

SUPERIOR COURT
COUNTY OF NORFOLK

COMMONWEALTH OF MASSACHUSETTS

-against-

AIDAN KEARNEY,

Defendant.

AFFIDAVIT IN
SUPPORT OF
MOTIONS

Docket Nos.
2382CR00313
2482CR00043
In Re: 2482SW0004

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 to

(a) preclude the Norfolk County DA's Office from appointing another special prosecutor to Docket No. 2482CR00043 ("the 2024 case") due to its irreconcilable conflict with witness Lindsey Gaetani,

(b) disqualify special prosecutor Robert Cosgrove from Docket No. 2382CR00313 (“the 2023 case”) due to his irreconcilable conflict with Ms. Gaetani, and

(c) disqualify special prosecutor Robert Cosgrove from an [ongoing investigation of Karen Read and Mr. Kearney](#) for conspiracy to commit witness intimidation (“the 2025 investigation”) due to Mr. Cosgrove’s irreconcilable conflict with Ms. Gaetani.

BACKGROUND

2. Ms. Gaetani is the alleged victim in the 2024 case and an important witness in the 2023 case and the 2025 investigation.

3. Mr. Cosgrove and Kenneth Mello both are presently assigned as special prosecutors on the 2023 case.¹

4. Mr. Cosgrove’s role as special prosecutor on the 2023 and 2024 cases [has recently expanded to include the 2025 investigation](#), which is an attempted resurrection of Mr. Mello’s [failed March 27, 2024 attempt](#)

¹ A motion to disqualify Mr. Mello from the 2023 case is pending before the Court ([Affirmation of Mark A. Bederow](#), dated September 17, 2025 (“Bederow Aff.”), ¶¶ 42-46, 301-12). [Mr. Mello already has been disqualified from the 2024 case](#) because he is a material witness.

[to indict Ms. Read and Mr. Kearney](#) for conspiracy to commit witness intimidation.

5. The subject matter of the 2023 case and the 2025 investigation is virtually identical.² They involve the same alleged acts of witness intimidation against the same alleged victims. On information and belief, the only difference between the 2023 case and the 2025 investigation is that the 2025 investigation seeks to add a conspiracy indictment against Ms. Read and Mr. Kearney and substantive witness intimidation indictments against Ms. Read identical to many, if not all, of the substantive indictments against Mr. Kearney in the 2023 case.

6. On September 5, 2025, Ms. Gaetani sued Mr. Cosgrove and Massachusetts State Police (“MSP”) Detective-Lieutenant (“DL”) Brian Tully, the lead investigator in the 2023 and 2024 cases and the 2025 investigation ([exhibit A](#)).

7. Ms. Gaetani sued Mr. Cosgrove for intentional infliction of emotional distress, negligent infliction of emotional distress, invasion of privacy, abuse of process, violation of civil rights law, breach of statutory

² The instant motions to disqualify Mr. Cosgrove don’t include Docket No. 2582CR00088, which relates to the alleged witness intimidation of Chris Albert and Colin Albert.

duty/negligence per se and contribution. DL Tully was sued for the same with the exception of the “abuse of process” claim.

8. In essence, Ms. Gaetani has accused Mr. Cosgrove and DL Tully of intending to cause her emotional distress and other harm by purposefully breaching a duty of care they owed her (*id.* at pp. 27-31, 36-41).

9. Ms. Gaetani has accused Mr. Cosgrove and DL Tully of “unreasonably and offensively” “invading her privacy” by improperly and deliberately disclosing facts about a purported sexual assault³ to Mr. Kearney’s defense without her consent in violation of confidentiality laws.

10. Ms. Gaetani has accused Mr. Cosgrove of “initiating or facilitating legal processes with ulterior motives.”

11. Ms. Gaetani has accused Mr. Cosgrove and DL Tully of “interfering” with her rights “by threats, intimidation or coercion.”

