

SUPERIOR COURT
COUNTY OF NORFOLK

COMMONWEALTH OF MASSACHUSETTS

-against-

AIDAN KEARNEY,

Defendant.

AFFIDAVIT IN
SUPPORT OF
MOTION

Docket No.
2382CR00313

MARK A. BEDEROW, an attorney admitted to practice law in the Commonwealth of Massachusetts, *pro hac vice*, affirms under penalty of perjury, as follows:

1. I am an attorney of record for the defendant, AIDAN KEARNEY. I am familiar with the facts and circumstances herein and make this affidavit in support of Mr. Kearney's motions for

(a) dismissal of the indictments pursuant to [*Commonwealth v. O'Dell*](#), 392 Mass. 445 (1984), and its progeny, due to the prosecution's impairment of the integrity of the grand jury proceeding, or in the alternative, for the granting of an evidentiary hearing in connection with the motion,

(b) dismissal of the indictments, pursuant to [*Bridgeman v. District Attorney for Suffolk District*](#), 476 Mass. 298 (2017), and its progeny, due to the Commonwealth's pervasive failure to disclose specifically requested *Brady* material, *Giglio* material and automatic discovery under [Rule 14](#) of the Massachusetts Rules of Criminal Procedure, or in the alternative, for an evidentiary hearing in connection with the motion,

(c) disqualification of special prosecutor Kenneth Mello, pursuant to [Rule 3.7](#) of the Massachusetts Rules of Professional Conduct, due to Mr. Mello being an essential defense witness at trial, or in the alternative, an evidentiary hearing in connection with the motion.

BACKGROUND

2. Mr. Kearney, known by the moniker "Turtleboy," is a credentialed independent journalist with large platforms on social media and YouTube. He writes articles and regularly hosts live YouTube shows, which generally are 2 to 3 hours in length and address numerous topics of public concern.

3. Mr. Kearney's YouTube videos are categorized sequentially as numerical "episodes," each of which contains a unique title summarizing the contents of his shows. Episode numbers and titles of Mr. Kearney's shows are displayed prominently on his YouTube page and may be viewed by anyone, irrespective of whether they subscribe to his channel.

4. Mr. Kearney's investigative reporting has exposed numerous examples of fraud, corruption, and wrongdoing. He often intersperses his journalism with elements of comedy, satire and activism. Not surprisingly, many people who become the subject of his reporting and content don't like him.

5. In April 2023, Mr. Kearney began researching the Karen Read case, which at the time appeared to be a straight-forward, open and shut vehicular homicide case. After he reviewed publicly filed court documents and acquired information from sources he generated, Mr. Kearney quickly realized that the case against Ms. Read was far more nuanced than had been publicly reported up to that point.

6. Since he first delved into the circumstances surrounding how John O'Keefe, a Boston police officer, ended up dead on the front lawn of fellow Boston police officer Brian Albert, shortly after Ms. Read dropped

him off at Mr. Albert's Canton home in her Lexus SUV, Mr. Kearney's reporting and content creation has centered on his unabashed belief that the Norfolk County DA's Office ("the DA") and the Massachusetts State Police ("MSP") framed Ms. Read with assistance from Jennifer McCabe, members of the Albert family¹ and others who participated in Mr. O'Keefe's death and/or helped cover it up.

7. On April 18, 2023, Mr. Kearney published his [first article](#) about the Read case, "*Canton Cover-Up Part 1: Corrupt State Trooper Helps Boston Cop Cover Up Murder of Fellow Officer, Frame Innocent Girlfriend.*"

8. Mr. Kearney's initial "Canton Cover Up" report was primarily sourced by the April 12, 2023, 90-plus page [court filing from Ms. Read's defense](#), which consisted of an affidavit from her attorney supported by numerous exhibits, including police reports and data from an extraction report of Ms. McCabe's cell phone.

9. Mr. Kearney reported that Brian Albert, Ms. McCabe, Matthew McCabe, Chris Albert, Colin Albert, and Julie Nagel were "definitely" in the house at the time Mr. O'Keefe was killed and that "all

¹ Ms. McCabe's sister, Nicole, is married to Brian Albert.

of them witnessed the murder, or are aware of it, and have said nothing. Most of them were not questioned by [now terminated and disgraced] Trooper [Michael] Proctor.”

10. Mr. Kearney’s article highlighted the Read defense’s claim that Ms. McCabe Googled “hos long to die in the cold” at 2:27 a.m. on January 29, 2022, which, if true, was damning evidence of her complicity in, and/or knowledge of, the circumstances surrounding Mr. O’Keefe’s death.

11. Most of the individuals criticized in Mr. Kearney’s April 18, 2023 article for their alleged involvement in Mr. O’Keefe’s death or its cover up later became the allegedly “intimidated” victims in the indictments against Mr. Kearney. Indictments related to Mr. Kearney’s purported “intimidation” of Mr. Proctor and Sergeant (“Sgt.”) Yuri Bukhenik were later [dismissed by the Court](#).

12. Mr. Kearney’s well-sourced, dogged reporting and outspoken support of Ms. Read’s innocence lit the spark that quickly ignited the “Free Karen Read” movement, a phenomenon which galvanized worldwide support for Ms. Read—and relentless, blistering criticism of

the DA, MSP, and the civilians whom Mr. Kearney (and many others) believe concealed the truth about Mr. O’Keefe’s death.

13. Mr. Kearney’s coverage of the Read case (which to-date includes 528 “Canton Cover Up” articles and hundreds of video episodes), virtually overnight transformed a mundane Massachusetts criminal case into perhaps the most [high-profile and scandalous murder prosecution](#) in the United States in decades.

14. Mr. Kearney’s frequent reporting on the Read case has played a substantial role in the [public’s loss of confidence](#) in the integrity and competence of Norfolk County law enforcement, an ongoing scandal that continues to plague the DA and MSP in the aftermath of Ms. Read’s acquittal.²

15. But for Mr. Kearney’s reporting, [disgraced former trooper Proctor](#) would still be investigating serious cases for the MSP, other members of the MSP (including Detective-Lieutenant [“DL”] [Brian Tully](#), the lead investigator against Mr. Kearney and [Sgt. Bukhenik](#)) wouldn’t

² Mr. Kearney’s exposure of the DA’s and MSP’s misconduct in the Read case has complicated the murder cases against [Brian Walshe](#) and [Myles King](#). It has led to [significant criticism](#) of the DA’s [investigation into the death of Sandra Birchmore](#), which it classified as a tragic suicide but which many believe was a whitewash. In 2024, the U.S. Attorney’s Office [thoroughly rejected the DA’s findings](#) and [indicted](#) former police officer Matthew Farwell for Ms. Birchmore’s murder.

have been publicly disciplined for their misconduct, and the Norfolk DA's State Police Detective Unit ("SPDU") wouldn't have been [dismantled due to their misconduct in the Read case.](#)

16. Although Mr. Kearney's reporting on the Read case raised disturbing questions about the possibility of systemic corruption in Norfolk County and gained him tens of thousands of supporters, the public officials and private citizens he has accused of wrongdoing and the microscopic segment of the population who remain convinced of Ms. Read's guilt despite her acquittal, despise him for his coverage and opinions.

17. Since Mr. Kearney exposed the scandal surrounding the Read case on April 18, 2023, the DA, MSP, Ms. McCabe and the Alberts have repeatedly used the criminal justice system as the instrument to "silence Turtleboy" and end the persistent criticism his reporting has caused, and still causes them, today.

SUMMARY OF THE MOTIONS

18. The primary evidence used to secure Mr. Kearney's indictments were shortened, edited and renamed segments from his hours-long YouTube episodes, which had the effect of skewing the true context of Mr. Kearney's episodes.

19. For months prior to the grand jury proceeding, DL Tully and Mr. Mello were familiar with Mr. Kearney's actual episodes, including their true names, length and context.

20. During the two months prior to the grand jury proceeding, DL Tully and Mr. Mello welcomed unvetted "evidence" and guidance from Katherine Peter, a private citizen who they knew harbored an unhealthy obsession and hatred for Mr. Kearney.

21. Ms. Peter's dreadful credibility included incidents in 2020 and 2023 where she [falsified and forged evidence](#) to harm Mr. Kearney, the latter of which included her audacious [defamation and exploitation of Colin Albert and Chris Albert](#) to further her insatiable urge to embarrass Mr. Kearney.

22. Ms. Peter provided DL Tully and Mr. Mello with video and audio evidence, including edits from Mr. Kearney's lengthy episodes, which she believed evinced Mr. Kearney's intent to intimidate witnesses.

23. As detailed in the accompanying affidavit of Courtney Healy, according to DL Tully, Ms. Peter directed him to specific timestamps of Mr. Kearney's episodes, which he located and edited, rather than review the linked files provided to him by Ms. Peter.

24. [DL Tully apparently renamed the edits he made from Mr. Kearney's episodes](#) (such that they didn't accurately reflect the names created by Mr. Kearney) and saved them in folders he created, which included at least one he named "intent."

25. The edited and renamed files and the "intent" folders DL Tully created were the exact files that became the exhibits that Mr. Mello introduced and DL Tully described before the grand jury.

26. Mr. Mello's direction of the grand jury proceeding made a mockery of Mr. Kearney's right to due process, the cumulative impact of which impaired the integrity of the grand jury proceeding and prejudiced Mr. Kearney.

27. Mr. Mello littered the grand jury proceeding with his improper comments, his unsworn opinions of the evidence and Mr. Kearney's intent, and by twice eliciting DL Tully's opinion that Mr. Kearney intended to intimidate witnesses.

28. Mr. Mello provided the grand jury with improper legal instructions and failed to give appropriate limiting instructions. He improperly alerted the grand jury about the possible sentences associated with the crimes for which he sought indictments—and even a charge for which he did not seek an indictment.

29. Mr. Mello dedicated the first day of the grand jury proceeding to “dirtying up” Mr. Kearney through his introduction of irrelevant and prejudicial evidence related to an ***uncharged*** allegation of Mr. Kearney wiretapping Stephen Scanlon, a topic entirely unrelated to the witness intimidation allegations before the grand jury.

30. Mr. Mello and DL Tully misled the grand jury by limiting evidence of Mr. Kearney's intent to DL Tully's edits of his episodes, which left the grand jury with inaccurate (and far more incriminating) information about the names, length and context of Mr. Kearney's episodes rather than affording the grand jury access to his authentic

episodes, which would've provided it with the accurate—and favorable—context of Mr. Kearney's statements.

31. At least 28 times during the course of the grand jury proceeding, Mr. Mello elicited from DL Tully materially false and misleading testimony about Mr. Kearney's YouTube episodes, which gave the grand jury the false impression that he created the episodes to document his alleged intimidation of witnesses.

32. Despite numerous defense demands for specific evidence from September 2024 to August 2025, the DA has failed to disclose exculpatory or discoverable evidence or, at a minimum, explained what efforts, if any, it made to locate the requested evidence.

33. The defense made a prior defense motion to dismiss the indictments without access to important undisclosed evidence that was in the Commonwealth's possession, custody and control prior to the filing of the motion.

34. Communications between Ms. Peter, Mr. Mello and DL Tully, which are relevant to the instant motion to dismiss the indictment have been in the Commonwealth's possession, custody and control since 2023, and were the subject of specific demands on September 12, 2024, October

[8, 2024](#) and [October 17, 2024](#), but were not disclosed to the defense until months after the Court decided our initial motion to dismiss.

35. Mr. Mello forwarded many of the communications relevant to the instant motion to dismiss the indictment to co-counsel Robert Cosgrove on December 16, 2024, but Mr. Cosgrove didn't provide them to the defense until July 7, 2025, notwithstanding specific defense demands for that exact evidence addressed to both months before the defense filed the first motion to dismiss the indictment.

36. On September 4, 2025, the defense learned for the first time that DL Tully apparently edited and renamed Mr. Kearney's content and that this altered evidence later became the exhibits used by Mr. Mello and DL Tully to mislead the grand jury about Mr. Kearney's alleged intent.

