

Supreme Judicial Court and Appeals Court of Massachusetts

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SUPREME JUDICIAL COURT for Suffolk County Case Docket

NATHANIEL LAVALLEE, et al v. THE JUSTICES OF THE HAMPDEN SUPERIOR COURT, et al
SJ-2004-0198

CASE HEADER

Case Status	decided: motion denied	Status Date	01/03/2005
Nature	Superintendence c 211 s 3	Entry Date	05/06/2004
Sub-Nature	Motion to Appoint Counsel	Single Justice	Spina, J.
TC Ruling	Relief denied	TC Ruling Date	05/04/2004
SJ Ruling	Reserved & Reported to FC	TC Number	0423CR003927
Pet Role Below	Defendant in lower court	Full Ct Number	
Lower Court	Springfield District, HD	Lower Ct Judge	John M. Payne, Jr., J.

ADDITIONAL INFORMATION

Companion case: Decision reported at 442 Mass. 228 (2004).

INVOLVED PARTY

ATTORNEY APPEARANCE

Nathaniel Lavallee
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire
[Benjamin H. Keehn](#), Esquire

Cordelle Simmonds
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Issac Verdejo
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Jamar T. Gillerson
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Arnold Freeman
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Harolk Vargas
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire

Reginald C. Smith
Defendant/Petitioner

[Patricia A. Wynn](#), Esquire

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Corey L. Smith
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Debra Staples
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Charles Foley
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Douglas Lewis
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Keith E. Taskey
Defendant/Petitioner

[William J. Leahy](#), Esquire

Dana J. Jones
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Angel Rivera
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Joseph Polamtier
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Maria Alvarado
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Jonathan Marrero
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Omar Hall
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Luis A. Osorio
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

James Yates
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Jesus Gonzalez

[William J. Leahy](#), Esquire

Defendant/Petitioner

[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Albert J. Fulton, III
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

George Arroyo
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Eric Daniels
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Rafael Mestre, Jr.
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

John Carter
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Abigail Velez
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Luciano Claudio, Jr.
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Willie Middlebrooks
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Alban Medina
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Roberto Echevarria
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Tina Welch
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Cory Phillips
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Julio Morales
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Leo Freeman
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Serafin Melendez

[William J. Leahy](#), Esquire

Defendant/Petitioner

[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Vernon Holmes
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Miguel Rivera
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Gregorio Garcia
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Jorge L. Garcia
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Abraham Muniz
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Thiago Barros
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Tawanda Knighton
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Philip Langley
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Patrick Bass
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Tami Przybycies
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Nelson Dinzey
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Alexander Perez
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Lisa Quinn
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Christopher Medina
Defendant/Petitioner

[William J. Leahy](#), Esquire
[Andrew R. Silverman](#), Esquire
[Patricia A. Wynn](#), Esquire

Marco Sastre

[William J. Leahy](#), Esquire

Defendant/Petitioner	Andrew R. Silverman , Esquire Patricia A. Wynn , Esquire
Racqual Garcia Defendant/Petitioner	William J. Leahy , Esquire Andrew R. Silverman , Esquire Patricia A. Wynn , Esquire
Justices of Springfield District Court Plaintiff/Respondent	Ronald F. Kehoe , Assistant Attorney General David R. Kerrigan , Assistant Attorney General
Justices of Hampden Superior Court Plaintiff/Respondent	Ronald F. Kehoe , Assistant Attorney General David R. Kerrigan , Assistant Attorney General
Justices of the Chicopee District Court Plaintiff/Respondent	Ronald F. Kehoe , Assistant Attorney General David R. Kerrigan , Assistant Attorney General
Justices of the Palmer District Court Plaintiff/Respondent	Ronald F. Kehoe , Assistant Attorney General David R. Kerrigan , Assistant Attorney General
Justices of the Westfield District Court Plaintiff/Respondent	Ronald F. Kehoe , Assistant Attorney General David R. Kerrigan , Assistant Attorney General
Supreme Judicial Court for the Commonwealth Clerk for Commonwealth	
William Bennett Hampden District Attorney Intervener	William M. Bennett , District Attorney Bethany C. Lynch , Assistant District Attorney Jane Davidson Montori , Assistant District Attorney
Hampden County Sheriff Intervener	Edward J. McDonough, Jr. , Esquire
Benjamin H. Keehn, Esquire Other interested party	
David P. Hoose, Esquire Other interested party	
John Reinstein, Esquire Other interested party	
Peter A. Velis Other interested party	
William Teahan, Jr. Other interested party	

