	Defendant 's Motion in limine to exclude evidence of defendants prior convictions, filed dated 1/3/24 Judge: Wall, Hon. Joshua	180	
01/24/2024	ORDER: Commonwealth amended Motion to introduce prior bad acts (Paper #152) dated 1/19/24	181	  Image
01/24/2024	Defendant brought into Court. Deliberations continue with Twelve (12) jurors present and Three (3) alternate jurors kept separate and apart Verdict 11:15 As to Offense 001-Guilty Case continued by agreement to 2/6/2024 at 9:00 for Sentence Imposition (Habe to MCI Norfolk) Defendant currently serving sentence on this case as to Offenses 002 and 003 Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 9:36 Kristen Zitano, Assistant Clerk Magistrate		
01/24/2024	Verdict affirmed, verdict slip filed As to Offense 001-Guilty	182	  Image
01/24/2024	List of jurors filed. Comm vs Fujita		
01/24/2024	List of exhibits and ID	183	  Image
01/24/2024	Offense Disposition:: Charge #1 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A On: 01/24/2024 Judge: Hon. Joshua Wall By: Jury Trial Guilty Verdict Charge #2 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A On: 06/09/2023 Judge: Hon. Debra A Squires-Lee By: Jury Trial Guilty Verdict Charge #3 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A On: 06/09/2023 By: Jury Trial Guilty Verdict		
02/01/2024	Habeas Corpus for defendant issued to MCI - Norfolk returnable for 02/06/2024 09:00 AM Hearing for Sentence Imposition. TRANSPORT TO COURT	184	  Image
02/05/2024	Commonwealth files sentence recommendation	185	  Image

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
02/05/2024	Defendant files sentence recommendation	186	 
02/06/2024	Defendant transported to Court this day from MCI Norfolk Atty Warren informs the Court that defendant refuses to be present in the Courtroom for sentencing Defendant remains in lock up for sentencing The Court orders that the sentencing proceed without the defendant present in the court room The Commonwealth moves for sentence As to Offense 001 Not more than Sixteen (16) years not less that Twelve (12) years from and after sentences imposed on Offenses 002 and 003 Hon. Joshua Wall, Presiding Appeared ADA A. Mark Atty J. Warren FTR 10:00 Kristen Zitano, Assistant Clerk Magistrate		 Image
02/06/2024	Defendant warned as to submission of DNA G.L. c. 22E, § 3		
	Judge: Wall, Hon. Joshua		
02/06/2024	DNA fee WAIVED		
	Judge: Wall, Hon. Joshua		
02/06/2024	After finding of severe financial hardship, victim/witness fee waived.		
	Judge: Wall, Hon. Joshua		
02/06/2024	Findings and Order of Statutory Fees	187	 
	Judge: Wall, Hon. Joshua		Image
02/06/2024	Defendant notified of right of appeal to the Appellate Division of the Superior Court within ten (10) days.		
	Judge: Wall, Hon. Joshua		
02/06/2024	Defendant notified of right of appeal to the Appeals Court within thirty (30) days.		
	Judge: Wall, Hon. Joshua		
02/06/2024	Defendant sentenced:: Sentence Date: 02/06/2024 Judge: Hon. Joshua Wall		
	Charge #: 1 RAPE OF CHILD, STATUTORY, AGGRAVATED c265 §23A		
	State Prison Sentence Not Less Than: 12 Years, 0 Months, 0 Days Not More Than: 16 Years, 0 Months, 0 Days		
	Served Consecutively		
	Committed to Souza Baranowski Correctional Center		
02/06/2024	Issued on this date:	188	 
	Mittimus for Sentence (All Charges)		Image
	Sent On: 02/06/2024 10:41:00		
02/06/2024	Notice of appeal from sentence to MCI - Norfolk filed by defendant	189	 
	As to Offense 001		Image
02/06/2024	Notification to the Appellate Division sent.		
02/06/2024	Notice of appeal filed.	190	 
	As to Offense 001		Image
	Applies To: Martinez, Adalberto (Defendant)		
02/06/2024	Notice regarding notice of appeal and email regarding transcripts		 
			Image
05/30/2024	CD of Transcript of 06/29/2023 02:00 PM Trial Assignment Conference, 09/18/2023 02:00 PM Hearing on Withdrawal of Attorney, 09/26/2023 02:00 PM Conference to Review Status, 10/19/2023 02:00 PM Conference to Review Status, 11/20/2023 02:00 PM Conference to Review Status, 12/18/2023 02:00 PM Motion Hearing, 01/04/2024 02:00 PM Final Pre-Trial Conference, 01/08/2024 03:00 PM Hearing on Motion(s) in Limine, 01/16/2024 09:00 AM Jury Trial, 01/17/2024 09:00 AM Jury Trial, 01/18/2024 09:00 AM Jury Trial, 01/19/2024 09:00 AM Jury Trial, 01/22/2024 09:00 AM Jury Trial, 01/23/2024 09:00 AM Jury Trial, 01/24/2024 09:00 AM Jury Trial, 02/06/2024 09:00 AM Hearing for Sentence Imposition received from Jolanta Ewing.		
09/13/2024	General correspondence regarding Attorney Bradley Paul Bennion appearance, filed	191	 
10/21/2024	ORDER: The appeal of the defendant for review of sentence to the Souza Baranowski Correctional Center, imposed June 15, 2023 on indictment 2084CR00326 and by the Superior Court Department for the County of Suffolk having been heard and reviewed, it is	192	 
	ORDERED: that the judgments imposing said sentences stand and that said appeal be and is hereby dismissed.		Image

Docket Date	<i>Docket Text</i>	File Ref Nbr.	<i>Image Avail.</i>
	MCGUIRE, SULLIVAN & AMES, JJ.		
	Judge: McGuire, Jr., Hon. Thomas F		

Case Disposition		
Disposition	Date	Case Judge
Disposed by Jury Verdict	01/24/2024	Wall, Hon. Joshua

INDICTMENT

2084CR

Aggravated Rape Of A Child
c. 265, §23A

#001

Commonwealth of Massachusetts

SUFFOLK, SS

At the SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT FOR CRIMINAL BUSINESS, begun and
holden at the CITY OF BOSTON, within and for the County of Suffolk, on the first Monday of November in the year of
our Lord two thousand twenty

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present that

ADALBERTO MARTINEZ

On an unknown date in July or August 2015, did assault C.R., a child under the age of sixteen years,
where there exists more than a 5 year age difference between the defendant and the victim and the victim
is under 12 years of age or there exists more than a 10 year age difference between the defendant and the
victim where the victim is between the age of 12 and 16 years of age; with the intent to unlawfully have
sexual intercourse with and abuse said C.R.; and did unlawfully have sexual intercourse with and abuse
said C.R.

A TRUE BILL



Assistant District Attorney



Foreperson of the Grand Jury

Superior Court Department — Criminal Business NOV 20 2020 *November Sitting, 2020*

Returned into said Superior Court by the Grand Jurors and ordered to be filed.



Clerk of Court

INDICTMENT
20841R

Aggravated Rape Of A Child
c. 265, §23A

#002

Commonwealth of Massachusetts

SUFFOLK, SS

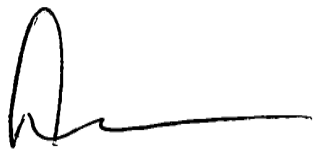
At the SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT FOR CRIMINAL BUSINESS, begun and
holden at the CITY OF BOSTON, within and for the County of Suffolk, on the first Monday of November in the year of
our Lord two thousand twenty

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present that

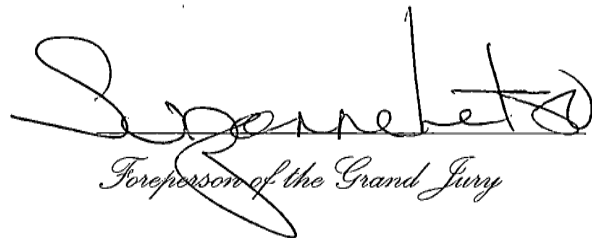
ADALBERTO MARTINEZ

On an unknown date between 6/15/12 and 6/14/15, did assault A.N., a child under the age of sixteen years,
where there exists more than a 5 year age difference between the defendant and the victim and the victim
is under 12 years of age or there exists more than a 10 year age difference between the defendant and the
victim where the victim is between the age of 12 and 16 years of age; with the intent to unlawfully have
unnatural sexual intercourse with and abuse said A.N.; and did unlawfully have unnatural sexual
intercourse with and abuse said A.N.

A TRUE BILL



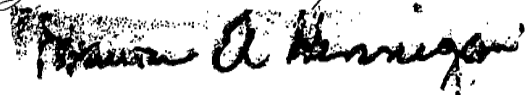
Assistant District Attorney



Foreperson of the Grand Jury

Superior Court Department — Criminal Business NOV 20 2020 *November Sitting, 2020*

Returned into said Superior Court by the Grand Jurors and ordered to be filed.