12. On September 5, 2025, Ms. Gaetani sent Norfolk County District Attorney Michael Morrissey a letter titled “Presentment of Claim

³ In the almost two years since Ms. Gaetani made this claim, no charges have been filed against Mr. Kearney. The “evidence” of Ms. Gateani’s claim clearly was discoverable under *Brady* and Rule 14.

under M.G.L. c. 258, § 4-Lindsey Gaetani v. Special Prosecutor Robert Cosgrove”⁴ ([exhibit B](#)).

13. In her demand letter to DA Morrissey, Ms. Gaetani stated her intent to sue his office because of the actions of “its employee” Mr. Cosgrove for “damages arising from [his] tortious conduct,” which, according to Ms. Gaetani, included Mr. Cosgrove intentionally causing her severe distress and violating her right to privacy through his “coercion.”

14. Ms. Gaetani alleged that her damages would exceed \$50,000 and requested that DA Morrissey “investigate this claim” and contact her to “discuss resolution” (i.e., compensate her financially) within six months or presumably face an explosive civil lawsuit in an election year.

15. Mr. Cosgrove has had a lengthy and distinguished career as a Norfolk County prosecutor and Superior Court judge. He undoubtedly will vigorously dispute the shocking claims Ms. Gaetani has leveled against him.

⁴ M.G.L. c. 258 § 4 states that a civil action for damages shall not be instituted against a public employer unless the claimant shall have first described the claim in writing to the executive officer of the public employer and such claim shall have been finally denied by the executive officer in writing.

16. By virtue of his professional status and excellent reputation, Mr. Cosgrove's defense of himself against Ms. Gaetani's claims will necessarily damage Ms. Gaetani's credibility, which will harm any prosecution in which she is a witness or where her credibility is in issue.

17. The DA almost certainly will provide full-throated support for Mr. Cosgrove's reputation and integrity, and dispute Ms. Gaetani's claims, which will harm any prosecution in which she is a witness or her credibility is in issue.

18. Ms. Gaetani's unconventional legal maneuvers have placed her interests (a prosecution witness in the 2023 case and 2025 investigation who has sued Mr. Cosgrove, DL Tully and intends to sue the DA) in direct and irreconcilable conflict with

(a) Mr. Cosgrove (who in his capacity as the prosecutor would be required to "defend" the credibility of a prosecution witness who has sued him for his alleged misconduct and in whose personal interest it is to ***discredit*** Ms. Gaetani),

(b) the DA (the party who engaged Mr. Cosgrove and who will soon be sued by Ms. Gaetani because of Mr. Cosgrove's alleged

misconduct and in whose interest it is to support Mr. Cosgrove and ***discredit*** Ms. Gaetani), and

(c) the Commonwealth (the party ultimately responsible for prosecuting Mr. Kearney and in whose interest it is to ***credit*** Ms. Gaetani).

19. On September 22, 2025, Mr. Cosgrove filed a motion to withdraw from the 2024 case on the basis that he was ethically precluded from prosecuting “matters where Lindsey Gaetani is an alleged victim ***or party***” ([exhibit C](#)) (emphasis added).

20. On September 24, 2025, Mr. Cosgrove was relieved from the 2024 case due to the conflict of interest created by Ms. Gaetani’s accusations of numerous instances of serious and intentional misconduct.

21. In other words, the Court, Mr. Cosgrove and the defense all agree that Ms. Gaetani’s serious allegations against Mr. Cosgrove have created an irreconcilable conflict that prevents him from prosecuting ***any matter*** in which Ms. Gaetani is a possible witness or where her credibility is in issue.

22. As it stands today, Mr. Cosgrove’s withdrawal from the 2024 case has left that matter without ***any*** prosecutor.

23. Before Ms. Gaetani threatened to sue the DA, it already had recused itself from the matter due to its conflict with Mr. Kearney. Additionally, Mr. Mello already has been disqualified, and Robert Novack, who briefly assisted Mr. Mello on the 2024 case, moved to withdraw one day after defense motions detailing Mr. Mello's pervasive misconduct in the 2023 case were filed.