DOCKET ENTRIES

Entry Date	Paper	Entry Text
05/06/2004		Case entered.
05/06/2004	#1	MOTION to Waive Filing Fee filed by Atty William Leahy.
05/06/2004	#2	Affidavit in Support of Motion to Waive Filing Fee.
05/06/2004		Filing fee waived. (lca)
05/06/2004	#3	Petition for Relief pursuant to G.L. c. 211, s. 3 filed by Atty William Leahy.
05/06/2004	#4	Memorandum of Law in Support of Petition for Relief pursuant to G.L. c. 211, s. 3 filed by Atty William Leahy.
05/06/2004	#5	Affidavit of Attorney Carol J. Gray in Support of Petition for Relief pursuant to G.L. c. 211, s. 3 filed by Atty William Leahy with certificate of service.
05/06/2004	#6	Affidavit of Andrew Silverman filed.
05/06/2004	#7	Affidavit of William J. Leahy filed.
05/06/2004	#8	Further Affidavit of William J. Leahy filed.
05/06/2004	#9	Affidavit of Patricia A. Wynn filed.
05/06/2004	#10	Affidavit of Nancy T. Bennett filed.
05/06/2004	#11	Affidavit of Christine Cosby filed.
05/06/2004		Hearing held before Spina, J.
05/06/2004	#12	Appearance of Atty William J. Leahy for Nathaniel Lavallee.
05/06/2004	#13	Appearance of Atty Andrew Silverman for Nathaniel Lavallee filed.
05/06/2004	#14	Appearance of Atty Patricia Wynn for Nathaniel Lavallee filed.
05/06/2004	#15	Appearance of Atty Ronald F. Kehoe for Justices of Springfield Court.
05/13/2004	#16	Status Report filed by William J. Leahy and John Reinstein with attached Affidavit Of William J. Leahy In Support Of Status Report and Certificate of Service.
05/17/2004	#17	MOTION To Dismiss Petitions, filed by Ronald F. Kehoe.
05/17/2004	#18	Memorandum Of Law In Support Of Motion To Dismiss, filed by Ronald F. Kehoe with attached Exhibits A-B.
05/17/2004	#19	Certificate of service of paper #'s 17-18 for Justices of Springfield Court by Ronald F. Kehoe.
05/20/2004	#20	MOTION for Immediate Relief filed by Atty William Leahy.
05/20/2004	#21	Memorandum of Law in Support of Petitioners' Motion for Immediate Relief and Opposition to Respondents' Motion to Dismiss filed by Attys William Leahy, John Reinstein and Davie Hoose with certificate of service.
05/20/2004	#22	Affidavit of William Leahy filed.
05/20/2004	#23	Further Affidavit of Andrew Silverman filed.
05/20/2004	#24	Rates of Compensation for Court-Appointed Counsel in Non-Capital Felonies at Trial, July 2002 filed by Atty William Leahy.
05/20/2004	#25	Transcript of proceedings from Springfiled District Court docket no. 0423CR003927 held May 5, 2004 before Judge John Payne filed by Atty William Leahy.
05/21/2004	#26	Petitioners Further Status Report and Motion to Amend Petition

