

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

HAMPDEN SUPERIOR COURT
No. HDCR2010-00253.

COMMONWEALTH)
)
v.)
)
BRYANT WARE.)

MR. WARE'S RESPONSE TO THE
OFFICE OF THE ATTORNEY GENERAL'S
PROPOSED FINDINGS OF FACT.

Now comes Bryant Ware and respectfully submits a response to the Office of the Attorney General's Proposed Findings of Fact.

1. Missing from the Attorney General's 605 proposed findings is any description of its "focused" investigation of Ms. Farak in the second half of 2013. That absence is understandable - since the Office of the Attorney General did not conduct an actual investigation of Ms. Farak at that time. In essence, because the prosecution of Ms. Farak had become non-adversarial, by the latter half of 2013 the Office of the Attorney General not only had stopped its efforts to identify the extent of the criminal conduct of such chemist, but also was affirmatively disregarding the evidence of additional felonies that emerged despite the lack of investigation.

The Attorney General's extensive description of its decision not to conduct a thorough investigation of the Amherst laboratory is pure applesauce - the constitutional breach concerned the failure to investigate Ms. Farak's criminal malfeasance, not the failure to investigate other problems at the laboratory.

Had the Office of the Attorney General conducted a thorough investigation of the criminal malfeasance of Ms. Farak, it would have identified the extent to which the integrity of the Commonwealth's evidence had been impaired - since the problems of the laboratory were, in large part, the result of that criminal malfeasance. The Attorney General's description of its choice to not investigate the problems of the laboratory itself thus is wholly immaterial to its failure to investigate the criminal conduct of the person it was prosecuting.

As could not but have been obvious to the prosecutors who were aware of the decision to not investigate the scope of Ms. Farak's criminal malfeasance, any such investigation would have imperiled thousands of convictions. *Compare Commonwealth v. Beal*, 429 Mass. 530, 534-35 n.4 (1999) (*describing* how prosecutors must not keep themselves "wilfully ignorant of potentially exculpatory information"). In that circumstance, the Office of the Attorney General did not seek to define the scope of Ms. Farak's malfeasance - with that lack of investigation contrasting markedly with the Attorney General's claim that it conducted a "high priority investigation" in that regard. PFF 28.¹

Choosing to fail to identify the scope of the impairment of the integrity of the Commonwealth's evidence constituted a breach of the "duty to conduct a thorough investigation" articulated by the Supreme Judicial Court in this matter. *Commonwealth v. Ware*, 471 Mass. 85, 95 (2015).

¹ The Office of the Attorney General's Proposed Findings of Fact are cited as "PFF [finding number]."

2. In Proposed Findings of Fact such as 254 through 385, the Attorney General discusses the actions of AAG Foster as they relate to the defense allegations of prosecutorial misconduct. In Proposed Finding 451, the Attorney General references the conclusion of the Velis/Merrigan Report as to lack of prosecutorial misconduct.

In such regards, the Attorney General never mentions that the Velis/Merrigan Investigation failed to conduct an even minimally adequate investigation of the alleged prosecutorial misconduct concerning AAG Foster. The investigators who conducted the Velis/Merrigan Investigation never even spoke with AAG Foster - though, as indicated by the Proposed Findings, her activities were central to the question of prosecutorial misconduct.

Thus, the finding by those investigators that there was no prosecutorial misconduct by the Office of the Attorney General is diminished by the fact that they gave no consideration to such matters as AAG Foster's false representation to Judge Kinder to the effect that Ms. Farak's malfeasance had not dated back to January, 2012, or to such prosecutor's misleading statement to the court that suggested falsely that she had reviewed the file she sought to keep undisclosed.

In addition, the investigators who wrote the Velis/Merrigan report do not seem to have realized that Ms. Farak was prosecuted only for what had been discovered on the first day of the investigation, with all evidence of other criminal malfeasance being disregarded.

3. While the Attorney General represents that the *Cotto* Investigation was comprehensive (PFF 452), it does not mention that - though evidence was discovered to the effect that Ms. Farak had changed data in the laboratory's computer system to conceal or further her criminal malfeasance, and though evidence was discovered that Ms. Farak had tampered with evidentiary samples that had been assigned to Mr. Hanchett and to Ms. Pontes (and with samples that had not been assigned to anyone) - no investigation was conducted as to the extent to which she had impaired the integrity of that evidence or the extent to which she had changed the computer system's data.

In essence, though the *Cotto* Investigation resulted in evidence that affirmed what Attorney Ryan had previously discovered (that Ms. Farak's malfeasance had been ongoing throughout her tenure in Amherst - and so that the integrity of all samples assigned to her had been compromised), the fact that it did not determine - or seek to determine - the extent to which she had impaired the integrity of samples that had not been assigned to her establishes that such investigation was hardly comprehensive.

4. While comprehensive re-testing of evidentiary samples that were entrusted or accessible to Ms. Farak could have resulted in information as to the scope of her malfeasance, the evidentiary integrity of each such individual sample was compromised. Given Ms. Farak's practice of both adding to and subtracting from such samples - and working while under the influence of substances like LSD, the re-testing of individual samples does not result in reliable evidence. *Contrast* PFF 515.