24. In these circumstances, the conflict between Ms. Gaetani and the DA precludes the DA from appointing another special prosecutor to handle the 2024 case because it is in the DA's interest to defend Mr. Cosgrove and to discredit Ms. Gaetani as part of its own defense against her serious allegations of prosecutorial misconduct.

25. The appointment of a new special prosecutor on the 2024 case must be made by a disinterested party, without regard to any possible impact on Ms. Gaetani's existing and future civil litigation against those involved in Mr. Kearney's prosecution.⁵

26. If the DA—a future defendant in Ms. Gaetani's upcoming litigation which will allege prosecutorial misconduct—is allowed to make

⁵ The Attorney General already has rejected the DA's numerous requests to prosecute Mr. Kearney (see [Bederow Aff.](#), ¶¶ 81-83, 114-15).

that choice, Ms. Gaetani (and others) rightfully will question whether the prosecutor was engaged as “DA house counsel” at taxpayer expense to serve the DA’s interest in discrediting Ms. Gaetani and defeating her lawsuit or to independently evaluate the merits of a criminal case without regard to the DA’s interest in Ms. Gaetani’s civil litigation.

27. As detailed below, Mr. Cosgrove must be disqualified from the 2023 case and the 2025 investigation because Ms. Gaetani will be a witness, her credibility will be in issue, and her serious allegations against Mr. Cosgrove have made her his “third rail.”

**MS. GAETANI IS A WITNESS IN THE 2023 CASE AND THE
2025 INVESTIGATION**

28. On November 28, 2023, Mr. Mello commenced a grand jury investigation that ultimately resulted in the 2023 case. Indictments were returned against Mr. Kearney on December 20, 2023.

29. The grand jury investigation was named “In the Matter of MSP/Canton Investigation.” November 28, 2023 transcript, p. 1.

30. On or about December 9, 2023—while the grand jury proceeding on the 2023 case was underway—Ms. Gaetani began communicating with Katherine Peter, whose conduct, relationship with

the MSP and dreadful credibility is central to Mr. Kearney’s defense in the 2023 and 2024 cases (see [Bederow Aff.](#), ¶¶ 145-97).

31. On December 11, 2023, at 10:58 a.m., Ms. Peter [REDACTED]
[REDACTED] “ [REDACTED] ”
([exhibit D](#), p. 12, n8).

32. On December 11, 2023, at 3:44 p.m., Ms. Peter informed Ms. Gaetani that [REDACTED] “ [REDACTED] ”
(*id.*).

33. On December 11, 2023, at 8:30 p.m., Ms. Gaetani and Leigha Genduso (another “enemy” of Mr. Kearney) discussed whether Ms. Gaetani should “ [REDACTED] ” [REDACTED]
[REDACTED]⁶ (*id.* at pp. 5-6).

34. On December 11, 2023, at 8:53 p.m., Ms. Gaetani told Ms. Genduso that [REDACTED] “ [REDACTED] ” (*id.* at p. 6).

⁶ On information and belief, “on the DL” referred to “on the down low,” which means to do something secretly or privately. It goes without saying that there was no legitimate basis for Ms. Gaetani or anyone else involved in the investigation to engage in secret or private discussions with the prosecutor.

35. On December 11, 2023, at 8:56 p.m., Ms. Gaetani told Ms. Genduso that [REDACTED] [REDACTED] “ [REDACTED] ” (*id.*).

36. On December 11, 2023, at 8:58 p.m., Ms. Gaetani joked that she [REDACTED] [REDACTED] “ [REDACTED] ” [REDACTED] “ [REDACTED] ” [REDACTED] [REDACTED] ” (*id.*).

37. On December 11, 2023 at 9:22 p.m., Ms. Gaetani mused to Ms. Genduso that once she [REDACTED] [REDACTED] “ [REDACTED] ,” [REDACTED] [REDACTED] (*id.*).