37. The communications between and among Ms. Peter, Mr. Mello and DL Tully recently disclosed by the Commonwealth establish that the defense still hasn't been provided with (a) "private" video links Ms. Peter sent directly to Mr. Mello and DL Tully, (b) photographs and other evidence Ms. Peter sent Sgt. Bukhenik, and (c) communications between Ms. Peter and DL Tully regarding the assistance she provided

DL Tully immediately before he accessed Mr. Kearney's actual episodes and edited them, changed their names and placed them in an "intent" folder he created for use in the grand jury.

38. The DA now claims that numerous "private" links containing discoverable information about Mr. Kearney that Ms. Peter provided to Mr. Mello and DL Tully has since been deleted by a "private party" (i.e., Ms. Peter).

39. The Commonwealth has represented that DL Tully has "never" opened any "unsolicited links" emailed to him by Ms. Peter. Notably, they have not, and cannot, say the same about Mr. Mello, who not only opened "private" links sent to him by Ms. Peter, but sent them to DL Tully for him to review.

40. Therefore, favorable and discoverable and evidence that indisputably was in the Commonwealth's actual possession since 2023 apparently is no longer available for disclosure to the defense.

41. Mr. Kearney has been prejudiced by the nondisclosure and/or destruction of exculpatory and discoverable evidence because the defense has been deprived of critical substantive and impeachment evidence in support of the claim that the DA's biased and shoddy investigation relied

upon unvetted and possibly tampered evidence from a source with a patently obvious motive to falsely accuse Mr. Kearney and with a track record of ***doctoring evidence against him on at least two occasions***.

42. Mr. Mello's communications with DL Tully and Ms. Peter regarding her relationship with, and production of evidence to, the prosecution, the likelihood that he will contradict DL Tully's claim that he has never reviewed "private" links sent by Ms. Peter, his knowledge of Ms. Peter's motive to falsely accuse Mr. Kearney and her overall lack of credibility, his knowledge that DL Tully edited and renamed evidence that he later introduced to the grand jury, and his conduct before the grand jury, which included eliciting false and misleading testimony from DL Tully, supports Mr. Kearney's defense and will make Mr. Mello an essential defense witness at trial.

43. Mr. Mello also made himself a material witness when on November 5, 2023, in his official capacity as Mr. Kearney's prosecutor [he called the police advocating on behalf of witness Chris Albert](#) by seeking to have peaceful protesters assembled across the street from Mr. Albert's pizza shop charged with witness intimidation.

44. Mr. Mello's conduct and credibility will be key issues at trial, and it would therefore be improper for him to represent the Commonwealth and defend himself as an unsworn witness.

45. Mr. Mello must be disqualified pursuant to [Rule 3.7](#), which mandates that a lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness. *See also*, [Commonwealth v. Delnegro](#), 91 Mass.App.Ct. 337, 347 (2017).

46. This Court has [disqualified Mr. Mello from prosecuting Mr. Kearney in Docket No. 2482CR00043](#) for the exact same reasons being sought here.

47. Accordingly, for the reasons detailed in this affidavit, its exhibits and the accompanying memorandum of law, the Court should dismiss the indictments against Mr. Kearney and disqualify Mr. Mello, or in the alternative, order an evidentiary hearing on the motions because the prosecution has prejudiced Mr. Kearney by (a) intentionally impairing the integrity of the grand jury proceeding, and (b) failing to disclose specifically requested exculpatory and discoverable evidence in their possession, custody and control, and Mr. Mello's conduct has made him an essential defense witness.

THE NEED TO SILENCE MR. KEARNEY

48. On April 10, 2023, Ms. McCabe and the Alberts learned that they were subjects of a federal investigation into the Commonwealth's investigation of Mr. O'Keefe's death and its subsequent prosecution of Ms. Read.

49. On or about April 10, 2023, [Colin Albert was served with a federal grand jury subpoena.](#)

50. On information and belief, on the morning of April 10, 2023, Ms. McCabe was served with a federal grand jury subpoena.

51. Sometime thereafter Brian Albert, Mr. Proctor, Brian Higgins, Kerry Roberts and others were served with federal grand jury subpoenas.

52. On information and belief, Ms. McCabe was briefly interviewed by FBI agents on the morning of April 10, 2023.

53. As detailed in her [testimony at Ms. Read's 2025 trial](#), Ms. McCabe told at least two material lies to the FBI.

54. Ms. McCabe lied to the FBI by initially claiming that she was her sister Nicole Albert before properly identifying herself.

55. Ms. McCabe lied to the FBI about phone calls she made to Brian Albert and Kerry Roberts (and others) immediately after she was approached by FBI agents.

56. Although she testified at Ms. Read's 2025 trial that she was cooperative with law enforcement, Ms. McCabe terminated her FBI interview within minutes.

57. On April 10, 2023, at 9:00 a.m., on information and belief, immediately after Ms. McCabe called Ms. Roberts while FBI agents were waiting to speak with her (a call Ms. McCabe lied to the agents about), [Ms. Roberts asked Steven Nelson](#), the DA's victim witness advocate ("VWA"), [REDACTED]

58. On April 10, 2023, at 12:03 p.m., [Ms. Roberts and Ms. McCabe](#)
[REDACTED]
[REDACTED]

59. Ms. Roberts [REDACTED]
[REDACTED]

.³

³ Ms. Roberts did speak to the FBI. As revealed in her [testimony at Ms. Read's 2025 trial](#), she repudiated her 2022 grand jury testimony, where she falsely swore that she heard Ms. Read ask Ms. McCabe to Google "how long to die in the cold" sometime after 6:00 a.m. on January 29, 2022. In 2023, after being read [18 U.S.C. § 1001](#) warnings by the FBI, Ms. Roberts admitted she didn't hear Ms. Read ask Ms. McCabe to make the Google search.

60. On April 12, 2023, just two days after Ms. McCabe had been rattled by the FBI, Ms. Read's defense filed its lengthy motion which, among other things, [alleged that "significant and reliable evidence" implicated her and Brian Albert in Mr. O'Keefe's death.](#)

61. Ms. Read's motion accused Ms. McCabe of Googling "hos long to die in the cold" at 2:27 a.m. on January 29, 2022 and alleged that other data demonstrated that Mr. O'Keefe was inside Brian Albert's home when he died.

62. Ms. Read's defense further alleged that (a) it had uncovered "significant evidence" that Ms. McCabe had taken "affirmative steps to delete and tamper with evidence" and (b) it had a "good faith belief" that Brian Albert had taken "affirmative steps to destroy evidence."

63. Suffice to say that between April 10 and 17, 2023, Ms. McCabe and the Alberts had strong reason to be concerned about their legal situation and the adverse impact on their public reputations that would result from media coverage of scrutiny they received from the FBI and/or

from the Read defense's allegations of their complicity in Mr. O'Keefe's death.⁴

64. On April 18, 2023, Ms. McCabe's and the Albert's concerns were amplified when Mr. Kearney, citing the publicly filed defense motion and exhibits as his primary source, blew the lid off the Read case by publishing his first "Canton Cover Up" article ([exhibit A](#)).

65. After Mr. Kearney posted his first story about the Read case, the DA sought to muzzle him in response to numerous complaints from Ms. McCabe and the Alberts, who had substantial access to, and influence with, the DA.⁵

⁴ Ms. McCabe was concerned with being publicly associated in any way with Mr. O'Keefe's death. On January 30, 2022, at 8:06 a.m., [she Googled](#) "bpd & john okeefe." On February 1, 2022, at 11:23 p.m., she Googled "john okeefe." On February 2, 2022, at 10:54 a.m., [in a text message](#) to her daughter [REDACTED]

[REDACTED] On February 2, 2022, at 11:37 a.m., Ms. McCabe Googled "jennifer mccabe." Despite their concern with being mentioned in the growing media coverage, [less than 72 hours after Mr. O'Keefe's death, Ms. McCabe and Ms. Roberts](#) [REDACTED]

⁵ Brian Albert was a longtime Boston police officer who had a personal relationship with Canton police chief Ken Berkowitz. His brother Kevin Albert was (and is) a Canton police officer. In April 2023, Chris Albert had recently been elected to serve as a Canton Town Selectman. Members of the Albert family had a personal relationship with Mr. Proctor. Ms. McCabe had personal relationships with members of the Canton police department who were involved in the Read case.

66. On April 20, 2023, no doubt concerned about the viral dissemination of Mr. Kearney’s article—and its detailed exposure of the Read defense motion—Ms. McCabe [REDACTED]
[REDACTED]
[REDACTED] [\(exhibit B\)](#).

67. On information and belief, in response to Ms. McCabe’s [REDACTED] (which would become a constant refrain), the DA publicly stated it would “disprove” the Read defense’s allegations about the timing of Ms. McCabe’s Google search⁶ [\(exhibit C\)](#).

68. Notwithstanding the DA’s attempt to triage the metastasizing scandal by publicly defending Ms. McCabe, things continued to get worse for her and the Alberts by the day.

69. Mr. Kearney’s reporting led to Ms. Read’s modestly attended court appearances becoming newsworthy events overflowing with supporters and media. Her support became so great that before both of

⁶ Although the DA literally responded to the April 12, 2023 defense motion, Ms. McCabe didn’t demand that the DA “do something” until Mr. Kearney’s reporting emphasized her Google search and implicated her in the cover up of Mr. O’Keefe’s death. The DA’s kneejerk defense of Ms. McCabe occurred weeks before it hired a digital forensics expert, which occurred on or after May 7, 2023, the day [DA Morrissey excitedly instructed his team to hire Jessica Hyde](#) because she anticipated an opinion that might support the DA’s position on Ms. McCabe’s Google search because of a possible “time zone issue.”

her trials [the Court ordered that a “buffer zone”](#) be created to prevent jurors from being exposed to, and influenced by, Ms. Read’s vocal supporters.

70. After April 18, 2023, Ms. Read’s public support increased exponentially. Her growing throng of supporters regularly [protested and held “stand outs,”](#) where large groups of people congregated in public spaces and displayed signs supportive of Ms. Read and critical of the DA, MSP, Ms. McCabe and the Alberts.

71. On May 9, 2023, [the DA wrote the U.S Attorney’s Office,](#) seeking information about the federal investigation after being notified about the issuance of “at least two” federal subpoenas.

72. On May 18, 2023, [the DA sought the recusal of the Boston U.S. Attorney’s Office from the federal investigation](#) due to what it alleged was a conflict of interest.

73. On May 24, 2023, Ms. McCabe and Ms. Roberts, clearly worried about Mr. Kearney’s growing influence on public opinion,

[REDACTED]

[REDACTED]

74. On May 30, 2023, [Ms. McCabe unsuccessfully sought a harassment prevention order](#) against Mr. Kearney.

75. Demonstrating her fundamental misunderstanding of the First Amendment, Ms. McCabe alleged that on April 18, 2023 (the day he first reported on the Read defense motion accusing Ms. McCabe of complicity in Mr. O’Keefe’s death), Mr. Kearney “attacked her character.”

76. In what amounted to a request for unconstitutional prior restraint on Mr. Kearney, Ms. McCabe urged the Court to “do something so he can’t blog about me.”

77. [The Court predictably ruled](#) that however upsetting Mr. Kearney’s reporting made Ms. McCabe, he was a member of the press, and his activity protected speech under the First Amendment.

78. On July 1, 2023, Ms. McCabe, who frequently asked the DA and courts to “do something” about Mr. Kearney, oddly [contacted him on Facebook Messenger](#) and sent him a photograph of a mostly naked man.

79. Ms. McCabe “apologized” to Mr. Kearney and then ominously advised him to “have fun in Mashpee” (where Mr. Kearney was vacationing), which suggested she kept tabs on his whereabouts.

80. On July 13, 2023, in an email with the subject line [REDACTED] [REDACTED] Mr. Proctor emailed DL Tully, Lieutenant (“Lt.”) John Fanning, Sgt. Bukhenik and Read prosecutor Adam Lally ([exhibit D](#)). Referencing Mr. Kearney as [REDACTED] Mr. Proctor informed the group [REDACTED]
[REDACTED]

81. On July 16, 2023, no doubt reeling from the perfect storm created by the ongoing federal investigation, Ms. Read’s aggressive defense and the public’s increasing awareness of the growing scandal resulting from Mr. Kearney’s reporting about the Read case, DA Morrissey—from his personal email address⁷—essentially begged the Massachusetts Attorney General’s Office (“the AG”) to prosecute Mr. Kearney for witness intimidation and/or civil rights violations ([exhibit E](#)).