5. The Attorney General represents that, in his February 14, 2014, motion for leave to conduct post-conviction discovery, Mr. Ware "sought retesting of drug evidence maintained by the Springfield Police Department that related to any and all cases brought by the Commonwealth (not only his own) between July 2004 and January 18, 2013." PFF 511. In fact, Mr. Ware did not seek to have any and all such evidentiary samples re-tested, but rather sought the following:

In light of the foregoing, Mr. Ware respectfully requests leave to conduct post-conviction discovery, including particularly the re-testing of a reasonable number of the samples in the possession of the Springfield Police Department that testing at the Amherst drug lab indicated contained narcotics, and respectfully requests that this Honorable Court provide funds for such re-testing.

Mr. Ware would respectfully suggest that all such samples produced from July 2004 through January 18, 2013, be visually inspected to see whether it can readily be determined that they contain two distinct substances, and that 100 randomly-selected samples from 2004 and 200 randomly-selected samples from each succeeding year be re-tested to determine whether evidence of tampering may be identified.

Mr. Ware's February 14, 2014, Memorandum in Support of Motion for Leave to Conduct Post-Conviction Discovery (which is docketed herein at #18), at pages 16-17.

Notably, before the prosecution of Ms. Farak became non-adversarial, Major Connelly had sought a re-testing on a comparable scale, and AAG Kaczmarek had sought a comparable visual inspection. (Neither that proposed re-testing nor that prospective inspected is mentioned in the Attorney General's Proposed Findings - and neither was conducted).

6. The Attorney General suggest that the newspaper articles found in Ms. Farak's car "may have served as a basis for concluding that Farak engaged in misconduct at the Amherst drug lab earlier than the summer of 2012," and adds that "the ability to draw that inference was equally available to all parties, including the defendants." PFF 233. In that regard, Mr. Ware did, in fact, draw that inference in his 2014 brief for the Supreme Judicial Court:

As to the third article found in Ms. Farak's car, about law enforcement officers who illegally possessed controlled substances, someone, inferably Ms. Farak, wrote "thank god I am not a law enforcement officer." R.A. 86. It would defy credulity to suggest that, in 2011, she wrote that on such an article - but did not begin her criminal misconduct until July 2012. R.A. 86. Similarly, and while all three articles were from the second-half of 2011, it would be unlikely that Ms. Farak collected articles about that sort of misconduct during 2011, but wait until July, 2012, to begin her own malfeasance.

Mr. Ware's brief in SJC-11709, at 16-17.

Without the evidence that would readily have been discovered had the Attorney General conducted a thorough investigation (and without the mental health worksheets), Judge Kinder would find that the articles found in Ms. Farak's car did not constitute persuasive evidence of malfeasance before July, 2012. In that regard, Judge Kinder reasonably could have concluded that the Office of the Attorney General had conducted a reasonable investigation of Ms. Farak - given even just the fact that it was prosecuting her - and that the lack of evidence then meant none existed.

7. As presented to Judge Kinder, Ms. Farak's malfeasance consisted of stealing from evidentiary samples. During his inquiry, no direct evidence was presented to the court as to Ms. Farak's use of drugs at work. Evidence to that effect would have been powerfully inculpatory - the reliability of Ms. Farak's testing could only be seen as diminished by her at-work consumption of LSD and other substances.

In that regard, the mental health worksheets not only established that Ms. Farak's malfeasance had been ongoing in 2011, but they also constituted forceful exculpatory evidence by showing Ms. Farak's drug use while at work - which could not but be seen as diminishing the reliability of her reported test results. Regardless of whether the Office of the Attorney General missed the year in which those materials were generated, given Sgt. Ballou's excitement upon finding those materials, it may readily be concluded that the Commonwealth understood that such materials established that Ms. Farak had used drugs at work.

Therefore, the knowing failure to disclose that evidence constituted a knowing failure to disclose the only direct, exculpatory evidence as to Ms. Farak's drug use at work then in the possession of the Office of the Attorney General - even if the prosecution actually thought they had been generated in 2012. (For the prosecution to have drawn that conclusion, the prosecutors and the investigators would have had to miss the fact that the articles found in her car had been printed in 2011, or noted that they had been printed in 2011 and somehow concluded that Ms. Farak had printed them then but then waited until 2012 to start her malfeasance).

8. In addition to the matters discussed in the Attorney General's 605 proposed findings, there was evidence that directly showed the level of good faith of the prosecutors concerned. Specifically, on page 125 of her December 16, 2016, testimony, AAG Kaczmarek discussed an email in which she had told the other prosecutors that she was "confident that Ballou will be pretty unhelpful in what the Judge is trying to do," and so maybe he should just testify.

Seeking to be unhelpful to Judge Kinder evidenced the exact same intent as did the failure to investigate and the failure to disclose exculpatory evidence. In contrast to what American prosecutors are expected to do, those in the Office of the Attorney General had no interest in discovering the truth, and were interested in being unhelpful to those who were.

