

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

BROCKTON SUPERIOR COURT

DOCKET NOS. 1583CR00208

1583CR00209

1583CR00210

COMMONWEALTH)

v.)

DEREK HOWARD,)
JOHN C. RAPOSO,)
GEORGE A. BILLADEAU,)

Defendants.)

**AFFIDAVIT OF MARTIN F. MURPHY IN SUPPORT OF
THE COMMONWEALTH'S CONSOLIDATED MEMORANDUM OPPOSING
DEFENDANTS' MOTIONS TO DISMISS INDICTMENTS**

I, Martin F. Murphy, hereby depose and state under oath:

1. On September 4, 2014, I was appointed as a Special Assistant Attorney General to serve as counsel for the Commonwealth in the above-captioned matter.

2. I submit this affidavit in support of the Commonwealth's Consolidated Memorandum Opposing Defendants' Motions to Dismiss Indictments. This affidavit is made based on my personal knowledge unless otherwise stated.

3. On or about September 4, 2014, Attorney General Martha Coakley appointed me as a Special Assistant Attorney General for the purpose of investigating the death of Joshua Messier at Bridgewater State Hospital on May 4, 2009 and representing the Commonwealth in any proceedings related thereto. The appointment was made due to a conflict of interest arising from the Attorney General's representation of the Defendants in *Kevin Messier, Special Personal Representative of the Estate of Joshua Messier v. Kerr et al.*, No. 12-01607-C.

4. Since September 4, 2015, I have acted with complete independence from the Office of the Attorney General. No member of the Attorney General's Office, including but not limited to any assistant attorneys general who represented the Defendants, has played any role in the investigation of Messier's death; the decision to request and inquest; the presentation of evidence at the inquest; the presentation of evidence to the grand jury; or the prosecution of the indictment returned by the grand jury against these defendants.

5. No person associated with the Attorney General's Office has supervised or directed any of my work, nor have I had any substantive communications with any such persons about the investigation of Messier's death or subsequent proceedings.

6. On or about January 2, 2015, I requested that an inquest proceeding be held to investigate the death of Joshua Messier

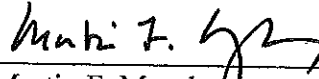
7. Justice Mark S. Coven was designated by Chief Justice Paul Dawley to conduct this inquest.

8. On or about January 23, 2015, Justice Coven convened a pre-hearing meeting with all of the interested parties, including counsel for the Defendants, to discuss a list of potential witnesses and exhibits. During this meeting, Justice Coven requested that the Commonwealth present testimony from an expert on standards related to the restraint of patients in correctional psychiatric facilities.

9. In response to Justice Coven's request, the Commonwealth retained Dr. John Lion to testify on the subject of national standards for the use of exclusion and restraint in the correctional mental health setting.

10. Dr. Lions testified on March 12, 2015 during the inquest proceeding.

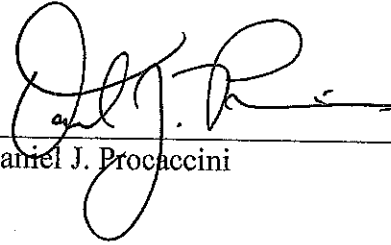
Signed under the pains and penalties of perjury this 29th day of July, 2016.



Martin F. Murphy
155 Seaport Boulevard
Boston, MA 02210
617-832-1000
mmurphy@foleyhoag.com

CERTIFICATE OF SERVICE

I, Daniel J. Procaccini, hereby certify that on August 1, 2016, I served a copy of the forgoing by hand on all counsel of record.



Daniel J. Procaccini