82. On July 21, 2023, DA Morrissey (from his personal email account) again urged the AG to act against Mr. Kearney ([exhibit F](#)).

83. On information and belief, the AG declined to prosecute Mr. Kearney because it recognized that it was inappropriate to prosecute him

⁷ Under [M.G.L. 66 § 15](#), it is a crime for a public official to removes or attempt to conceal the discovery of records that are subject to public inspection under FOIA.

for witness intimidation based upon his reporting about witnesses who were “upset” after being accused in publicly filed court documents of complicity in a high-profile murder.⁸

84. On July 24, 2023, Ms. McCabe told Mr. Nelson [REDACTED]

[REDACTED]

[REDACTED]

[\(exhibit H\)](#).

85. On August 1, 2023, Canton Selectman Chris Albert contacted the DA, [REDACTED]

[REDACTED]

[\(exhibit I\)](#).

86. On August 3, 2023, General Counsel for the Department of Justice’s (“DOJ”) Executive Office for U.S. Attorneys [rejected the DA’s request](#) for the Boston U.S. Attorney’s Office to recuse itself from the federal investigation.

87. On August 9, 2023, Ms. McCabe [REDACTED]

[REDACTED]

[\(exhibit J\)](#).

⁸ On December 8, 2023 (again from his personal email account), DA Morrissey wrote to DL Tully and others, bemoaning the AG’s conclusion that Mr. Kearney’s conduct did not warrant criminal prosecution [\(exhibit G\)](#).

88. On information and belief, between August 9, 2023 and August 25, 2023, Ms. McCabe, members of the Albert family, the MSP and DA Morrissey and/or others met to discuss Ms. McCabe's latest demand for the DA to "do something" to stop Mr. Kearney from reporting about her.

89. On August 25, 2023, DA Morrissey capitulated to the demands and threats of Ms. McCabe and the Alberts and decided to "do something" about Mr. Kearney.

90. "Something" was DA Morrissey's video-recorded public statement, which press officer David Traub immediately disseminated to local and national print and television media ([exhibit K](#)).

91. Prior to issuing this ill-conceived public statement, with assistance from Canton Police Chief Helena Rafferty, DA Morrissey accepted input on the content of his statement from a person advocating for Ms. McCabe's and the Albert's interests. Mr. Traub informed the advocate(s) that he sent DA Morrissey's statement to Dateline NBC and "numerous other" media entities ([exhibit L](#)).

92. By issuing a statement on behalf of witnesses with interests that differed from his own, DA Morrissey allowed himself—the elected

District Attorney—to be exploited as a puppet whose strings were controlled by influential private citizens motivated to advance their self-serving agenda, which included “silencing Turtleboy.”

93. DA Morrissey’s statement was a flagrant violation of [Rule 3.6](#) of the Massachusetts Rules of Professional Conduct.

94. Although he didn’t name Mr. Kearney in his public statement, DA Morrissey took subtle shots at him by attempting to discredit the reliability of information from “the internet.”

95. DA Morrissey vigorously vouched for the credibility of Ms. McCabe and the Alberts, decried their victimization from Mr. Kearney’s witness intimidation, ludicrously decreed that “Colin Albert did not commit murder,” blatantly misled the public about Mr. Proctor’s credibility, discussed the evidence against Ms. Read, and implied that she was guilty ([exhibit M](#)).

96. This latest effort by DA Morrissey to stem the snowballing criticism failed miserably. On September 3, 2023, in a group text which included DA Morrissey, DL Tully, Sgt. Bukhenik and others, Mr.

Proctor,⁹ (referring to Mr. Kearney [REDACTED]) said the quiet part out loud, asking “[REDACTED]” ([exhibit N](#)).

97. As it turns out, Mr. Proctor’s [REDACTED]
[REDACTED] was prescient. In the aftermath of their futile public statements and after being repeatedly rebuffed by DOJ and the AG, the Commonwealth played its only remaining hand: shut Mr. Kearney up by prosecuting him itself.

98. The Commonwealth unveiled an Orwellian plan in which they—the very people being criticized by Mr. Kearney—weaponized the witness intimidation statute for the purpose of silencing his criticism *of them*.¹⁰

⁹ The Court is no doubt aware of [Mr. Proctor’s habit of crudely referring to people adverse to his position](#). At a minimum, the disgraced former trooper has separately made inappropriate remarks about Ms. Read, two of her attorneys, a medical examiner, and Mr. Kearney.

¹⁰ Within months, the out-of-control Commonwealth’s abuse of the witness intimidation statute led it to investigate others with the temerity to publicly criticize the case against Ms. Read. The MSP and Canton Police Department [summonsed protesters](#) outside of Chris Albert’s pizza shop. [In what became a national embarrassment](#), they sought witness intimidation charges against [people who placed tiny rubber ducks](#) on public streets in Canton. They investigated people for the content of Facebook messages which were critical of the Ms. McCabe and the Alberts. This colossal waste of public resources didn’t result in a single conviction.

99. On September 15, 2023, in connection with Ms. Read's court appearance, Mr. Kearney and a large group of her supporters loudly protested outside of the Dedham courthouse in support of her innocence.

100. On September 18, 2023, Ms. McCabe again informed Mr. Nelson [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] ([exhibit O](#)).

101. Ms. McCabe wanted to meet with the DA [REDACTED]
[REDACTED]
[REDACTED]

102. In fact, what occurred [REDACTED] the September 15, 2023 court appearance was official business [REDACTED] Ms. Read's case in the courtroom and [REDACTED] the appearance protesters exercised their First Amendment rights to criticize Ms. McCabe for her alleged involvement in a cover up of Mr. O'Keefe's death.

103. On September 20, 2023, Ms. McCabe again told Mr. Nelson [REDACTED]
[REDACTED] ([exhibit P](#)).

104. Mr. Nelson assured Ms. McCabe [REDACTED]

[REDACTED]

[REDACTED]

105. On September 26, 2023, [DA Morrissey recused his office and engaged Mr. Mello](#) as a special prosecutor to handle the anticipated prosecution of Mr. Kearney.

106. Although the DA's recusal indicated DA Morrissey's appreciation for the clear conflict that would arise from his office's prosecution of a journalist who criticized the DA, the MSP, which faced the exact same conflict, didn't recuse itself from the Kearney investigation.

107. DL Tully, a frequent target of Mr. Kearney's criticism, remained the lead investigator. Mr. Proctor (who recently had referred to Mr. Kearney as "[REDACTED]" and "[REDACTED]") and Sgt. Bukhenik, also regular targets of Mr. Kearney, continued to participate in the investigation and later became named "victims" in the indictments against him.¹¹

¹¹ Mr. Proctor and Sgt. Bukhenik testified that they were "intimidated" by Mr. Kearney. [Both indictments were dismissed by the Court](#) on May 19, 2025. In

108. Without more, the MSP's failure to recuse itself (and the DA's failure to insist on it) in the face of such a blatant conflict of interest and actual bias calls into question the motivation of the Commonwealth and entirely discredits the case against Mr. Kearney.

109. On September 28, 2023, [Chris Albert unsuccessfully petitioned for a harassment prevention order](#) against Mr. Kearney.

110. [The Court denied Mr. Albert an order](#), concluding that his allegations did not constitute true threats or harassment under the law.

111. Notwithstanding his supposed recusal from the Kearney investigation, on September 29, 2023, DA Morrissey (from his personal email account) contacted several high-ranking Massachusetts judicial figures (including the judge who denied Mr. Albert a protective order the previous day), demanding that a Stoughton court clerk be investigated in

particular, the dismissed indictment related to Sgt. Bukhenik illustrates the Commonwealth's lack of good faith in prosecuting Mr. Kearney. That charge involved a September 15, 2023 [video recorded incident](#) in which Mr. Kearney questioned and then criticized Sgt. Bukhenik as he left court and walked to his car. It is obvious that Sgt. Bukhenik wasn't intimidated. He calmly entered his vehicle, rolled the window down, and extended his middle finger as he slowly drove away. Nevertheless, Sgt. Bukhenik testified that Mr. Kearney's conduct "absolutely intimidated" him. *See* December 14, 2023 transcript, pp. 53-54. Sgt. Bukhenik didn't even prepare a [report](#) on this non-incident until November 2, 2023, several weeks after Mr. Kearney had been arrested.

connection with Mr. Kearney's awareness of Mr. Albert's application for a protective order, which DA Morrissey claimed he had no right to know about [\(exhibit Q\)](#).

112. DA Morrissey was awarded the investigation he sought. On October 31, 2023 (three weeks after Mr. Kearney's phones were seized by DL Tully), a Stoughton court official presented the target of the investigation with pages from an extraction report from one of Mr. Kearney's seized phones [\(exhibit R\)](#).

113. Despite irrefutable proof that at least one of Mr. Kearney's phones had been extracted by DL Tully (or with his knowledge), Mr. Mello falsely represented on November 28, 2023, that the MSP "had not perused the material. It is in pristine form located on the defendant's devices" [\(exhibit S\)](#).

114. On November 10, 2023, "recused" DA Morrissey (from his personal email account) emailed AG Andrea Campbell. He acknowledged that the AG refused to prosecute Mr. Kearney, but he again urged the AG to take some action against him [\(exhibit T\)](#).

115. Once again, the AG declined to prosecute or take any other action against Mr. Kearney.

MS. PETER'S HISTORY OF DISHONESTY AND FRAUD

116. Ms. Peter worked for Mr. Kearney from September 2018 until February 2020, when Mr. Kearney terminated her employment after he caught her stealing from him.

117. Since Mr. Kearney terminated her, Ms. Peter's unhealthy fixation on needling Mr. Kearney seemingly has dominated her life. It recently resulted in her being permanently stained with a [criminal record](#).

118. Ms. Peter's behavior has resulted in additional criminal prosecutions and the issuance of numerous protective orders against her in favor of Mr. Kearney and others associated with him.

119. Ms. Peter's disdain for Mr. Kearney has led her to engage in fraud, forgery, the manufacturing of evidence and other acts of dishonesty for the purpose of harming Mr. Kearney.

120. In March 2020, shortly after Mr. Kearney fired her for theft, Ms. Peter engaged in a harebrained scheme where she forged documents and fraudulently filed them to advance her position and harm Mr. Kearney in connection with a petty YouTube copyright dispute.

121. Ms. Peter brazenly sent YouTube what she falsely represented was a federal copyright civil complaint, dated March 24, 2020, that she filed in the District of Massachusetts in a “case” she captioned *Katherine Peter v. Aidan Kearney, Worcester Digital Marketing, LLC* ([exhibit U](#)).

122. In fact, the ostensible complaint Ms. Peter filed was a forgery and there was no federal lawsuit involving Mr. Kearney and Ms. Peter.

123. Unaware of Ms. Peter’s dishonest nature and penchant for scheming against Mr. Kearney, YouTube relied upon her fraudulent documents and false representations to her benefit and Mr. Kearney’s detriment and initially ruled in her favor ([exhibit V](#)).

124. Ms. Peter committed fraud by going online and accessing a legitimate civil complaint filed in a 2013 federal copyright suit from the District of Massachusetts. She altered the caption and other information to make it appear as if her fraudulent documents were authentic, represented it as her legitimate complaint, and filed it with YouTube ([exhibit W](#)).

125. Ms. Peter’s criminal scheme was exposed by her ignorance of federal court practice. She failed to change the index number when she

doctored the legitimate complaint, which meant that her ostensible 2020 complaint contained a 2013 index number.

126. On November 20, 2022, in an online interview, [Ms. Peter admitted that she submitted the forged complaint with the intent to defraud YouTube](#) because she hated Mr. Kearney.

127. Despite engaging in a dishonest scheme, Ms. Peter reasoned that she was trustworthy because she admitted her wrongdoing.

128. Ms. Peter remains subject to prosecution in Massachusetts for forgery until March 24, 2026. See [M.G.L. 267 §§ 1, 5.](#)

129. Ms. Peter's self-serving defense of her trustworthiness didn't last long. Within months, she again succumbed to an impulsive urge to harm Mr. Kearney and sent him an "anonymous" email filled with defamatory and false information about Colin Albert and Chris Albert, hoping that Mr. Kearney would publicly harass the Alberts with the false information she fed him.

