

COMMONWEALTH OF MASSACHUSETTS  
BOSTON MUNICIPAL COURT – DORCHESTER DIVISION  
NO. 2107CR00311

COMMONWEALTH

V.

JORDAN CAVACO

**MOTION FOR RELEASE OF AUDIO RECORDING AND  
TRANSCRIPTION OF TESTIMONY FROM TRIAL**

Mr. Eric B. Mack (“Mack”), who is a citizen of the City of Fall River, respectfully requests that the Court permit him access to the complete audio recording, and allow him to obtain a transcript, from the trial in *Commonwealth v. Cavaco*, No. 2107-cr-00311. The trial was conducted in open court and involved testimony in which Fall River Police Officer Chelsea Campellone (“Officer Campellone”) admitted that Sergeant William “Billy” Platt (“Sergeant Platt”) lied to the Massachusetts State Police (“MSP”) while investigating this case. The trial also contains testimony from Officer Campellone that indicates she likely committed perjury during her testimony before the Fall River District Court on December 21, 2022. Furthermore, Officer Campellone was told by the Suffolk County District Attorney’s Office (“SCDA”) that she would not be prosecuted for an incident in which she struck Mr. Jordan Cavaco in the face with her fiberglass cast and left several abrasions on his face. Given that both individuals are currently police officers in the City of Fall River, the public has an interest in hearing and reading the testimony. Accordingly, Mack requests that this Court order (1) the release of the audio testimony from October 23, 2023 and (2) allow him to obtain a transcript of the trial.

**I. BACKGROUND FACTS**

**A. MSP investigates Officer Campellone’s complaint of domestic violence and Sergeant Platt lies to investigators about an altercation with Mr. Cavaco.**

While investigating the alleged domestic violence between Officer Campellone and her

then-boyfriend, Mr. Cavaco, discussion about a March 2021 incident in Tampa, Florida took place. (Affidavit of Mr. Eric B. Mack (“Mack Aff.”) ¶ 3, *Ex. A*, 46:20-47:4). At the time, Officer Campellone and approximately 15 of her friends were on a “pontoon boat.” (*Id.*, p. 45:5-9). Mr. Cavaco “made a joke with one of the – Andy, who is [her] friend Ali’s friend from home – from Tampa, and [Mr. Cavaco] didn’t like the way that Andy responded to the joke.” (Mack Aff. ¶ 4, *Ex. B*, pp. 23:21-24:2). Officer Campellone attempted to intervene and then an argument ensued between her and Mr. Cavaco. (*Id.*, p. 24:21-24). According to Sergeant Platt, who was also there, “as soon as [they] docked, that is when – that is when [he] went after [Mr. Cavaco].” (Mack Aff. ¶ 3, *Ex. A*, p. 50:14-16). Sergeant Platt bragged that he “beat the [bag] off of [Mr. Cavaco], more or less, and [Mr. Cavaco] ran off.” (*Id.*, pp. 50:21-51:1). When MSP asked Sergeant Platt if he was the only person involved in beating up Mr. Cavaco, he said the following:

TROOPER GIBSON: Just you or other people or just you?

WILLIAM PLATT: It was just me.

(*Id.*, p. 50:18-20). As illustrated below, this statement by Sergeant Platt to MSP was a lie because he and another individual jumped Mr. Cavaco.

**B. Officer Campellone likely commits perjury during her testimony in the Fall River District Court as she tried to cover for Sergeant Platt.**

On December 21, 2022, a hearing took place in Fall River District Court for Officer Campellone to extend a restraining order against Mr. Cavaco. During the hearing, Officer Campellone provided the following testimony about the altercation between Sergeant Platt and Mr. Cavaco:

Q. Okay. So a bunch of guys beat up – beat up Mr. Cavaco?

A. I wouldn’t say that.

Q. What would you say, Ms. Campellone?

A. I would say he was in an altercation with one male and he –

Q. Who was that male?

A. William Platt.

(Mack. Aff. ¶ 4, *Ex. B*, pp. 57:25-58:7). In other words, when counsel for Mr. Cavaco attempted clarify that Mr. Cavaco was in a fight with multiple individuals, Officer Campellone testified dishonestly that the altercation involved Mr. Cavaco and “one male” – Sergeant Platt.