Clerk of Court

INDICTMENT
2084CR

Aggravated Rape Of A Child
c. 265, §23A

#003

Commonwealth of Massachusetts

SUFFOLK, SS

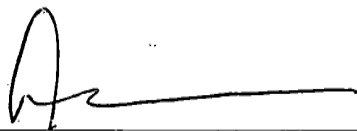
At the SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT FOR CRIMINAL BUSINESS, begun and
holden at the CITY OF BOSTON, within and for the County of Suffolk, on the first Monday of November in the year of
our Lord two thousand twenty

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present that

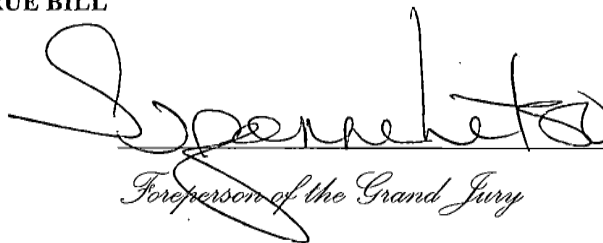
ADALBERTO MARTINEZ

On divers dates between 6/15/12 and 6/15/17, did assault Y.V, a child under the age of sixteen years,
where there exists more than a 5 year age difference between the defendant and the victim and the victim
is under 12 years of age or there exists more than a 10 year age difference between the defendant and the
victim where the victim is between the age of 12 and 16 years of age; with the intent to unlawfully have
unnatural sexual intercourse with and abuse said Y.V.; and did unlawfully have unnatural sexual
intercourse with and abuse said Y.V.

A TRUE BILL



Assistant District Attorney



Foreperson of the Grand Jury

Superior Court Department — Criminal Business NOV 20 2020 *November Sitting, 2020*

Returned into said Superior Court by the Grand Jurors and ordered to be filed.



Clerk of Court

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

TRIAL COURT DEPARTMENT
SUFFOLK SUPERIOR DIVISION
DOCKET NUMBER 2084CR00326

COMMONWEALTH

V.

ADALBERTO MARTINEZ

COMMONWEALTH'S MOTION FOR JOINDER

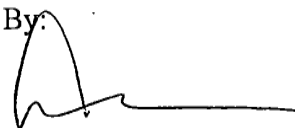
The Commonwealth hereby moves pursuant to Mass. R. Crim P. 9(a)(3) that this Honorable Court join together for trial all indictments related to the three alleged victims in this case.

In support therefor, the Commonwealth submits the accompanying memorandum of law.

Respectfully submitted,
FOR THE COMMONWEALTH,

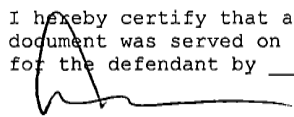
KEVIN R. HAYDEN,
DISTRICT ATTORNEY

By:



Audrey C. Mark
Assistant District Attorney
Suffolk County District Attorney's Office
One Bulfinch Place
Boston, MA 02114
(617) 619-4304

I hereby certify that a true copy of the above document was served on the attorney of record for the defendant by aman on 1/15/23.



Audrey C. Mark

40

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUFFOLK SUPERIOR COURT
DOCKET NUMBER 2084CR0326

COMMONWEALTH

v.

ADALBERTO MARTINEZ

MOTION FOR RELIEF FROM PREJUDICIAL JOINDER OF INDICTMENTS

The defendant moves this Honorable Court, pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, Article 12 of the Massachusetts Declaration of Rights and Mass.R.Crim.P. 9(d)(2), to sever indictment 1 from indictments 2 and 3 and to deny the Commonwealth's Motion for Joinder of said indictments.

The defendant is charged in three indictments. Complainant #1 involves an allegation made in 2016, which was recanted by the complainant later that year, and then the allegation resurfaced in 2020 along with new allegations of old conduct by complainant #2 and complainant #3.

As reason for severance, the defendant states that joining these matters for trial will prejudice the defendant because the matters are not related, and the jury could draw an impermissible conclusion that the defendant has a propensity to commit criminal acts if the matters are joined. Even if this Honorable Court determines that the offenses are related, the matters must be severed because the prejudice to the defendant outweighs the judicial economy of trying them together. Mass.R.Crim.P. 9(d), Commonwealth v. Sylvester, 388 Mass. 749, 758 (1983).

Rule 9(a)(1) of the Massachusetts Rules of Criminal Procedure provides that offenses are related "if they are based on the same criminal conduct or episode or arise out of a course of

After hearing and review, ALLOWED
See Decision and Order of today's date.
Deny Joinder
5/2/23

criminal conduct or series of episodes connected together or constituting parts of a single scheme or plan.” Rule 9(a)(3) provides that the trial judge “shall join” charges for “related offenses” for trial “unless [the judge] determines that joinder is not in the best interests of justice.”

“[J]oinder requires first that the offenses are related, and second that joinder be in the best interests of justice.” Commonwealth v. Sullivan, 436 Mass. 799, 803 (2002). Joinder of unrelated offenses is not only unauthorized but gravely discountenanced. Commonwealth v. Jacobs, 52 Mass. App. Ct. 38, 40-41 (2001).

To be related, the evidence “in its totality [must show] a common scheme and pattern of operation that tends to prove all the elements.” Commonwealth v. Delaney, 425 Mass. 587, 594 (1998). *Id.*, at 594, quoting Commonwealth v. Feijoo, 419 Mass. 486, 494-95 (1995) (finding offenses related when allegations were based on the defendant’s conduct in one particular instance and the firearm possession charge concerned the same gun that was the alleged weapon in the murder charge). When the criteria of relatedness is not met, or when joinder would prejudice the defendant, joinder is not permitted. *Id.* Offenses are related when the defendant is charged with committing similar criminal acts on different occasions. See Commonwealth v. Mamay, 407 Mass. 412, 416-417 (1990) (finding offenses related when a doctor sexually assaulted different patients in his examination room); Commonwealth v. Feijoo, 419 Mass. at 489-490 (finding offenses related when a karate instructor assaulted various students over a period of five years); Commonwealth v. Ferraro, 424 Mass. 87, 88-89 (1997) (finding offenses related when defendant assaulted various boys and then called each victim on the anniversary of the attack).

For joinder, it is required that the “offenses constitute a single line of conduct, grow out of essentially one transaction, and would be proved by substantially the same evidence.”

Commonwealth v. Gallison, 383 Mass. 659, 671 (1981) (citation omitted). Severance, however, is required when “the defendant may be prejudiced by the cumulative evidence of the several offenses.” *Id.*

The indictment related to complainant #1 is unrelated to the indictment for complainants #2 and #3. In Commonwealth v. Blow, the Supreme Judicial Court held that simply because a defendant is alleged to have committed the offenses on the same day or on successive days is by itself insufficient to permit joinder. 362 Mass. 196, 200-01 (1972). Here, the offenses do not occur on either the same day or even on successive days. The Commonwealth alleges they occurred in a two-year span on unknown dates, but certainly without clarity about the timing of the allegations there is insufficient temporal connection to link indictment #1 with indictments #2 and #3.

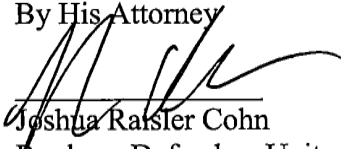
Second, the alleged crimes were not perpetrated on the same alleged victim or even type of victim. In Commonwealth v. Jacobs, the Appeals Court held that was error to join to charges of indecent assault and battery where they were committed over three years apart on different victims. 52 Mass. App. Ct. 38, 40-41 (2001). Here the only common attribute between victims is that they were at the home of Mr. Martinez’s co-defendant Destiny Santana, and the allegations involve sex. While the timing is unclear, Complainant #1 is approximately twice the age of Complaints #2 and #3. Further, the nature of the sexual assault allegations is not similar; one involves vaginal penetration with a penis and the assistance of another adult person who coerced the young person to participate in the act, while the others allege digital penetration of the vagina while the other two complaints were lying on a bed together.

Where the unfair prejudice of the prior bad act evidence substantially outweighs its probative value, it is inadmissible at trial. See Commonwealth v. Helfant, 398 Mass. 214 (1986). The

same principle holds under the law of severance and joinder of indictments where the “prior bad act” evidence would be the facts supporting the joined indictment. See *Id.* “[W]hen evidence of other crimes is admissible because the evidence demonstrates a state of mind, common scheme, plan, or method of action bearing on the crime charged, related offenses may be properly joined.” Commonwealth v. Todd, 394 Mass. 791, 794 (1985). The conduct at issue must be “closely related in time, place, and form of acts.” Commonwealth v. Yetz, 37 Mass. App. Ct. 970, 971. In Yetz, the Massachusetts Appeals Court found prior bad act evidence inadmissible, stating that “[m]ost significant of all [was] the fact that the form[s] of conduct [were] not alike”. *Id.*

“If it appears that a joinder of offenses . . . is not in the best interests of justice, the judge may upon his own motion or the motion of either party order an election of separate trials of counts, grant a severance of defendants, or provide whatever other relief justice may require.” Mass. R. Crim. P. 9(d)(1). Even if severance were not required by due process, severance would be appropriate in this Court’s exercise of sound discretion. See Commonwealth v. McAfee, 430 Mass. 483, 485 (1999).

For the above-mentioned reasons, the defendant requests that the Court deny the
Commonwealth Motion for Joinder of Indictments

Respectfully Submitted
ADALBERTO MARTINEZ
By His Attorney

Joshua Raisler Cohn
Roxbury Defenders Unit
10 Malcolm X Blvd,
Roxbury, MA 02119
617-989-8100
jraislercohn@publiccounsel.net

5-i-23

41

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
NO. 2084CR00326

COMMONWEALTH

vs.

ADALBERTO MARTINEZ

**DECISION AND ORDER ON COMMONWEALTH'S MOTION FOR JOINDER
AND DEFENDANT'S MOTION FOR RELIEF FROM PREJUDICIAL JOINDER
OF INDICTMENTS**

The grand jury indicted Adalberto Martinez (Martinez) on three counts of aggravated rape of a child. The charges relate to three alleged victims, two of whom were between the ages of seven and nine years old and one was fifteen years old, and each of whom was allegedly assaulted at the home of Martinez's then-girlfriend, Destiny Santana (Santana). The Commonwealth moves to join for trial all three indictments. Martinez opposes and moves to sever count one. After hearing and review, the Commonwealth's Motion is **DENIED** and the Defendant's Motion is **ALLOWED** for the following reasons.