130. Ms. Peter was acutely aware that if Mr. Kearney publicly accused Colin Albert and Chris Albert of criminal activity, it likely would

lead these Read-case witnesses to claim that Mr. Kearney “witness intimidated” them by causing them emotional harm.¹²

131. On May 28, 2023, at 3:30 p.m., concealing her identity under the alias “Mia Rose,” Ms. Peter shamelessly emailed Mr. Kearney that Colin Albert was a drug dealer and that he was responsible for killing Mr. O’Keefe.

132. Ms. Peter lied to Mr. Kearney that Chris Albert knew his son moved drugs through D & E Pizza, and that the “whole Albert family” made money from Colin’s drug operation, which probably explained why Brian Albert “covered up” Mr. O’Keefe’s death ([exhibit X](#)).

133. Ms. Peter’s deranged scheme included presenting Mr. Kearney with fabricated “screenshots” she created and which purported to show “Mia” and Colin Albert discussing drug deals ([exhibit Y](#)).¹³

¹² In March 2025, [Colin Albert’s and Chris Albert’s complaints did result in further witness intimidation charges against Mr. Kearney](#). According to the Alberts, they suffered emotional harm after they viewed D & E camera footage of Mr. Kearney (who had been socializing with friends next-door at C.F. McCarthy’s) clowning around while looking at D & E’s security camera. Mr. Kearney’s comments were unlawfully intercepted by a second camera. The Alberts claimed they were intimidated even though they weren’t inside D & E and viewed the footage on their phones from a different location.

¹³ During the [livestream](#) in which Ms. Peter admitted lying to Mr. Kearney about Colin Albert and Chris Albert, she explained exactly how pulled the false screenshots off the internet.

134. Ms. Peter falsely told Mr. Kearney that Colin Albert talked about “harming John” because he believed Mr. O’Keefe was investigating his drug dealing.

135. Just as Ms. Peter intended, during his May 28, 2023 live show, Mr. Kearney told his audience that he had received an anonymous email alleging that Colin Albert was a drug dealer and this served as a possible motive for him to kill Mr. O’Keefe.

136. Mr. Kearney read the email Ms. Peter sent him and indicated that he would investigate this information. He cautioned his audience that this was new, unvetted information and he did not vouch for its accuracy or state that it was true. Importantly, after investigating, Mr. Kearney later stated this information was not credible.

137. On May 29, 2023, during her own livestream, [Ms. Peter gloated about her disgraceful conduct](#), which she oddly thought harmed Mr. Kearney and made her look good.

138. Amused by her “little fib,” she proudly admitted that the defamatory and false information she provided Mr. Kearney about the Alberts “was 100% a fabrication out of my mind.”

139. Ms. Peter conceded that her conduct was “damaging” to Colin Albert and Chris Albert but rationalized it because “I sent this just to fuck with Aidan.”

140. Ms. Peter threatened Mr. Kearney, warning him that he should “fear her.” She issued a “call to arms” and urged her “trolls” to send Mr. Kearney more false information, which she would then share with his alleged victims. She bragged

I know that bad things are happening to you right now Aidan, and you’re probably thinking that it might be me, but it’s me. Just so you know. Every single annoyance, every single horrible thing that’s happening to you right now, yeah, I’ve done it. Call the police, you bitch.

141. In other words, just as she did in her 2020 YouTube spat with Mr. Kearney, Ms. Peter demonstrated the ease with which she lies (and in this instance, intentionally cause emotional harm to prosecution witnesses) if it helps her “fuck with Aidan.”

142. Ms. Peter’s defamatory stunt apparently *did* cause emotional harm to Colin Albert and Chris Albert. On August 1, 2023, Chris Albert specifically cited [REDACTED]

147. Naturally, once Mr. Kearney started to support Ms. Read, Ms. Peter became a self-styled “advocate” for Ms. McCabe, the Alberts and the O’Keefes,¹⁴ and sought to foster relationships of convenience with others who hated him, including Lindsey Gaetani, who shortly after meeting Ms. Peter, became the alleged victim in the 2024 witness intimidation indictment against Mr. Kearney.¹⁵

148. On September 13, 2023, at 3:34 p.m., Ms. Peter publicly bragged that she had archived a purportedly illegal recording made by “the retard” Mr. Kearney of his conversation with Stephen Scanlon, a private investigator who was tangentially involved in the Read case in early 2022 ([exhibit AA](#)).

149. Ms. Peter claimed that she “forwarded” the recording to the MSP.

¹⁴ In July 2023, Ms. Peter created a Facebook group “Support for MAO’s” (McCabes, Alberts and O’Keefes). At one point, Ms. Peter “volunteered” to help members of the group find an attorney to “deal with Aidan” ([exhibit Z](#)).

¹⁵ Nothing encapsulates “[Turtleboy Derangement Syndrome](#),” an affliction which causes people who turn on Mr. Kearney (including Ms. Gaetani) to engage in irrational behavior, more than the several people who protested in support of Ms. Read’s innocence and then flippantly “switched sides” and protested for her conviction solely because of their hatred for Mr. Kearney. After she accused Mr. Kearney of intimidating her, Ms. Gaetani became such a rabid “advocate” for Ms. Read’s guilt that on July 1, 2024, clad in the same “Justice for John O’Keefe” shirt as Ms. Peter, she appeared with Ms. Peter on a [live interview](#) with *Court TV*.

150. On information and belief, on September 13, 2023, at 4:23 p.m., Ms. Peter created a version of the recording and sent it to DL Tully in a private link ([exhibit BB](#)); November 28, 2023 transcript, p. 8 (DL Tully testified he “had been sent a video” of the Scanlon recording); *id.* at 19 (DL Tully testified “the person who it was sent to, ***she stated it was a private link***, so it was not available for public distribution...”) (emphasis added).

151. An audio copy of the recording that Ms. Peter sent the MSP on or about September 13, 2023 (the substance of which was played as a video before the grand jury, *see* November 28, 2023 transcript, pp. 8, 19) wasn’t provided to the defense until August 8, 2025 ([exhibit CC](#)).

152. The version of the recording provided to the defense doesn’t include the beginning of the recorded call, skips and repeats. It is clearly edited.

153. The defense hasn’t been provided with a copy of the email or any communication in which Ms. Peter provided the Scanlon recording to the MSP.

154. On September 27, 2023, Ms. Peter emailed Sgt. Bukhenik,

[REDACTED]

[REDACTED] ([exhibit DD](#)).

155. The email Ms. Peter sent Sgt. Bukhenik included [REDACTED]
which haven't been provided to the defense.

156. One day after Mr. Mello was engaged by DA Morrissey, Sgt. Bukhenik confirmed to Ms. Peter that "[REDACTED]
[REDACTED]" ([exhibit EE](#)).

157. Either ignorant or dismissive of Ms. Peter's own criminal conduct and woeful credibility, Sgt. Bukhenik praised Ms. Peter, thanking her

[REDACTED]

158. On September 29, 2023, at 9:38 a.m., Ms. Peter (now on a first name basis with Sgt. Bukhenik) emailed "Yuri," [REDACTED]

[REDACTED]

[REDACTED] ([exhibit FF](#)).

159. Ms. Peter provided Sgt. Bukhenik with [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

160. Ms. Peter told Sgt. Bukhenik that she was [REDACTED]

[REDACTED]

[REDACTED]

16

161. On September 29, 2023, at 3:00 p.m., Ms. Peter tweeted “October 10th. He knows the deal” in response to another’s post asking her when Mr. Kearney would be “subpoenaed” ([exhibit GG](#)).

162. On information and belief, Ms. Peter’s reference to “he knows the deal” indicates that the MSP told her several weeks before Mr. Kearney’s arrest that they intended to arrest him on October 10, 2023.

163. On September 29, 2023, at 4:00 p.m., Sgt. Bukhenik forwarded his email correspondence of September 27 and 29, 2023 with Ms. Peter to [REDACTED] ([exhibit HH](#)).

¹⁶ Based upon the information provided to them by [REDACTED], DL Tully and Mr. Mello’s investigator went to Gardena, California to interview Natalie Berschneider in person on October 17, 2024.

164. On October 3, 2023, DL Tully emailed Lt. Fanning, Sgt. Bukhenik and Mr. Proctor that he had “ [REDACTED] [REDACTED] ” ([exhibit II](#)).

165. Sgt. Bukhenik replied that he already provided “ [REDACTED] ” and “ [REDACTED] ” to [REDACTED].

166. Lt. Fanning replied that all his “ [REDACTED] [REDACTED] ”

167. On information and belief, the [REDACTED] and [REDACTED] being discussed by DL Tully, Sgt. Bukhenik and Lt. Fanning on October 3, 2023, related to the [REDACTED] Ms. Peter provided DL Tully in a private link on or about September 13, 2023 and which was later used against Mr. Kearney in the grand jury. *See* November 28, 2023 transcript, pp. 8, 19.

168. Almost *two years* later, and despite numerous specific demands related to Ms. Peter’s relationship with the Commonwealth, the defense hasn’t been provided with any notes, reports or videos related to Ms. Peter or the private link she sent DL Tully on September 13, 2023.

169. For months prior to the November 28, 2023 commencement of the grand jury proceeding, DL Tully, Sgt. Bukhenik and Mr. Proctor were aware of Ms. Peter’s unstable obsession with Mr. Kearney.

170. As experienced detectives who had been investigating Mr. Kearney since mid 2023, the MSP knew (or should have known) of numerous “red flags” which adversely impacted Ms. Peter’s credibility, including her eager insertion of herself into their investigation, her personal animus towards Mr. Kearney (which gave her a clear motive to falsely accuse him of a crime), her insertion into Ms. McCabe’s orbit, and most importantly, her prior history of falsifying evidence against Mr. Kearney.

171. Indeed, given their constant review of social media as the means of acquiring evidence against Mr. Kearney, the DA and MSP must have been familiar with Mr. Kearney’s March 30, 2020 [article detailing Ms. Peter’s fraud](#) in connection with their YouTube copyright dispute and Ms. Peter’s May 29, 2023 [livestream where she admitted falsifying evidence about Colin Albert and Chris Albert](#) to goad Mr. Kearney into smearing them.

172. Mr. Kearney was arrested on October 11, 2023, just one day after Ms. Peter publicly announced weeks earlier.

173. MSP audio transmissions from immediately before Mr. Kearney's arrest reveal that the arrest team (a fugitive unit which included DL Tully)

heard from K.P., it was the same thing from yesterday. Two older kids getting on around the same time, but it was 8:30

[\(exhibit JJ\)](#) (emphasis added).

174. On information and belief, "K.P." referred to Ms. Peter and she helped the MSP coordinate Mr. Kearney's arrest by monitoring him beforehand.¹⁷

175. Ms. Peter attended Mr. Kearney's October 11, 2023 arraignment in Stoughton District Court. She has [testified that she went "to meet with Mr. Mello"](#) and that she was "a potential witness" against Mr. Kearney.

176. Shortly after Mr. Kearney's arrest, Ms. Peter, with the blessing of Mr. Mello and Detective Tully, became an integral part of the prosecution team.

¹⁷ Ms. Peter has a history of surveilling people to create chaos for them. She and Ms. Gaetani discussed spying on Ms. Read and members of her legal team at the Omni Seaport Hotel in Boston. She also has shared surreptitious photos of Mr. Kearney and others socializing at the Hillside Pub in Canton on March 4, 2025.

177. On October 25, 2023, Ms. Peter emailed DL Tully that she and her “team” were [REDACTED] [REDACTED] ([exhibit KK](#)). To this day, the DA hasn’t informed the defense of who, if anyone, served on Ms. Peter’s “team.”

178. Ms. Peter sent DL Tully a “[REDACTED]” which she “[REDACTED]” wherever she believed there was evidence of a crime. She advised DL Tully [REDACTED]

[REDACTED]

179. Ms. Peter further informed DL Tully that her “team” had [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

180. Almost two years later, the defense hasn’t been provided with information Ms. Peter provided to DL Tully in the [REDACTED] or [REDACTED] links.

181. On November 1, 2023, Ms. Peter emailed DL Tully, with the subject line “[REDACTED]” (emphasis added). She

informed DL Tully [REDACTED]

[REDACTED] ([exhibit LL](#)).