**C. During trial, Officer Campellone finally admits Sergeant Platt lied to MSP.**

From October 23, 2023 to October 26, 2023, a trial was held regarding the alleged domestic violence that occurred between Officer Campellone and Mr. Cavaco. During the trial, Officer Campellone testified about the incident between Sergeant Platt and Mr. Cavaco. Mr. Cavaco’s attorney cross-examined Officer Campellone about Sergeant Platt’s statements to MSP, at which time she testified as follows:

ATTORNEY FAHY: Okay. I’m not going to rehash everything, but you would agree with me that we came to the conclusion here on the stand, under oath, that you knew Mr. Platt was lying to the Bristol County CPAC, correct?

OFFICER CAMPELLONE: Yes.

ATTORNEY FAHY: You knew that Mr. Platt wasn’t the only person that attacked Jordan on that particular day, correct?

OFFICER CAMPELLONE: Right

(Mack Aff. ¶ 15). (emphasis added). Counsel for Mr. Cavaco followed up with Officer Campellone and they engaged in the following colloquy:

ATTORNEY FAHY: You would agree with me that William Platt lied that he was the only person attacking Jordan Cavaco on that day correct – to the Mass. State Police?

OFFICER CAMPELLONE: It was him and one other person.

ATTORNEY FAHY: But, he said it was just him, correct?

OFFICER CAMPELLONE: Correct.

ATTORNEY FAHY: And, you sat by and said nothing, fair?

OFFICER CAMPELLONE: Fair.

ATTORNEY FAHY: You knew there was someone else involved, fair?

OFFICER CAMPELLONE: Yes.

\* \* \* \* \*

ATTORNEY FAHY: You sat by while your friend and fellow officer lied to state police?

OFFICER CAMPELLONE: Yes.

(Mack Aff. ¶ 15). In sum, Officer Campellone acknowledged that Sergeant Platt lied to MSP and she was aware he was being dishonest, but said nothing to correct his statements.

**D. The SCDA promises not to prosecute Officer Campellone for an incident where she struck Mr. Cavaco in the face with her fiberglass cast.**

On February 21, 2021, an incident took place in which Officer Campellone struck Mr. Cavaco in the face with her cast. (Mack Aff. ¶ 4, *Ex. B*, p. 14:12-22). After a party, Officer Campellone and Mr. Cavaco got into an argument and Officer Campellone had a fiberglass cast on her arm from a car accident. (*Id.*, pp. 14:23-15:14). Officer Campellone was driving and Mr. Cavaco was in the passenger seat. (*Id.*, pp. 17:22-18:2). During the argument, Officer Campellone hit Mr. Cavaco in the face with her cast and left marks on his head, across his forehead, near his hairline and eye. (*Id.*, p. 89:18-91:5).



Officer Campellone was asked if the injuries in the pictures were caused by her and provided the following testimony.

Q. All right. Did you do that to him?

A. Uh-hum.

Q. Okay. With a cast.

A. Yes.

(*Id.*, p. 90:2-5). When asked if she had been charged with any crimes based on the incident, she replied, “Nope.” (*Id.*, pp. 97:25-98:3).

In preparation for the trial in this case, ADA Ian Polumbaum filed a document titled, “Commonwealth’s Motion and *Brady* Notice Re: Defendant’s Retaliatory Legal Process.” (*See* Mack Aff. ¶ 16, *Ex. K*) (emphasis in original). In essence, ADA Polumbaum indicated that the SCDA would not prosecute Officer Campellone for striking Mr. Cavaco with her cast. *Id.* When asked about this during trial, Officer Campellone testified as follows:

ATTORNEY FAHY: And, to uh – last week, you were granted – essentially – it’s not immunity, but you were told you would not be prosecuted for any crimes coming out of this case, correct?

OFFICER CAMPELLONE: Correct.

(Mack Aff. ¶ 15). To date, it does not appear as though Officer Campellone was prosecuted for striking Mr. Cavaco with her cast.

Given Officer Campellone's testimony at trial, Mack sought to determine whether either Sergeant Platt or Officer Campellone were reported to the Massachusetts Peace Officer Standards and Training Commission (POST). To make this determination, Mack made a public records request to the SCDA because ADA Polumbaum prosecuted the matter and was in the courtroom when Officer Campellone testified. Surprisingly, the SCDA stated that it had no records indicating that anyone reported Officer Campellone or Sergeant Platt to the POST. (Mack Aff. ¶ 10, *Ex. G*). Correspondingly, Mack made a similar request to the POST to determine if it had received a report about the incident. The documents provided by the POST indicated that neither Officer Campellone nor Sergeant Platt were being investigated. (Mack Aff. ¶ 11, *Ex. H*). Accordingly, there is no evidence that Officer Campellone or Sergeant Platt's misdeeds were reported to the POST by ADA Polumbaum or anyone else from the SCDA.