BACKGROUND

The Commonwealth alleges the following. Martinez and Santana were dating in July or August 2015. Santana lived in Dorchester with her daughter, victim number two. The first victim is Santana's fifteen-year-old sister who Santana coerced into having penile vaginal sex with Martinez in the Dorchester residence while Santana held the victim's legs apart (Count I). The second victim is Santana's daughter. While Martinez was dating Santana, he sexually assaulted the second victim on divers dates in 2015 and 2016. Those assaults took place at the Dorchester residence when Santana left her daughter alone with Martinez and consisted of digital penetration of the child's

vagina (Count III). The third victim was assaulted on an unknown date in 2015 or 2016 when she was visiting the Dorchester residence. Martinez came into the bedroom where the second and third victims were in bed, laid down between them, and simultaneously sexually assaulted them by digitally penetrating their vaginas (Count II).

DISCUSSION

“The basic principles governing joinder of offenses are well settled in our law.” Commonwealth v. Pillai, 445 Mass. 175, 179 (2005). “If two or more related offenses are of the same or similar character, they may be charged in the same indictment or complaint, with each offense stated in a separate count.” Mass. R. Crim. P. 9(a)(2). “Two or more offenses are related offenses if they are based on the same criminal conduct or episode or arise out of a course of criminal conduct or series of criminal episodes connected together or constituting parts of a single scheme or plan.” Mass. R. Crim. P. 9(a)(1). Put otherwise, “[o]ffenses are related, and thus properly may be joined, where the evidence in its totality shows a common scheme and pattern of operation that tends to prove all the indictments.” Commonwealth v. Magri, 462 Mass. 360, 364 (2012) (quotations omitted). The factors that a judge may consider on the issue of relatedness include the factual similarities of the offenses and the closeness of time and space. Pillai, 445 Mass. at 179, citing Commonwealth v. Ferraro, 424 Mass. 87, 89–91 (1997), and Commonwealth v. Delaney, 425 Mass. 587, 594 (1997), cert. denied, 522 U.S. 1058 (1998). Courts also can consider “whether evidence in the trial of one offense would be admissible in the separate trial of another.” Magri, 462 Mass. at 364.

Further, courts are directed to consider “whether the victims were of similar age and gender, or shared other characteristics; the proximity in time of the assaults; and whether there were similarities in the details of the crimes—for example, in terms of location, the manner in which the defendant gained access, or the acts themselves.” Commonwealth v. Silva, 93 Mass. App. Ct. 609, 618 (2018). Martinez bears the burden

of “demonstrating that the offenses were unrelated, and that prejudice from joinder was so compelling that it prevented him from obtaining a fair trial.” Pillai, 455 Mass. at 180, quoting, Commonwealth v. Gaynor, 443 Mass. 245, 260 (2005). Even if offenses are related, they may not be joined if joinder is “not in the best interests of justice.” Mass. R. Crim. P. 9(a)(3). “[P]rejudice to a defendant is to be found in the facts of his case.” Cmmt. to Mass. R. Crim. P. (a)(3).

Martinez argues (i) that the offenses are unrelated because the type of conduct alleged varied, and (ii) he would be unduly prejudiced by joinder for trial. I agree as to both arguments. First, the conduct was unrelated. The conduct alleged regarding the first victim is markedly different in several respects from the conduct alleged regarding the second and third victims. Santana is alleged to have been involved, indeed, to have coerced her fifteen-year-old sister, who was presumably either pubescent or post-pubescent, *and* to have participated in the rape by holding the victim’s legs while Martinez raped her vaginally with his penis. That conduct is very different from the conduct alleged against the second and third victims which occurred when Santana was not home, was not aware of the assaults, the victims were between the ages of seven and nine years old and pre-pubescent, and Martinez digitally penetrated their vaginas.

The Commonwealth argues that the offenses are related because Martinez “gained access” to each victim based on his relationship with Santana. That is not quite the case. *Santana* is alleged to have procured the first victim for Martinez through coercion and to have participated in the assault. Whereas Martinez assaulted the other victims when he had access, namely, Santana was out of the residence and Martinez was watching Santana’s daughter. The difference is meaningful.

Although there “is no requirement that the circumstances of the cases be identical,” Gaynor, 443 Mass. at 261, in those cases in which offenses were related and properly joined, the *modus operandi* was similar. See Commonwealth v. Silva, 93 Mass. App. Ct. 609, 618 (2018) (“there were similarities . . . in the defendant’s behavior

both leading up to and during the incidents”). Thus, in Commonwealth v. Pearson, 87 Mass. App. Ct. 720 (2015), joined was appropriate where the “defendant’s conduct with each victim displayed a common scheme or modus operandi.” Id. at 727. In Pearson, each victim was a prostitute; “[t]he defendant told at least four of the victims that he was a police officer;” and the defendant “either forced or attempted to force each victim to perform oral sex on him. . . in the defendant’s car, while parked in a public place.” Id. Here, other than the fact that the victims had a connection to Santana and the assaults occurred in Santana’s home, there is no similarity in the conduct alleged (penile versus digital rape), the circumstances of the assault (procurement and participation in the rape of the victim by a third person versus secret crimes arising from access to the victims), or the age of the victims (fifteen versus seven to nine).

Further, the “propriety of joining offenses for a single trial often turns on whether evidence of the other offenses would be admissible in separate trials on each offense.” Commonwealth v. Barrett, 418 Mass. 788, 793 (1994), citing Commonwealth v. Gallison, 383 Mass. 659, 672 (1981). Here, had Martinez not been indicted for the assault against the fifteen-year-old victim, it is unlikely that conduct would be admissible in connection with the assaults against the younger girls to “show a common scheme or course of conduct, a pattern of operation, absence of accident or mistake, intent, or motive.” Id., citing Mamay, 407 Mass. at 417; see also Commonwealth v. Helfant, 398 Mass. 214, 224 (1986). I do not discern a “schematic nexus which renders the evidence admissible to show a *common course of conduct regarding the children*.” Commonwealth v. Barrett, 418 Mass. 788, 794 (1994) (emphasis added, quotations omitted).

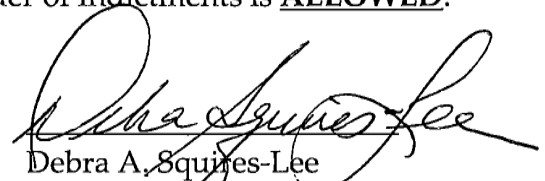
Finally, even if the offenses were related, the prejudice to Martinez of joinder cannot be cured with instructions that the jury is to consider each indictment separately. Gaynor, 443 Mass. at 263. See Commonwealth v. Jacobs, 52 Mass. App. Ct. 38, 41 (2001) (“the goal of judicial economy will rarely be paramount to affording the defendant a trial as free from prejudice as possible”). It would be exceedingly difficult for any

finder of fact to separate the especially heinous nature of the alleged rape of victim number one – who was brought to her rapist and held down by her sister to effectuate the rape –from consideration of the charges related to victims number two and three.

Finally, although I am cognizant of the need to consider judicial economy, Santana has been indicted separately for her conduct detailed in count I against Martinez, and the Commonwealth already faces potentially two trials regarding that rape. And, given the distinct nature of that alleged crime, the risk of prejudice to Martinez of joinder outweighs any economies.

ORDER

For the foregoing reasons, Commonwealth' Motion for Joinder is **DENIED**; Defendant's Motion for Relief From Prejudicial Joinder of Indictments is **ALLOWED**.


Debra A. Squires-Lee
Justice of the Superior Court

May 2 2023

59

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUFFOLK SUPERIOR COURT
DOCKET NUMBER 2084CR0326

COMMONWEALTH

v.

ADALBERTO MARTINEZ

RESPONSE TO COMMONWEALTH'S MOTION FOR JOINDER OF DEFENDANTS

The defendant moves this Honorable Court, pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, Article 12 of the Massachusetts Declaration of Rights and Mass.R.Crim.P. 9(d)(2), to limit prejudicial evidence in the event that the Court allows the Commonwealth Motion for Joinder.

The defendant is charged in three indictments. Complainant #1 involves an allegation made in 2016, which was recanted by the complainant later that year, and then the allegation resurfaced in 2020 along with new allegations of old conduct by complainant #2 and complainant #3. Co-Defendant Destiny Santana is also charged related to Complainant #1, her sister.

Mr. Martinez raises concerns related to prejudice in two main areas if the defendants are joined for trial, 1) the nature of the relationship between Mr. Martinez and Ms. Santana, and 2) the separate allegations that Ms. Santana was a party to witness intimidation of Ms. Ortiz, a potential witness in this trial, and who is the mother of Complainant #3 and allowed Complainant #1 and #2 live with her after the allegations were made in May 2020.

The Commonwealth has not yet provided Mr. Martinez with notice of their intent to introduce bad acts against Mr. Martinez or Ms. Santana at trial. In the provided discovery, and in the recorded statements of Mr. Martinez, there is discussion of his alleged physical abuse of his co-defendant, Ms. Santana. Descriptions of witnesses seeing hitting, or hearing sounds they believe are

consistent with hitting, are described by several complainants, the potential first complaint witnesses, and other family members that Mr. Martinez anticipates the Commonwealth will include on their witness list. Mr. Martinez also discussed this in his recorded interview with the police.

With regard to the alleged witness intimidation, Ms. Santana was charged in September of 2020, and the case was dismissed for lack of prosecution in 2022.

Rule 9(a)(1) of the Massachusetts Rules of Criminal Procedure provides that offenses are related “if they are based on the same criminal conduct or episode or arise out of a course of criminal conduct or series of episodes connected together or constituting parts of a single scheme or plan.” Rule 9(a)(3) provides that the trial judge “shall join” charges for “related offenses” for trial “unless [the judge] determines that joinder is not in the best interests of justice.”