38. On December 11, 2023, at 9:22 p.m., Ms. Gaetani told Ms. Genduso that “ [REDACTED] ” (*id.*).

39. On December 12, 2023, Jennifer McCabe (a key witness in the 2023 case and the 2025 investigation), in the presence of Ms. Peter, told

Ms. Gaetani that if she was “really sorry [for previously supporting Ms. Read] she would testify before the grand jury”⁷ ([exhibit E](#)).

40. On December 13, 2023, Ms. Gaetani expressed concern to Ms. Peter about her [REDACTED] [REDACTED] of criminal exposure for witness intimidation because she created a fake Twitter account in which she, under the name “Jane,”⁸ relentlessly attacked Mr. Kearney at the same time she “supported” him under her “real” Twitter account ([exhibit F](#), p. 10).

41. Ms. Gaetani understandably was worried that when DL Tully [REDACTED] she bizarrely *engaged in online discussions with herself under two different names*, where she simultaneously attacked Mr. Kearney as “Jane” and defended him as “Lindsey Gaetani.”

⁷ Ms. Gaetani and Ms. McCabe both will be questioned under oath in the 2023 case regarding Ms. McCabe’s possible intimidation or coercion in seeking to have Ms. Gaetani testify against Mr. Kearney.

⁸ Ms. Gaetani created the “Jane” Twitter account [REDACTED] [REDACTED] that Ms. Gaetani was “Jane,” she lied to the Medfield police about her identity as “Jane.” On December 11, 2023, Ms. Gaetani lied [REDACTED] (*id.*).

42. On December 14, 2023, at 1:00 p.m., DL Tully and Mr. Mello's investigator interviewed Ms. Gaetani in connection with the grand jury investigations that resulted in the 2023 case and the failed attempt to indict Mr. Kearney and Ms. Read on March 27, 2024 ([exhibit G](#)).

43. The purpose of DL Tully's interview with Ms. Gaetani was to pump her for information regarding Mr. Kearney's relationship with Ms. Read and to acquire evidence to build a case against Ms. Read and Mr. Kearney for conspiracy to intimidate the witnesses against Ms. Read.

44. Ms. Gaetani told DL Tully her purported knowledge of communications between Mr. Kearney and Ms. Read, including their method of communication, the "app" which they used to communicate, and their initial use of an intermediary named "Natalie" (*id.* at ¶¶ 3-4).

45. Ms. Gaetani alleged that Mr. Kearney "ran everything by" Ms. Read before he reported on Ms. Read's case (*id.* at ¶¶ 4-5).

46. Ms. Gaetani strongly implied that Ms. Read or her family purchased a Lexus for Mr. Kearney (*id.* at ¶7).

47. On December 14, 2023, at 3:10 p.m., immediately after her interview with DL Tully concluded, Ms. Gaetani texted Ms. Peter that

2023, he anticipated presenting additional evidence. December 20, 2023 transcript, p. 3.

57. On December 22, 2023, DL Tully served Ms. Gaetani with a grand jury summons compelling her to testify on December 27, 2023 ([exhibit J](#)).

58. Ms. Gaetani's grand jury summons (which compelled her testimony on the same day Mr. Mello informed the grand jury it would hear additional evidence) was issued in connection with "In re: the investigation into Canton Witness Intimidation"—the same grand jury commenced by Mr. Mello on November 28, 2023.

59. The grand jury summons DL Tully served upon Ms. Gaetani instructed her to report to the "Special Assistant District Attorney," which, of course, was Mr. Mello.

60. The only legitimate basis for Mr. Mello to (a) inform the grand jury on December 20, 2023 that it would hear evidence on December 27, 2023 and (b) direct DL Tully on December 22, 2023 to subpoena Ms. Gaetani to testify on December 27, 2023, regarding the "Canton witness intimidation case" was because Mr. Mello and DL Tully deemed Ms. Gaetani a material witness *in the 2023 case*.

61. On December 23, 2023, DL Tully applied for and was granted a search warrant (2358SW0013) authorizing the seizure of Ms. Read's phones. However, he was unable to execute that warrant within seven days.

