

Pleas—Sonja Farak

Where a judge allowed a defendant's motions to withdraw his guilty pleas, the case must be remanded in light of a judge's subsidiary findings in a case involving an assistant analyst at the Department of Public Health's State Laboratory in Amherst.

12/4/2017

"In 2010, the defendant pleaded guilty to possession of a class A controlled substance with the intent to distribute, possession of a class A controlled substance, resisting arrest, and assault and battery on a police officer. In 2013, the defendant moved to withdraw his 2010 guilty pleas. The defendant's motions were based on alleged misconduct by Sonja Farak, an assistant analyst at the Department of Public Health's State Laboratory in Amherst (Amherst laboratory). The defendant's motions to withdraw his pleas were allowed. The Commonwealth appealed, and we reversed. *Commonwealth v. Ubeira-Gonzalez*, 87 Mass. App. Ct. 37 (2015). The Supreme Judicial Court denied the defendant's application for further appellate review without prejudice, but remanded the case to this court in light of *Commonwealth v. Ware*, 471 Mass. 85 (2015), and *Commonwealth v. Cotto*, 471 Mass. 97 (2015). *Commonwealth v. Ubeira-Gonzalez*, 471 Mass. 1108 (2015).

"Thereafter, we stayed the matter pending the results of an evidentiary hearing in *Cotto*, in which a Superior Court judge heard evidence on, inter alia, the extent and the reach of Farak's misconduct at the Amherst Laboratory. In light of the judge's subsidiary findings and order in the *Cotto* case, we order in this case as follows: (1) upon reconsideration, the orders granting a new trial on the defendant's convictions of resisting arrest and assault and battery on a police officer are reversed, and a new order shall enter denying the motions as to the pleas on these crimes; and (2) upon reconsideration, the remainder of the orders granting a new trial on the defendant's convictions of possession of a class A controlled substance with the intent to distribute and possession of a class A controlled substance are vacated, and those matters are remanded to the District Court for further action in light of the subsidiary findings and order in the *Cotto* case and the holding in *Commonwealth v. Ruffin*, 475 Mass. 003 (2016)."

Commonwealth v. Ubeira-Gonzalez
(lawyers Weekly No. 81-980-17) (3 pages)
Docket No. 13-P-1735) (Nov. 22, 2017).

Judge tosses 7 cases tied to lab chemist

A Superior Court judge in Hampden County has dismissed a number of drug cases connected to a former state chemist who authorities say was high almost every day she went to work at a Massachusetts drug lab for eight years.

Judge Richard J. Carey on June 26 vacated the convictions of seven defendants and allowed another to withdraw a guilty plea.

The cases are connected to evidence tested by Sonja Farak, who pleaded guilty in 2014 to stealing cocaine from the crime lab at the University of Massachusetts-Amherst.

Farak worked at the lab between 2005 and 2013.

Carey found that two former assistant attorneys general "tampered with the fair administration of justice" by deliberately concealing documents and making misrepresentations to a judge.

The Committee for Public Counsel Services served as defense counsel in the case.

CPCS staff attorney Rebecca Jacobstein said the judge agreed that exculpatory evidence was withheld.

"This evidence was information that the defense was entitled to, and failure to turn it over caused irreparable harm to our clients," Jacobstein said. "It also had systemic implications because it did not affect just one individual defendant; it was relevant in discovering the extent of Farak's egregious misconduct."

From 2010-2015 more than 32,000 cases of drugs were affected Ms. Annie Dookham who was working as a chemist at the William A. Hilton Institute in Jamaica Plain. Ms. Dookham altered the evidence that was collected for drug testing both State and Federal.

At the present time we have another case with a similar situation, but in this case the chemist, Ms. Sonja Farak, has a personal drug problem. Amherst Laboratory has the potential to affect thousands of drug test in criminal cases, and individuals who are serving time for drugs.