**E. Despite the trial being open to the public, Mack is not given the audio testimony from October 23, 2023 or permitted to obtain a transcript.**

At the conclusion of the trial, on October 26, 2023, Mr. Cavaco was found guilty of assault and battery under M.G.L. c. 265, § 13M(a). (Mack Aff. ¶ 12, *Ex. I*, p. 9). On November 15, 2023, Mack requested audio recordings of the testimony from October 23, 2023 to October 25, 2023. (Mack Aff. ¶ 5, *Ex. C*). On November 30, 2023, Mack was provided with the audio recordings from October 24 (day 2) and October 25, 2023 (day 3). (Mack Aff. ¶ 6, *Ex. D*). To date, Mack has not been provided with the audio testimony from October 23, 2023, which was the first day of the trial. (Mack Aff. ¶ 7). On March 14, 2024, Mack submitted a request to have certain testimony

from October 23 and October 24 transcribed. (Mack Aff. ¶ 8, *Ex. E*). On March 20, 2024, Ms. Kayleigh Jordan, Court Transcript Coordinator, declined to transcribe the testimony. Ms. Jordan responded with the following:

Thank you for your recent transcript request. After a thorough review, this office cannot proceed with production of transcripts at this time. Due to the restricted nature of this case, a motion would be required to proceed. It may be best to reach out to the Court and inquire. Once an allowed motion is received, we will be able to process the order.

(Mack Aff. ¶ 9, *Ex. F*). At some point after Mack requested that the hearing be transcribed, the Court changed the “Initiation Action” section from “STRANGULATION OR SUFFOCATION c265 §15D(b)” to “RESTRICTED,” as illustrated below:



(Mack Aff. ¶¶ 12-15, *Exs. I & J*). Apparently, the Court – without a motion from either party and after Mack requested a portion of the trial be transcribed – elected to retroactively restrict access to a case that was open to the public.

## II. ARGUMENT

### A. **The audio testimony and any transcripts are presumed to be public records and accessible to the public, which requires them to be provided to Mack.**

“The First Amendment right of access to court trials includes the right to purchase a transcript of the court proceeding that was open to the public.” *Commw. v. Winfield*, 464 Mass. 672, 675 (2013). In Massachusetts, the “statutes, rules and standing orders ensure that there is an official record of a criminal trial that may be made available to anyone who wishes to learn what transpired.” *Id.* “The presumption of public access to judicial records allows the public and the media to develop a full understanding of the judicial proceeding so that they may ‘keep a watchful eye’ on the judicial system.” *Id.* at 678. Given the presumption that the records requested by Mack are public, this Court should order that the audio recording from October 23 of the trial be produced and he be permitted to transcribe any portion of the hearing he wishes.

### B. **The public has a right to know the scope of the transgressions committed by Sergeant Platt and Officer Campellone because the misconduct likely requires them to be terminated from the FRPD.**

1. Officer Campellone must be terminated from the FRPD because she likely committed perjury.

“The Legislature has forbidden persons found to have engaged in [perjury] from becoming police officers and, by implication, from remaining police officers.” *City of Boston v. Boston Police Patrolmen’s Assoc.*, 443 Mass. 813, 821 (2005). *See also* M.G.L. c. 41, § 96A (“No person who has been convicted of any felony shall be appointed as a police officer of a city, town or district”). M.G.L. c. 268, § 1 sets forth the criminal offense of perjury, which is a felony. *City of Boston*, 443 Mass. at 820. During the hearing on December 21, 2022, Officer Campellone provided the following testimony about the altercation between Sergeant Platt and Mr. Cavaco:

- Q. Okay. So a bunch of guys beat up – beat up Mr. Cavaco?



A. I wouldn't say that.

Q. What would you say, Ms. Campellone?

A. I would say he was in an altercation with one male and he –

Q. Who was that male?

A. William Platt.

(Mack Aff. ¶ 4, *Ex. B*, pp. 57:25-58:7) (emphasis added). Despite knowing that Mr. Cavaco was involved in a fight with two men, Officer Campellone lied and testified the altercation involved only “one male” – Sergeant Platt. The fact that no district attorney has elected to prosecute Officer Campellone for lying under oath is irrelevant – “[i]t is the felonious misconduct, not a conviction of it, that is determinative.” *City of Boston*, 443 Mass. at 820.