62. On December 28, 2023, Mr. Mello inexplicably gave reporter Jessica Machado a lengthy interview detailing his investigation of Mr. Kearney. He noted that Ms. Gaetani "recently" became a witness, after he received "communication from her"¹⁰ ([exhibit K](#)).

63. On information and belief, Mr. Mello's December 28, 2023 public assertion that Ms. Gaetani "recently" became a witness referred to Ms. Peter's and Mr. Mello's "[REDACTED]" conversation about Ms. Gaetani, which resulted in Ms. Gaetani providing DL Tully with information about Mr. Kearney and Ms. Read on December 14, 2023 ([exhibit G](#); *supra*, at ¶ 32).

¹⁰ Mr. Mello's interview, which occurred while he was still conducting a grand jury investigation, was a brazen violation of [Rule 3.6](#) of the Massachusetts Rules of Professional Conduct. In yet another example of his complete indifference and/or sheer ignorance regarding his professional obligations as a prosecutor, Mr. Mello publicly announced that his case against Mr. Kearney was "overwhelming." He expressed his confidence in Mr. Kearney's guilt. He smeared Mr. Kearney as a "master manipulator" who exploited a "substantially younger [woman]." Mr. Kearney was 42 and Ms. Gaetani was 37 ([exhibit K](#)).

64. On January 22, 2024, DL Tully applied for a second search warrant authorizing the seizure of Ms. Read’s cellular phones¹¹ ([exhibit L](#)).

65. DL Tully’s sworn affidavit to demonstrate probable cause to seize Ms. Read’s phones relied heavily upon information Ms. Gaetani¹² provided to him on December 14, 2023.

66. Information provided by Ms. Gaetani to DL Tully on December 14, 2023 was essential support for DL Tully’s conclusive claim that Ms. Read’s phones “will” contain evidence of witness intimidation ([exhibit L](#), ¶¶ 75-86).

67. In his affidavit, DL Tully explained that a “Special Prosecutor” (Mr. Mello) convened a grand jury in an ongoing investigation into “the intimidation of witnesses involved in *Commonwealth v. Read*” (*id.* at ¶ 71).

¹¹ In his sworn affidavit, DL Tully referred to Mr. Kearney’s YouTube episodes by their proper given names ([exhibit L](#) at ¶¶ 9-13). As the Court is aware, DL Tully’s patently false testimony in the 2023 grand jury misled the grand jury about the actual names and content of Mr. Kearney’s episodes (*see Bederow Aff.*, ¶¶ 245-46, 253-63).

¹² DL Tully identified Ms. Gaetani as “Jane,” the same name Ms. Gaetani used for the fake Twitter account she created for the purpose of attacking Mr. Kearney (*see exhibit F*, p. 10).

68. DL Tully’s description of the grand jury investigations referred to what is now the 2023 case and Mr. Mello’s failed 2024 attempt to indict Ms. Read and Mr. Kearney, which Mr. Cosgrove has resurrected into the 2025 investigation.

69. DL Tully swore to the issuing judge that Ms. Gaetani was “***a witness relative to the ongoing conspiracy to intimidate witnesses in the Read case***” (i.e., the 2023 case and the 2025 investigation) (*id.* at ¶ 75) (emphasis added).

70. DL Tully’s affidavit regurgitated the contents of the report he prepared after his December 14, 2023 interview of Ms. Gaetani (*id.* at ¶¶ 76-81; [exhibit G](#)).

71. DL Tully’s affidavit alleged that Ms. Gaetani provided him information suggesting that Ms. Read or others on her behalf purchased Mr. Kearney’s Lexus. Relying upon information provided to him by Ms. Gaetani, DL Tully swore that Mr. Kearney drove a Lexus and that “further records,” which on information and belief were received in response to a subpoena based upon information Ms. Gaetani provided to DL Tully, revealed that Mr. Kearney’s Lexus was “paid in full” with a personal check ([exhibit L](#), ¶ 80).

