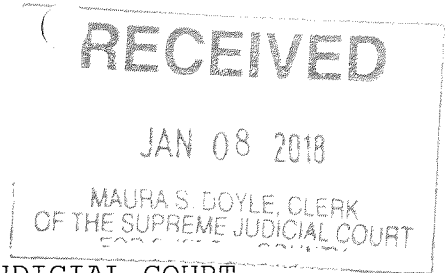


COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT



Suffolk, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
SJ-2017-347

COMMITTEE FOR PUBLIC COUNSEL SERVICES, HAMPDEN  
COUNTY LAWYERS FOR JUSTICE, INC.,  
HERSCHELLE REAVES, and NICOLE WESTCOTT,  
Petitioners,

v.

ATTORNEY GENERAL OF MASSACHUSETTS, DISTRICT ATTORNEY FOR  
BERKSHIRE COUNTY, DISTRICT ATTORNEY FOR BRISTOL COUNTY,  
DISTRICT ATTORNEY FOR THE CAPE AND THE ISLANDS, DISTRICT  
ATTORNEY FOR ESSEX COUNTY, DISTRICT ATTORNEY FOR HAMPDEN  
COUNTY, DISTRICT ATTORNEY FOR MIDDLESEX COUNTY, DISTRICT  
ATTORNEY FOR NORFOLK COUNTY, DISTRICT ATTORNEY FOR THE  
NORTHWESTERN DISTRICT, DISTRICT ATTORNEY FOR PLYMOUTH  
COUNTY, DISTRICT ATTORNEY FOR SUFFOLK COUNTY, and DISTRICT  
ATTORNEY FOR WORCESTER COUNTY,  
Respondents

**RESPONDENT DISTRICT ATTORNEYS' REQUEST TO PROCEED WITH  
VACATUR AND DISMISSAL OF IDENTIFIED FARAK CONVICTIONS<sup>1</sup>**

The Respondent District Attorneys request an order  
from this Court relative to the vacatur and dismissal of  
Farak-convictions identified and submitted on lists to this  
Court by various Respondents ("DAOs") as of this date.

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<sup>1</sup> On behalf of the District Attorney's offices of  
Berkshire, Bristol, the Cape and the Islands, Essex,  
Hampden, Middlesex, Norfolk, Northwestern, Plymouth,  
Suffolk and Worcester Counties.

- The offices of the District Attorneys of the Cape and Islands, Bristol, Essex, Middlesex, Norfolk, and Suffolk districts have compiled lists of convictions to be vacated and dismissed with prejudice.
- The offices of the District Attorneys of the Berkshire, Hampden, Plymouth, and Worcester districts are awaiting data from the Trial Court to complete each office's list.
- At the status hearing on October 31, 2017, Assistant District Attorney Thomas Townsend, Northwestern District, advised the Court that his office was prepared to proceed in the Northwestern District trial courts to vacate and dismiss Farak convictions in coordination with the presiding justices of those courts. The petitioners objected to the Northwestern District proceeding with the coordinated plan for vacatur and dismissal.
- Since that time, additional DAOs have compiled and filed lists of convictions for vacatur and dismissal.
- Because of the petitioners' position no entries of vacatur and dismissal have yet been made in any court despite the compilation of lists by the DAOs and stipulations that the convictions should be vacated

and dismissed. See SJ-2017-0347 ## 35, 37, 38, 39, 44, 45, 46, 50, 53, 54, 59, 63, and 76.

- There is no compelling reason not to proceed with the vacatur and dismissal of the identified convictions.
  - Although a substantial number of cases have been identified for post-conviction adjudication, the number is less than one third of the number of cases identified in the Bridgeman litigation.
  - The entries for vacatur and dismissal with prejudice can be made in the individual courts in a uniform manner.
  - Likewise the Probation Service can best determine how it will undertake to make the appropriate entry on each defendant's criminal record.
- Therefore the DAOs request an order as follows:
  - Each DAO with a completed list of convictions to be vacated and dismissed with prejudice will provide the district and superior courts within the district's jurisdiction with the respective list.
  - The entry for each identified conviction shall be the same: "vacated, dismissed with prejudice"; and shall be specific to the individual counts or indictments identified by each DAO or where no

individual counts or indictments are identified shall be made to counts or indictments for violation of G.L. c. 94C only.

- o Each district and superior court shall make the entries in the electronic trial court data base and on the paper copy of the docket.
- o The Probation Service shall make the entry for the corresponding criminal record in the same manner: "vacated, dismissed with prejudice."

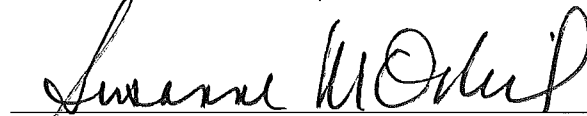
Notwithstanding the above, the DAOs request that the Court facilitate the production of the trial court data so that the respondent offices awaiting the trial court information are able to complete their lists with the necessary data.

Finally, if the Court should not enter the requested order at this time, the DAOs request in the alternative, that upon completion of all the lists by all of the respondent DAOs, the Court issue an order for entry of vacatur and dismissal with prejudice for each of the Farak-convictions identified and listed by the DAOs.

Date: 1/5/18

Respectfully submitted,

THE COMMONWEALTH,



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CERTIFICATE OF SERVICE

I do hereby certify that I have, this day, served a copy of the foregoing by first class to:

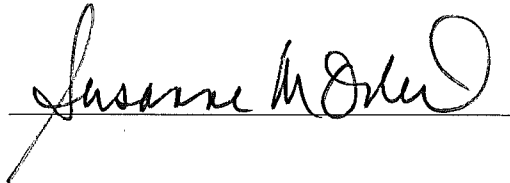
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Dated: January 5, 2018

A handwritten signature in dark ink, appearing to read "Suzanne M. O'Neil", is written over a horizontal line.