9. At a time when the prosecution of Ms. Farak was still adversarial, the Prosecution Memo set forth the plan that, following indictment, it might be possible to reach an agreement with Ms. Farak wherein information as to the scope of her malfeasance would be exchanged for a reduction of her sentence. There is no mention of that plan in the Attorney General's Proposed Findings.

As indicated by AAG Kaczmarek's January 23, 2013, email in which such prosecutor noted that the malfeasance that had been identified to that point was merely the "tip of the iceberg" (there is no mention of that email in the Attorney General's Proposed Findings), the prosecution understood that there was a great deal of undiscovered malfeasance.

Had AAG Verner really sought to obtain a State Prison sentence for Ms. Farak (as suggested in PFF 402), the prosecution could have brought dozens or hundreds or thousands of more charges against her. Since the prosecutors concerned understood that there was an undiscovered "iceberg" of criminal malfeasance committed by Ms. Farak, that path was clear.

The prosecution, however, disregarded the plain evidence of Ms. Farak's criminal tampering in the Sands, Stradford, Richard Charles and Morton matters - and conducted no investigation intended to find more such malfeasance. In fact, though the prosecution declined to obtain the information offered by Ms. Farak by way of a proffer, it did accord her the immunity she sought - by declining to bring any charges.

Had the Office of the Attorney General actually sought to "go wherever the facts took it" (PFF 47) in search of the truth as to the extent to which the integrity of the Commonwealth's evidence had been impaired, then it would not have disregarded the evidence of additional malfeasance committed by Ms. Farak. Rather, it would have looked for even more such evidence.

In that regard, Judge Kinder's inquiry could have been seen as a resource that could have helped find the truth. As noted, the prosecutors took the opposite approach - affirmatively seeking to be "unhelpful" in the court's search of the truth.

According Ms. Farak *de facto* immunity was doing the opposite of what experienced prosecutors would do had they actually sought to obtain a State Prison sentence for her.

10. No testimony presented to this court in December, 2016, was more clear or credible than the testimony of Attorney Pourinski. In critical part, Attorney Pourinski would testify that, at the time of one of the conferences in Ms. Farak's case, AAG Kaczmarek told her that the mental health records were not going to be provided to the defense:

THE COURT: Attorney Pourinski, so you've alluded to really, as I see it, two different possible representations made by Attorney Kaczmarek regarding the ServiceNet records. One, that they or the office or someone has made a determination that they're privileged; and then, secondly, that they're not going to be turned over to the defense. So, I guess my question is, as you sit here today, what's your best recollection of the words Attorney Kaczmarek used in this situation?

THE WITNESS: I mean, as far as specific words?

THE COURT: To the best of your recollection.

(Pause)

THE WITNESS: I'm not sure if she used the word "we", but she definitely didn't use the word "I". But I understood it to be the office, that the records are privileged and they're not being turned over to the defense.

THE COURT: Okay. So she expressly talked about both those subjects, the privileged subject, and the not turning over subject, to the best of your recollection?

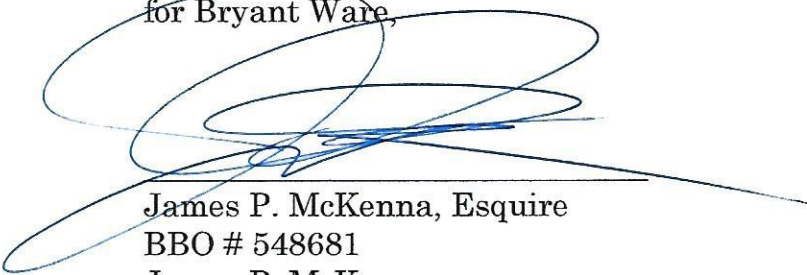
THE WITNESS: Yes, to the best of my recollection.

December 16, 2016, testimony, at 34-35 (which is attached as Exhibit 1).

Attorney Pourinski testified, with precision, of how that conversation had taken place in Hampshire Superior Court, outside the courtroom, on one of the conference dates in the Farak matter. Exhibit 1. As indicated by the docket sheets attached as Exhibits 2 and 3, the conference dates in that matter were June 10, 2013, and August 26, 2013.

Therefore, the mental health worksheets were not held undisclosed because of inadvertence, but rather because of a decision by the Office of the Attorney General. As established by Attorney Pourinski's testimony, AAG Kaczmarek did not fail to disclose that exculpatory evidence because she forgot to do so, but rather because her office intended that they not be disclosed. Exhibit 1. Moreover, as indicated, by Attorney Pourinski, AAG Kaczmarek indicated that the decision to not disclose had not been just her decision, but rather one made at least in conjunction with others in her office. Exhibit 1.

Respectfully submitted
for Bryant Ware,



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April 3, 2017

Exhibit 1

1 Q. Okay. Thank you.

2 MR. CALDWELL: I have nothing further.

3 **QUESTIONS BY THE COURT**

4 THE COURT: Attorney Pourinski, so you've alluded to
5 really, as I see it, two different possible representations
6 made by Attorney Kaczmarek regarding the ServiceNet records.