72. DL Tully explained that Ms. Gaetani was served with a grand jury summons on December 22, 2023, and that the following day, Mr. Kearney told her (a) to inform the grand jury that she didn't recall anything, (b) to delete evidence and (c) that he would engage an attorney for her if she "cooperated with him" (*id.* at ¶ 82).

73. DL Tully swore to the issuing magistrate that information provided by Ms. Gaetani "outlines the close communication between Kearney and Read...which continued after Kearney was arrested and arraigned" for witness intimidation (*id.* at ¶ 85).

74. DL Tully explained that he was seeking evidence from Ms. Read's phones related to the witness intimidation of, among others, "Matthew McCabe, Jennifer McCabe, Brian Albert, Christopher Albert, Colin Albert, Juliana Albert,¹³ Michael Proctor, and Elizabeth Proctor" (*id.* at ¶ 100).

75. All of the witnesses described in the preceding paragraph are (or in disgraced former MSP Trooper Proctor's case, were) alleged victims in indictments associated with the 2023 case.

¹³ This appears to be a typo, and, in fact, the name listed should be "Juliana Nagel" (see [exhibit L](#), ¶ 5(g); 37) (references to alleged intimidation of "Juliana Nagel").

76. Based upon evidence provided to him by Ms. Gaetani, DL Tully alleged that Ms. Read’s phones would contain probable cause of “data evidencing [her] ongoing conspiracy with Aidan Kearney to Intimidate Witnesses” (*id.*).

77. Based upon DL Tully’s reliance on Ms. Gaetani as a key source of his probable cause affidavit, and Mr. Cosgrove’s current effort to search phones that were seized ***almost two years ago***,¹⁴ DL Tully’s assertion that the content of Ms. Read’s unsearched phones will uncloak a conspiracy between Ms. Read and Mr. Kearney demonstrates the significance of Ms. Gaetani to the 2025 investigation.

78. On February 1, 2024, Ms. Gaetani testified before a grand jury titled “In the matter of: Canton Investigation.” February 1, 2024 transcript, p.1.¹⁵

79. Ms. Gaetani testified about what she claimed to perceive about the relationship between Mr. Kearney and Ms. Read, including

¹⁴ We leave it to Ms. Read’s defense to address whether the extensive delay in time between the seizure of her phones and a search (which still hasn’t occurred) is unreasonable such that any recovered evidence should be suppressed. *See Commonwealth v. Diaz*, 2025 WL 2486907 (App. Ct. August 29, 2025); *Commonwealth v. White*, 475 Mass. 583 (2016).

¹⁵ In the event the 2024 case isn’t dismissed for lack of prosecution, Mr. Mello’s impairment of the integrity of this grand jury proceeding will serve as the basis for a future motion to dismiss that case.

allegations that Ms. Read “controlled” what Mr. Kearney posted about her case (*id.* at pp. 12-14).

80. Ms. Gaetani described her December 14, 2023 meeting with DL Tully and Mr. Mello’s investigator as, among other things, her “letting them know Aidan had made a number of comments to me about Karen Read” (*id.* at p. 20).

81. Ms. Gaetani swore that Mr. Kearney “discussed a Lexus” with her and that he “alluded to the fact that it was a gift from Karen Read and/or her defense team” (*id.* at pp. 34-36).

82. Ms. Gaetani informed the grand jury that Ms. Read’s brother worked at a Lexus dealership in Rhode Island and that Mr. Kearney told her “even if he did give me a Lexus, that’s not against the law” (*id.* at p. 35).

83. Ms. Gaetani’s February 2024 grand jury testimony is relevant and material to the 2023 case and the 2025 investigation and places her credibility squarely in issue with respect to both matters.

84. On March 27, 2024, Mr. Mello sought Mr. Kearney’s and Ms. Read’s indictment for conspiring to intimidate witnesses in Ms. Read’s existing murder prosecution. Even though Mr. Mello improperly

emphasized Mr. Kearney's and Ms. Read's notoriety (and Mr. Kearney already was indicted for witness intimidation and Ms. Read was scheduled to stand trial three weeks later) the grand jury refused to indict them. *See* March 27, 2024 transcript, pp. 3-4.