2. Sergeant Platt's lie to MSP requires that he be terminated from the FRPD.

There is no dispute that Sergeant Platt lied to MSP. When asked by MSP if he was the only person involved in the altercation with Mr. Cavaco, he replied, “It was just me.” (Mack Aff. ¶ 3, *Ex. A*, p. 50:18-20). While lying to MSP during an investigation is not perjury,<sup>1</sup> a police officer who lies to investigators must be terminated because the Commonwealth's public policy prohibits the retention of dishonest police officers. *See City of Boston*, 443 Mass. at 814 (“continued employment as a police officer would frustrate strong public policy against the kind of egregious dishonesty and abuse of official position in which he was proved to have engaged”). “In accepting employment by the public, [police officers] implicitly agree that they will not engage in conduct which calls into question their ability and fitness to perform their official responsibilities.” *Police Comm'r of Boston v. Civil Serv. Comm'n*, 22 Mass. App. Ct. 364, 371 (1986). There is no dispute that Sergeant Platt got into a physical altercation with Mr. Cavaco and

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<sup>1</sup> *See Commw. v. Dawson*, 399 Mass. 465 (1987) (a statement to MSP that is false is not perjury because the statement is not made “in a proceeding in a course of justice”).

then lied to MSP when he said it was just him involved in the fight. Under these circumstances, Sergeant Platt is no longer fit to serve as a police officer for the City of Fall River.

3. The public has an interest in understanding the totality of the prosecutor's decision not to prosecute Officer Campellone for her misconduct.

It is undisputed that the SCDA promised not to prosecute Officer Campellone for hitting Mr. Cavaco in the face with her case. (Mack Aff. ¶ 16, Ex. K). The public has an interest in knowing if Officer Campellone was given preferential treatment by the district attorney's office:

[T]he public has a substantial interest in ascertaining whether the case was not prosecuted because it lacked merit or because these public officials received favorable treatment arising from their position or relationships. Such matters implicate not only the integrity of the public officials who allegedly engaged in criminal conduct but also the integrity of our criminal justice system.

*Bos. Globe Media Partners, LLC v. Dep't of Criminal Justice Info. Servs.*, 484 Mass. 279, 293 (2020). Where, as here, a police officer is told by a district attorney that she will not be prosecuted for what appears to be a clear criminal act, even though the prosecutor is aware that the officer likely committed perjury and knows another police officer lied, the public is entitled to know the entirety of what transpired during the trial.

4. The information sought likely includes exculpatory evidence that must be disclosed under *Brady*.

Pursuant to Mass. R. of Crim. Proc. 14(a)(1)(A), it is mandatory for prosecutors to turn over evidence to defendants, including “any facts of an exculpatory nature.” Massachusetts Rule of Professional Responsibility 3.8 mirrors this discovery obligation because it requires “a prosecutor in a criminal case shall make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense[.]” Evidence that must be disclosed pursuant to *Brady* includes: (1) “exculpatory evidence,” which is evidence favorable to the defendant and likely to change the result on an issue

of a defendant's guilt or his or her eventual punishment if convicted; (2) "favorable evidence," which includes not only exculpatory evidence, but also evidence that may impeach the credibility of a government witness, whether that witness is a law enforcement officer or a civilian; and (3) "impeachment evidence," which is defined by Rules 607, 608, and 609 of the Mass. R. of Evid. and generally includes any evidence that can be used to impeach the credibility of a witness.

Here, the SCDA titled its promise not to prosecute Officer Campellone as, *inter alia*, a "Brady Notice." (Mack Aff. ¶ 16, *Ex. K*). Despite the SCDA's tacit acknowledgement that Officer Campellone's conduct implicates information that is of an "exculpatory nature," it does not appear as though the SCDA (or any other entity) has disclosed this information to relevant defense counsel, the public or the POST. To the contrary, the public has not been able to hear all of the trial or obtain a transcript from any of it. Because the information sought touches upon the credibility of police officers, as illustrated by the SCDA's own characterization of the evidence, a disclosure to appropriate counsel of what occurred is required. *See generally In the Matter of a Grand Jury Investigation*, 485 Mass. 641 (2020) (requiring the disclosure of grand jury testimony even though police officers were granted immunity to testify).

## II. CONCLUSION

For the reasons set-forth above, Mr. Eric B. Mack requests that this Court order (1) the release of the audio testimony from October 23, 2023 in this trial and (2) allow him to obtain a transcript of the entire trial or certain portions of the same.

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**CERTIFICATE OF SERVICE**

I, Eric B. Mack, certify that on this 21st day of May, 2024, I served the foregoing via U.S.

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