

Exhibit C

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT DEPARTMENT
No. 1677 CR 00208

FILED
ESSEX SUPERIOR COURT
22 MAY 16 AM 10:49

COMMONWEALTH OF MASSACHUSETTS,
Plaintiff

v.

JEREMIAH WOODEN,
Defendant

**STIPULATION, PURSUANT TO MASS. R. APP. P. 8, REGARDING
UNRECORDED TRIAL DAY 3 (MAY 26, 2017) AND FILING OF
A TIMELY NOTICE OF APPEAL BY THE DEFENDANT**

NOW COME the parties in the above-captioned matter and submit this stipulation, pursuant to Mass. R. App. P. 8(e)(1), to reconstruct the missing portion of the trial record on appeal. Specifically, this Court has informed counsel that the proceedings on May 26, 2017, were not recorded and, thus, cannot be transcribed to be assembled and transmitted to the Appeals Court as part of Mr. Wooden's direct appeal. Transcripts have been furnished to this Court for proceedings occurring on May 23, 2017 (Trial Day 1), May 24, 2017 (Trial Day 2) and June 5, 2017 (Sentencing). The parties agree that the following occurred at jury trial on May 26, 2017, and accept it as the record on appeal related to Trial Day 3.

1. The Commonwealth continued to present its case-in-chief on that day.
2. The Commonwealth called **Mass. State Police Trooper Michael Perry** from crime scene services. He testified that no fingerprints were found on the spent shell casing or the firearm. Neither Mr. Wooden's DNA nor fingerprints were recovered from any evidence collected at the scene.

3. The Commonwealth also called **Sergeant Detective Dennis Gaudet** of the Salem Police Department as a witness. He testified that, at 6:00 p.m., on April 14, 2016, he was dispatched for shots fired in an incident involving Detective St. Pierre and, upon arrival, smelled the odor of a freshly fired handgun in the air. He spoke to Det. St. Pierre. Then, Det. Eric Connelly walked him through the scene to point out where evidence had been collected at 1 Fairfield Street. They then proceeded to 7 Fairfield Street. At 7 Fairfield Street, he testified that he observed a spent 9mm shell casing alongside a ring beside the garage in the grass along with a package of tobacco leaves. Despite efforts, they could not locate any spent projectiles. He also testified that Mr. Wooden's Facebook page depicted him wearing a necklace that the police recovered from the driveway of 7 Fairfield Street.
4. The Commonwealth also called **Mass. State Police Trooper Glenn P. Cote** who is a ballistics expert. He testified that it is his opinion that the firearm submitted, a 9mm Luger caliber Diamondback model DB9 semi-automatic pistol with a barrel length of 3 inches, which was submitted in evidence, was a firearm within the meaning of and as defined in M.G.L. c.140, s.121. He further testified that it was a working firearm after having test fired it without malfunction. Trooper Cote further testified that it was his opinion that one 9mm Luger caliber live cartridge, head stamped "Win 9mm Luger," and submitted in evidence, was ammunition within the meaning of and as defined in M.G.L. c.140, s.121. He also inspected one 9mm caliber magazine. He mentioned the magazine didn't stay in place well inside the firearm and could become dislodged. The spent 9mm Luger cartridge casing was also submitted to him. He opined that, as a result of

physical and microscopic examination of the submitted evidence and test firings, it was his opinion that the discharged cartridge casing was fired by the 9mm firearm submitted in evidence.

5. The Commonwealth rested and this Court denied the defense's oral motion for required finding of not guilty on all counts.
6. The defense rested and its renewed motion for required finding of not guilty was denied on all counts.
7. The defense's closing argument focused on the element of intent on the most serious charge, assault with the intent to murder. The defense argued that Mr. Wooden was simply trying to get away from the police and did not have the intent to harm Detective St. Pierre who had chased him. He argued that Mr. Wooden didn't intend to shoot the officer; rather, wanted to simply scare him to be able to flee the struggle and avoid capture.
8. The Commonwealth argued that Mr. Wooden should be found guilty of armed assault to murder as he possessed that specific intent as shown through his actions. Its closing recapped the evidence of his initial flight from police, the struggle with Detective St. Pierre and his flight from the scene to avoid capture. It also argued that he was guilty of three counts of assault with a dangerous weapon, resisting arrest, assault and battery on a police officer and the unlawful possession of a firearm, (the Armed Career Criminal portion of the indictment was bifurcated). Specifically, the prosecutor argued the following description of the acts constituting each of the charges in the indictments in chronological order of their occurrence:

- Assault with Dangerous Weapon (Count 2) – defendant pointed firearm at Det. St. Pierre’s leg;
- Assault with Dangerous Weapon (Count 3) – defendant pointed firearm at Det. St. Pierre’s head;

Assault with Dangerous Weapon (Count 4) – defendant pointed firearm at Det. St. Pierre’s chest/torso; and

- Armed Assault to Murder (Count 1) – defendant pointed firearm at Det. Detective St. Pierre’s head again and then he fired.

