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COPY

June 10, 2013

TO: Lakeanna Carter
Hand-Delivered

Attorney William P. O'Neill
1350 Main Street
Springfield, MA 01103

RE: Commonwealth v. Tamik Kirkland
Docket Number 11-444



Dear Ms. Carter:

You provided a statement to Springfield Police on April 30, 2011 and recently provided additional information on June 9, 2013 to representatives of the Commonwealth regarding the events of April 30, 2011 that occurred in Springfield.

The Commonwealth does not believe that your testimony and changes to your original statement will rise to the level of a violation of law. The Commonwealth does not anticipate that you will be charged with any crime for the changes you brought to our attention. Nevertheless, to the extent that your testimony may tend to incriminate you by exposing you to prosecution for failing to make full disclosure in your original statement, G.L. c.268, §13B, the Commonwealth, by this letter, agrees not to prosecute you relative to those changes you have made prior to today.

Very Truly Yours,

Mark G. Mastroianni
District Attorney

1 MS. DAVIS: Thank you.

2 THE COURT: You're welcome. You're welcome.

3 Now, well, instead of doing a sidebar conference, I can
4 hear from Mr. O'Neil with respect to the next witness.

5 MR. O'NEIL: Thank you, Judge.

6 THE COURT: You're welcome.

7 MR. O'NEIL: Your Honor, I was asked to speak with
8 Ms. Carter about a possible Fifth Amendment issue, and I
9 have spoken with her. I reviewed her statement from April
10 of 2011 as well as a letter indicating there was an
11 interview yesterday with the District Attorney and a State
12 Trooper. I have also spoken to Mr. Mastroianni and defense
13 counsel.

14 After speaking with them and my client, Ms. Carter, I
15 believe there is a Fifth Amendment issue.

16 I know Mr. Mastroianni has provided my client with a
17 letter indicating that he plans not to prosecute her. I
18 started going over that with her. She was a little unclear
19 as to what that was. I have explained it to her. I don't
20 know what her intentions are, whether she's going to testify
21 or not, but that's where it is at this particular point in
22 time. I think I just need to check to see what she wants to
23 do.

24 THE COURT: All right.

25 MR. O'NEIL: It won't take very long.

1 THE COURT: Is she right outside?

2 COURT OFFICER: I think she's in the DA's Office.

3 MR. O'NEIL: She's been here in the DA's Office.

4 THE COURT: Can somebody get her out? Can you speak --
5 is there a little room maybe you can go talk to her?

6 MR. O'NEIL: Yes.

7 THE COURT: Thanks so much, Mr. O'Neil.

8 MR. O'NEIL: You're welcome.

9 THE COURT: I just want to make the record clear that
10 the spectators were asked to leave the courtroom so the
11 defendant could have an opportunity to speak with his
12 mother, Mrs. Davis. The Court had received information that
13 Mr. Kirkland was refusing to come out and participate in
14 these proceedings, and I felt that it may help if he spoke
15 to his mother.

16 So, as a result of that -- and, of course, after
17 receiving information from defense counsel -- as a result of
18 that, the Court ordered the spectators to leave the
19 courtroom. Mr. Kirkland was permitted to speak with his
20 mother. Defense counsel remained as did security. So I
21 just want the record to be clear as to why the spectators
22 were asked to leave the courtroom.

23 Okay.

24 (Off the record discussion between The Court and The
25 Court Officer.)

1 THE COURT: Mr. O'Neil.

2 MR. O'NEIL: I have had a chance to speak with
3 Ms. Carter. Again, she has indicated that she will testify,
4 Judge.

5 THE COURT: And you have advised her not to?

6 MR. O'NEIL: I have advised her what her options are,
7 Judge, yes, that's correct.

8 THE COURT: All right. So I think we're ready for
9 Ms. Carter.

10 MR. MASTROIANNI: Yes, Your Honor.

11 THE COURT: All right. Ms. Desmond, would you have the
12 jurors brought in.

13 Now you can let the spectators back into the courtroom.

14 MR. KLYMAN: Your Honor, before the jury comes in,
15 there is just one thing I want to point out. We have
16 received a copy of a letter which purports to grant immunity
17 to Ms. Lekeanna Carter, and it does not comport with the
18 form and the statute concerning --

19 THE COURT: Are you waiting to hear from the other
20 District Attorneys?

21 MR. MASTROIANNI: No. It's not granting her immunity.
22 It's -- this is not immunity. This is a letter indicating I
23 will not file charges. You can see the letter, Your Honor.
24 We can submit it to you.

25 THE COURT: I don't know if that's enough,

1 MR. MASTROIANNI: Yes. That would be the only
2 possible -- so that's what I just want to point out.

3 THE COURT: So, Mr. O'Neil.

4 MR. O'NEIL: Yes, Judge. If you want me to articulate
5 the reasons, I think there's two statements that she made
6 that have now changed. One is in her statement of April 30,
7 2011. She described, I believe, Mr. Kirkland as having one
8 gun and a telephone. And when she spoke with
9 Mr. Mastroianni and the trooper yesterday, she then
10 disclosed that there were two guns instead of one gun.

11 I think the more important one is with respect to
12 Trevin Smith, who I understand was also charged in this
13 case. In her statement of April 30, 2011, she identified
14 Mr. Smith under a nickname or street name and said he was
15 not there that day. She has now since said that he was
16 there earlier in the day, and those -- and since Mr. Smith
17 was charged in this case, I thought that was relevant.

18 Those are the two main issues and I think it raises an
19 issue under the witness intimidation statute, not the
20 strongest ones, but I think they're still there.

21 THE COURT: Is this the obstruction of justice statute?

22 MR. MASTROIANNI: Yes.

23 THE COURT: I don't see it as a witness intimidation.

24 MR. MASTROIANNI: It's under that statute, Judge.

25 There's a section that talks about misleading at some point.