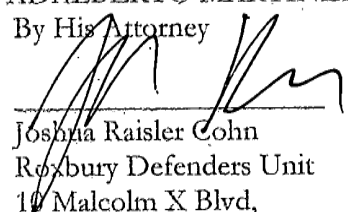
To be related, the evidence “in its totality [must show] a common scheme and pattern of operation that tends to prove all the elements.” Commonwealth v. Delaney, 425 Mass. 587, 594 (1998). *Id.*, at 594, quoting Commonwealth v. Feijoo, 419 Mass. 486, 494-95 (1995) (finding offenses related when allegations were based on the defendant’s conduct in one particular instance and the firearm possession charge concerned the same gun that was the alleged weapon in the murder charge).

At this time neither defendant has provided notice of a defense that is irreconcilable with the other’s, but the Court should also mitigate any prejudice to either defendant in the context of joinder where the Commonwealth may seek to introduce uncharged conduct, or charged conduct, that is not direct evidence of the alleged crime in this case. Further, the Commonwealth is seeking a discovery order to access a cell phone looking for potential statements by Mr. Martinez and Ms. Santana related to the allegations. If such recorded statements exist, and are accessible, such statements also raise the specter of prejudice and a new potential objection to the Commonwealth’s motion for joinder. In such circumstances even if severance were not required by due process,

severance would be appropriate in this Court's exercise of sound discretion. See Commonwealth v. McAfee, 430 Mass. 483, 485 (1999).

For the above-mentioned reasons, the defendant requests that the Court deny the Commonwealth Motion for Joinder of Indictments

Respectfully Submitted
ADALBERTO MARTINEZ
By His Attorney



Joshua Raisler Cohn
Roxbury Defenders Unit
10 Malcolm X Blvd,
Roxbury, MA 02119
617-989-8100
jraislercohn@publiccounsel.net

May 15, 2023

177

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUFFOLK SUPERIOR COURT
No. 2084 CR 00326

COMMONWEALTH

v.

ADALBERTO MARTINEZ

**MOTION FOR REQUIRED FINDING OF NOT GUILTY
AT CLOSE OF COMMONWEALTH'S CASE**

The Commonwealth's evidence being closed, Mr. Martinez, the defendant moves this Court pursuant to Mass.R.Crim.P. 25, to enter a finding of not guilty on the offense charged upon the ground that the evidence is insufficient as a matter of law to sustain a conviction. *Jackson v. Virginia*, 443 U.S. 307 (1979), rehearing denied, 444 U.S. 890; *Commonwealth v. Latimore*, 378 Mass. 671, 677-678 (1979) (whether evidence is sufficient for a rational jury to find each essential element of the offense beyond a reasonable doubt).

Respectfully submitted,
ADALBERTO MARTINEZ
By his attorney,

Dated: 1/21/2024

/s/ John P. Warren
John P. Warren, BBO 685597
Law Office of John P. Warren, P.C.
132 Lincoln Street, Suite 5L
Boston, MA 02111
617-383-4482
john@johnpwarrenlaw.com

1.22.24

Denied

J Wall

182

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Superior Court Department- Criminal
January 2024 Sitting

COMMONWEALTH OF MASSACHUSETTS

v.

Adalberto Martinez

VERDICT SLIP

2284CR00326-Offense-001 Aggravated Rape Of A Child

In the above-entitled case, we the Jury say that the Defendant is:

1. ☐ Not Guilty

2. ☒ Guilty

And this is our unanimous decision

Date: 01/24, 2024


Foreperson

198

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUFFOLK SUPERIOR COURT
No. 2084 CR 00326

COMMONWEALTH

v.

ADALBERTO MARTINEZ

NOTICE OF APPEAL

Adalberto Martinez, the defendant in the above-entitled matter, through and by his attorney, hereby gives notice, pursuant to Rule 3 of the Massachusetts Rules of Appellate Procedure, of his intent to appeal certain opinions, rulings, directions, and judgments of the Court in the above-entitled matter.

Respectfully submitted,
ADALBERTO MARTINEZ
By his attorney,

Dated: 2/5/2024

/s/ John P. Warren
John P. Warren, BBO 685597
Law Office of John P. Warren, P.C.
132 Lincoln Street, Suite 5L
Boston, MA 02111
617-383-4482
john@johnpwarrenlaw.com

Pages: 1-264
Exhibits: 7

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS. SUFFOLK SUPERIOR COURT
* * * * *
*
COMMONWEALTH OF MASSACHUSETTS *
*
V. * Docket No. 2084CR00320
*
DESTINY ANGELA SANTANA *
*
* * * * *
*
COMMONWEALTH OF MASSACHUSETTS *
*
V. * Docket No. 2084CR00326
*
ADALBERTO MARTINEZ *
*
* * * * *

JURY TRIAL
BEFORE THE HONORABLE JOSHUA WALL

APPEARANCES:

For the Commonwealth:
Suffolk County District Attorney's Office
One Bulfinch Place
Boston, Massachusetts 02114
By: Audrey C. Mark, Assistant District Attorney

Boston, Massachusetts
January 22, 2024

Cambridge Transcriptions
Approved Court Transcriber

APPEARANCES, CONTINUED:

For the Defendant, Destiny A. Santana:
J. Lawrence Kelly, Attorney at Law
45 Bowdoin Street, Unit 1
Boston, Massachusetts 02114
By: J. Lawrence Kelly, Esq.

For the Defendant, Adalberto Martinez:
Law Office of John P. Warren, P.C.
132 Lincoln Street, Suite 5L
Boston, Massachusetts 02111
By: John P. Warren, Esq.

I N D E X
PAGE:

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
MARIELENA RUIZ-MARTE				
(By Ms. Mark)	15		44	
(By Mr. Warren)		29		
(By Mr. Kelly)				
NOEMI NEGRON				
(By Ms. Mark)	45		85	
(By Mr. Warren)		73		
(By Mr. Kelly)				
DR. STEPHANIE BLOCK				
(By Ms. Mark)	117			
(By Mr. Warren)				
(By Mr. Kelly)		126		
DR. ALICE NEWTON				
(By Ms. Mark)	130			
(By Mr. Warren)				
(By Mr. Kelly)		149		
JAMES MORRISSEY				
(By Ms. Mark)	152/211		239	
(By Mr. Warren)		232		
(By Mr. Kelly)		238		
MARIELENA RUIZ-MARTE (VOIR DIRE)				
(By Ms. Mark)	171			
(By Mr. Warren)		175		
(By Mr. Kelly)		178		
MARIELENA RUIZ-MARTE				
(By Ms. Mark)	193		199	
(By Mr. Warren)		196		204
(By Mr. Kelly)		197		
ADALBERTO MARTINEZ				
(By Mr. Warren)	256			
EXHIBITS				
8 Diagram			140	
9 Mr. Martinez's Miranda form			164	
10 Destiny Santana's Miranda form			222	
11 Destiny Santana's RMV records			239	
12 Adalberto Martinez's RMV records			239	
13 Stipulation			243	
EXHIBITS FOR IDENTIFICATION				
B Transcript of police interview			210	

1 lawyer to question you about a particular topic, or
2 conversation or event. Okay? So it's -- we're not going
3 over your whole testimony. It's just one thing that I'm
4 allowing the lawyers to ask you about.

5 THE WITNESS: Okay.

6 THE COURT: All right?

7 ADA Mark?

8 MS. MARK: Thank you, Your Honor.

9 VOIR DIRE

10 DIRECT EXAMINATION

11 BY MS. MARK:

12 Q So Ms. Ruiz-Marte, was there a time in September of
13 2019 when Destiny Santana reached out to you, which caused
14 you to speak to her outside her apartment in a car?

15 A Yes.

16 MR. WARREN: Objection, Your Honor.

17 THE COURT: Overruled.

18 MR. WARREN: Leading.

19 THE COURT: Overruled.

20 BY MS. MARK:

21 Q And --

22 THE COURT: Did you say yes?

23 THE WITNESS: I said yes.

24 THE COURT: Oh, all right.

25 THE WITNESS: I --

1 BY MS. MARK:
2 Q Do you --
3 A -- believe that was the time period.
4 Q You believe that was the time period. Do you recall
5 the conversation within the car that day?
6 A I do.
7 Q And can you tell the Court what it is -- how it
8 started -- what Ms. Santana was saying to you?
9 A She wanted to talk to me.
10 Q And why did she want to talk to you?
11 A Because she said that "even serial killers have their
12 mom." That why doesn't she have hers?
13 Q Did she, in that context, tell you that she wanted to
14 have a relationship with you?
15 A Yes.
16 Q And what did you say in response?
17 A That I needed for her to be honest with me.
18 Q And were you specific about what you wanted her to be
19 honest about?
20 A I just said, "I need you to tell me the truth about
21 what happened."
22 Q And what did she say?
23 A She said she would.
24 Q And what did she say?
25 A We picked a time. I went there. She came downstairs.

1 First, it was light conversation. And then, I just waited.
2 And I said, "Destiny, I need you to tell me what happened."

3 And she put her phone in her hand, and she started
4 flipping through her phone, and she found pictures. And
5 she said, "Mami, I couldn't tell you the truth because he
6 sent me a picture of a gun. And he said that he knew that
7 you lived in Braintree."

8 And I said, "But, Destiny, we don't live in
9 Braintree."

10 And she said, "But he said Braintree. He said
11 Braintree. And look, Mami, look." And she showed me
12 pictures where she was all beat up. And she said that he
13 was beating her up, and that he threatened her. And
14 basically, she just said that she was a victim. She
15 admitted what happened, but she said that she couldn't be
16 honest because she was afraid.