182. Ms. Peter told DL Tully that she would [REDACTED]

183. Ms. Peter's email provided DL Tully with another link to a [REDACTED].

184. Almost two years later, the defense hasn't been provided with this video file and any response by DL Tully to Ms. Peter's question.

185. On November 17, 2023, Ms. Peter emailed DL Tully [REDACTED]

[REDACTED]
[REDACTED]
([exhibit MM](#)).

186. According to DL Tully, he relied upon information Ms. Peter provided him before he edited Mr. Kearney's YouTube episodes ([exhibit NN](#), ¶ 4(b) and (c)).

187. On November 26, 2023, just two days before Mr. Mello commenced the grand jury presentation, Ms. Peter emailed him (subject

line “ [REDACTED]”) a [REDACTED]

([exhibit OO](#)).

188. Ms. Peter sought Mr. Mello’s [REDACTED], writing

[REDACTED]

(emphasis added).

189. On November 26, 2023, Mr. Mello’s response to Ms. Peter ([exhibit PP](#)) proved that he opened private links sent to him by Ms. Peter:

[REDACTED]

190. In response to Mr. Mello’s request, Ms. Peter sent him [REDACTED]

[REDACTED]
[REDACTED] ([exhibit QQ](#)).

191. Ms. Peter’s November 26, 2023 communication with Mr. Mello conclusively establishes that Mr. Mello outsourced investigative work to her, discussed strategy with her, was aware that she edited Mr.

Kearney's content with her own editorial slant and bias, and that he reviewed private links she sent him *two days* before the grand jury proceeding started.

192. Lt. Fanning has testified that Ms. Peter reported things to the MSP that they "can't find or document." February 22, 2024 transcript, pp. 7-10.

193. In December 2023, as part of her plan to coax Ms. Gaetani into bringing witness intimidation charges against Mr. Kearney, Ms. Peter told Ms. Gaetani that she had [REDACTED] and that she had spoken to him about [REDACTED] "[REDACTED]" ([exhibit RR](#), p. 9).

194. Ms. Peter joked that when she spoke to Mr. Mello, [REDACTED]
[REDACTED]
[REDACTED] *Id.*

195. On December 12, 2023, Ms. Gaetani texted Ms. Peter that Mr. Kearney "[REDACTED]." *Id.* at 7.

196. On February 26, 2024, Ms. Peter left Mr. Kearney a crude and harassing voice message ([exhibit SS](#)) gloating about her importance to the Commonwealth's cases against him:

hey faggot, it's Kate. Kate Peter. You know, Krusty Panties. You know every time you get a blocked number it's not Lindsey or LG or anyone else. It's me. *And I just want to let you know that when you go back to jail, I had absolutely everything to do with it* because you are a dumb motherfucker...I am going to get the best of you. You are a bad person and everybody's going to see it. Have a nice day. By the way, Karen Read wants nothing to do with you. Go fuck yourself. Bitch. I meant it.

197. In March 2024, Ms. Peter boasted under oath in *Kearney v. Peter*, Leominster District Court, Docket No. 2461RO0081 ([exhibit TT](#)) that Mr. Kearney

is angry and upset with me because I have been cooperating with the prosecution and giving them information on him...he can blame me for all his problems because I am furnishing information.

DL TULLY'S & MR. MELLO'S KNOWLEDGE OF DISTORTED EVIDENCE PRIOR TO THE GRAND JURY PROCEEDING

198. DL Tully prepared and signed the charging documents filed against Mr. Kearney on October 11, 2023 ([exhibit UU](#)).

199. As the special prosecutor in charge of the prosecution, Mr. Mello was familiar with the contents of the charging documents and the evidence against Mr. Kearney at the time of his arrest, which was almost

seven weeks before Mr. Mello elicited testimony from DL Tully before the grand jury.

200. Mr. Mello billed taxpayers for “only” 56 hours of work performed during October 2023, even though commencing on October 4, 2023

and on each and every day thereafter, including weekends and all legal holidays [I] have devoted an absolute minimum of four (4) hours each day, and frequently 12 or more hours a day,

which meant that before Mr. Mello elicited testimony from DL Tully in the grand jury proceeding he worked more than 232 hours on Mr. Kearney’s case (at least 112 hours in October 2023 and at least 120 hours in November 2023) ([exhibit VV](#)).

201. From October 2023 through December 2023, Mr. Mello spent more than 700 hours of time on this matter. His services included, but were not limited to,

reviewing some 8 months of daily internet posts and blogs associated with this matter...coordinating efforts with investigators, drafting court filings...and making presentations to the Grand Jury

(*id.*) (emphasis added).

202. The charging documents and Mr. Mello’s billing records reveal DL Tully’s and Mr. Mello’s familiarity with Mr. Kearney’s online videos (“episodes”) and written articles (the “Canton Cover Up” series).

203. DL Tully accurately cited names of specific episodes, exact time stamps and exact quotes within them (*see* exhibit UU, pp. 2-6, ¶¶ 6-17).

204. For example, DL Tully accurately named the titles of three episodes (594: *Turtleboy Returns to Canton*; 598: *Breaking: Karen Read Defense File Motion to Recuse*; 604: *Colin Albert Drops Out of School, Brian Higgins Flipping? Is the End Near?*) ([exhibit UU](#), pp. 2-3) *cf.* December 20, 2023 transcript, p. 5 (DL Tully testified episode 598 entitled “life as normal is over” and episode 604 entitled “I do not want this to go to trial).

205. DL Tully repeatedly referenced numerous other unnamed episodes, citing and quoting from them in precise detail (*see* [exhibit UU](#)).

206. DL Tully noted that Mr. Kearney’s episodes “are publicly available for viewing without being a subscriber or follower and have been “archived by investigators” (*id.* at p. 2, ¶ 7).

207. Thus, it is indisputable that before Mr. Mello elicited testimony from DL Tully during the grand jury proceeding, both men knew the actual titles, length and content of Mr. Kearney's YouTube episodes.

208. The public availability of Mr. Kearney's content and DL Tully's and Mr. Mello's familiarity with it means there was no reason for the Commonwealth (a) to consult with or seek Ms. Peter's input on what evidence should be presented to the grand jury or (b) to clip, edit and rename Mr. Kearney's episodes and then conceal the actual episodes and their accurate information from the grand jury's consideration.

209. Ms. Peter's communications with the Commonwealth provide additional proof that DL Tully and Mr. Mello (a) worked hand in hand with her in gathering and editing evidence for use in the grand jury proceeding,¹⁸ and (b) intended to deceive the grand jury by intentionally presenting a false and misleading description of Mr. Kearney's episodes.

¹⁸ On January 3, 2024, Ms. Peter emailed Mr. Mello and DL Tully a [REDACTED] Mr. Mello forwarded Ms. Peter's email and the link she sent them to DL Tully and said "[REDACTED]" ([exhibit WW](#)).

THE FLAWED GRAND JURY PRESENTATION

210. The grand jury proceeding commenced on November 28, 2023 and continued December 5, December 14, December 19 and December 20, 2023.

211. The main witness against Mr. Kearney was DL Tully. He testified a total of 11 times over the course of the five-day proceeding.

212. On December 20, 2023, the grand jury voted to indict Mr. Kearney for witness intimidation, picketing and conspiracy to commit witness intimidation.

213. Mr. Mello ***did not*** seek Mr. Kearney's indictment for illegally wiretapping Mr. Scanlon.

214. ***All*** of the evidence Mr. Mello presented on November 28, 2023 related to the uncharged allegation of Mr. Kearney illegally recording of a phone call with Mr. Scanlon.

215. The evidence presented in support of the uncharged allegation of wiretapping consisted of the partial recording Ms. Peter sent DL Tully and testimony from Mr. Scanlon, DL Tully and Sgt. Bukhenik, who simply read a hearsay interview [report](#) into evidence. November 28, 2023 transcript, pp. 2, 23-30.

216. The “illegal recording” played before the grand jury didn’t start recording until 1:09 into the call between Mr. Kearney and Mr. Scanlon. *Id.* at 18.

217. Mr. Scanlon claimed that during the non-recorded portion of the audio played before the grand jury, Mr. Kearney told him that he wouldn’t record their conversation. *Id.* at 14-15.

218. Mr. Mello didn’t authenticate or otherwise demonstrate the reliability of the partial recording provided to him by Ms. Peter. *See id.* at 8, 15, 19.

219. Mr. Mello didn’t instruct the grand jury about the purported relevance of the wiretapping evidence.

220. Mr. Mello didn’t instruct the grand jury to disregard any “bad act” evidence or instruct the grand jury about the wiretapping evidence when considering the charges presented for its deliberation.

221. What Mr. Mello did do was instruct DL Tully to read to the grand jury the text of the wiretapping statute, [M.G.L. 272 § 99](#), including its possible punishment of five years imprisonment. November 28, 2023 transcript, pp. 8-9.

222. At the conclusion of the November 28, 2023 session, Mr. Mello informed the grand jury that “this case involved a violation of M.G.L. 272 § 99,” after which he summarized the definition of the wiretapping statute, which meant the grand jury heard it twice that day. *Id.* at 30-31.

223. After November 28, 2023, Mr. Mello never referred to the wiretapping allegation again in the grand jury proceeding.

224. On September 11, 2025, I was informed by Mr. Cosgrove that Mr. Mello “decided not proceed with a request for the grand jury” to indict Mr. Kearney for allegedly wiretapping Mr. Scanlon.

225. On information and belief, if Mr. Mello decided not to seek a wiretapping indictment after November 28, 2023, then he realized that the audio recording Ms. Peter gave DL Tully wasn’t reliable evidence.

226. There were no other logical reasons for Mr. Mello to call three witnesses, introduce the recording and introduce a hearsay report in support of a wiretapping indictment and not seek an indictment unless he (a) realized that the evidence wasn’t reliable or (b) he offered the evidence exclusively for the purpose of prejudicing Mr. Kearney before the grand jury deliberated on the submitted charges.

227. As the legal advisor to the grand jury, Mr. Mello knew (or should have known) that he should have “decided to not proceed” with seeking an indictment for a serious crime ***before*** he severely prejudiced Mr. Kearney by calling witnesses, playing a recording, and twice instructing the grand jury on the elements of (and once on the punishment associated with) the uncharged wiretapping allegation.

228. As the legal advisor to the grand jury, Mr. Mello knew (or should have known) that if he decided not to seek Mr. Kearney’s indictment for wiretapping ***after*** he presented voluminous evidence in support of that uncharged crime, at a minimum, he was obligated to instruct the grand jury that (a) it must disregard all evidence in support of that uncharged “bad act,” (b) it may not consider that evidence as proof of Mr. Kearney’s “bad character,” (c) it must disregard all legal instructions provided about the charge, including any possible prison sentence and (d) it may not consider any of the evidence presented on November 28, 2023, in considering the submitted charges. Mr. Mello didn’t provide any of these instructions.

229. Without more, Mr. Mello’s presentation of irrelevant and prejudicial evidence of an uncharged “bad act” that bore no relationship

to the charges before the grand jury impaired the integrity of the grand jury proceeding. [See Commonwealth v. Brown](#), 490 Mass 171, 185-86 (2022) (intentional admission of prior bad acts without curative instruction may impair integrity of grand jury proceeding).

230. Most of the evidence Mr. Mello offered in support of charges that he actually presented for the grand jury's consideration consisted of what he and DL Tully knew were cherry-picked, out of context snippets from Mr. Kearney's online content.

231. The critical issue for the grand jury's determination regarding the witness intimidation charges was Mr. Kearney's intent.

232. Mr. Mello improperly expressed his unsworn opinion that Mr. Kearney's intended to intimidate witnesses. December 20, 2023 transcript, pp. 8-9.

233. Mr. Mello improperly elicited DL Tully's opinion that Mr. Kearney's intended to intimidate witnesses. December 19, 2023 transcript, pp. 7; December 20, 2023 transcript, p. 4.

234. Mr. Mello improperly elicited from Ms. McCabe, Matthew McCabe and Ms. Nagel their opinions of Mr. Kearney's intent. December 5, 2023 transcript, pp. 30-32, 49; December 19, 2023 transcript, p. 17.