7 One, that they or the office or someone has made a
8 determination that they're privileged; and then, secondly,
9 that they're not going to be turned over to the defense.

10 So, I guess my question is, as you sit here today,
11 what's your best recollection of the words Attorney
12 Kaczmarek used in this situation?

13 THE WITNESS: I mean, as far as specific words?

14 THE COURT: To the best of your recollection.

15 (Pause)

16 THE WITNESS: I'm not sure if she used the word "we",
17 but she definitely didn't use the word "I".

18 But I understood it to be the office, that the records
19 are privileged and they're not being turned over to the
20 defense.

21 THE COURT: Okay. So she expressly talked about both
22 those subjects, the privileged subject, and the not turning
23 over subject, to the best of your recollection?

24 THE WITNESS: Yes, to the best of my recollection.

25 THE COURT: All right. And it's your further

1 recollection that this conversation took place in the
2 Hampshire County Superior Court outside the courtroom?

3 THE WITNESS: Yes.

4 THE COURT: Okay. And do you recall what time of year
5 it was?

6 THE WITNESS: As far as winter, summer?

7 THE COURT: Uh-huh.

8 THE WITNESS: I don't believe it was winter, but I
9 don't.

10 THE COURT: Do you recall why you were in court that
11 day with her?

12 THE WITNESS: It was -- certainly wasn't the plea date,
13 it was one of the conference dates.

14 THE COURT: Okay. And was it before Judge Rup, if you
15 recall?

16 THE WITNESS: I don't recall. I mean the only reason
17 why that statement stands out to me is because it affected
18 my thinking about the case. And it was something -- I don't
19 want to go into attorney-client privilege.

20 THE COURT: It affected your thinking about the case
21 because you wanted to put an end to her exposure?

22 THE WITNESS: That's correct.

23 THE COURT: Okay. Anything further over here?

24 MR. OLANOFF: No.

25 THE COURT: Anything further over here?

Exhibit 2

**Commonwealth of Massachusetts
HAMPSHIRE SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v Farak, Sonja

Details for Docket: HSCR2013-00060

Case Information

Docket Number:	HSCR2013-00060	Caption:	Commonwealth v Farak, Sonja
Entry Date:	04/01/2013	Case Status:	Criminal - CtRm 2- 3rd fl
Status Date:	01/06/2014	Session:	Disposed (sentenced)
Lead Case:	NA	Deadline Status:	Active since
Trial Deadline:	04/23/2013	Jury Trial:	NO

Parties Involved

3 Parties Involved in Docket: HSCR2013-00060

Party Involved:		Role:	Defendant
Last Name:	Farak	First Name:	Sonja
Address:	37 Laurel Park	Address:	
City:	Northampton	State:	MA
Zip Code:	01060	Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Commonwealth	First Name:	
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Party Involved:		Role:	Surety
Last Name:	Farak	First Name:	Linda J.

Address:	37 Norse Man Drive
City:	Portsmouth
Zip Code:	02871
Telephone:	

Address:	
State:	RI
Zip Ext:	

Attorneys Involved

3 Attorneys Involved for Docket: HSCR2013-00060

Attorney Involved:	
Last Name:	Kaczmarek
Address:	1 Ashburton Place
City:	Boston
Zip Code:	02108
Telephone:	617-727-2200
Fascimile:	617-727-5761

Firm Name:	MA02
First Name:	Anne
Address:	19th Floor
State:	MA
Zip Ext:	
Tel Ext:	2677
Representing:	Commonwealth, (Plaintiff)

Attorney Involved:	
Last Name:	Lux
Address:	1350 Main Street
City:	Springfield
Zip Code:	02108
Telephone:	413-523-7712
Fascimile:	413-784-1244

Firm Name:	MA02
First Name:	Beth A.
Address:	fourth floor
State:	MA
Zip Ext:	
Tel Ext:	
Representing:	Commonwealth, (Plaintiff)

Attorney Involved:	
Last Name:	Pourinski
Address:	13 Old South Street
City:	Northampton
Zip Code:	01060
Telephone:	413-587-9807
Fascimile:	413-586-6619

Firm Name:	
First Name:	Elaine M
Address:	
State:	MA
Zip Ext:	
Tel Ext:	
Representing:	Farak, Sonja (Defendant)

