

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT  
NO. 2382-CR-00313

COMMONWEALTH

V.

AIDAN KEARNEY

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DEFENDANT'S THIRD MOTION TO COMPEL REQUIRED DISCOVERY

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Now comes Mr. Aidan Kearney, and respectfully moves that this Honorable Court, pursuant to Mass. R. Crim. P. 14.2(j) compel the production of the discovery detailed below, which has been requested from the prosecution multiple times since October 8, 2024, and which disclosure is required by prior orders of this court and imposed by Rule 14, the Fifth and Fourteenth Amendments of the United States Constitution, Article Twelve of the Massachusetts Declaration of Rights, *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and *Kyles v. Whitley*, 514 U.S. 419 (1995).

Specifically, the defense has made three letter demands for ordered and/or required discovery, concerning civilian Katherine Peter, who, on information and belief, is working as an agent for the Commonwealth in their prosecutions against Mr. Kearney and Karen Read.<sup>1</sup> Although our first demand was made more than *six months ago*, the prosecution has neither

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<sup>1</sup> See letters of Mark A. Bederow to Special Assistant District Attorneys Robert Cosgrove, dated October 8, 2024, October 17, 2024, and March 29, 2025. Ms. Peter's relationship with the Commonwealth and the prosecution's required obligations under Rule 14, *Brady*, and *Giglio*, constituted the entire substance of the October 8, 2024 and March 29, 2025 letter demands. All of these letters have been previously filed with the Court.

provided the defense with any of the requested discovery nor indicated that none of the requested items or information are within the possession, custody or control of the prosecutor, the prosecuting office, or any member of the prosecution team. *See* Rule 14(a)(1) and (2), as amended on March 1, 2025. Indeed, the prosecution hasn't responded at all to any of the demands made in the October 8 and 17, 2024 and March 29, 2025 letter demands, all of which describe in great detail the good faith basis for our belief that the prosecution is in possession of evidence that requires disclosure.

In addition to the outstanding discovery demands referenced above, Mr. Kearney's defense has since received further confirmation that such evidence exists. Significantly, this evidence is described in the sworn affidavit of an acquaintance of Ms. Peter, a copy of which is attached hereto as exhibit A. As detailed by the sworn statement of the witness, Ms. Peter has admitted to the witness that she has had a longstanding relationship in which she has assisted the Commonwealth in their efforts to prosecute Mr. Kearney and Ms. Read. Ms. Peter's relationship with the Commonwealth and its key witnesses against Mr. Kearney and Ms. Read includes evidence that, among other things, she:

- regularly speaks to and meets the Read prosecutors,<sup>2</sup> *see* exhibit A, ¶¶ 6, 9-11, 20,
- receives monthly payments from the Commonwealth in exchange for her assistance against Mr. Kearney and Ms. Read, *see id.*, ¶ 7,
- received items of value from key witness Jennifer McCabe, *see id.*, ¶¶ 14, 17,
- was granted de facto immunity from prosecution in exchange for her assistance with the Commonwealth, *see id.*, ¶ 12

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<sup>2</sup> Ms. Peter's relationship with special prosecutor Kenneth Mello and the Massachusetts State Police are detailed in the October 8, 2024 demand at pp. 3-12 and October 17, 2024 demand at 6-7, respectively.

- altered, destroyed and/or disposed of material evidence, including the contents of her cellular phone, that would be favorable to Mr. Kearney, *see id.*, ¶¶ 16, 23,
- admitted her intent to “start rumors” about Mr. Kearney’s purported harassment of jurors to further the Commonwealth’s (unsuccessful) effort to ban Mr. Kearney from covering the Read case, *see id.*, ¶ 22,
- uses her social media platforms to help the Commonwealth circumvent a gag order in the Read case, *see id.*, ¶¶ 8, 10, 19, 22,
- stalked, harassed and “spied” on Mr. Kearney, Ms. Read, one of Ms. Read’s attorneys, and supporters of Ms. Read, *see id.*, ¶¶ 13, 20, 23, and
- admitted that Lindsey Gaetani lied about a material fact relevant to her criminal allegations against Mr. Kearney, *see id.*, ¶ 24.