17 Q Who was she saying was sending pictures -- and, "Look,
18 he beat me up"? Who's the "he"?

19 A Chino.

20 Q And when you say she admitted to what happened, did
21 she actually tell you what happened, or did she -- how --
22 in what way did she admit it?

23 A She said that he wouldn't forgive her because when
24 he -- when she was, like, really young, he went to jail,
25 and she had a boyfriend that was, like, related to him or

1 something. And that the only way for him to forgive her
2 was, like, to make it even. And so, he had to have sex
3 with someone in her family (starts crying).

4 THE COURT: Just take a moment, please.

5 THE WITNESS: I'm sorry.

6 MS. MARK: It's okay. Take your time.

7 THE WITNESS: But she made herself the victim. She
8 just kept saying, "Look, Mami, look." And she just kept
9 showing me these pictures where she was beat up.

10 And I said, "Destiny, I didn't live in Braintree. I
11 don't live in Braintree."

12 And she said, "But that's what he keeps saying. He
13 keeps saying he knows where you live."

14 BY MS. MARK:

15 Q What was that meaningful that he knew where you lived?

16 A Because he was making her think -- so from what she
17 said that he was making her think that he could come kill
18 us.

19 MS. MARK: That's all I have.

20 THE COURT: All right.

21 Mr. Warren?

22 CROSS-EXAMINATION

23 BY MR. WARREN:

24 Q Good afternoon. You've had several conversations with
25 the Boston Police Department about this case, right?

1 A When we reported it, when I first called, when I found
2 out --

3 Q Okay.

4 A -- yeah.

5 Q Okay. And you've had several conversations with the
6 Prosecutor's Office about this case, right?

7 A Definitely.

8 Q Okay. Now, today, you're saying there was an occasion
9 where Ms. Santana showed you a picture of a gun on a cell
10 phone.

11 A Correct.

12 Q Right?

13 THE COURT: So may I see Counsel at sidebar?

14 (On the record discussion at sidebar.)

15 THE COURT: All right. Just to focus things, what I'm
16 inclined to do is to allow statements of admission that
17 Ms. Santana allegedly made, and not allow anything about
18 domestic violence or guns as the reason that she didn't
19 tell her mother the truth beforehand. So the testimony is
20 not, "I did it because of that." It's, "I didn't tell you
21 the truth later because of that." So that's not at issue,
22 and it's obviously quite prejudicial.

23 So you're ahead of the game on that. So --

24 MR. WARREN: Could I --

25 THE COURT: -- do you understand --

1 MR. WARREN: -- just --

2 THE COURT: -- ADA Mark?

3 MS. MARK: Not actually.

4 MR. WARREN: -- could I --

5 MS. MARK: I'm not exactly --

6 THE COURT: In other words, what's relevant is that
7 Destiny Santana supposedly admitted the crime to her.

8 MS. MARK: Right.

9 THE COURT: What's not relevant is what is the reason
10 she didn't tell her mother earlier. And that's not
11 relevant, plus it's highly prejudicial.

12 MS. MARK: I understand the --

13 THE COURT: And so, my inclination is to allow the
14 part that's relevant, and not allow the part that's
15 irrelevant and prejudicial. And I'm telling them now so
16 that we don't spend a lot of time -- obviously, the witness
17 is pretty traumatized by this. So I -- I'm telling them
18 now so that they don't go -- have need -- they don't need
19 to go over those details.

20 MS. MARK: Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. WARREN: And we'll be heard on argument, Your
23 Honor?

24 THE COURT: Yes.

25 MR. WARREN: Okay. Thank you.

1 (End of discussion at sidebar.)

2 THE COURT: Mr. Warren?

3 MR. WARREN: Thank you, Your Honor. If I could just
4 have --

5 THE COURT: Yes.

6 MR. WARREN: -- one brief moment?

7 THE COURT: Take a moment to see if there's anything
8 you want to ask the witness.

9 MR. WARREN: Thank you, Your Honor.

10 BY MR. WARREN:

11 Q Now, do you recall speaking on a video conference in
12 June 30 -- on June 30 of 2020?

13 A Not particularly, no.

14 Q No? Okay.

15 MR. WARREN: No further questions, Your Honor.

16 THE COURT: All right.

17 Mr. Kelly, do you have any questions?

18 MR. KELLY: Just very briefly.

19 CROSS-EXAMINATION

20 BY MR. KELLY:

21 Q This is a phone call from Destiny -- want to re-
22 establish a relationship with you in 2019, correct?

23 A It started with a phone call. And then --

24 Q Okay.

25 A -- we met in person.

1 Q You met in person at her house.

2 A In my car.

3 Q In your car, in front of her house.

4 A Correct.

5 Q And you said that, quote, "You need to take
6 responsibility," correct? You said that to her.

7 A I -- no, I said, "I need you to tell me the truth."

8 Q Okay. And you also said, "How could you allow that to
9 happen?" correct?

10 A Probably.

11 Q Okay. And in response to that -- okay -- I know that
12 she said -- you said, "How could you allow this to happen?"
13 And that's when she started telling you about the pictures
14 of the guns, and the pictures of the bruises, correct?

15 A Yes.

16 Q Okay. All right. And she didn't at that point
17 discuss with you the specific facts of what did or did not
18 happen at -- in that apartment back in 2015 involving
19 Contessa, correct?

20 A We didn't get -- she didn't get into detail -- we
21 didn't get into detail. We just spoke of the event in
22 general.

23 Q Okay. So no --

24 A I think there may have been a couple of times where I
25 said things that were hurting me about specific things that

1 happened. But Destiny at no point, like, said, "Yes, that
2 happened." She just went on a whole thing about, "Look.
3 Look what he did to me. Look, look, look." And it became
4 more about her. I don't know if I'm answering your
5 question --

6 Q You did.

7 A -- I'm --

8 Q Thank you.

9 A -- sorry.

10 THE COURT: Any redirect?

11 MS. MARK: No, Your Honor.

12 THE COURT: Okay.

13 All right. That finishes your testimony now. Just
14 wait for the District Attorney. ADA Mark will talk to you
15 outside the courtroom.

16 THE WITNESS: Okay.

17 (Witness excused.)

18 THE COURT OFFICER: Just watch your step again. Okay?

19 THE WITNESS: Yeah.

20 THE COURT OFFICER: Take your time on that one.

21 THE WITNESS: Thank you.

22 THE COURT OFFICER: You're welcome.

23 THE COURT: All right. So we need lunch now. But if
24 you're back at two o'clock, I'll hear your arguments. I
25 also have another -- okay -- I'm just going to hear

1 their -- actually, no, let's --

2 THE CLERK: We have --

3 THE COURT: -- do it --

4 THE CLERK: -- the Zoom's at (indiscernible;
5 simultaneous speech at 01:03:35).

6 THE COURT: I know we have the Zoom, and we have the
7 issue of the defendants being present.

8 So just be back at 10 minutes after two because I have
9 another case to deal with. So what she said in the direct
10 examination of the voir dire is, "Ms. Santana admitted what
11 happened. And then, told the story about how Chino
12 wouldn't forgive her because she had a boyfriend related to
13 him. So she had to have sex -- he had to have sex with
14 someone in her family."

15 So, ADA Mark, obviously, in order to -- if this is the
16 ruling, I know the -- you know, Mr. Warren/Mr. Kelly may be
17 arguing against this at 2:10. But it's an admission by a
18 Co-Defendant during the time that the conspiracy was still
19 continuing. So that's the basis for the arguments. And
20 so, just make sure that the witness knows what she can and
21 can't say --

22 MS. MARK: Understood, Your Honor.

23 THE COURT: -- and including the part about jail if --

24 MS. MARK: Oh, yes.

25 THE COURT: -- that's part of her memory. I can't

1 remember whether she said, "In jail."

2 MS. MARK: I don't think she said it. But I'll --

3 THE COURT: Okay.

4 MS. MARK: -- make sure she doesn't.

5 THE COURT: And then, it's up to you whether you want
6 to call her in the middle of Morrissey's testimony, or want
7 to wait till Morrissey finishes. I leave that to you.

8 And --

9 MS. MARK: Thank you.

10 THE COURT: -- I -- unless the Defendants convince me
11 not to allow any of her testimony, I will explain to the
12 jury that she's coming back to the stand because I needed
13 to make some rulings --

14 MS. MARK: Okay.

15 Q THE COURT: -- in order to -- so it doesn't look like
16 she just remembered something or just said something --

17 MS. MARK: Okay.

18 THE COURT: -- at the lunch hour.

19 MS. MARK: Thank you, Your Honor.

20 THE COURT: Okay.

21 All right, 2:10. Thank you.

22 THE COURT OFFICER: All rise. This Court stands in a
23 recess. Thank you.

24 (Court recessed.)

25 (Court called to order.)

1 THE COURT OFFICER: Is everybody else set and ready
2 to go?

3 THE CLERK: Yep.

4 MS. MARK: Yes.

5 THE COURT OFFICER: All right, perfect.

6 Court, all rise. This Honorable Court is in session.
7 You may be seated.

8 THE COURT: All right. In terms of the motion on the
9 prior convictions, we're getting close to that time. I'm
10 not going to allow the child pornography conviction in.
11 That's too close. And is there any objection to the other
12 one?