235. Mr. Mello and DL Tully deliberately misled the grand jury by giving it the false impression that Mr. Kearney named his episodes in a manner suggestive of his intent to intimidate witnesses.

236. [14 times](#) during the grand jury proceeding, DL Tully improperly testified that the grand jury exhibits were maintained in a folder titled “intent.”

237. Mr. Mello and DL Tully concealed from the grand jury that DL Tully, not Mr. Kearney, created and named the “intent” folder and that DL Tully, not Mr. Kearney, “renamed” the clips DL Tully edited from Mr. Kearney’s actual episodes (see [exhibit NN](#), ¶¶ 4).

238. Mr. Mello neither instructed the grand jury to disregard DL Tully’s repeated reference to retrieving videos from the “intent” folder names nor told the grand jury that it was the exclusive factfinder on the question of Mr. Kearney’s intent.

239. After being peppered with improper opinions that Mr. Kearney’s intended to intimidate witnesses, the grand jury was left to speculate, and likely incorrectly believed, that Mr. Kearney, not DL Tully, created the “intent” folder.

240. If the grand jury knew that the “intent” folder, the episode names described to it and the edited clips that became the grand jury exhibits all were created by DL Tully instead of Mr. Kearney, the probable impact of such evidence would have been substantially less.

241. Either way, by repeatedly encouraging DL Tully to testify that the edited videos offered to prove Mr. Kearney’s intent were maintained in a folder named “intent,” Mr. Mello intentionally and improperly bolstered the distorted evidence because DL Tully’s testimony was tantamount to additional expressions of Mr. Mello’s and DL Tully’s opinion that Mr. Kearney intent was to intimidate witnesses.

242. Mr. Mello and DL Tully further deceived the grand jury by playing edits of Mr. Kearney’s lengthy episodes and then depriving the grand jury from the complete and accurate context contained in his actual episodes.

243. This sleight of hand dramatically misrepresented the context of the episodes and their names and deprived the grand jury of the right to the complete statements made by Mr. Kearney. See [*Commonwealth v. Mayfield*](#), 398 Mass. 615, 620 (1986) (“failure to disclose known information may impair the grand jury proceeding”); [*O’Dell*](#), 392 Mass.

at 448-49 (prosecution’s introduction of inculpatory portion of statement “distorted by the intentional failure” to include exculpatory portion of statement impaired grand jury proceeding and required dismissal of indictment).

244. The cumulative impact of Mr. Mello’s concealment of the actual titles, length and full content of Mr. Kearney’s episodes deliberately kept the grand jury ignorant of the truth: Mr. Kearney’s mostly hours-long episodes were dedicated to subjects far different than the edits and names Ms. Peter provided to Mr. Mello and DL Tully and included elements of comedy and satire.¹⁹

245. As detailed in the following chart, the Commonwealth engaged in pervasive misconduct by repeatedly misleading the grand jury about Mr. Kearney’s episodes:

¹⁹ Mr. Mello’s and DL Tully’s scheme to mislead the grand jury with “evidence” that Mr. Kearney’s episode names were indicative of his criminal intent even misled this Court and Mr. Cosgrove. In sustaining a number of the witness intimidation counts, the Court in its [May 19, 2025 decision](#) understandably referenced the episodes by the false names provided by Mr. Mello and DL Tully in a manner suggesting it believed the names were created by Mr. Kearney and were relevant to its decision. In a [July 29, 2025 filing](#), Mr. Cosgrove, also apparently unaware that Mr. Mello and DL Tully distorted the evidence, in reference to Mr. Kearney’s intent, cited the “aptly titled Episode 616: Trying to Destroy Colin’s Life,” when, in fact, that episode is named “Karen Read case: Commonwealth Tells More Lies about John O’Keefe’s GPS Data.”

	Episode "Title" Testified to by DL Tully in Grand Jury (GJ)	GJ Transcript	DL Tully Told GJ from "Intent" Folder	Duration of "Episode" in GJ Exhibit / Actual Duration of Episode	Mr. Kearney's Actual Episode Title
1	Ep 594 McCabe Residence	12/5/23 (p. 10)		0:01:50 / 2:29:02	Ep 594 - Turtleboy Returns to Canton: Door Knocking, Grilling Public Officials, Cops called on me
2	Ep 585 Confronting McCabes Outside Norfolk Superior	12/5/23 (pp. 14, 38)		0:01:26 / 2:40:46	Ep 585 - McCabes Want to Kill Me - Sean McCabe Isn't Happy Karen Read Speaks Out
3	Ep 619 Need to Go to McCabe's Soccer Game Again	12/5/23 (p. 15)		0:00:23 / 2:15:28	Ep 619 - Karen Read Case: Where Is Michael Proctor?
4	Ep 623 Jen McCabe	12/5/23 (p. 15)		0:01:53 / 2:41:36	Ep 623 - Karen Read Case: Breaking Down the Fraudulent Charging Docs on Turtleboy
5	Ep 595 Can Kick Colin Albert's Ass	12/5/23 (p. 60)		0:00:46 / 3:01:18	Ep 595 - Kendra Lara Crash, Sean Interview, Paul O'Keefe and Karl Dugal Defend Canton Murderers
6	Ep 596 Call to Colin Albert	12/5/23 (p. 60)		0:02:39 / 2:59:55	Ep 596 - Amiri King Wants to Fight Turtleboy, Canton Updates, Auntie Bev Cannone out of Control
7	Ep 616 Trying to Destroy Colin Albert's Life	12/5/23 (p. 60)	Yes	0:00:47 / 2:50:56	Ep 616 - Karen Read Case: Commonwealth Tells More Lies about John O'Keefe's GPS Data
8	Ep 623 Colin Albert	12/5/23 (p. 61)		0:01:36 / 2:41:36	Ep 623 - Karen Read Case: Breaking Down the Fraudulent Charging Docs on Turtleboy
9	Ep 590 Call to Julie Albert	12/14/23 (p. 5)		0:02:39 / 2:32:07	Ep 590 - More Michael Proctor Lies Making Calls
10	Ep 598 Life as Normal is Over	12/14/23 (p. 5)		0:01:44 / 2:31:42	Ep 598 - *Breaking* Karen Read Defense Files Motion to Recuse Judge Cannone and Oppose Gag Order
11	Impromptu Live 8/7/23, Alberts Should be Afraid	12/14/23 (p. 5)	Yes	0:00:49 / 0:49:22	Impromptu Live: Karen Read's Parents go on Boston 25 News & New Bombshell Information

	Episode "Title" Testified to by DL Tully in Grand Jury (GJ)	GJ Transcript	DL Tully Told GJ from "Intent" Folder	Duration of "Episode" in GJ Exhibit / Actual Duration of Episode	Mr. Kearney's Actual Episode Title
12	Kearney Outside D&E 2	12/14/23 (p. 6)		0:01:30 / 1:34:47	Looking for Jim Farris, Chris Albert, and the Galvins in Canton
13	Ep 580 Call to Elizabeth Proctor	12/14/23 (p. 23)		0:03:31 / 1:56:03	Ep 580 - Elizabeth Proctor - Dumbest Wife Ever, Brian Albert Opposition Motion
14	Ep 594 Not My Last Trip to Canton	12/19/23 (p. 6)		0:01:50 / 2:29:02	Ep 594 - Turtleboy Returns to Canton: Door Knocking, Grilling Public Officials, Cops called on me
15	Ep 594 Not My Last Trip to Canton	12/19/23 (p. 6)		0:00:58 / 2:29:02	Ep 594 - Turtleboy Returns to Canton: Door Knocking, Grilling Public Officials & Cops Called On Me
16	Ep 615 Living Like Rats	12/19/23 (p. 6)		0:03:19 / 2:36:55	Ep 615 - Karen Read Case: Attorney Bob Motta Discusses Friday's Hearing Confrontation in Canton
17	Ep 615 Not Leaving Second Generation Out of It	12/19/23 (p. 6)	Yes	0:01:58 / 2:36:55	Ep 615 - Karen Read Case: Attorney Bob Motta Discusses Friday's Hearing Confrontation in Canton
18	8-25-23 Response to DA Morrissey Statement	12/20/23 (p. 4)	Yes	0:01:13 / 0:16:20	Impromptu Live - Drunken Lardo Michael Morrissey Declares War on Turtle Riders
19	Ep 598 Life as Normal Is Over	12/20/23 (p. 5)	Yes	0:01:44 / 2:31:42	Ep 598 - *Breaking* Karen Read Defense Files Motion to Recuse Judge Cannone and Oppose Gag Order
20	Ep 598 Time to Hit the Gas	12/20/23 (p. 5)	Yes	0:00:25 / 2:31:42	Ep 598 - *Breaking* Karen Read Defense Files Motion to Recuse Judge Cannone and Oppose Gag Order
21	Ep 602 Enjoying Watching Witnesses Squirm	12/20/23 (p. 5)	Yes	0:01:08 / 2:36:12	Ep 602 - Pre-Vacation Show: Fupasaurus, Jill Daniels, Karl Dugal, Taillight Mystery, Liz Proctor
22	Ep 604 I Do Not Want This to Go to Trial	12/20/23 (p. 5)	Yes	0:00:16 / 2:56:29	Ep 604 - Colin Albert Drops out of School, Brian Higgins Flipping? Is the End Near?

	Episode "Title" Testified to by DL Tully in Grand Jury (GJ)	GJ Transcript	DL Tully Told GJ from "Intent" Folder	Duration of "Episode" in GJ Exhibit / Actual Duration of Episode	Mr. Kearney's Actual Episode Title
23	Ep 616 Trying to Destroy Colin Albert's Life	12/20/23 (p. 5)	Yes	0:00:47 / 2:50:56	Ep 616 - Karen Read Case: Commonwealth Tells More Lies about John O'Keefe's GPS Data
24	Ep 618 No Right to Live Peacefully	12/20/23 (p. 5)	Yes	0:00:29 / 2:26:08	Ep 618 - Karen Read Case: Detective Bukhenik Intimidates Witness, Chris Albert Seeks Protection Order
25	Ep 598 I've Got Pictures of You	12/20/23 (p. 5)	Yes	0:01:06 / 2:31:42	Ep 598 - *Breaking* Karen Read Defense Files Motion to Recuse Judge Cannone and Oppose Gag Order
26	Ep 624 - 10-24-23 - Encourage Protests	12/20/23 (p. 5)	Yes	0:01:27 / 2:34:19	Ep 624 - Karen Read Case: After David Shows Bathroom Video Was P.C To Take Journalist's Phones
27	Impromptu Live 8/7/23, Alberts Should be Afraid	12/20/23 (p. 6)	Yes	0:00:49 / 0:49:22	Impromptu Live: Karen Read's Parents go on Boston 25 News & New Bombshell Information
28	Rolling Rally Don't Feel Bad For O'Keefe's	12/20/23 (p. 6)	Yes	0:00:58 / 2:08:13	Canton - The Justice for Karen Read and John O'Keefe Rolling Rally
29	Ep 594 I'm Not Fucking Around			0:01:06 / 2:29:02	Ep 594 - Turtleboy Returns to Canton: Door Knocking, Grilling Public Officials & Cops Called On Me

246. The above chart and Mr. Mello's conduct on December 20, 2023, immediately before he sought Mr. Kearney's indictment, best demonstrates how he repeatedly impaired the integrity of the grand jury proceeding and prejudiced Mr. Kearney by misleading the grand jury about the evidence of Mr. Kearney's intent.

247. Prior to December 20, 2023, Mr. Mello already had spent an extraordinary amount of time and effort introducing inflammatory and irrelevant evidence and instructions related to an uncharged bad act (*see* ¶¶ 213-29).

248. Prior to December 20, 2023, DL Tully already had falsely and improperly testified about the location, names, length and content of at least 17 edits from Mr. Kearney's episodes (*see* ¶ 245, chart lines 1-17).

249. Prior to December 20, 2023, Mr. Mello already had bolstered his improper presentation of evidence by eliciting DL Tully's affirmative statement that

*these incidents [videos previously played]
were all attempts to intimidate these
witnesses...*

December 19, 2023 transcript, p. 7 (emphasis added).