85. DL Tully was the sole witness in the March 27, 2024 grand jury proceeding.¹⁶

86. Prior to this grand jury presentation, Mr. Mello and DL Tully subpoenaed bank records and records from Lexus to imply that Ms. Read or her family purchased Mr. Kearney's Lexus as a "reward" for him. *See* March 27, 2024 transcript, pp. 38-39.

87. On information and belief, the originating source of the information that led the Commonwealth to subpoena Mr. Kearney's bank records and information from Lexus was information Ms. Gaetani provided to DL Tully on December 14, 2023 (*see* [exhibit G](#), ¶ 7).

88. All of the above-described evidence establishes that Ms. Gaetani likely will be called as a prosecution and/or defense witness in

¹⁶ Just as they did in the 2023 case, Mr. Mello and DL Tully intentionally misled the grand jury through DL Tully's patently false testimony in which he "renamed" Mr. Kearney's episodes to sound indicative of his and Ms. Read's intent to intimidate witnesses. March 27, 2024 transcript, pp. 14-21. This was just two months after DL Tully swore out an affidavit using the correct names of Mr. Kearney's episodes ([exhibit L](#), ¶¶ 9-13).

the 2023 case and in connection with any case that may result from the 2025 investigation.

MR. COSGROVE'S ACTUAL CONFLICT

89. Ms. Gaetani is a material witness regarding numerous important issues in the 2023 case and the 2025 investigation, including but not limited to

- (a) how the Commonwealth investigated and built its case,
- (b) the shoddiness, bias and/or lack of good faith in the Commonwealth's investigation,
- (c) as a witness at a pretrial hearing seeking suppression of any evidence obtained from Ms. Read's phones,
- (d) the relationship between Mr. Kearney and Ms. Read, and
- (e) explaining how Mr. Kearney and Ms. Read communicated and the substance of those communications.

90. Ms. Gaetani also is a material defense witness who will be called to impeach several prosecution witnesses, including, but not limited to, DL Tully, Mr. Mello, Ms. Peter, and Ms. McCabe.

91. Ms. Gaetani recently has made a series of public statements in which she has made serious allegations discrediting these witnesses and which therefore are favorable to Mr. Kearney and/or Ms. Read.

92. Ms. Gaetani recently announced that she possesses evidence which will “expose every single lie” made by Ms. Peter, Ms. McCabe and DL Tully ([exhibit M](#)).

93. Ms. Gaetani has publicly claimed that Ms. Peter “goes to bat for” and “defends” the “misbehaving” DL Tully, because of her “vested interest in covering for him” ([exhibit N](#)).

94. Ms. Gaetani allegedly possesses electronic messages which “prove that Tully is corrupt” and that [Ms. Peter] is a “snake” and “a scumbag that nobody trusts” ([exhibit O](#)).

95. Ms. Gaetani provided a copy of her phone extraction to “experts” she consulted with and who support her contention that the MSP deleted her messages with Ms. Peter before DL Tully provided the defense with a copy of the extraction report (*id.*).

96. Ms. Gaetani has publicly alleged that the Commonwealth never intended to actually prosecute Mr. Kearney “through the end” because it can’t explain why DL Tully’s and Ms. Peter’s messages are

missing from an extraction report the MSP made of her phone, and why Google drive links Ms. Peter provided to the Commonwealth are “missing”¹⁷ ([exhibit P](#)).

97. Ms. Gaetani has claimed that Ms. McCabe provided Ms. Peter with benefits, including paying for her “makeover/haircut/clothes” ([exhibit Q](#)).

98. As detailed, *supra* at ¶ 39, Ms. Gaetani has posted a video where she details how Ms. McCabe, in Ms. Peter’s presence, pressured her to cooperate with the Commonwealth regarding the 2023 case and 2025 investigation by urging her to testify in the grand jury if she was truly “sorry” for upsetting Ms. McCabe ([exhibit E](#)).