		to Name Additional Petitioners and Respondents filed by Atty William Leahy with certificate of service. (05/25/04: Motion to Amend Petition to Name Additional Petitioners and Respondents ALLOWED BY THE COURT, SPINA, J.)
05/21/2004	#27	Affidavit in Support of Petitioners Further Status Report and Motion t Amend Petition to Name Additional Petitioners and Respondents filed by Atty William Leahy.
05/24/2004	#28	Letter to Honorable Francic X. Spina with attachments from Atty William Leahy saying.. "This letter is to inform the Court of a development with respect to the PETITIONERS' FURTHER STATUS REPORT AND MOTION TO AMEND PETITION TO NAME ADDITIONAL PETITIONERS AND RESPONDENTS, which my office filed in the above-entitled litigation on May 21, 2004. Late in the afternoon of May 21, my office received a facsimile message from our Springfield public defender office forwarding a copy of an ORDER OF NOTICE TO SHOW CAUSE RE: CIVIL CONTEMPT OF COURT, which order was dated May 21, 2004. The order is addressed to fifteen named individuals "as they constitute the Committee for Public Counsel Services," and is signed by an Associate Justice of the Superior Court (Sweeney, J.)."
05/25/2004	#29	Telephone conference held before Spina, J., with counsel of record (AAG Kerrigan standing in for AAG Kehoe). Tape cassette.
05/28/2004	#30	Petitioners' Second Further Status Report, filed by William J. Leahy.
05/28/2004	#31	Affidavit of William J. Leahy filed.
05/28/2004	#32	Affidavit of Willie J. Davis filed.
05/28/2004	#33	FURTHER Affidavit of Patricia A. Wynn filed.
05/28/2004	#34	Affidavit of Christine R. Baronas filed.
05/28/2004	#35	Affidavit of John M. Kaufman filed.
05/28/2004	#36	Affidavit of Christine M. Murray filed.
05/28/2004	#37	Affidavit of Rebecca Ryan filed.
05/28/2004	#38	Affidavit of Timothy M. Farris filed.
05/28/2004	#39	Affidavit of Michael S. Hussey filed.
05/28/2004	#40	Affidavit of Nathaniel Green filed.
05/28/2004	#41	Affidavit of Alan Rubin filed.
05/28/2004	#42	Certificate of service of paper #'s 34-44 for Nathaniel Lavallee, et al by William J. Leahy.
06/02/2004	#43	Reservation and Report..."It is ORDERED that both matters are hereby consolidated for purposes of the appeal and reserved and reported to the Full Court for determination on the following record..."
06/02/2004	#44	Notice of assembly of the record.
06/02/2004	#45	Notice to counsel, regarding paper number 43-44 filed.
06/03/2004	#46	ORDER: It is hereby ORDERED that the reservation and report issued in the above-entitled matters is hereby amended to include the following: May 28, 2004, affidavit of William Leahy along with attachments. (Spina, J.)

06/03/2004 #47	Notice to counsel, regarding paper number 46 filed.
06/04/2004 #48	Notice of change of address as of June 1, 2004 for AAG Ronald Kehoe is One Asburton Place, Room 1813, Boston MA 02108 filed by AAG Ronald Kehoe with certificate of service.
06/09/2004 #49	Motion To Amend And For Leave To Further Amend Reservation and Report filed by Ronald F. Kehoe with Certificate of Service.
06/09/2004 #50	Affidavit of Matthew J. Gorzkowicz with attachments filed.
06/10/2004 #51	ORDER: "...it is ORDERED that: a) the motion to amend the reservation and report to include the Affidavit of Matthew J. Gorzkowicz with attachments is ALLOWED; and b) no action is necessary on the leave to further amend reservation and report. Relevent information pertaining to funding by the legislature may be submitted to the Full Court on a motion to expand the record or as updates to the Court." (Spina, J.)
06/15/2004 #52	Notice to counsel, regarding paper number 51 filed.
07/02/2004 #53	Copy of ORDER (By the Court): "...This Court determines that the petitioners are being deprived of their right to counsel under art. 12 of the Massachusetts Declaration of Rights...To facilitate the fashioning of an appropriate remedy, counsel for the respondents is hereby ordered to appear before the single justice on Thursday, July 8, 2004, at 2:00 P.M....Counsel for the petitioners shall also have an opportunity to be heard...The District Attorney for the Hampden County and the Sheriff of Hampden County...shall be permitted to intervene in the case (if they so request) for the limited purpose of addressing the issue of appropriate relief. They also shall have an opportunity to be heard at the hearing. The full court shall retain jurisdiction of this appeal."
07/02/2004 #54	MOTION to intervene, filed by William Bennett. (7/6/04-MOTION to intervene is ALLOWED without hearing. By the Court (Spina, J.))
07/07/2004 #55	Notice to counsel, regarding paper number 54 filed.
07/07/2004 #56	MOTION To Intervene By The Sheriff Of Hampden County, filed by Edward J. McDonough, Jr. with attached certificate of service. (7/7/04-MOTION To Intervene By The Sheriff Of Hampden County is ALLOWED without hearing. By the Court (Spina, J.))
07/08/2004 #57	Notice to counsel, regarding paper number 56 filed.
07/08/2004 #58	The District Attorney For Hampden County's Proposed Remedies For Petitioners' Deprivation Of Right To Counsel, filed by William M. Bennett with attached certificate of service.
07/08/2004END OF FOLDER # 1.....
07/08/2004BEGINNING OF FOLDER # 2.....
07/08/2004 #59	E-Mail Correspondence, filed by William Leahy.
07/08/2004 #60	Respondents' Memorandum Pursuant To Order Dated July 2, 2004, filed by Ronald F. Kehoe and David R. Kerrigan with attached Affidavit of Kenneth T. Sommers.
07/08/2004 #61	Memorandum Of Intervenor Michael J. Ashe, Jr., Sheriff Of Hampden County Addressing The Issue Of Remedy, filed by Edward J. McDonough, Jr. with attached Exhibit 1 and certificate