250. On December 20, 2023, Mr. Mello bolstered his previous misconduct with his unsworn opinion and DL Tully's sworn opinion by eliciting DL Tully's "agreement" with him that edited exhibits "depicted Aidan Kearney ***making some comments about his intentions with respect to his activities.***" December 20, 2023, transcript, p. 4 (emphasis added).

251. Immediately following this improper marshalling and bolstering of the edited "evidence," Mr. Mello instructed DL Tully to play the videos which he just told the grand jury he and DL Tully believed proved Mr. Kearney's intent. *Id.*

252. DL Tully proceeded to play a series of videos which he, again, improperly testified came from the "intent" folder. *Id.*

253. As they did [17 times previously over the past three sessions](#), Mr. Mello and DL Tully intentionally misrepresented the names of Mr. Kearney's episodes to make them sound consistent with what they told the grand jury was Mr. Kearney's criminal intent and then DL Tully played out of context, cherry-picked snippets while Mr. Mello deprived the grand jury of the full context and accurate names of Mr. Kearney's episodes.

254. DL Tully matter-of-factly falsely swore that among Mr. Kearney's episodes from the "intent" folder were episodes *he* prejudicially named (but the grand jury was led to believe Mr. Kearney named) such as "enjoying watching witnesses squirm," "trying to destroy Colin's life," and "no right to live peacefully." December 20, 2023 transcript, pp. 5-6.

255. As if Mr. Mello's and DL Tully's conduct already wasn't bad enough, they exacerbated the prejudice to Mr. Kearney by further bolstering the "evidence" and their improper opinions of it by replaying edited videos and repeating their false names for videos even though they already had been presented to the grand jury.

256. Specifically, on December 20, 2023, Mr. Mello re-played the following misnamed and misleading "episodes"

- 616: "Trying to destroy Colin Albert's life," *see* December 5, 2023 transcript, p. 60; December 20, 2023 transcript, p. 5,
- 598: "Life as normal is over," *see* December 14, 2023 transcript, p. 5; December 20, 2023 transcript, p. 5,
- "Impromptu live 8/7/23, Alberts should be afraid," *see* December 14, 2023 transcript, p. 5; December 20, 2023 transcript, p. 6.

257. No members of the O’Keefe family testified before the grand jury.

258. Mr. Mello didn’t seek Mr. Kearney’s indictment for the alleged witness intimidation of any members of Mr. O’Keefe’s family.

259. DL Tully testified that the final video played in the grand jury presentation (:58 seconds in length) came from the “intent” folder and was entitled “Rolling Rally, don’t feel bad for the O’Keefes.” December 20, 2023 transcript, p.6.

260. DL Tully explained that the final video’s name referred to “the parents and family of John O’Keefe.” *Id.*

261. The length of the actual video made by Mr. Kearney was 2:08:13 (*see* ¶ 245, chart line 29).

262. The actual title of the video made by Mr. Kearney was “Canton-The Justice for Karen Read and John O’Keefe Rolling Rally” (*id.*)

263. As the title and content of the actual video made by Mr. Kearney demonstrates, the grand jury was misled and deprived of evidence that in addition to Ms. Read, Mr. Kearney stated he was seeking justice for Mr. O’Keefe.

264. The small clip of the misnamed video was irrelevant to the charges before the grand jury because it wasn't offered in support of allegations that Mr. Kearney had intimidated anyone from Mr. O'Keefe's family.

265. Mr. Kearney's brief discussion of the O'Keefes centers on his frustration that they have been misled about who was responsible for Mr. O'Keefe's death and the impact their belief had on Ms. Read.

266. The final clip constituted another example of Mr. Mello improperly introducing uncharged "bad acts" evidence to prejudice Mr. Kearney and to appeal to the emotions of the grand jury.

267. Mr. Mello didn't instruct the grand jury on the purported relevance of the final edited exhibit or caution the grand jury to limit its deliberations to relevant evidence and make sure that sympathy for Mr. O'Keefe or his family didn't influence their evaluation of the evidence.

268. At the conclusion of DL Tully's December 20, 2023 testimony, just as he did immediately before DL Tully testified, Mr. Mello informed the grand jury that he had presented it with sufficient proof of Mr. Kearney's intent to intimidate witnesses:

now, to prove intent, the Commonwealth has to prove the purpose or object, objective of any behavior of the defendant, which would be Mr. Kearney. Obviously, it is impossible to look directly into his mind, but ***we believe that evidence has been presented to you that would allow you to make that determination.***

December 20, 2023 transcript, pp. 8-9 (emphasis added); *see also, id.* at 4 (Mr. Mello asked DL Tully if the videos depict Mr. Kearney making comments about his intentions); December 19, 2023 transcript, p. 7 (Mr. Mello asked DL Tully if “it’s your contention that [incidents in video clips] were all attempts to intimidate these witnesses?” to which Detective Tully replied “yes”).

269. Throughout the grand jury proceeding, Mr. Mello engaged in other improper conduct,²⁰ that combined with the above cited examples, had the cumulative impact of impairing the integrity of the grand jury proceeding, including:

- allowing grand jurors with “a strong opinion” about Mr. Kearney to decide for themselves whether they felt comfortable and telling them they were “welcome to stay” instead of

²⁰ Ms. McCabe testified that she received threatening Facebook messages from Mr. Kearney and others. She said that she provided them to the Commonwealth. She described messages which physically threatened her and others which included pictures of her daughter [REDACTED]. *See* December 5, 2023 transcript, pp. 35-36. None of these messages were presented to the grand jury and to this day they haven’t been disclosed to the defense.

instructing them to recuse themselves from this matter.²¹ December 5, 2023 transcript, p. 3,

- informing the grand jury of sentencing possibilities for charged and uncharged crimes. November 28, 2023 transcript, pp. 8-9; December 5, 2023 transcript, pp. 16-17,
- repeatedly asking witnesses their opinion on Mr. Kearney's intent and what other witnesses knew or believed. November 28, 2023 transcript, p. 30; December 5, 2023 transcript, pp. 30-33, 49; December 14, 2023 transcript, pp. 27-28; December 19, 2023 transcript, pp. 7, 17; December 20, 2023 transcript, p. 4,
- referring to Mr. Kearney's followers as "his minions." December 19, 2023 transcript, p. 13,
- expressing confidence that the grand jury will find a witness "to be the victim of intimidation." December 19, 2023 transcript, p. 3.

THE DEFENSE'S SPECIFIC DEMANDS FOR EVIDENCE

270. On February 23, 2024, the defense demanded from Mr. Mello, among other things, statements made by possible witnesses to DL Tully, all statements "between or among any civilian witness, police or

²¹ A grand juror indicated that he/she knew Ms. Nagel. Mr. Mello, who already improperly opined that Ms. Nagel was a victim of intimidation, tried to excuse the grand juror for Ms. Nagel's testimony only. Remarkably, the grand juror had to instruct Mr. Mello that it was not appropriate for him/her to vote on **any** counts and that he/she needed to be excused. December 19, 2023 transcript, p. 4.

prosecutors,” and material subject to disclosure under Rule 14, including “reports, statements and video” ([exhibit XX](#)).

271. On March 19, 2024, the defense informed the Commonwealth that Mr. Mello’s response to the February 23, 2024 demand was inadequate and that he had failed to disclose all automatic discovery ([exhibit YY](#)).

272. On April 23, 2024, Mr. Mello was directed by the Court to disclose all “automatic discovery under Rule 14” by May 8, 2024 ([exhibit ZZ](#)).

273. Mr. Mello didn’t comply with the May 8, 2024 deadline to disclose all discovery to the defense.²²

274. On information and belief, around the time of the Court issued the discovery deadline, Mr. Cosgrove joined the prosecution team.

²² Mr. Mello’s failure to comply with the court-ordered deadline wasn’t the first time he has neglected important legal matters. [He has been disciplined for “neglecting” at least three matters](#). In 2016, he was publicly reprimanded for “perform[ing] very little work of substance and a failure to communicate with his client.” He was further reprimanded in a second matter due to his professional incompetence in failing to file paperwork he was legally required to do in connection with his criminal client’s appeal. In 2006, he was admonished for “similar misconduct” for “fail[ing] to prosecute a client’s case resulting in its dismissal” and for “fail[ing] to communicate with his client.” DA Morrissey must have known (or should have known) about Mr. Mello’s documented failures to comply with his professional obligations before he engaged him to prosecute Mr. Kearney at substantial taxpayer expense (see e.g., [exhibit VV](#)).

275. On May 8, 2024, Mr. Cosgrove, to his credit, acknowledged that Mr. Mello “impeded progress on discovery.” He provided some discovery to the defense, although none of it related to Ms. Peter’s interactions with Mr. Mello and DL Tully ([exhibit AAA](#)).

276. On July 10, 2024, in response to the defense’s March 19, 2024 demand, Mr. Cosgrove stated that the Commonwealth would provide all evidence required under Rule 14 and “recognized its obligation to provide exculpatory evidence” ([exhibit BBB](#)).

277. Beginning in the fall of 2024, the defense made a series of specific demands for favorable and discoverable evidence pursuant to *Brady*, *Giglio*, and Rule 14. Many of these specific demands sought evidence related to Ms. Peter’s relationship with the Commonwealth.

278. Until July 2025, the Commonwealth didn’t disclose any evidence responsive to the defense demands for evidence related to Ms. Peter’s relationship with the Commonwealth, including her involvement in the investigations against Mr. Kearney.

279. Although the Commonwealth has provided some materials related to Ms. Peter, their production to date has been woefully inadequate.

280. The Commonwealth has represented that certain evidence provided by Ms. Peter to Mr. Mello and DL Tully in 2023 is no longer in their possession, custody and control, and has since been deleted, on information and belief, by Ms. Peter.

281. Although the undisclosed evidence indisputably was in their possession, custody and control, the Commonwealth regrettably has taken the position that they are not obligated to disclose this evidence because it is no longer in its possession, custody or control.

282. The Court should soundly reject this weak justification for the Commonwealth's failure to preserve and provide exculpatory and/or discoverable evidence to the defense. See [*Commonwealth v. Woodward*](#), 427 Mass. 659, 678-79 (1998).

283. On September 12, 2024, I sent a specific demand to Messrs. Cosgrove and Mello in which the defense sought from the Commonwealth

any information in their possession, custody or control that tended to impair the credibility of any possible witness against Mr. Kearney...and all promises, rewards or inducements made to any possible witnesses against Mr. Kearney

([exhibit CCC](#), pp. 2-3) (emphasis added). This demand included information related to Ms. Peter and DL Tully.

284. In this demand, I detailed Ms. Peter's prominent role in a conspiracy created in December 2023 the purpose of which was to lure Mr. Kearney into being charged with witness intimidation of Ms. Gaetani after DL Tully served her with a grand jury summons issued by Mr. Mello.

285. Mr. Mello's direct involvement in this scheme was so great that it resulted in the Court [disqualifying him from the prosecution of the 2024 indictments](#) in which Ms. Gaetani is the alleged victim.²³

286. I informed the DA that an extraction report from Ms. Gaetani's cellular phone provided to the defense appeared to have "scrubbed" communications from Ms. Peter, Mr. Mello and DL Tully after Ms. Gaetani and Ms. Peter discussed [REDACTED]

²³ [Ms. Gaetani has since filed lawsuits against Mr. Cosgrove and DL Tully](#) for what she alleges are their improper actions in the 2024 indictments, including intentionally causing her emotional harm. [She also sent a demand letter to DA Morrissey](#), in which she strongly implied her intent to sue *the DA* for at least \$50,000 unless she is financially compensated soon. In addition to further sabotaging her own credibility, Ms. Gaetani's virtually unprecedented, scorched earth "blame everyone" legal maneuvers have created an irreconcilable conflict that requires Mr. Cosgrove's and DL Tully's immediate disqualification from the 2024 indictments and possibly the 2023 indictments.

[REDACTED] (*id.* at 4-9). The Commonwealth didn't respond to this specific demand for evidence.

287. On October 8, 2024, I sent Messrs. Cosgrove and Mello another specific demand. This detailed, 15-page demand was entirely devoted to production of exculpatory and discoverable evidence related to Ms. Peter, including

all evidence and information, in whatever form, Ms. Peter furnished to the Commonwealth and/or MSP involving the investigation or prosecution of Mr. Kearney...any records of Ms. Peter's communications with..the Commonwealth and MSP..between October 1, 2023 and the present...and any documentation or memorialization of statements made by Ms. Peter to the Commonwealth or MSP regarding Mr. Kearney in any form including but not limited to written reports, notes, email, text messages, audio or video recordings"

([exhibit RR](#), pp. 2-3) (emphasis added). The Commonwealth didn't respond to this specific demand for evidence.

