


<b>CLERK'S NOTICE</b>	DOCKET NUMBER  <b>1373CR00983</b>	<b>Trial Court of Massachusetts</b> <b>The Superior Court</b> 
CASE NAME:  <b>Commonwealth vs. Aaron J Hernandez</b>		Marc J. Santos, Clerk of Court Bristol County
TO: File Copy		COURT NAME & ADDRESS Bristol County Superior Court - Fall River 186 South Main Street, Suite 202 Bristol County Fall River, MA 02721
<p>You are hereby notified that on 08/03/2015 the following entry was made on the above referenced docket:</p> <p><b>Endorsement on Motion to Question Witness Under Oath, (#394.0): DENIED without prejudice to renew with an affidavit from the source. As stated in the Memorandum of Decision and Order on Defendant's Motion to Authorize Issuance of a Subpoena, that motion was allowed to give the defendant the opportunity to file a supplemental affidavit executed by the caller. Questioning the caller under oath may very well be warranted to assess the credibility of the caller, but it is premature.</b></p>		
DATE ISSUED  <b>08/03/2015</b>	ASSOCIATE JUSTICE/ ASSISTANT CLERK  <b>Hon. Susan E Garsh</b>	SESSION PHONE#

#394

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

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

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS SUPERIOR COURT  
FILED

v.

AARON HERNANDEZ

JUL 27 2015

MARC J. SANTOS, ESQ.  
CLERK/MAGISTRATE

**DEFENDANT'S MOTION TO QUESTION WITNESS UNDER OATH**

Aaron Hernandez ["Hernandez"], the defendant in the above-captioned criminal case, hereby moves this Court, pursuant to the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Articles XII and XXIX of the Massachusetts Declaration of Rights, and Massachusetts common law, to order that the witness identified in the *Affidavit of James L. Sultan* filed herewith be questioned under oath, either by the parties or by the Court. As grounds therefore, the defendant avers as follows:

1. Based upon the previously-filed affidavit of counsel and the affidavit of counsel filed herewith, the defendant has made "a colorable showing that an extrinsic influence may have had an impact upon the jury's impartiality." See *Commonwealth v. Dixon*,

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 8/3/15  
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 [Signature]

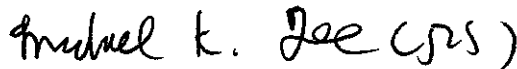
395 Mass. 149, 152 (1985). Accordingly, at this juncture, a limited, judicially-supervised investigation is clearly warranted. Specifically, the individual identified in the accompanying affidavit of counsel should be questioned under oath so that the Court may determine whether additional investigative steps are warranted.

2. Under *Globe Newspaper Company v. Commonwealth*, 407 Mass. 879 (1990) and its progeny, the Court may order that the witness be questioned by the parties at a deposition or similar proceeding, that the witness be questioned directly by the Court with the parties suggesting questions to be posed, or that the witness be questioned at a formal hearing. The form such an investigation should take is within the discretion of the Court. *Id.* at 887; *Commonwealth v. Fidler*, 377 Mass. 192, 203 (1979). The defendant notes that the likelihood of discovering the truth in this matter will be maximized if such questioning (and any transcript thereof) is not publicly-disclosed until the conclusion of the investigative process.

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: William McCauley, First Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on July 24, 2015.

  
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James L. Sultan