		of service.
07/08/2004	#62	Petitioners' Fifth Further Status Report, filed by John Reinstein and William J. Leahy with attachment and certificate of service.
07/08/2004	#63	FURTHER Affidavit of Andrew Silverman.
07/08/2004	#64	Affidavit of Patricia Wynn In Support Of Petitioners' Fifth Further Further Status Report, filed by Patricia A. Wynn with attached certificate of service.
07/08/2004	#65	AMENDED Item 0321-1510 of section 2 of chapter 149 of the acts of 2004, filed by David Kerrigan.
07/08/2004		Hearing held before Spina, J.
07/08/2004	#66	Appearance of Atty William J. Leahy for Nathaniel Lavallee.
07/08/2004	#67	Appearance of AAG David R. Kerrigan for Justices of the Palmer District Court filed.
07/08/2004	#68	Appearance of DA William M. Bennett for Hampden District Attorney filed.
07/08/2004	#69	Appearance of Atty Edward J. McDonough, Jr. for Hampden County Sheriff.
07/09/2004	#70	Report Of The Hampden County District Attorney Regarding The Status Of The Petitioners, filed by William M. Bennett with Attachments A-C and certificate of service.
07/09/2004	#71	Affidavit Of Hampden County District Attorney William M. Bennett In Support Of The Report Of The Status Of The Petitioners, filed by William M. Bennett.
07/12/2004	#72	The District Attorney For Hampden County's Proposed Temporary Remedy, filed by William M. Bennett.
07/12/2004	#73	Letter to Maura S. Doyle, Clerk from William J. Leahy with attachments stating "...I write in regard to the above-referenced matters to advise the Court that petitioners are preparing for filing Tuesday morning, July 13, 2004..."
07/13/2004	#74	Petitioners' Opposition To The District Attorney For Hampden County's "Proposed Temporary Remedy", filed by William J. Leahy with attached certificate of service.
07/13/2004	#75	Petitioners' Sixth Further Status Report And Response To District Attorney Bennett's "Report Regarding The Status Of The Petitioners", filed by William J. Leahy with attached certificate of service.
07/14/2004	#76	Petitioners' Third Further Motion To Name Additional Petitioners, filed by William J. Leahy with attachments and certificate of service. (7/14/04-Motion To Name Additional Petitioners is treated as a further status report and the information is included as part of the record. By the Court (Spina, J.))
07/14/2004	#77	Notice to counsel, regarding paper number 76 filed.
07/23/2004	#78	COPY of Petitioners' Emergency Petition For Immediate Relief For Philip Langley, Larry Walter, Jr., Jacqueline Hernandez, Marcelino Rodriguez, Marquis Barrett, Jose Castillo, Alberto Rivera, And Vernon Holmes, filed by William J. Leahy with attached certificate of service.
07/23/2004	#79	COPY of Affidavit Of William J. Leahy In Support Of Emergency Petition For Immediate Relief For Philip Langley, Larry Walter, Jr., Jacqueline Hernandez. Marcelino Rodriguez. Marquis