13 MR. WARREN: On my behalf?

14 THE COURT: Yes.

15 MR. WARREN: Yes, Your Honor.

16 THE COURT: It's within the time limit, right?

17 MR. WARREN: It is, yes.

18 THE COURT: And what is it, AD- --

19 MS. MARK: It's a failure to appear.

20 THE COURT: Failure to appear.

21 MS. MARK: It's --

22 THE COURT: So every -- well --

23 MS. MARK: -- how it's termed.

24 THE COURT: -- okay. So that's -- I mean, there's no
25 basis not to admit it, other than -- I mean, what's the

1 basis not to admit it, Mr. --

2 MR. WARREN: I --

3 THE COURT: -- Warren?

4 MR. WARREN: -- prejudice, Your Honor.

5 THE COURT: All right. Well, it doesn't have much
6 prejudicial effect. A failure to appear is a failure to
7 appear for court. So it doesn't go to violence; it goes
8 to, you know, willingness to follow court requirements,
9 which is related to taking an oath. So I will allow that
10 one.

11 Okay. I will hear from -- ADA Mark, does the
12 Commonwealth still want to admit evidence of the admission?

13 MS. MARK: The admission to Ms. Ruiz-Marte, yes.

14 THE COURT: Yes.

15 MS. MARK: Correct, we --

16 THE COURT: All right.

17 MS. MARK: -- will.

18 THE COURT: I'll hear from Mr. Warren and Mr. Kelly.
19 Who wants to go first?

20 MR. WARREN: Thank you, Your Honor. Your Honor, the
21 first ground for what I would say is inadmissibility would
22 be that it's really ambiguous. It's not a very -- it's not
23 a clear admission based on her testimony at the voir dire.
24 It's not, "Did this happen in this room?" "Yes." Right?
25 It's so much more vague than that. And so, I think the

1 first argument is it's too ambiguous, there's a lack of
2 clarity. And her answer is the prejudice that Your Honor
3 indicated you were intending to keep out because her answer
4 is really, "He beats me," bruises, pictures.

5 THE COURT: Well, I'm not going to let that in.

6 MR. WARREN: Right, and what I'm saying is the way she
7 testified to it is pretty much she was confronted with a
8 vague sort of assertion, and then responded, basically,
9 with that prejudice.

10 THE COURT: All right.

11 Mr. Kelly?

12 MR. WARREN: And --

13 MR. KELLY: Thank --

14 MR. WARREN: -- oh, if I --

15 THE COURT: You're --

16 MR. WARREN: -- could, Your Honor? I would also --

17 THE COURT: Yes, go ahead.

18 MR. WARREN: -- say a Bruton issue, Your Honor. And
19 the other -- the final issue I would say is that in 2020,
20 Detective Morrissey speaks to her, and she says nothing
21 about that. So now, we -- you know, that's impeachment. I
22 get it. But, I mean, talking --

23 THE COURT: All right.

24 Mr. Kelly?

25 MR. WARREN: -- yeah.

1 MR. KELLY: Thank you. Your Honor, I -- with all due
2 respect, I think it's beyond just a little ambiguous. On
3 direct exam during the voir dire, she said, you know,
4 something along the lines of, "Oh, you know, she admitted
5 it." But then, on cross, "And she showed -- you know, she
6 showed me -- you know, she showed the pictures of the
7 bruises, she showed pictures of the gun, that he was going
8 to kill [her]." He knew where the mother lived. "The
9 mother lived in Braintree." They had that whole byplay
10 according to her.

11 But I think what's significant is in the -- and the
12 write up from that interview back in 2019, the quotes from
13 then are, she -- meaning the witness -- Marielena Ruiz-
14 Marte -- says, "You need to take responsibility."

15 "Okay."

16 "How could you allow that to happen?" Not, "How could
17 you participate in conduct?" "How --

18 THE COURT: I --

19 MR. KELLY: -- could --

20 THE COURT: -- I'm --

21 MR. KELLY: -- you allow --

22 THE COURT: -- okay.

23 MR. KELLY: -- that to happen?" All right? That's
24 number one. And what I asked her on cross-examination, she
25 said specifically, "No, Destiny never admitted to any

1 specific facts about what happened." So I think that to
2 the extent that it's -- it tends to -- starts to --
3 tends -- her testimony would tend to prove anything, it
4 would tend to prove that Ms. Santana allowed her Co-
5 Defendant to do something, or stood by when her Co-
6 Defendant did something, or didn't report something that
7 her Co-Defendant did. And why? And why, which is the
8 violence, the threats, and what have you.

9 So I don't think coming in -- half of it coming in is
10 fair. And I don't think it's -- and I also don't believe
11 that it's the kind of admission that would -- that should
12 be admitted. I -- and I think the risk of unfair prejudice
13 to her from a vague "taking of responsibility," and "How
14 could you allow that to happen?" --

15 THE COURT: Okay. I understand.

16 All right.

17 MR. KELLY: -- I think that the --

18 THE COURT: ADA Mark?

19 MR. KELLY: -- risk of unfair prejudice is
20 substantially -- substantially outweighs any probative
21 value.

22 THE COURT: All right.

23 ADA Mark?

24 MS. MARK: Your Honor, I would suggest that to the
25 extent it's ambiguous or lacks clarity, that would go to

1 the weight, not the admissibility of the evidence. I would
2 suggest that as far as Bruton goes, that this was a
3 statement of a joint venture in terms of attempting to
4 further the conspiracy and keep a third party from
5 reporting it. And when you look at the totality of the
6 statement, it was an effort to have -- get sympathy from
7 her mother, and understand that she was the victim of it
8 all. But how it's coming in, it is admissible as a
9 statement of a joint venture. That's the Commonwealth's --

10 THE COURT: All right.

11 MS. MARK: -- position.

12 THE COURT: And what do you expect your witness to
13 say, knowing that my ruling is going to be she's not
14 talking about photos on the phone that show bruising, or
15 photos on the phone that show a gun? And is not offering
16 testimony related to those photos because it's too
17 prejudicial.

18 MS. MARK: Right.

19 THE COURT: Not that it's not probative, but it's too
20 prejudicial.

21 MS. MARK: That she would say that in response to
22 Ms. Santana seeking a renewed relationship with her mother,
23 that she said, "You need to tell the truth about what
24 happened." That Santana said she would. That they sat in
25 the car, and that Santana said that Chino said he wouldn't

1 forgive her. When she was really young, he went away, and
2 she was with someone related to Chino. And the only way to
3 forgive her was for him -- her to have -- him to have sex
4 with someone in her family. That would be the extent of
5 the evidence.

6 THE COURT: All right. And that's something that she
7 did say when she testified. She also specifically said
8 that Destiny admitted what happened, but she couldn't be
9 honest before. Is -- so she's -- used those words, "She
10 admitted what happened."

11 So that's an admission -- you know, a statement
12 against penal interest. And whether or not it's admissible
13 against the Co-Defendant -- Mr. Martinez -- I looked at the
14 case law. The cases I'm relying on are Chalue --
15 C-h-a-l-u-e -- 486 Mass. 847; Steadman 489 Mass. 372; and
16 Rakes 478 Mass. 22.

17 I'm making a preliminary determination based on the
18 preponderance of the evidence, not including the evidence
19 of the out-of-court statement itself, that a joint venture
20 existed between the Declarant Co-Defendant and
21 Mr. Martinez. And that the statement was made in
22 furtherance of that venture. The reason I conclude by a
23 preponderance of the evidence that the statement was made
24 in furtherance of that venture is that we know the
25 witness -- Ms. Sanchez's (sic) mother -- was aware of the

1 allegations. And we know that she had been involved in
2 going to the police once. And the issue was whether the
3 witness would go to the police again -- whether that was
4 ever going to happen.

5 And so, the joint venture was continuing -- it was
6 concealed, it was continuing. Ms. Sanchez (sic), on behalf
7 of the joint venture, had convinced her sister to recant.
8 And the mother could have been the one to get this whole
9 thing reactivated. And so, I do conclude -- like they
10 concluded in Rakes and in Steadman -- that Sanchez (sic)
11 was trying to enlist her mother's loyalty so that she would
12 not speak up. Making a preliminary finding on an
13 admissibility, I will instruct the jury that they have to
14 make that finding also before they consider the statement.

15 Okay. So --

16 MR. KELLY: Do --

17 THE COURT: -- it was an attempt to enlist the mother
18 to conceal the crime. And one of the things that's a
19 little different here than some of the cases is the mother
20 already knew about the crime. So it wasn't revealing the
21 crime to someone who didn't know about it. She already
22 knew about the crime. The issue was whether they could --
23 whether she was ever going to report it again, or encourage
24 the victim to report it again.

25 All right.

1 MR. KELLY: Just --

2 THE COURT: Yes, Mr. Kelly?

3 MR. KELLY: -- for -- just in case anybody has to look
4 at the transcript of this, I believe the Court used the
5 name "Sanchez," meaning "Santana."

6 THE COURT: I'm sorry -- thank you for correcting me.
7 Thank you for that. Santana.

8 MR. KELLY: And of course if the Court would note, it
9 was my objection to that ruling.

10 THE COURT: Yes, yes.

11 Okay. So ADA Mark, are you going to put on the police
12 officer? Or are you going to take care of the witness so
13 that she can leave the --

14 MS. MARK: I'm taking --

15 THE COURT: -- courthouse?

16 MS. MARK: -- care of the witness so she can leave,
17 Your Honor.

18 THE COURT: Okay. So I'm going to tell the jury that
19 I'm -- I am having the witness recalled. And the reason
20 she's appearing at two different segments is because I had
21 to consider a legal ruling before permitting this. All
22 right?

23 MS. MARK: Thank you.

24 MR. WARREN: And, Your Honor, my client has asked me
25 to ask to address the Court?

1 THE COURT: Okay. Well, that's going to be at the end
2 of the day. We can't do it -- I mean, it's 2:35. We got
3 to get the jury out. So just get my attention at a time
4 where we have time to do it, please?

