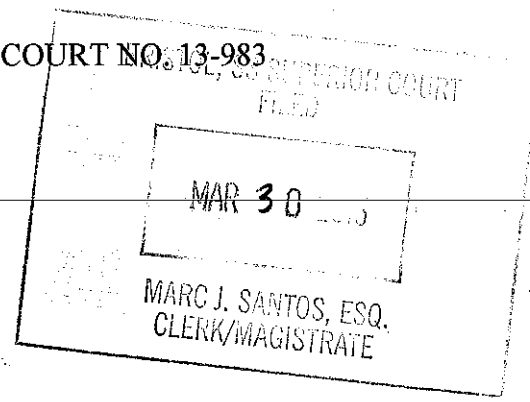


#314

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss

SUPERIOR COURT NO. 13-983



COMMONWEALTH

v.

AARON HERNANDEZ

**DEFENDANT'S MOTION TO RECONSIDER  
ADMISSIBILITY AND EXCLUDE  
TESTIMONY OF ALEXANDER BRADLEY**

The defendant Aaron Hernandez moves that the Court reconsider the admissibility and exclude the testimony of Alexander Bradley on the grounds that it carries an unacceptably high degree of risk of the necessity of a mistrial, and that his testimony would be cumulative, irrelevant, and significantly more prejudicial than probative. In support of this motion, the defendant states:

1. On Thursday, March 26, 2015, an article appeared in *The Boston Herald*, in which Bradley's civil lawyer is quoted as warning that there is no telling what Bradley might say on the witness stand at this trial: "It's a real Pandora's box they're opening here. . . . There's very little gain here. They don't know what he could say." See *Exhibit 1*, attached hereto.

Bradley's own lawyer went on to say:

You never know if he could say something that could blow up on them. . . . You need to be careful with a witness when you have to walk on eggshells, so you don't open the door to something that could lead to reversible error if you get a conviction.

2. The implicit threat that Bradley is a wildcard who is not subject to anyone's control and may well ignore the Court's instructions poses a substantial and unacceptable risk that a mistrial would have to be declared if Bradley chooses to volunteer testimony which is unfairly

prejudicial and which the Court has excluded. It is the defendant's position that any such mistrial would be the product of prosecutorial misconduct in presenting Bradley as a witness under these circumstances. If a mistrial is declared for that reason, then the defendant would not be subject to retrial on double jeopardy grounds.

3. In *Poretta v. Commonwealth*, 409 Mass. 763, 765 (1991), the Court held:

Under both Federal and Massachusetts law, the protection against double jeopardy does not bar retrial after a mistrial is declared on a defendant's motion, absent prosecutorial misconduct intended to provoke the defendant to move for a mistrial. See *Oregon v. Kennedy*, 456 U.S. 667, 679 (1982); *Mercedes v. Commonwealth*, 405 Mass. 693, 696 (1989); *Commonwealth v. Sanchez*, 405 Mass. 369, 373-374 (1989).

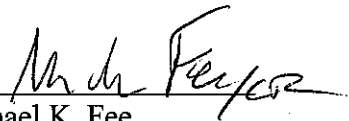
4. In balancing the probative value of Bradley's testimony against its prejudicial effect, the Court should also taken into account the other evidence that has been admitted that defendant had access to guns, far closer in time that the February, 2013 time period about which Bradley would testify. Such testimony has come in, *inter alia*, through the house cleaners, Shayanna Jenkins, and Sampson Michael.

5. For these reasons, the Court should exclude Alexander Bradley's testimony.

Respectfully submitted  
The defendant Aaron Hernandez  
By his counsel



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**CERTIFICATE OF SERVICE**

I certify that I have served the foregoing document upon counsel of record by hand delivering a copy to William McCauley on March 30, 2015.



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Charles W. Rankin

# McGovern: Opening Pandora's box in Aaron Hernandez trial



**YOU NEVER KNOW:** A lawyer for Alexander Bradley, above, a former pal of Aaron Hernandez's who claims the ex-Patriot shot him two years ago, says prosecutors have to tread carefully with his testimony.

Thursday, March 26, 2015

Print Email 0 Comments

By: Bob McGovern

Alexander Bradley is due to take the witness stand next week to testify against his old pal Aaron Hernandez — with a hole in his face that he says the ex-Patriot put there with a bullet two years ago.

Bradley is not allowed to tell jurors about that.

But while he is expected to testify that he has seen Hernandez with a gun, Bradley's lawyer says there's no telling what he might say.

"It's a real Pandora's box they're opening here," said David Jaroslawicz, Bradley's civil attorney, who is suing Hernandez in Florida over Bradley's gunshot wound. "There's very little to gain here. They don't know what he could say."

Bringing in Bradley's testimony could be a "stupid decision," Jaroslawicz said.

Superior Court Judge E. Susan Garsh will hold a hearing out of the jury's earshot to stress that Hernandez's former right-hand man must not testify about his pending civil case, in which he claims the former tight end shot him in the face on Feb. 13, 2013, after an argument at a Florida strip club. No criminal charges were ever brought.

However, prosecutors want Bradley to testify about Hernandez having access to a Glock a year before Odin Lloyd's murder. Without a murder weapon — a .45-caliber Glock pistol — that could be important for jurors to hear.

Bradley's attorney thinks prosecutors are barking up the wrong tree.

"What can the district attorney gain? My guy could say that Hernandez had one of 20 million Glocks that exist, but who knows what gun shot (Lloyd)?" Jaroslawicz said. "I think it's a stupid idea. You never call a witness that you don't need to call."

The problem arises if Bradley starts talking about off-limit subjects without being prompted. If he testifies that Hernandez is the kind of guy who shoots his friends for no reason, that could be grounds for an appeal or a mistrial, and Jaroslawicz said prosecutors better tread cautiously.

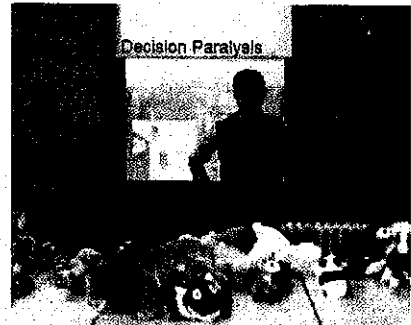
"You never know if he could say something that could blow up on them," Jaroslawicz said. "You need to be careful with a witness when you have to walk on eggshells, so you don't open the door to something that could lead to reversible error if you get a conviction."

The Bristol District Attorney's Office defended its strategy.

"We're not concerned about people's assumptions about our strategies when they're not involved in preparing that strategy," said spokesman Gregg Millote.

Meanwhile, defense attorneys also have to be careful. If they accidentally ask the wrong question and open the door, Bradley might be free to start spouting.

More On: Alexander Bradley Aaron Hernandez Odin Lloyd



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"Two weeks ago I'm trying to get to a roller hockey game th my grandson is playing in, so Marc Ross (the Giants' director college scouting) had showed me how to talk to this phone. Coughlin said, "I don't trust the lady in GPS, I don't trust her because they don't send you the right way. I hit the button e t go 'Park Ridge, New Jersey.' And she comes back on, alt giving me directions. So now I figure out where I am. I hit th"

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