		Barrett, Jose Castillo, Alberto Rivera, And Vernon Holmes filed with attachments.
07/23/2004	#80	COPY of Affidavit Of Andrew Silverman In Support Of Emergency Petition For Immediate Relief For Philip Langley, Larry Walter, Jr., Jacqueline Hernandez, Marcelino Rodriguez, Marquis Barrett, Jose Castillo, Alberto Rivera, And Vernon Holmes filed with Attachments A-B.
07/23/2004	#81	COPY of Affidavit Of Lawrence W. Madden In Support Of Petitioners' Emergency Petition For Immediate Relief For Philip Langley, Larry Walter, Jr., Jacqueline Hernandez, Marcelino Rodriguez, Marquis Barrett, Jose Castillo, Alberto Rivera, And Vernon Holmes filed.
07/23/2004	#82	COPY of Affidavit Of Carol J. Gray In Support Of Emergency Petition For Immediate Relief For Philip Langley, Lary Walter, Jr., Jacqueline Hernandez, Marcelino Rodriguez, Marquis Barrett, Jose Castillo, Alberto Rivera, And Vernon Holmes filed.
07/23/2004	#83	COPY of Affidavit Of Ross Shepard filed.
07/28/2004	#84	COPY of MOTION For Immediate Issuance Of Rescript, filed by William J. Leahy with attached certificate of service. (7/29/04-MOTION for Immediate Issuance of Rescript is ALLOWED. By the Court (Susan Mellen, Clerk))
07/29/2004	#85	Rescript: "...ORDERED, that the following entry be made in the docket; viz.,- This matter is remanded to the single justice, who is given authority to modify the mechanism by which the forty-five and seven day deadlines may be enforced in the courts of Hampden County, and who is to confer with the above identified participants with respect to appropriate modifications of that mechanism..."
08/02/2004	#86	JUDGMENT after Rescript from the SJC for the Commonwealth. "...it is ORDERED and ADJUDGED that the following entry of Judgment be, and the same hereby is, made: No defendant entitled to court-appointed counsel may be required to wait more than forty-five days for counsel to file an appearance. If, despite good faith efforts by CPCS, no attorney has filed an appearance on behalf of an indigent defendant within forty-five days of arraignment, the criminal case must be dismissed without prejudice. Similarly, an indigent defendant who is held in lieu of bail or under an order of preventive detention may not be held for more than seven days without counsel. The matter is remanded to the single justice, who is given authority to modify the mechanism by which the forty-five and seven day deadlines may be enforced in the courts of Hampden County, and who is to confer with the identified participants with respect to appropriate modifications of that mechanism." (Spina, J.)
08/03/2004	#87	Notice to counsel, regarding paper number 86 filed.
08/06/2004	#88	MOTION for Entry of Judgment, filed by William J. Leahy with Attachments 1-2.
08/06/2004	#89	Affidavit of William J. Leahy In Support Of Motion For Entry Of Judgment filed by Benjamin Keehn with Attachments A-B.
08/06/2004	#90	Affidavit of Nancy T. Bennett In Support Of Motion For Entry Of Judgment filed by Benjamin Keehn with Attachments A-C.
08/06/2004	#91	Copv of Notice of Trial Date from Chicopee District Court Docket

		No. 0420CR0761, filed by ADA Bethany Lowe.
08/06/2004	#92	Copy of Notice of Assignment of Counsel, filed by ADA Bethany Lowe.
08/06/2004	#92.5	The District Attorney For Hampden County's Status Report and Supplemental Opposition to Petitioners' Motion For Stay of Trial Court Proceedings in Commonwealth v. Reynaldo Aponte (along with transcript of hearing held before Sweeney, J. on August 5, 2004, filed by ADA Montori.
08/06/2004		Hearing held before Spina, J.
08/06/2004	#93	Appearance of Atty William J. Leahy for Nathaniel Lavallee.
08/06/2004	#94	Appearance of AAG David R. Kerrigan for Justices of Springfield District Court filed.
08/06/2004	#95	Appearance of ADA Bethany C. Lowe for William Bennett Hampden District Attorney filed.
08/06/2004	#96	Appearance of ADA Jane Davidson Montori for William Bennett Hampden District Attorney filed.
08/06/2004	#97	Tape of Hearing Held. (Spina, J., presiding)
08/06/2004	#97.5	Motion to Join The District Attorney for Hampden County's Opposition to Petitioner's Motion For Stay Of Trial Court Proceedings filed by AAG David Kerrigan.
08/06/2004	#98	JUDGMENT: "...In accordance with the rescript entered in Lavallee, et al v. The Justices in the Hampden Superior Court, et al, 442 Mass. 228 (2004), it is ORDERED that: the Palmer District Court shall enter an order on August 11, 2004, dismissing without prejudice the above-numbered casepending against defendant Tami Przybycies unless an appearance of counsel has been filed where the above-named defendant has been deemed entitled to court-appointed counsel and forty-five days having expired since the arraignment of this defendant, and no counsel has filed an appearance after good faith efforts have been made to obtain counsel." (Spina, J.) (8/9/04-Notice mailed to Palmer District Court)
08/06/2004	#99	JUDGMENT: "It is ORDERED that the notice of appearance filed under protest on July 21, 2004, in the Hampden Superior Court is stricken. It is FURTHER ORDERED, in accordance with the rescript entered in Lavallee, et al. v. The Justices in the Hampden Superior Court, et al, 442 Mass. 228 (2004), that: whereas, the defendant Vernon Holmes has been held in lieu of bail or under preventive detention for more than seven (7) days without counsel filing an appearance, the Hampden Superior Court shall forthwith enter an order vacating the order of bail (or preventive detention) set at arraignment in HDCR2004-0856 and the matter is remanded for a hearing to determine forthwith whether to impose probationary conditions pursuant to G.L. c. 276, s. 87, without requiring the defendant's consent, or whether to release the defendant on personal recognizance." (Spina, J.) (8/09/04-Notice mailed to Hampden Superior Court)
08/06/2004	#100	JUDGMENT: "It is ORDERED that the notice of appearance filed under protest on July 13, 2004, in the Hampden Superior Court is stricken. It is FURTHER ORDERED, in accordance with the rescript entered in Lavallee, et al. v. The Justices in The Hampden Superior Court. et al. 442 Mass. 228 (2004). that:

		<p>whereas, the defendant Philip Langley has been held in lieu of bail or under preventive detention for more than seven (7) days without counsel filing an appearance, the Hampden Superior Court shall forthwith enter an order vacating the order of bail (or preventive detention) set at arraignment in HDCR2004-0772, 0815 and the matter is remanded for a hearing to determine forthwith whether to impose probationary conditions pursuant to G.L. c. 276, s. 87, without requiring the defendant's consent, or whether to release the defendant on personal recognizance." (Spina, J.) (8/9/04-Notice mailed to Hampden Superior Court)</p>
08/06/2004	#101	<p>JUDGMENT: "It is ORDERED that the notice of appearance filed under protest on July 21, 2004, in the Hampden Superior Court is stricken. It is FURTHER ORDERED, in accordance with the rescript entered in Lavallee, et al. v. The Justices in The Hampden Superior Court, et al, 442 Mass. 228 (2004), that: whereas, the defendant Alberto Rivera has been held in lieu of bail or under preventive detention for more than seven (7) days without counsel filing an appearance, the Hampden Superior Court shall forthwith enter an order vacating the order of bail (or preventive detention) set at arraignment in HDCR2004-0822 and the matter is remanded for a hearing to determine forthwith whether to impose probationary conditions pursuant to G.L. c. 276, s. 87, without requiring the defendant's consent, or whether to release the defendant on personal recognizance." (Spina, J.) (8/9/04-Notice mailed to Hampden Superior Court)</p>
08/06/2004	#102	<p>JUDGMENT: "Upon the representations of counsel during hearing, it is ORDERED that: the Chicopee District Court enter an order forthwith in docket no. 0420CR0860 dismissing the complaint pending against the defendant Patrick Bass, the grand jury having returned a no bill." (Spina, J.) (8/9/04-Notice mailed to Chicopee District Court)</p>
08/06/2004	#103	<p>JUDGMENT: "In accordance with the rescript entered in Lavallee, et al v. The Justices in the Hampden Superior Court, et al, 442 Mass. 228 (2004), it is ORDERED that: the Chicopee District Court shall enter an order on August 18, 2004, dismissing without prejudice the above-numbered case pending against defendant Tawanda Knighton unless an appearance of counsel has been filed where the above-named defendanthas been deemed entitled to court-appointed counsel and forty-five days having expired since the arraignment of this defendant, and no counsel has filed an appearance after good faith efforts have been made to obtain counsel." (Spina, J.) (8/9/04-Notice mailed to Chicopee District Court)</p>
08/09/2004	#104	<p>Notice to counsel, regarding paper numbers 98-103 filed.</p>
08/09/2004	#105	<p>MEMORANDUM OF DECISION ON ORDER TO VACATE ORDERS TO FILE APPEARANCE: "...the orders directing the attorney to file appearances for petitioners Holmes, Langley and Rivera must be vacated." (Spina, J.)</p>
08/09/2004	#106	<p>Notice to counsel, regarding paper number 105 filed.</p>
08/09/2004	#107	<p>Letter to Lillian Andruszkiewicz from AAG David Kerrigan, Chief, Government Bureau saying..."I write to provide the Single Justice with information responsive to a question posed to Assistant District Attornev Bethanv Lowe at the hearing on</p>

August 6, 2004....."