5 Okay. All right. Let's have the jury, please.

6 THE COURT OFFICER: Officer McGillicuddy, jury down
7 (speaking over walkie-talkie).

8 THE CLERK: Did you want to --

9 THE COURT OFFICER: Court, all rise.

10 THE CLERK: -- swear her in?

11 THE COURT: Yes.

12 THE CLERK: Okay.

13 THE COURT: Swear her in.

14 THE COURT OFFICER: Jury entering.
15 (Jury enters.)

16 THE COURT OFFICER: Court. Court's in session. You
17 may be seated.

18 THE COURT: All right, jurors, thank you for your
19 patience and your attention to the case. I am now going to
20 permit the Commonwealth to recall a witness -- Ms. Ruiz-
21 Marte. I'm telling you that I -- there was a piece of her
22 possible testimony that I needed to make a legal ruling on.
23 And I had not made that legal ruling when she testified the
24 first time. So that's one of the things I -- I've been
25 doing in the recent minutes is making a particular ruling.

1 And that ruling does allow her to come back to the stand
2 and receive some more questions.

3 If you could call the witness, please?

4 MS. MARK: Thank you, Your Honor. The Commonwealth
5 calls Marielena Ruiz-Marte.

6 THE COURT OFFICER: It will just be one minute, Your
7 Honor.

8 THE COURT: Thank you.

9 All right. With the witness being recalled, we'll
10 swear the witness again, please.

11 THE CLERK: Yes.

12 THE COURT OFFICER: (Indiscernible; cannot understand
13 02:44:30), face the Clerk, and raise your right hand,
14 please?

15 MARIELENA RUIZ-MARTE, Sworn

16 THE CLERK: You may be seated.

17 THE COURT OFFICER: Come this way.

18 THE COURT: All right. Ms. Ruiz-Marte is back on the
19 stand. You may inquire.

20 MS. MARK: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. MARK:

23 Q Good afternoon.

24 A Good afternoon.

25 Q Thank you. I'm going to ask you about an incident

1 that occurred in approximately the fall of 2019.

2 A Okay.

3 Q Okay? Do you recall receiving outreach from Destiny

4 Santana?

5 A Yes.

6 Q And what was her -- the means of outreach? How did

7 she reach out to you?

8 A By phone.

9 Q And when she called you by phone, did she indicate to

10 you generally what she wanted --

11 A Yes.

12 Q -- from you? Yes?

13 A Yes, she did.

14 Q And what, generally, did she want from you?

15 A To have me in her life.

16 Q So to re-establish a relationship with you?

17 A Correct.

18 Q And did you provide her, over the phone, with sort of

19 the terms of how that could possibly be -- possibly happen?

20 A I did.

21 Q And what were those terms?

22 A She had to be honest.

23 Q Were you specific about what she had to be honest

24 about at that time?

25 A I was.

1 Q What did you say she had to be honest about?

2 A About what had happened with Tessa.

3 Q Did you have a meeting with Destiny Santana?

4 A I did.

5 Q And where did that take place?

6 A In my car, outside from her apartment.

7 Q And were you -- were -- was your car parked on the
8 street?

9 A Correct.

10 Q And did she come into your car?

11 A Correct.

12 Q And in that conversation that day, did you reiterate
13 that you were looking for her to tell the truth?

14 A Correct.

15 MS. MARK: If I may lead, Your Honor?

16 THE COURT: Yes.

17 BY MS. MARK:

18 Q Did Ms. Santana admit to you at that time what had
19 happened?

20 A She did.

21 Q What did she say had happened?

22 A That -- she explained the reason why it happened.

23 Q And in terms of the reason, did she tell you about a
24 dispute that she and this other person had?

25 MR. WARREN: Objection, Your Honor.

1 THE COURT: You may answer that yes or no. Do you
2 understand the question?

3 THE WITNESS: I don't know who the other person is.

4 THE COURT: Oh, she said she doesn't know who the
5 other person is.

6 BY MS. MARK:

7 Q Who -- okay. So when you said there was an incident
8 with Tessa, was there anyone else involved besides Destiny
9 and Tessa?

10 A Correct.

11 Q Who?

12 A Him.

13 Q And what's his name, as you knew it?

14 A Chino.

15 Q Chino. So did she say -- did she explain to you, in
16 terms of what had happened, what Chino had demanded of
17 Destiny back when this incident happened?

18 A Yes.

19 Q What was that?

20 A That to make it even -- because she had had some kind
21 of relationship with a family member of his -- he had to
22 have sex with a family member of hers in order to forgive
23 her.

24 Q And is that what she told you on that day in 2019, in
25 the car?

1 A She did.

2 Q And was that in response to your request that she be
3 honest about what happened with Tessa?

4 A It was.

5 MS. MARK: I have nothing further.

6 THE COURT: Mr. Warren or Mr. Kelly?

7 MR. WARREN: Thank you.

8 CROSS-EXAMINATION

9 BY MR. WARREN:

10 Q Now, you just testified that Ms. Santana -- to use
11 your words -- "admitted what had happened," right?

12 A Correct.

13 Q That was your testimony today?

14 A Correct.

15 Q All right. Now, you've spoken with the Boston Police
16 Department several times about this case, right?

17 A Correct.

18 Q And you've spoken with the District Attorney's Office
19 several times about this case, right?

20 A Correct.

21 Q All right. And do you recall that in June of 2020,
22 you participated in a Zoom video conference with several
23 members of the Prosecution team?

24 A I don't recall it. I feel like it happened, but I
25 don't remember it.

1 Q Do you recall ever doing a Zoom with anyone from the
2 Prosecutor's Office about this case?

3 A I think so.

4 Q Okay. This would have been with ADA Mark here?

5 A I think so.

6 Q Okay. And fair to say, it was a lengthy interview
7 that they had with you on Zoom, correct?

8 A Okay.

9 Q Well, I'm asking you. Is that what you remember?

10 A I don't remember a lot. But --

11 Q Okay.

12 A -- it sounds, like --

13 Q Okay.

14 A -- factual.

15 Q All right. And would you agree with me that you never
16 told them in that interview that Ms. Santana admitted that
17 this happened?

18 A I can't agree with that.

19 Q You can't agree with that.

20 A No.

21 Q So you did tell them that Ms. Santana had admitted
22 this to you.

23 A I said that over and over, through the years. I can't
24 tell you exactly what day, what time, what moment, what
25 interview.

1 MR. WARREN: No further questions, Your Honor.

2 THE COURT: Mr. --

3 MR. KELLY: May --

4 THE COURT: -- Kelly?

5 MR. KELLY: -- I inquire?

6 THE COURT: Yes.

7 CROSS-EXAMINATION

8 BY MR. KELLY:

9 Q So let's go back to 2019.

10 A Okay.

11 Q This meeting that you described. All right. You were
12 asked, "Did she admit what happened?" right?

13 A Yes.

14 Q Meaning, Destiny Santana, "Did she admit to you what
15 happened?"

16 A Correct.

17 Q And you said, "Yes" --

18 A I --

19 Q -- right?

20 A -- did.

21 Q But you -- what you had told her was that "you need to
22 take responsibility," right? That was why you allowed --
23 had a meeting. You said, "You need to take
24 responsibility," right?

25 A I remember saying, "I need you to be honest with me.

1 I need you to tell me the truth."

2 Q Okay. And then, you asked, "How could you allow this
3 to happen?"

4 A I said that. I mentioned the fact that she changed
5 Tessa's Pampers. I -- yeah.

6 Q Okay. But during that conversation --

7 A Mm-hm.

8 Q -- you say she admitted it, but during that
9 conversation, she didn't talk about specifically what, if
10 anything, happened on that night of the child's birthday
11 party, correct?

12 A She said, "It had to happen." And she explained the
13 reason why.

14 Q Okay. But she didn't tell you what happened -- in
15 that conversation, she didn't tell you what happened.

16 A No, she didn't use those words.

17 MR. KELLY: Nothing further.

18 THE COURT: All right.

19 Any redirect?

20 MS. MARK: Briefly, Your Honor.

21 I'm showing you (indiscernible; low audio at
22 02:52:41).

23 MR. KELLY: Yeah. Careful, though.

24 MS. MARK: May I approach, Your Honor?

25 THE COURT: You may. You don't have to ask.

1 MS. MARK: Okay.

2 REDIRECT EXAMINATION

3 BY MS. MARK:

4 Q I put a piece of paper in front of you. Can you just
5 read that paragraph?

6 THE COURT: To herself?

7 MS. MARK: To yourself.

8 MR. WARREN: Which --

9 MS. MARK: Thank you --

10 MR. WARREN: -- one?

11 MS. MARK: -- Your Honor.

12 MR. WARREN: Which paragraph, if I may?

13 MR. KELLY: She's nodding.

14 BY MS. MARK:

15 Q Have you read that to yourself?

16 A I have.

17 Q And is that the context of -- actually, strike that.
18 If you go to the front page, can you see -- well --

19 THE COURT: Well, may I see Counsel --

20 MS. MARK: Yes.

21 THE COURT: -- at sidebar?

22 (On the record discussion at sidebar.)

23 THE COURT: I'm just taking extra care to make sure we
24 don't go so far -- we're compliant with the ruling. I just
25 want to make sure something doesn't come out at the end.

1 But what are you -- I don't know what the document you're
2 showing her. What are you trying to do?

3 MS. MARK: To show that there are no -- in the police
4 report that was referenced by Counsel, that it shows
5 that -- the context of this conversation came out.