Calendar Events

13 Calendar Events for Docket: HSCR2013-00060

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	04/22/2013	14:00	Arraignment	1	Event held as scheduled
2	06/10/2013	14:00	Conference: Pre-Trial	1	Event held as scheduled
3	06/24/2013	14:00	Hearing: Discovery Motions	1	Event held--(ACTIVE) under advisement
4	08/26/2013	14:00	Hearing: Pre-Trial	1	Event held as scheduled
5	10/11/2013	09:00	Status: Filing deadline	1	Event rescheduled by court prior to date
6	11/12/2013	09:00	Status: Filing deadline	1	Event held as scheduled
7	11/12/2013	14:00	Hearing: Evidentiary-suppression	1	Event rescheduled by court prior to date
8	12/12/2013	14:00	Hearing: Evidentiary-suppression	1	Event canceled not re-scheduled
9	12/23/2013	15:00	Hearing: Motion	1	Event held as scheduled
10	01/03/2014	11:00	Hearing: Plea Change	1	Event not reached by Court
11	01/06/2014	14:00	Hearing: Plea Change	1	Event held as scheduled
12	01/16/2014	14:00	Conference: Final Pre-Trial	1	Event canceled not re-scheduled
13	02/05/2014	14:00	TRIAL: LIST	1	Event canceled not re-scheduled

Full Docket Entries

128 Docket Entries for Docket: HSCR2013-00060

Entry Date:	Paper No:	Docket Entry:
04/01/2013	1	Indictment returned from Statewide Grand Jury
04/01/2013	3	Commonwealth's Motion to Consolidate in Hampshire County
04/01/2013		MOTION (P#2) Allowed. (Ball, J) Copies mailed 4/8/2013
04/01/2013	2	Commonwealth's Motion to Transfer Indictments
04/01/2013		MOTION (P#3) Allowed. (Ball, J) Copies mailed 4/8/2013
04/22/2013	4	Appearance of Commonwealth's Atty: Anne Kaczmarek
04/22/2013	5	Appearance of Deft's Atty: Elaine M Pourinski
04/22/2013		Deft arraigned before Court
04/22/2013		RE Offense 1:Plea of not guilty
04/22/2013		RE Offense 2:Plea of not guilty
04/22/2013		RE Offense 3:Plea of not guilty

04/22/2013		RE Offense 4:Plea of not guilty
04/22/2013		RE Offense 5:Plea of not guilty
04/22/2013		RE Offense 6:Plea of not guilty
04/22/2013		RE Offense 7:Plea of not guilty
04/22/2013		RE Offense 8:Plea of not guilty
04/22/2013		RE Offense 9:Plea of not guilty
04/22/2013		Bail: \$5,000.00 Cash - same bail previously posted in Belchertown
04/22/2013		District Court Docket No. 1398CR0167 - to be transferred* -New Crimes
04/22/2013		Colliquy. -111E Section 10 Drug warning. (Kinder, J.)
04/22/2013		Bail: Same previous conditions as ordered in District Court of
04/22/2013		Belchertown, specifically: 1) Meet with Probation weekly. 2)Random
04/22/2013		screens for drugs. 3) Curfew of 10PM - 5AM (with windows for visiting
04/22/2013		parents out of state, including overnight visits) Further window for
04/22/2013		work, if obtained, with prior notice to Probation. 4) Passport to be
04/22/2013		retained by Probation.(C. Jeffrey Kinder)
04/22/2013		Assigned to Track "B" see scheduling order
04/22/2013		Tracking deadlines Active since return date
04/22/2013	6	Case Tracking scheduling order (C. Jeffrey Kinder) mailed 4/23/2013
04/22/2013	7	Commonwealth files Statement of Case
04/22/2013	8	Commonwealth files First Certificate of Discovery
05/06/2013	9	Recognizance form filed. \$5,000.00 received from Eastern Hampshire
05/06/2013	9	District Court (bail transfer).
06/10/2013		Out of Court PTC. PTC report to be filed on or before 08/26/13.
06/21/2013	10	Defendant's Motion to view the alleged crime scene
06/21/2013	11	Defendant's Motion to redact witness' grand jury testimony prior to
06/21/2013	11	dissemination to the district attorneys and Motion to Impound Grand
06/21/2013	11	Jury testimony
06/24/2013	12	Commonwealth's Motion for Order to Disseminate Grand Jury materials
06/24/2013	12	to certain parties
06/24/2013		Discovery motions - Allowed as indicted by Court on Motions
06/24/2013		(Josephson, J)
06/24/2013		MOTION (P#10) Allowed (Bertha D. Josephson). Copies mailed 6/24/2013
06/24/2013		MOTION (P#12) Allowed as indicted on the record as to request made
06/24/2013		orally. (Bertha D. Josephson). Copies mailed 6/24/2013
06/24/2013		Hearing on (P#11) Defendant's Motion to redact witness' grand jury
06/24/2013		testimony prior to dissemination to the district attorneys and Motion
06/24/2013		to Impound Grand Jury testimony held, matter taken under advisement
06/24/2013		(Bertha D. Josephson)
06/24/2013		MOTION (P#11) Allowed (Bertha D. Josephson). Copies mailed 6/25/2013