08/17/2004 #108 INTERIM ORDER: "...judges in the arraignment sessions of the Superior and Districts Courts of Hampden County may assign counsel from lists created in cooperation with the Regional Administrative Justice of the Superior Court for the western region. It is expected that the lists will include lawyers who are willing to accept assignments and who are determined to be competent for the matters to which they may be assigned. The lists should be managed pursuant to SJC Rule 1:07, as amended, 431 Mass. 1301 (2000). Because the assignment will not be made pursuant to the contract between the HCBA, and the CPCS, the 800 hour annual limit and the 10 hour daily limit set by the CPCS for bar advocates will not apply. The Committee is hereby ordered to compensate so assigned at the hourly rates approved by the Legislature. See Lavallee v. Justices of the Hampden Superior Court, 442 Mass. 228, 248 n. 18 (2004). Judges also have authority to assign cases to attorneys pursuant to SJC Rule 3:07, Mass. Rules of Professional Conduct, Rule 6.2. Attorneys who executed contracts with the Hampden County Bar Advocates, Inc., (HCBA) may be assigned to "day duty" pending an inquiry into the status of the contract between the Committee and HCBA and the contracts between the individual attorneys and HCBA. I will be available on short notice to review assignment orders that attorneys wish to challenge. Justice Peter Velis shall continue to preside over status hearings." (Spina, J.)

08/18/2004 #109 Notice to counsel, regarding paper number 108 filed.

08/18/2004 #110 ORDER FOR HEARING: "ORDERED, that a hearing before Justice Francis X. Spina be held on Monday, August 23, 2004, at 2:00P.M. at the J.W. McCormack Post Office and Courthouse, 90 Devonshire Street, Courtroom 6, 15th Floor, Boston, Massachusetts..." (Spina, J.)

08/18/2004 #111 Notice to counsel, regarding paper number 110 filed.

08/19/2004 #112 MOTION to Intervene and Motion to Reconsider Single Justice Interim Order of August 17, 2004, on behalf of Myself and Others Similarly Situated filed by Atty Edward Bryant, Jr. (08/19/2004: MOTION TO INTERVENE DENIED WITHOUT A HEARING. (SPINA, J.))

08/19/2004 #113 Notice to counsel, regarding paper number 112 filed.

08/20/2004 #114 MOTION for Modification of Interim Order filed by Atty William Leahy with certificate of service. (See Memorandum of Decision, Paper No. 155)

08/23/2004 Hearing held before Spina, J.

08/23/2004 #115 Appearance of Atty William J. Leahy for Nathaniel Lavallee.

08/23/2004 #116 Appearance of Atty David Hoose for plaintiffs.

08/23/2004 #117 Appearance of Atty John Reinstein.

08/23/2004 #118 Appearance of Atty Ronald Kehoe.

08/23/2004 #119 Exhibit 1 - Contract of Attorney Anthony Bonavita. (part of original box of documents forwarded to the court from the Hampden Bar Advocates (admitted as Exhibit 5 subject to motion to strike from AAG Kehoe.)

08/23/2004	#120	Exhibit 2. Form Contract for HCBA. (part of set of boxed documents entered as exhibit 5 sent from Hampden County Bar Advocates.)
08/23/2004	#121	Exhibit 3. COPY of List of Attorneys in Hampden County Bar Advocates program (part of box of items mailed to court as exhibit 5).
08/23/2004	#122	Exhibit 4. COPY of faxed single page document (date printed on top August 23, 2004 and 9:35 am time stamp submitted by Atty. Hoose.
08/23/2004	#123	Exhibit 5. Documents submitted by Attorney Bonavita boxed & mailed in response to order of Justice Spina. (Admitted subject to motion strike by AAG Kehoe.) (see cover letter of Attorney Bonavita for description of contents)
08/23/2004	#124	Exhibit 6. COPY of CPCS Assigned Counsel Manual Policies and Procedures (September, 1999 - Portions Updated 2004)
08/23/2004	#125	Exhibit 7. COPY of BBA e-mail August 17, 2004) and letter to Boston Bar Association Attorneys from William J. Leahy, Chief Counsel dated August 2, 2004.
08/23/2004	#126	Exhibit 8. Copy of CPCS memorandum to Assigned Private Counsel Attorneys from Willie Davis, Chair/William Leahy, Chief Counsel dated August 12, 2004.
08/23/2004	#127	Exhibits 9. Copy of letter of Aug. 10, 2004, to William Leahy, Chief Counsel from Mary J. Kennedy, President, Hampden County Bar Association.
08/23/2004	#128	Exhibit 10. Copy of MBA August 10, 2004, press release referencing letter to MBA Attorneys from Atty. Leahy involving Hampden County Criminal Case Assignments.
08/23/2004	#129	Exhibit 11. Copy of MACDL letter dated August 11, 2004, to MACDL Members from Executive Director Jim DiNatale.
08/23/2004	#130	Exhibit 12. Copy of classified ad in August 9, 2004, Massachusetts Lawyers Weekly for attorneys in Hampden County to accept assignments in criminal cases.
08/23/2004	#131	Exhibit 13. Copy of several pieces of e-mail correspondence received or generated by Nancy Bennett.
09/01/2004	#132	Opposition to Petitioners' Motion for Modification of Interim Order filed by AAG Ronald Kehoe with certificate of service.
09/07/2004	#133	Hampden County District Attorney's Opposition To Modification Of Interim Order, filed by ADA Jane Davidson Montori with attached Exhibits 1-2 and certificate of service.
09/08/2004	#134	Affidavit Of William J. Leahy In Support Of Motion For Modification Of Interim Order filed with attached Appendices 1-2 and certificate of service.
09/08/2004	#135	Affidavit of Patricia A. Wynn In Support Of Motion For Modification Of Interim Order with attached Exhibits A-B filed.
09/08/2004	#136	Affidavit Of Carol Beck In Support Of Motion To Modify Interim Order filed with Attachments A-F and certificate of service.
09/08/2004	#137	Affidavit Of Nancy T. Bennett In Support Of Motion For Modification Of Interim Order filed with attachment. (see attachment)
09/08/2004	#138	Affidavit Of Nancy T. Bennett In Response To Hampden County

