

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CRIMINAL #2013-983

COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

*10/8/14
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one video ab that
produced ab that
There are no
audio
recordings
A. Cant. 1/16*

**DEFENDANT'S MOTION FOR PRODUCTION OF ALL VIDEO AND/OR AUDIO
RECORDINGS OF HIM AND/OR HIS COUNSEL AT THE
NORTH ATTLEBORO POLICE STATION ON JUNE 17-18, 2013**

Aaron Hernandez, defendant in the above-captioned criminal case, hereby moves this Court, pursuant to Mass. R. Crim. P. 14(a)(2), the Fifth and Fourteenth Amendments to the United States Constitution, and Article XII of the Massachusetts Declaration of Rights, to order the Commonwealth to disclose to the defendant any and all video and/or audio recordings made of the defendant and/or his counsel when the defendant and his counsel were at the North Attleboro Police Station on the night of June 17-18, 2013. As grounds therefore, defendant avers as follows:

1. During the motion hearing held last week, Trooper Bates testified that he identified a phone number the defendant dialed on a cellular telephone provided to him by his attorney in the parking lot of the North Attleboro Police Station on the early morning of June 18, 2013 using a video recording of that attorney/client interaction. Trooper Bates authenticated a report he prepared memorializing that portion of the investigation.

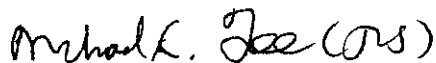
2. There was also testimony from several witnesses at the evidentiary hearing that the defendant was placed in a second floor interrogation room subject to video and/or audio monitoring that night.
3. There may or may not be recordings of the defendant and/or his attorneys made that night without notice to or consent of those parties. If such recordings exist, they may well contravene attorney/client privilege, the Massachusetts wiretapping statute, and/or the defendant's constitutional rights to due process.

Under the circumstances, it is unfair to require the defendant to cull through hundreds of hours of recordings produced in discovery to date in order to determine whether any recordings showing him and/or his counsel that night have been disclosed. Rather, the Commonwealth should be required specifically to identify any such recordings forthwith and provide them in discovery.


Respectfully submitted,

AARON HERNANDEZ

By his attorneys,



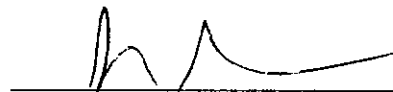
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document upon the Commonwealth by e-mail and by mailing a copy thereof, US mail, postage prepaid, to: Roger Michel, Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on October 7, 2014.



James L. Sultan