07/15/2013	13	Commonwealth's Motion for Order to disseminate Grand Jury materials
07/15/2013	13	to certain parties
07/15/2013		MOTION (P#13) Allowed (Richard J. Carey). Copies mailed 7/15/2013
08/26/2013		Event: Pre Trial hearing held (Richard J. Carey)
08/26/2013	14	Pre-trial conference report filed; Trial Month February 2014; Final
08/26/2013	14	PTC January 16, 2014 @ 2 PM (Carey, J)
08/26/2013	15	Commonwealth files Second Certificate of Discovery
10/08/2013	16	Agreed upon motion to continue motion filing and motion hearing date
10/09/2013		MOTION (P#9) Allowed (Bertha D. Josephson). Copies mailed 10/9/2013
12/23/2013	17	Commonwealth's Motion to revoke bail
12/23/2013		MOTION (P#17) Allowed (Mary-Lou Rup). Copies mailed 12/23/2013
12/23/2013		Mittimus without bail issued to Chicopee Women's Correctional Center
12/23/2013		Commonwealth's Motion to Revoke bail allowed. Defendant to be held
12/23/2013		without right to bail at the Women's Correctional Institution in
12/23/2013		Chicopee (see also 13-061) (Rup, J)
12/23/2013	18	Appearance of Commonwealth's Atty: Beth A. Lux
01/06/2014		RE Offense 1:Guilty plea
01/06/2014		RE Offense 2:Guilty plea
01/06/2014		RE Offense 3:Guilty plea
01/06/2014		RE Offense 4:Guilty plea
01/06/2014		RE Offense 5:Guilty plea
01/06/2014		RE Offense 6:Guilty plea
01/06/2014		RE Offense 7:Guilty plea
01/06/2014		RE Offense 8:Guilty plea
01/06/2014		RE Offense 9:Guilty plea
01/06/2014	19	Waiver of defendants' rights
01/06/2014	20	Commonwealth and Defendant file sentence recommendation(s) (unagreed)
01/06/2014	21	Defendant's Motion to file sentencing memorandum and letters under
01/06/2014	21	seal
01/06/2014		MOTION (P#21) Denied (Mary-Lou Rup). Copies mailed 1/8/14
01/06/2014	22	Deft files Sentencing Memorandum
01/06/2014		Plea of not guilty changed to guilty; accepted (Mary-Lou Rup)
01/06/2014	23	Finding on plea of guilty (Mary-Lou Rup)
01/06/2014		Defendant sentenced to Count 1: 2 1/2 years Women's Correctional
01/06/2014		Facility in Chicopee, 18 Months direct, balance suspended with 5
01/06/2014		years probation Mary-Lou Rup)
01/06/2014		Special conditions of probation on Count 1 after direct period of
01/06/2014		incarceration: 1) no illegal drugs / alcohol; 2) substance abuse
01/06/2014		counseling / treatment as recommended; 3) mental health evaluation

01/06/2014		with counseling and treatment as recommended; 4) take any medications
01/06/2014		as recommended; 5) 4 AA or NA Meetings per week; 6) sign any
01/06/2014		appropriate releases for probation to monitor substance abuse
01/06/2014		treatment or mental health treatment; 7) 500 hours community service
01/06/2014		as determined by probation; 8) random screens for illegal drug and
01/06/2014		alcohol abuse (Mary-Lou Rup)
01/06/2014		Defendant sentenced to Counts 2, 3, 6, 7 & 8: on each count, each
01/06/2014		concurrent with eachother and Count 1 of 13-60, 2 1/2 Years Women's
01/06/2014		Correctional Facility in Chicopee, 18 months direct, balance
01/06/2014		suspended with 5 years probation (same special conditions) (Mary-Lou
01/06/2014		Rup)
01/06/2014		Defendant sentenced to Count 5: 1 year Women's Correctional Facility
01/06/2014		in Chicopee, concurrent with Count 1 of 13-060 (Mary-Lou Rup)
01/06/2014		Defendant sentenced to Counts 4 and 9: on each count and each
01/06/2014		concurrent with eachother and probation imposed on Counts 1, 2, 3, 6,
01/06/2014		7, and 8; 5 Years Probation, same special conditions (Mary-Lou Rup)
01/06/2014		Sentence credit given as per 279:33A: 14 days (12/23/13 - 1/6/14)
01/06/2014		Drug fee assessed: \$150.00 to be collected during probation (Mary-Lou
01/06/2014		Rup)
01/06/2014		Victim-witness fee assessed: \$90.00 to be collected during probation
01/06/2014		(Mary-Lou Rup)
01/06/2014		Probation supervision fee assessed: \$60.00 per month probation fee
01/06/2014		plus \$5.00 per month victim/services fee or alternative community
01/06/2014		service (see also 13-061) (Mary-Lou Rup)
01/06/2014	24	Sentence fees/costs assessment by the Court (Mary-Lou Rup)
01/06/2014	25	Reasons for Not imposing a sentence of incarceration (Mary-Lou Rup)
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 1
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 2
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 3
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 6
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 7
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 8
01/06/2014		Mittimus issued to Chicopee Women's Correctional Center on Count 5
01/06/2014		Bail in the amount of \$5,000.00 returned to Surety Linda Farak Check
01/06/2014		#1113
01/08/2014		Abstract sent to RMV
02/03/2014		Certified copy of indictment and docket sent to Ann L. Bodor,
02/03/2014		Paralegal , The Commonwealth of MA, Dept. of the State Treasurer, One
02/03/2014		Ashburton Place, Boston, MA 02108-1608.

