

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CRIMINAL #2014-SUCR-10417
CRIMINAL #2015-SUCR-10384 ✓

2016 JAN 11 PM 12:53

COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

Non-Party Petitioner’s Motion for Return of Property

The Non-Party Petitioner, JANA Leasing and Rental Corporation and its related entity Fox Enterprises, Inc. d/b/a Fox Toyota (hereafter collectively “Petitioner” and/or “Fox Toyota”) moves, pursuant to Superior Court Rule 61, that the Commonwealth of Massachusetts be ordered to return to Fox Toyota, the 2006 Toyota 4Runner Ltd., Vehicle Identification No. JTEBU17R768052996, (hereafter the “Vehicle”) presently in its possession and located, upon information and belief, on the premises of the Boston Police Department.

As reasons therefore, Petitioner states as follows:

1. On or about October 30, 2010, Fox Toyota obtained title to the 2006, Toyota 4Runner Ltd., Vehicle Identification No. (VIN) JTEBU17R768052996, (hereafter the “Vehicle”) for the base purchase price of \$26,050.00.¹
2. The purchase was financed by Toyota Motor Credit Corp. (“TMCC”) who maintains a lien on the Vehicle, including delivery and finance charges, in the

¹ See Exhibit 1 to the Affidavit of Attorney Joshua Teverow filed herewith.

amount of \$28,285.00. Fox Toyota has been paying monthly installments of \$471.43 on this Vehicle since its purchase.²

3. Sometime in 2010, Fox Toyota entered into a contract to lease the Vehicle to Aaron Hernandez, through his agents Athletes First. According to the terms of their agreement, Mr. Hernandez was required to provide certain promotional services to Fox Toyota in exchange for his use of the Vehicle.
4. Mr. Hernandez was in possession, custody and control of the Vehicle, pursuant to said lease until the date of his arrest on or about June 26, 2013.
5. On or about June 28, 2015, pursuant to a warrant, the Vehicle was seized by the Commonwealth of Massachusetts and turned over to the Boston Police Department.
6. Since that time to present date, the Commonwealth of Massachusetts and the Boston Police Department have been in possession, custody and control of the Vehicle.
7. Also since that time, Fox Toyota has been making payments on the Vehicle to TMCC, but has not had access to, or use of, the Vehicle.
8. The lien was ultimately paid off on October 15, 2015.
9. Petitioner's Rhode Island attorney, Joshua Teverow, is currently in negotiations for the sale of Fox Toyota' Rhode Island dealership. In anticipation of the upcoming sale of its automobile dealership, Petitioner is conducting inventory and assembling all of its assets. It requires its property prior to the sale, the closing for which has not yet been scheduled.

² See Exhibit 1 to the Affidavit of Attorney Joshua Teverow filed herewith.

10. In an attempt to recover the Vehicle for its rightful owner, the Petitioner, without the need for this Court's intervention, its Rhode Island Counsel has communicated with the Commonwealth, but has not been successful.³ As a result, the undersigned Massachusetts trial counsel has been retained to file formally for the return of the Vehicle.
11. Massachusetts counsel has been informed by the Commonwealth that it does not plan to and has no need to use the Vehicle in its upcoming prosecution of Mr. Hernandez. As a result, the Vehicle is languishing in the possession of the Commonwealth, to the ongoing detriment of the Petitioner.
12. Petitioner requires the return of its property prior to the closing on the sale of its dealership.
13. Petitioner is the rightful owner of the Vehicle.

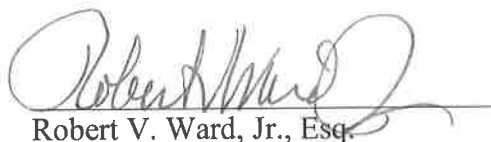
In further support hereof, Petitioner files herewith a Memorandum of Law, the Affidavit of Attorney Joshua Teverow and a proposed Order for this Honorable Court's consideration.

WHEREFORE, the Petitioner moves this Honorable Court order the return of the Vehicle to the non-party Petitioner forthwith.

³ See Exhibit 2 to the Affidavit of Attorney Joshua Teverow filed herewith.

Non-Party Petitioner,
JANA Leasing and Rental Corporation and Fox
Enterprises, Inc. d/b/a Fox Toyota

By their counsel,



Robert V. Ward, Jr., Esq.

BBO # 516080

Eric Booth, Esq.

BBO#686266

Law Offices of Kenneth V. Kurnos, P.C.

100 State Street

Boston, MA 02109

(617) 557-4900

rward@kurnoslaw.com

ebooth@kurnoslaw.com

Dated: January 8, 2016