

COMMONWEALTH OF MASSACHUSETTS HAMPDEN DISTRICT HALL OF JUSTICE

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OFFICE OF THE DISTRICT ATTORNEY

COPY

June 10, 2013

TO: Lakeanna Carter Hand-Delivered

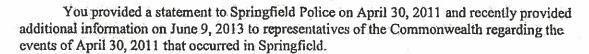
Attorney William P. O'Neill 1350 Main Street Springfield, MA 01103

RE:

Commonwealth v. Tamik Kirkland

Docket Number 11-444

Dear Ms. Carter:



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

MS. DAVIS: Thank you.

S: Inank you.

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

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

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hear from Mr. O'Neil with respect to the next

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MR. O'NEIL: Thank you, Judge.

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THE COURT: You're welcome.

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MR. O'NEIL: Your Honor, I was asked to speak with

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Ms. Carter about a possible Fifth Amendment issue, and I

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have spoken with her. I reviewed her statement from April

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of 2011 as well as a letter indicating there was an

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interview yesterday with the District Attorney and a State

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Trooper. I have also spoken to Mr. Mastroianni and defense

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counsel.

After speaking with them and my client, Ms. Carter, I

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believe there is a Fifth Amendment issue.

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letter indicating that he plans not to prosecute her. I

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started going over that with her. She was a little unclear

I know Mr. Mastroianni has provided my client with a

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as to what that was. I have explained it to her. I don't

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know what her intentions are, whether she's going to testify

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or not, but that's where it is at this particular point in time. I think I just need to check to see what she wants to

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do.

THE COURT: All right.

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

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THE COURT: Is she right outside?

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24 25 COURT OFFICER: I think she's in the DA's Office.

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

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

MR. O'NEIL: Yes.

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

MR. O'NEIL: You're welcome.

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

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

Okay.

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

1 THE COURT: Mr. O'Neil. 2 MR. O'NEIL: I have had a chance to speak with Ms. Carter. Again, she has indicated that she will testify, 3 4 Judge. 5 THE COURT: And you have advised her not to? MR. O'NEIL: I have advised her what her options are, 6 7 Judge, yes, that's correct. 8 THE COURT: All right. So I think we're ready for 9 Ms. Carter. MR. MASTROIANNI: Yes, Your Honor. 10 THE COURT: All right. Ms. Desmond, would you have the 11 12 jurors brought in. 13 Now you can let the spectators back into the courtroom. MR. KLYMAN: Your Honor, before the jury comes in, 14 15 there is just one thing I want to point out. We have received a copy of a letter which purports to grant immunity 16 17 to Ms. Lekeanna Carter, and it does not comport with the form and the statute concerning --18 THE COURT: Are you waiting to hear from the other 19 20 District Attorneys? MR. MASTROIANNI: No. It's not granting her immunity. 21 It's -- this is not immunity. This is a letter indicating I 22 will not file charges. You can see the letter, Your Honor. 23 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 qun 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.