6 THE COURT: Oh. And who was she talking to?

7 MS. MARK: The -- Detective Morrissey.

8 THE COURT: Oh, okay. Well, if you can get it from
9 her, fine. But you can also ask Morrissey.

10 MS. MARK: Okay.

11 THE COURT: I was a little worried you were --

12 MS. MARK: No. I just --

13 THE COURT: -- trying to get her to read the whole
14 thing, and then --

15 MS. MARK: No, no, no.

16 THE COURT: -- agree that --

17 MS. MARK: No.

18 THE COURT: -- she never told her.

19 MS. MARK: No, no.

20 THE COURT: Okay.

21 MS. MARK: So --

22 MR. WARREN: Your Honor, I -- I'm a little concerned
23 because there's nothing about an admission. But there's
24 stuff about -- it's that paragraph there, Your Honor.

25 THE COURT: All right.

1 So Mr. Warren's showing me a copy.

2 The second paragraph?

3 MR. WARREN: Yes.

4 MS. MARK: Yes.

5 THE COURT: Yeah, you know what he's speaking of. She
6 better be careful that --

7 MS. MARK: Well --

8 THE COURT: -- she's --

9 MS. MARK: -- she's not going to say it, Your Honor.

10 THE COURT: -- okay.

11 MR. KELLY: Oh, and --

12 MR. WARREN: But then --

13 THE COURT: All right.

14 MR. WARREN: -- there's really --

15 THE COURT: So --

16 MR. WARREN: -- no --

17 THE COURT: -- I'm --

18 MR. WARREN: -- other --

19 THE COURT: -- going to -- yes, there is another way.
20 There's a -- it's -- she can just clarify that she spoke to
21 the police on a particular day. And you can ask her, "Did
22 you speak to them on that day about this conversation?"

23 MS. MARK: Okay.

24 THE COURT: You're going to leave -- and leave it at
25 that. But if --

1 MS. MARK: Okay.

2 THE COURT: -- the gentlemen want to get into the
3 details of the conversation, well, but that's up to them.
4 (End of discussion at sidebar.)

5 THE COURT: And I'll permit some leading questions.

6 BY MS. MARK:

7 Q Ma'am, do you understand that what I have handed you
8 is related to a conversation you had with Detective
9 Morrissey in 2020?

10 A Yes.

11 Q And in that report, is there a description of the
12 context of what you just told the jury? Do you understand
13 what I mean --

14 THE COURT: Well --

15 MS. MARK: -- by "the context"?

16 THE COURT: -- why don't -- come to sidebar.

17 MS. MARK: The -- oh.

18 (On the record discussion at sidebar.)

19 THE COURT: So she seems to be struggling with the
20 word, "context." Why don't you --

21 MS. MARK: The --

22 THE COURT: -- just ask her if she talked to Detective
23 Morrissey about that conversation.

24 MS. MARK: Okay. I will.

25 THE COURT: Okay.

1 MS. MARK: Thank you.

2 (End of discussion at sidebar.)

3 THE COURT: It would be, "Does that refresh your
4 memory?"

5 All right. I think there's a question ready for you.

6 BY MS. MARK:

7 Q That document in front of you, does that help to
8 refresh your memory that you did share with Detective
9 Morrissey in 2020 what you shared with the jury today?

10 A About Destiny admitting it?

11 Q Yes.

12 A Yes.

13 Q Thank you.

14 MS. MARK: That's it.

15 THE COURT: Anything else?

16 MR. WARREN: Thank you.

17 RECROSS EXAMINATION

18 BY MR. WARREN:

19 Q That document doesn't say that you told --

20 THE COURT: So --

21 MR. WARREN: -- the --

22 THE COURT: -- she's not allowed to read from the
23 document.

24 MR. WARREN: Okay.

25 BY MR. WARREN:

1 Q Is your --

2 THE COURT: Next question.

3 MR. WARREN: -- testimony today --

4 THE COURT: So it's a document that's not in evidence.

5 So you can't just read from it.

6 Go ahead, Counsel.

7 BY MR. WARREN:

8 Q Having read that paragraph, is your testimony today

9 that on June 30, you told Detective Morrissey that

10 Ms. Santana admitted that she did it to you? Is that your

11 testimony --

12 THE COURT: So --

13 MR. WARREN: -- today?

14 THE COURT: -- come to sidebar, please?

15 (On the record discussion at sidebar.)

16 THE COURT: You're playing with fire, Mr. Warren.

17 Because the issue is -- I do think it would have been best

18 if the question has been asked that "you told him about

19 this conversation," rather than the details of the

20 admission because the admission is not specifically --

21 MR. WARREN: That's --

22 THE COURT: -- in there.

23 MR. WARREN: -- the problem --

24 THE COURT: But --

25 MR. WARREN: -- Your Honor.

1 THE COURT: -- if you get into this, you're going
2 to -- it may well open the door to the whole thing from
3 this witness and Mr. Morrissey.

4 MR. WARREN: The problem --

5 THE COURT: So --

6 MR. WARREN: -- Your Honor, the problem is it's an
7 admission, and it's not here. So I'll cross --

8 THE COURT: Yeah, but the whole implication of it is
9 that she was admitting to it. That's why she's telling her
10 that. Like, "I did this because I was beaten." So those
11 words aren't specifically there. But there's no other
12 interpretation of this. Which is why, if you go down this
13 road, you may well open the door to two versions of this.

14 MR. WARREN: Through Detective Morrissey, I suppose.
15 But --

16 THE COURT: Well, yeah, but then, you're going to open
17 the door -- the point is, is that --

18 MR. WARREN: It's not clear enough, Your Honor.

19 THE COURT: -- it says he's confronting -- I mean,
20 we'll mark this as an exhibit.

21 MR. WARREN: Yeah.

22 THE COURT: He's confronting -- all right. Well --

23 MR. WARREN: It's too ambiguous.

24 THE COURT: -- how about letting it work a little bit
25 with -- I mean, you weren't very careful the way you asked

1 her the question. I mean, instead of asking her about the
2 conversation, you ask her whether she specifically admitted
3 to him. And that -- those words are not specifically here.

4 MS. MARK: I was trying to --

5 THE COURT: Do you want to -- do you want me to strike
6 it and have you ask the question again?

7 MS. MARK: If you strike it --

8 THE COURT: Well, I'm --

9 MS. MARK: -- I'm just going to stay away from it. I
10 would just --

11 THE COURT: -- all right.

12 MS. MARK: -- stop right now.

13 MR. WARREN: I would ask Your Honor to strike it.
14 Your --

15 THE COURT: Well --

16 MR. WARREN: -- Honor --

17 THE COURT: -- I'll --

18 MR. WARREN: -- it's --

19 THE COURT: -- it's -- I mean, I'll leave it to what
20 you all want to do. What did -- what are you --

21 MR. KELLY: I -- it's --

22 THE COURT: -- asking?

23 MR. KELLY: -- I'd ask you strike it, and --

24 MR. WARREN: Strike it --

25 MR. KELLY: -- we can --

1 MR. WARREN: -- Your Honor.

2 MR. KELLY: -- all go home.

3 THE COURT: Well, I'd just strike the last part about
4 what she said to Detective Morrissey.

5 MS. MARK: That's fine with me.

6 MR. KELLY: Yes.

7 MR. WARREN: Yes.

8 THE COURT: Okay. Because I won't -- I mean, it's --

9 MS. MARK: I think it's --

10 MR. KELLY: Yes.

11 MS. MARK: -- right to talk about the context. But
12 that's where it was a problem.

13 THE COURT: Yeah, but all he had to do is ask her,
14 "Did you talk about the conversation?"

15 But that's not what you did. "Did you tell about the
16 conversation?" You asked her, "Did you admit it? Did you
17 tell her (sic) that Destiny admitted it?" And she said,
18 "Yes." So you led her into something really specific
19 that's not in the report. You know, it's not -- that's not
20 specifically in the report.

21 MS. MARK: It's not. It's the conversation that would
22 have included that, but, yeah. I -- it's fine.

23 THE COURT: I --

24 MS. MARK: Strike it --

25 THE COURT: -- mean --

1 MS. MARK: -- Your Honor.

2 THE COURT: -- it --

3 MS. MARK: It's fine. I --

4 THE COURT: -- if you're confident Detective Morrissey
5 is going to say that "it's not in my report." That the
6 whole, "She told me. She admitted it."

7 MS. MARK: I am confident about it. But having said
8 that, I'm okay with striking --

9 THE COURT: Okay.

10 MS. MARK: -- it. So let's do --

11 THE COURT: Okay.

12 MS. MARK: -- it.

13 MR. WARREN: And, Your Honor --

14 THE COURT: Okay.

15 MR. WARREN: -- if it could just --

16 THE COURT: All right.

17 (End of sidebar discussion.)

18 THE COURT: All right. Jurors, there's -- the very
19 last bit of the testimony, I'm going to strike from the
20 record. All right? That a certain thing was said to
21 Detective Morrissey on a certain day in 2020, I'm going to
22 strike that from the record. Okay? I'm not striking the
23 rest of the testimony from the record, just that part about
24 a 2020 conversation with Detective Morrissey.

25 Okay. Does anybody have any other questions?

1 MS. MARK: Not from --

2 MR. KELLY: No, Your Honor.

3 MR. WARREN: No, Your Honor.

4 THE COURT: I see no questions.

5 Your testimony is complete.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 THE COURT: And --

9 THE COURT OFFICER: Right this way.

10 THE COURT: -- let's get that marked for
11 identification --

12 THE CLERK: Absolutely.

13 THE COURT: -- please?

14 ADA Mark, can you help us with this?

15 MS. MARK: Oh, yeah --

16 THE COURT: It's -- it was left --

17 MS. MARK: -- of course.

18 THE COURT: -- right here.

19 THE CLERK: Thank you.

20 (Transcript marked as Exhibit B for identification.)

21 THE COURT: Wait just a minute, please.

22 And if I could have the --

23 So I've marked this with a letter -- meaning for
24 identification. That does not go for the jury. That just
25 makes it part of the record, but it's not evidence in the