		District Attorney's Opposition To Modification Of Interim Order filed.
09/08/2004		Hearing held before Spina, J.
09/08/2004	#139	Appearance of Atty William J. Leahy for Nathaniel Lavallee.
09/08/2004	#140	Appearance of Atty Benjamin H. Keehn for Nathaniel Lavallee.
09/08/2004	#141	Appearance of AAG Ronald F. Kehoe for Justices of Springfield District Court filed.
09/08/2004	#142	Appearance of AAG David R. Kerrigan for Justices of Springfield District Court filed.
09/08/2004	#143	Transcript of proceedings rec'd from Copley Court Reporting of August 23, 2004, hearing before Justice Spina.
10/05/2004	#144	Transcript of Motion Hearing from Supreme Judicial Court Docket No's SJ-2004-0198, SJ-2004-0199, SJC-09268 dated Wednesday, September 8, 2004 before Spina, J., filed by AAG Ronald F. Kehoe.
10/05/2004	END OF FOLDER NO. 3.....
10/05/2004	BEGINNING OF FOLDER NO. 4.....
11/29/2004	#145	MOTION for Leave To Intervene And File Intervenors' Complaint, filed Andrew Good and Thomas Workman. (12/10/2004: Motion For Leave to Intervene and File Intervenors' Complaint is DENIED. By the Court, Spina, J.)
11/29/2004	#146	Intervenors' Complaint, filed by Andrew Good and Thomas Workman with attached Exhibits 1-5.
11/29/2004	#147	Memorandum Of Law In Support Of Intervenors' Motion For Leave To Intervene And File Their Complaint, filed by Andrew Good and Thomas Workman.
11/29/2004	#148	Certificate of service of paper #'s 145-147 for Intervenors' filed by Andrew Good.
12/10/2004	#149	Letter to Lillian C. Andruszkiewicz from Atty Andrew Good saying .."Please bring this letter to the attention of Associate Justice Spina."
12/13/2004	#150	Notice to counsel, regarding paper number 145 filed.
12/13/2004	#151	Memorandum Of Law In Support Of Motion To Vacate "Order To Appear", filed by Nancy T. Bennett with Attachments A-H and certificate of service.
12/14/2004	#152	MOTION To Vacate "Order To Appear" filed by Atty. Leahy.
12/14/2004	#153	Copy of Motion For Stay Of Order to Appear filed by Atty. William Leahy along with certificate of service.
12/18/2004	#154	(Faxed Copy) ORDER CONTINUING SHOW CAUSE CONTEMPT HEARING dated December 15, 2004 before Constance M. Sweeney, Justice of the Superior Court filed by AAG David Kerrigan.
01/03/2005	#155	MEMORANDUM OF DECISION: "...The motion is DENIED without prejudice." (Spina, J.)
01/04/2005	#156	Notice to counsel, regarding paper number 155 filed.

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As of 10/24/2008 01:02