288. On October 17, 2024, I sent Mr. Cosgrove another specific demand for exculpatory and discoverable evidence. In this demand, much of which related to our recent discovery that DA Morrissey improperly conducted official public business from his personal email account, I

again alerted the Commonwealth to Ms. Peter’s direct involvement in this case ([exhibit DDD](#), pp. 5-6). Yet again, the Commonwealth didn’t respond to this specific demand for evidence.

289. On December 16, 2024, Mr. Mello forwarded some communications between himself and Ms. Peter to Mr. Cosgrove (*see* [exhibits OO](#), [PP](#), [QQ](#)).

290. Notwithstanding our prior demands, Mr. Cosgrove didn’t supply this evidence to the defense until July 7, 2025—almost ***seven months after he received it.***

291. As explained, *supra*, ¶¶ 32-37, the untimely disclosed communications between and among Ms. Peter, Mr. Mello and DL Tully is critical to the instant motions and if it had been disclosed promptly, would have been included in support of the defense’s first motion to dismiss the indictment.

292. On March 29, 2025, I sent Mr. Cosgrove another specific demand for evidence related to the Commonwealth’s relationship with Ms. Peter. Once again, I demanded any evidence “including but not limited to Ms. Peter’s involvement” in Mr. Kearney’s case, such as “evidence of interactions and communications (including their substance)

between and among Ms. Peter and the Kearney and Read prosecution teams,” which included Mr. Mello, DL Tully, Sgt. Bukhenik, Mr. Proctor and Lt. Fanning, among others ([exhibit EEE](#), pp. 3-5).

293. I informed Mr. Cosgrove that it had been more than five months since our first specific demand and that the Commonwealth still hadn’t disclosed “any information or materials” in response to our demands. I again provided detailed facts which established there was no doubt that the Commonwealth has in its possession, custody or control undisclosed materials related to its relationship with Ms. Peter.

294. On July 7, 2025, the Commonwealth disclosed some evidence related to Ms. Peter, including the messages forwarded by Mr. Mello to Mr. Cosgrove on December 16, 2024, and a few emails Ms. Peter sent DL Tully, without his responses. The Commonwealth represented it turned over 4,727 pages of Detective Tully’s emails when, in fact, more than 4,000 of those pages were blank.

295. On July 12, 2025, I wrote Mr. Cosgrove, once again making a specific demand for all evidence related to Ms. Peter ([exhibit FFF](#)).

296. Since July 12, 2025, the Commonwealth has provided some additional Peter evidence, including a file containing the previously

“blank” Tully emails, while alleging that some of the evidence is no longer in their possession, custody or control.

297. On August 13, 2025, [Mr. Cosgrove represented to the Court that DL Tully “has a practice of not clicking on the unsolicited links”](#) emailed to him but instead might “go himself and look for it online.” Mr. Cosgrove further stated that DL Tully did not review any materials sent to him by Ms. Peter which were introduced before the grand jury:

for example, Mr. Kearney’s YouTube presentations that were introduced to the grand jury. All of those things that DL Tully found himself online. He may have been pointed to them by Ms. Peter...he may have been pointed to them by multiple sources, but he never clicked on whatever it was that was sent...So these were ***never accessed in effect by the Commonwealth. If the links are now dead, we’ve never seen them.*** The links are presumably dead because whoever sent them took them off the internet...If DL Tully had clicked on the link, it would have taken him somewhere. Probably would, but he didn’t.

298. There is strong reason to doubt the truthfulness of DL Tully’s claim to Mr. Cosgrove (*see e.g.*, ¶¶ 148-52, 164-66; [exhibits AA, BB](#) (Ms. Peter forwarded recording to MSP in private link); November 28, 2023 transcript, pp. 8, 19 (DL Tully swore that “she” provided the audio

recording to him in a *private link*); [exhibit II](#) (after DL Tully “[REDACTED]
[REDACTED],” Sgt. Bukhenik informed DL Tully and others that he already provided “[REDACTED]” to ADA Lally)).

299. Even if DL Tully didn’t personally review any links sent to him by Ms. Peter, Mr. Cosgrove’s representation that the Commonwealth “in effect” never accessed the links provided to them by Ms. Peter ignores indisputable proof that *Mr. Mello* accessed the materials Ms. Peter provided to him (see [exhibits OO](#), [PP](#), [QQ](#), [WW](#)).

300. Once the links were sent by Ms. Peter and received by any agents of the Commonwealth in 2023, that evidence was in the Commonwealth’s possession, custody and control and it was obligated to disclose the evidence to the defense under *Brady*, *Giglio* and the [pre-existing Rule 14](#) (requiring disclosure of any “written or recorded statements, and the substance of any oral statements made by the defendant” in prosecution’s possession, custody or control, persons under their direction or control, or persons who have participated in investigating or evaluation the case or have reported to the prosecution) no later than May 8, 2024, when the Court ordered all automatic discovery to be disclosed to the defense (see [exhibit AAA](#)).

MR. MELLO IS A MATERIAL DEFENSE WITNESS

301. [The Court already has disqualified Mr. Mello from Mr. Kearney's 2024 indictment](#) because he made himself a material defense witness.

302. Mr. Mello's interactions and communication with DL Tully and Ms. Peter, and his conduct before the grand jury, has made him an essential defense witness (*see* ¶ 42).

303. Mr. Mello's direct advocacy in seeking to have criminal charges lodged against other individuals while acting as both an advocate for witness Chris Albert and in his official capacity as Mr. Kearney's prosecutor, creates an actual conflict of interest, makes him a material witness, and compels his disqualification.

304. On November 5, 2023—weeks after Mr. Kearney had been arrested—[Mr. Mello called the police on behalf of Chris Albert](#), who already was a named witness against Mr. Kearney, *see* [exhibit UU](#), to report that people were “picketing” Mr. Albert across the street from his Canton pizza shop.

305. [In his call to police](#), Mr. Mello initially identified himself as a “prosecutor with the Norfolk DA's Office.” He immediately asked to speak

to the supervising sergeant. Mr. Mello reported a “protest” occurring near Mr. Albert’s pizza shop and requested that a police car respond, “to make sure they are not intimidating.”

306. After Mr. Mello was asked to confirm his identity, he properly disclosed that he was not a Norfolk County prosecutor, but “the special prosecutor on Aidan Kearney.”

307. Not surprisingly, after hanging up with Mr. Mello, the officer who took the call properly noted to a fellow officer “well they can protest.”

308. An officer called Mr. Mello back and told him that the “incident” amounted to nothing more than four people holding signs across the street from D & E Pizza who weren’t impeding traffic. The officer noted “it seemed kind of mellow; it’s a small group now.”

309. Undeterred from his advocacy for Mr. Albert, Mr. Mello asked the sergeant to look at “Section 268, 13a.” After reviewing the witness intimidation statute, the sergeant asked Mr. Mello “what he was thinking of doing.”

310. Mr. Mello urged the Canton police to either “charge or disburse them” because they “met every single requirement of that statute.” According to Mr. Mello, these protesters were “certainly there

to influence [Mr. Albert] or whatever else the statute states. They aren't there for any other reason."

311. Mr. Mello's conduct and his credibility will be key issues at trial, and it would therefore be improper for him to advocate for the Commonwealth as an unsworn witness.

312. Mr. Mello must be disqualified pursuant to the witness-advocate rule, as codified in [Rule 3.7](#), which mandates that a lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness. *See also*, [Delnegro](#), 91 Mass.App.Ct. at 347 (lawyer must be disqualified if representation would "taint the legal system or the trial").

THE NEED FOR AN EVIDENTIARY HEARING

313. The defense has provided substantial evidence in support of our motions that, at a minimum, raise substantial material questions of fact that the Court must resolve before determining the defense motions.

314. With respect to the motion to dismiss the indictments due to the prosecution's impairment of the integrity of the grand jury proceeding, the defense, at a minimum, has raised material questions of fact regarding:

- why the Commonwealth presented the grand jury with uncharged evidence related to wiretapping of Mr. Scanlon and whether they did so for the purpose of seeking an indictment on the charged offenses,
- whether DL Tully (or someone else) created and/or provided the evidence used before the grand jury, why he created or edited videos, why he created the “intent folder,” why he changed the names of Mr. Kearney’s episodes and whether Mr. Mello was aware of any of this, and whether they discussed it in advance of the grand jury presentation,
- why Mr. Mello didn’t enter Mr. Kearney’s complete “episodes” into evidence,
- why, if Mr. Mello knew the actual names, length and content of Mr. Kearney’s episodes, did Mr. Mello elicit testimony from DL Tully in the manner he did,
- what evidence did Ms. Peter provide to the Commonwealth, to whom did she provide it, who reviewed it and did anyone vet its authenticity or reliability, and if so, when,
- what is the complete substance and nature of communications between DL Tully, Mr. Mello and Ms. Peter regarding DL Tully’s claim that he didn’t review any links she sent him,
- did Mr. Mello, DL Tully, any other agents of the Commonwealth review, preserve, disclose or delete evidence provided by Ms. Peter, did Ms. Peter delete or destroy evidence, and

- whether any or all of the answers to the above material facts establishes that the Commonwealth misled the grand jury by intentionally or recklessly presenting false or misleading evidence or in any other manner that impaired the integrity of the grand jury proceeding for the purpose of securing Mr. Kearney's indictment.

315. With respect to the motion to dismiss the indictments for the prosecution's failure to provide exculpatory and/or discoverable evidence, the defense, at a minimum, has raised material questions of fact regarding:

- what efforts, if any, the Commonwealth made to promptly respond to the numerous specific defense demands, including inquiries made with respect to Ms. Peter and others,
- why did it take years for the Commonwealth to disclose exculpatory evidence and automatic discovery,
- an inventory of all evidence Ms. Peter provided to the Commonwealth, including to whom she sent it, and what evidence was preserved, disclosed, lost or deleted,
- whether evidence provided by Ms. Peter was edited or tampered with by her or anyone else,
- whether any deletions nondisclosure and/or untimely disclosure of evidence was intentional,

- why were communications between and among Mr. Mello, DL Tully and Ms. Peter from September 2023 through early 2024 disclosed by Mr. Mello months after defense specific demands, and why did Mr. Cosgrove fail to disclose them for another seven months, and
- why has the Commonwealth failed to disclose alleged written communications that Ms. McCabe has sworn she provided to the Commonwealth.

316. With respect to the defense's motion to disqualify Mr. Mello, the defense, at a minimum, has raised material questions of fact, regarding:

- Mr. Mello's knowledge of Ms. Peter's dubious credibility, including her bias against Mr. Kearney, her motive to falsely accuse him and her history of forging evidence against Mr. Kearney,
- Mr. Mello's communications with Ms. Peter regarding her input and production of evidence, including his knowledge of whether DL Tully reviewed evidence provided by Ms. Peter,
- Mr. Mello's knowledge about how he and DL Tully prepped for the grand jury, whether they discussed how DL Tully was going to describe Mr. Kearney's "episodes," and whether Mr. Mello and DL Tully intentionally misled the grand jury,

- Mr. Mello's knowledge of whether DL Tully, Ms. Peter or anyone else edited clips and changed the names of Mr. Kearney's episodes prior to the grand jury presentation

WHEREFORE, as alleged herein and detailed in the accompanying memorandum of law, the defense requests dismissal of the indictments and the disqualification of Mr. Mello, or in the alternative, an evidentiary hearing on our motions, and any other proper relief deemed just and proper by the Court.

By: */s/Mark A. Bederow*

MARK A. BEDEROW

DATED: New York, New York
September 17, 2025

CERTIFICATE OF SERVICE

I, Mark A. Bederow, do hereby certify that I or Timothy J. Bradl have served counsel of record for the Commonwealth a copy of this Affidavit in Support of Motion, its exhibits and an accompanying memorandum of law by hand and/or email and/or first-class mail, postage paid on the foregoing date.

/s/ Mark A. Bederow

Mark A. Bederow