Charges

9 Charges for Docket: HSCR2013-00060

No.	Charge Description:	Indictment:	Status:
1	TAMPERING WITH RECORD,DOCUMENT OR OTHER OBJ FOR OFFICIAL USE IN PROC		Guilty plea
2	TAMPERING WITH RECORD,DOCUMENT OR OTHER OBJ FOR OFFICIAL USE IN PROC		Guilty plea
3	TAMPERING WITH RECORD,DOCUMENT OR OTHER OBJ FOR OFFICIAL USE IN PROC		Guilty plea
4	TAMPERING WITH RECORD,DOCUMENT OR OTHER OBJ FOR OFFICIAL USE IN PROC		Guilty plea
5	DRUG, POSSESS CLASS B c94C s34		Guilty plea
6	DRUG, LARCENY OF c94C s37		Guilty plea
7	DRUG, LARCENY OF c94C s37		Guilty plea
8	DRUG, LARCENY OF c94C s37		Guilty plea
9	DRUG, LARCENY OF c94C s37		Guilty plea

Exhibit 3

**Commonwealth of Massachusetts
HAMPSHIRE SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v Farak, Sonja

Details for Docket: HSCR2013-00061

Case Information

Docket Number:	HSCR2013-00061	Caption:	Commonwealth v Farak, Sonja
Entry Date:	04/01/2013	Case Status:	Criminal - CtRm 2- 3rd fl
Status Date:	01/06/2014	Session:	Disposed (sentenced)
Lead Case:	NA	Deadline Status:	Active since
Trial Deadline:	04/24/2013	Jury Trial:	NO

Parties Involved

2 Parties Involved in Docket: HSCR2013-00061

Party Involved:		Role:	Defendant
Last Name:	Farak	First Name:	Sonja
Address:	37 Laurel Avenue	Address:	
City:	Northampton	State:	MA
Zip Code:	01060	Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Commonwealth	First Name:	
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Attorneys Involved

3 Attorneys Involved for Docket: HSCR2013-00061

Attorney Involved:		Firm Name:	MA02
Last Name:	Kaczmarek	First Name:	Anne
Address:	1 Ashburton Place	Address:	19th Floor
City:	Boston	State:	MA
Zip Code:	02108	Zip Ext:	
Telephone:	617-727-2200	Tel Ext:	2677
Fascimile:	617-727-5761	Representing:	Commonwealth, (Plaintiff)

Attorney Involved:		Firm Name:	MA02
Last Name:	Lux	First Name:	Beth A.
Address:	1350 Main Street	Address:	fourth floor
City:	Springfield	State:	MA
Zip Code:	02108	Zip Ext:	
Telephone:	413-523-7712	Tel Ext:	
Fascimile:	413-784-1244	Representing:	Commonwealth, (Plaintiff)

Attorney Involved:		Firm Name:	
Last Name:	Pourinski	First Name:	Elaine M
Address:	13 Old South Street	Address:	
City:	Northampton	State:	MA
Zip Code:	01060	Zip Ext:	
Telephone:	413-587-9807	Tel Ext:	
Fascimile:	413-586-6619	Representing:	Farak, Sonja (Defendant)

Calendar Events

13 Calendar Events for Docket: HSCR2013-00061

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	04/22/2013	14:00	Arraignment	1	Event held as scheduled
2	06/10/2013	14:00	Conference: Pre-Trial	1	Event held as scheduled
3	06/24/2013	14:00	Hearing: Discovery Motions	1	Event held--(ACTIVE) under

					advisement
4	08/26/2013	14:00	Hearing: Pre-Trial	1	Event held as scheduled
5	10/11/2013	09:00	Status: Filing deadline	1	Event rescheduled by court prior to date
6	11/12/2013	09:00	Status: Filing deadline	1	Event held as scheduled
7	11/12/2013	14:00	Hearing: Evidentiary-suppression	1	Event rescheduled by court prior to date
8	12/12/2013	14:00	Hearing: Evidentiary-suppression	1	Event canceled not re-scheduled
9	12/23/2013	15:00	Hearing: Motion	1	Event held as scheduled
10	01/03/2014	11:00	Hearing: Plea Change	1	Event not reached by Court
11	01/06/2014	14:00	Hearing: Plea Change	1	Event held as scheduled
12	01/16/2014	14:00	Conference: Final Pre-Trial	1	Event canceled not re-scheduled
13	02/05/2014	14:00	TRIAL: LIST	1	Event canceled not re-scheduled