9. The jury instructions provided by this Court were reduced to writing and are on file in the Clerk’s Office.
10. During the jury’s deliberation, they had one question regarding deliberating on the multiple counts related to assaulting Detective St. Pierre. Recently, the Court has informed the parties that the written question has also been lost. The substance of the question concerned the facts to be applied to each charge, but the exact wording of the question is now unknown to the parties. In response to the question, the prosecutor stated that the jurors must be specific on each charge connecting it to each act as alleged. The court agreed and responded to the question in that same manner. The defense was content with the explanation.
11. The jury returned verdicts on the indictments in this case as set forth in this Court’s docket, specifically: (Count 1) not guilty of armed assault to murder; (Count 2) guilty of assault with a dangerous weapon, pointing the firearm at Det. St. Pierre’s leg; (Count 3) not guilty of assault with a dangerous weapon, pointing the firearm at Det. St. Pierre’s head; (Count 4) guilty of assault with a dangerous weapon, pointing the firearm at Det. St. Pierre’s chest/torso; (Count 5) guilty of resisting arrest; (Count 6) guilty of assault and battery on a police officer for

trying to disarm the officer; and (Count 7) guilty of unlawfully possessing a
firearm.

Additionally, the Court has lost the original notice of appeal from conviction provided to it by
Attorney Daniel Solomon for the defense and it was not docketed. The parties agree that Mr.
Wooden's counsel filed timely notice of appeal.

Respectfully submitted,
Jeremiah Wooden
By his attorney,

/s/ Michael A. Waryasz

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Dated: May 11, 2022

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Dated: May 11, 2022

situation where a person sees another in danger, reaches out, and while removing the other person from an oncoming vehicle, touches that person's breast. In this case, the Commonwealth must prove the absence of justification or excuse beyond a reasonable doubt.

If you find that the Commonwealth has proven all of these elements beyond a reasonable doubt, you should return a verdict of guilty.

If, however, after consideration of all the evidence, you find that the Commonwealth has not proven any one of these elements beyond a reasonable doubt, you shall find the defendant not guilty of assault and battery on a police officer.

Carrying a firearm without a license

The defendant is charged under section 10(a) of chapter 269 of our General Laws with carrying a firearm without a license. To prove Jeremiah Wooden is guilty of the offense of carrying a firearm without a license, the Commonwealth must prove the following things beyond a reasonable doubt:

- First: that Jeremiah Wooden possessed a firearm;
- Second: that Jeremiah Wooden knew that he possessed a firearm; and
- Third: that Jeremiah Wooden possessed the firearm outside of his residence or place of business.

A “firearm” is defined in our law as:

“a pistol, revolver or other weapon . . . loaded or unloaded, from which a shot or bullet can be discharged and . . . the length of [whose] barrel is less than sixteen inches.”

That definition can be broken down into three requirements: First, it must be a weapon; Second, it must be capable of discharging a shot or bullet; and Third, it must have a barrel length of less than 16 inches. The term “barrel length” refers to “that portion of a firearm . . . through which a shot or bullet is driven, guided or stabilized, and [includes] the chamber.” If it was a conventional firearm, with its obvious dangers, the Commonwealth is not required to prove that the defendant knew that the item met the legal definition of a firearm.

With respect to this count, it is not necessary that the firearm be loaded with ammunition.

As I mentioned before, the Commonwealth must prove beyond a reasonable doubt that Jeremiah Wooden knew that he possessed this item or had this item under his control in a vehicle, and also knew that the item was a “firearm,” within the common meaning of that term. If it was a conventional firearm, with its obvious dangers, the Commonwealth is not required to prove that Jeremiah Wooden knew that the item met the legal definition of a firearm.

If you find that the Commonwealth has proved all of these elements beyond a reasonable doubt, then you should return a verdict of guilty.

If, however, after your consideration of all the evidence, the Commonwealth has not proven any one of these elements beyond a reasonable doubt, then you shall find the defendant not guilty of carrying a firearm without a license.