99. Even after suing Mr. Cosgrove and threatening to sue the DA, Ms. Gaetani has continued to publicly criticize him and the DA. She described Mr. Cosgrove’s statements at the September 24, 2024 court appearance in which he outlined his conflict with her as a “sham” ([exhibit R](#)).

¹⁷ Ms. Gaetani has publicly shared electronic communications from Ms. Peter to the Commonwealth that the defense is restricted from publishing in unredacted form due to the Court’s protective order. Obviously, Ms. Peter forwarded these messages to Ms. Gaetani.

100. Ms. Gaetani is a material witness in the 2023 case and 2025 investigation because her testimony will support Mr. Kearney's defense that the Commonwealth conducted a shoddy investigation that relied on witnesses with dubious credibility.

101. Ms. Gaetani is a material witness in the 2023 case and 2025 investigation because her testimony will support Mr. Kearney by confirming, contrary to DL Tully's claims, that messages between and among Ms. Gaetani, DL Tully and Ms. Peter "disappeared" from [REDACTED] [REDACTED] by the MSP.

102. In the event that Ms. Gaetani testifies as a prosecution or defense witness, her credibility will be in issue and her pattern of false statements, including her remarkable claims that *the prosecutor and lead detective* intentionally violated her rights and "interfered" with her rights "by threats, intimidation or coercion," which led her to sue them and threaten to sue the DA, will be relevant examination topics.

103. In light of the Commonwealth's heavy reliance on Ms. Gaetani to seek Mr. Kearney's and Ms. Read's indictments, it is in the Commonwealth's interest that Ms. Gaetani be a "credible witness," at least with respect to her sworn grand jury testimony, the contents of her

December 14, 2023 interview and the contents of DL Tully's sworn affidavit that led to the seizure of Ms. Read's cell phones, which Mr. Cosgrove is presently seeking to review in connection with the 2025 investigation ([exhibit S](#)).

104. However, it is **not** in Mr. Cosgrove's personal interest that Ms. Gaetani be deemed a "credible" witness in light of her shocking and serious allegations of misconduct against him.¹⁸ This is the precise reason Mr. Cosgrove sought to be relieved from the 2024 case. The same logic applies to the 2023 case and the 2025 investigation.

105. Mr. Cosgrove's continued prosecution of the 2023 case and the 2025 investigation places him in the untenable position of (a) defending the credibility of a witness who has accused him of egregious prosecutorial misconduct or (b) attacking the credibility of a prosecution witness whose credibility the Commonwealth must defend.

106. The public's confidence in the criminal justice system will be severely impaired in the event Mr. Cosgrove, at great taxpayer expense,

¹⁸ The same is true for DL Tully, who has no business remaining involved in the 2023 case, the 2024 case and the 2025 investigation due to his clear conflict with Ms. Gaetani. At trial, Ms. Gaetani and DL Tully will be both questioned about this conflict and its proof that the investigations against Mr. Kearney are flawed and biased.

continues as a “special prosecutor” on any of these matters, given that he would be laboring under an obvious and irreconcilable conflict created by the serious sworn allegations of his misconduct by a key prosecution source and witness in the 2023 case and 2025 investigation.

107. Because Mr. Cosgrove’s personal interests and the DA’s interests are in direct conflict with Ms. Gaetani and the Commonwealth’s interest in regard to the 2023 case and 2025 investigation, Mr. Cosgrove and the DA cannot be involved in any matter in which Ms. Gaetani is a possible witness or her credibility is otherwise in issue.

WHEREFORE, as alleged herein, the Norfolk County DA’s Office should be precluded from appointing another special prosecutor on the 2024 case and Robert Cosgrove should be disqualified from the 2023 case and 2025 investigation, or in the alternative, the Court should order an evidentiary hearing on these motions, and any other proper relief it deems just and proper.

By: /s/Mark A. Bederow

MARK A. BEDEROW

DATED: New York, New York
 October 2, 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 and its exhibits by hand and/or email and/or first-class mail, postage paid on the foregoing date.

/s/ Mark A. Bederow

Mark A. Bederow