Significantly, according to the witness’ sworn statement, Ms. Peter admitted to her that Jennifer McCabe issued an ultimatum directly to District Attorney Morrissey in exchange for her favorable testimony against Ms. Read: she would not testify until “Turtleboy is in jail.” Ms. Peter further told the witness when Ms. McCabe was told that the Commonwealth can simply subpoena her, she implied that if her demands were not met “we”<sup>3</sup> would alter her testimony in a manner designed to harm the Commonwealth’s case against Ms. Read. *See* exhibit A, ¶ 15. Ms. Peter further admitted to the witness that on March 16, 2025, she met with Ms. McCabe and DA Morrissey<sup>4</sup> in Braintree and when the witness saw Ms. Peter shortly after that meeting, Ms. Peter had a manilla envelope with her. *See id.*, ¶ 18.

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<sup>3</sup> On information and belief, Ms. McCabe’s use of the word “we” means that in addition to herself, other key prosecution to whom she is close with also would not testify favorably for the prosecution unless Mr. Kearney was in jail.

<sup>4</sup> The prosecution still hasn’t complied fully with its obligation to provide any discoverable electronic communications from representatives of the DA’s Office (including DA Morrissey) and witnesses against Mr. Kearney. *See* October 17, 2024 letter demand, pp. 4-7, 10-11.

None of the foregoing items or information has been provided to the defense team by the Commonwealth, despite several prior requests in addition to the preexisting Rule 14 obligation. Based upon the information provided by the witness' sworn statement and the contents of our three previous letter demands, there is strong reason to believe that there exists discoverable information and material in the Commonwealth's possession, custody and control (whether the Kearney or Read prosecution team) related to Ms. Peter's involvement with the Commonwealth and/or witnesses who will testify against Mr. Kearney. The prosecutor also has a duty to inform "each member of the prosecution team" whom he has reason to believe may be in possession, custody or control of discoverable "items or information" and to then inquire of each person "as to the existence of such items or information." *See* Rule 14(2)(a). Thus, at a minimum, the prosecutor must address the issues raised in the affidavit and letter demands with DA Morrissey, Hank Brennan, Adam Lally, Laura McLaughlin, Ms. Peter, Ms. McCabe, Kenneth Mello, Brian Tully, and John Fanning.

Any discoverable evidence then must be immediately "collected" and "promptly" disclosed to his defense. *See* Rule 14(a)(2)(B); Rule 14(d). This, of course, includes prompt disclosure of any evidence that the Read prosecution team has in their possession, custody or control which adversely impacts the credibility of any witness against Mr. Kearney, otherwise favors him, or "casts doubt" on the case against him. *See* Rule 14(b)(2)(B)(ii) and (iii); *see also, Giglio v. United States*, 405 U.S. 150 (1972). The Commonwealth's disclosure obligation to Mr. Kearney remains irrespective of any purported view of the evidence's reliability, credibility or admissibility, and "without regard" to whether the information has been documented in any manner. Rule 14(b)(2)(A). In other words, where the subject matter is discoverable, the prosecution must promptly disclose any information derived from conversations or interviews between or among

Ms. Peter, the relevant witnesses against Mr. Kearney, and any members of the Kearney and Read prosecution teams, even if it was not memorialized in any way.

WHEREFORE, Mr. Kearney respectfully requests that the Court:

1. Order production of the requested, and any other outstanding discovery, within fourteen days of the date of this motion;
2. Promptly schedule a hearing thereafter on the issue of sanctions under Rule 14(j) for the unexcused failure to provide discovery and for the misconduct of a government agent;
3. Issue an order to show cause upon the Commonwealth at an evidentiary hearing as to why the case should not be dismissed with prejudice or be the subject of such other relief as is authorized by Rule 14.2(j); and
4. Any such other relief as the Court deems just, meet and proper.

Date: April 24, 2025

Respectfully Submitted

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Defendant  
By his attorneys,

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CERTIFICATE OF SERVICE

I, Timothy J. Bradl, do hereby certify that I have filed this document and served counsel for the Commonwealth, ADA Robert Cosgrove, in hand/ by email /by first class mail, postage paid on 4/24/ 2025, with a true copy of the instant document and attachments.

/S/TIMOTHY J. BRADL  
Timothy J. Bradl