Full Docket Entries

67 Docket Entries for Docket: HSCR2013-00061

Entry Date:	Paper No:	Docket Entry:
04/01/2013	1	Indictment returned from Statewide Grand Jury
04/01/2013	2	Commonwealth's Motion to Transfer Indictment(s)
04/01/2013		MOTION (P#2) Allowed (Ball, J). Copies mailed 4/10/2013
04/01/2013	3	Commonwealth's Motion to Consolidate in Hampshire County
04/01/2013		MOTION (P#3) Allowed. (Ball, J) Copies mailed 4/8/2013
04/22/2013		Appearance of Commonwealth's Atty: Anne Kaczmarek (see #13-060)
04/22/2013		Appearance of Deft's Atty: Elaine M Pourinski (see # 13-060)
04/22/2013		Deft arraigned before Court
04/22/2013		RE Offense 1:Plea of not guilty
04/22/2013		Deft released on personal recognizance (see bail to be transferred and posted in 13-060) - New Crimes Colliquy. -111E Section 10.
04/22/2013		Assigned to Track "B" see scheduling order
04/22/2013		Tracking deadlines Active since return date
04/22/2013	4	Case Tracking scheduling order (C. Jeffrey Kinder) mailed 4/24/2013
04/22/2013	4	(see #13-060)
04/22/2013		Commonwealth files Statement of Case (see # 13-060)
04/22/2013		Commonwealth files First Certificate of Discovery
06/10/2013		Out of Court PTC. PTC report to be filed on or before 08/26/13.
06/21/2013		Defendant's Motion to view the alleged crime scene (See P#10 in

06/21/2013	13-060)
06/21/2013	Defendant's Motion to redact witness' grand jury testimony prior to
06/21/2013	dissemination to the district attorneys and Motion to Impound Grand
06/21/2013	Jury testimony (See P#11 in 13-060)
06/24/2013	MOTION (P#10 in 13-060) Allowed (Bertha D. Josephson). Copies mailed
06/24/2013	6/24/2013
06/24/2013	Commonwealth's Motion for Order to Disseminate Grand Jury materials
06/24/2013	to certain parties (See P#12 in 13-060)
06/24/2013	MOTION (P#12 in 13-60) Allowed as indicated on the record as to
06/24/2013	request made orally. (Bertha D. Josephson). Copies mailed 6/24/2013
06/24/2013	MOTION (P#11 in 13-060) Allowed (Bertha D. Josephson). Copies mailed
06/24/2013	6/25/2013
07/15/2013	Commonwealth's Motion for Order to disseminate Grand Jury materials
07/15/2013	to certain parties (See P#13 in 13-060)
07/15/2013	MOTION (P#13 in 13-060) Allowed (Richard J. Carey). Copies mailed
07/15/2013	7/15/2013
08/26/2013	Event: Pre Trial hearing held (Richard J. Carey)
08/26/2013	Pre-trial conference report filed (See P#14 in 13-060)
08/26/2013	Commonwealth files Second Certificate of Discovery (See P#15 in
08/26/2013	13-060)
10/09/2013	MOTION (P#8 in 13-060) allowed (Bertha D. Josephson). Copies mailed
10/09/2013	10/9/2013
12/23/2013	Commonwealth's Motion to Revoke Bail (See P#17 in 13-060)
12/23/2013	MOTION (P#18 in 13-060) Allowed (Mary-Lou Rup). Copies mailed
12/23/2013	12/23/2013
12/23/2013	Commonwealth's Motion to Revoke bail allowed. Defendant to be held
12/23/2013	without right to bail at the Women's Correctional Institution in
12/23/2013	Chicopee (see also 13-060) (Rup, J)
12/23/2013	Appearance of Commonwealth's Atty: Beth Lux (See P# 17 in 13-060)
01/06/2014	RE Offense 1:Guilty plea
01/06/2014	Waiver of defendants' rights (See P#19 in 13-060)
01/06/2014	Commonwealth and Defendant file sentence recommendation(s)
01/06/2014	(unagreed) (See P#20 in 13-060)
01/06/2014	Defendant's Motion to file sentencing memorandum and letters under
01/06/2014	seal (See P#21 in 13-060)
01/06/2014	MOTION (P#21 in 13-060) Denied (Mary-Lou Rup). Copies mailed 1/8/14
01/06/2014	Deft files Sentencing Memorandum (See P#22 in 13-060)
01/06/2014	Plea of not guilty changed to guilty; accepted (Mary-Lou Rup)
01/06/2014	Defendant sentenced to 1 Year Women's Correctional Facility in

01/06/2014	Chicopee, concurrent with Sentence imposed on Count 1 and Counts
01/06/2014	2,3,5,6,7 and 8 of 13-060 (Mary-Lou Rup)
01/06/2014	Sentence credit given as per 279:33A: 14 days (12/23/13 - 1/6/14)
01/06/2014	Sentence fees/costs assessment by the Court (Mary-Lou Rup) (See P# 24
01/06/2014	in 13-061)
01/06/2014	\$90.00 victim / witness fee and \$150.00 drug assessment imposed on
01/06/2014	13-060 by Court (see 13-060) (Mary-Lou Rup)
01/06/2014	Mittimus issued to Chicopee Women's Correctional Center
01/08/2014	Abstract sent to RMV

Charges

1 Charges for Docket: HSCR2013-00061

No.	Charge Description:	Indictment:	Status:
1	DRUG, POSSESS CLASS B c94C s34		Guilty plea