The drug culture has infiltrated very deeply in the System of Government, including a few cases at the ranks of Ass. District Attorney's Offices. Please note that does not mean that every law enforcement officer is dirty, to the contrary, most of the law enforcement are clean and honorable people.

The illustrations that I have made are for the sole reason to prove a point in a time where we are facing a similar situation as in CHINA with the opium war during the 1839-42 and the Second Opium War 1856-60. The China's Government is very smart, they own the main drug problem that we have with OPIUM/FENTANYL.

Former ADA allegedly traded info for drugs

4/19/2015

A former Middlesex County assistant district attorney has been indicted for allegedly violating conflict of interest laws by trading information in exchange for oxycodone pills.

Stephen M. Gilpatric, 35, of Somerville, was indicted on Jan. 8 by a grand jury on charges of unlawful gratuity, unlawfully communicating criminal offender record information, and receiving unlawful compensation.

Gilpatric served as an ADA in the Middlesex County District Attorney's Office from 2007 until 2014, when the Attorney General's Office began an investigation. He most recently worked in the Public Protection, Anti-terrorism, Corruption and Technology Unit, where he handled a variety of specialized prosecutions, including public corruption, white-collar crime and major narcotics cases.

The investigation by the AG's Office found that, in October 2011, Gilpatric allegedly gave his drug supplier sensitive information about another man, including a Board of Probation record, a police report, a photograph and other personal identifying information in exchange for oxycodone pills.

Authorities further allege that Gilpatric provided additional confidential law enforcement information — a criminal record and an organizational chart of a drug ring — to the same drug supplier and his brother, hoping to receive pills in exchange.

Gilpatric allegedly was spending hundreds of dollars a week to feed his addiction to Oxycontin.

The investigation yielded no evidence to suggest Gilpatric provided information related to any criminal cases he was personally investigating or prosecuting.

No. 2

AN INDEPENDENT REPORT OF HISPANIC OFFENDERS TO THE COMMISSION OF RACIAL BIAS IN THE COURTS

CREDIBILITY
EXAMPLE OF PRIOR
RESEARCH

By Luis Perez

During the 4th and 5th of September 1991 we conducted several studies and selected a research team inside the prison at NCCI-Gardner. We would like to share the results of those studies.

This facility has an approximate population of 1,000 inmates, 241 of those prisoners are Hispanic. Our research team located 200 Hispanic inmates at random, 195 agreed to cooperate and 5 declined.

It is very important to mention that our research team asked questions without any obligation, without duress, or violating any CORI-LAW. The public has the right to know about prison issues and the prisoners also have the right to relate information to the public, members of the judicial system, and elected officials. This information is true to the best of my knowledge and it is presented and signed under penalties of perjury.

Counties That Are Linked Into This Study Research

The Hispanic prison population in this study indicates that out of 195 individuals, 82 of them came from Hampden County, 31 from Worcester County, 22 from Middlesex County, 16 from Essex County, and 27 from Suffolk County.

and 17 individuals could not recall the county location of their court hearings.

Evidence indicates that Hispanic citizens have been excluded from participating in the jury process. According to the 195 inmates who participated in this study, 144 pleaded guilty as charged and 51 of them went to trial. Amongst those 51 trials, there was an enrollment of 612 citizens, only five of those jurists were Hispanic, four of which came from Hampden County, and one from Middlesex County. Less than one percent of Hispanic jurists participated in deliberation.

Low Hispanic participation is either a grave oversight or a clear-cut case of judicial misconduct by the judicial administration and county commissioners. Though the Latino population does not register to vote in great number, those who are registered are not being called to serve. Hispanic citizens have been excluded from participating in the jury process and it is time that the judicial system be held responsible. Specifically, the function of the jury commissioner is to produce a registry representing an accurate cross-section of registered voters within the jurisdiction of the court. Empowerment of the Latino population should not be used as an avenue of discrimination.

General Information

During the entire interview with the 195 inmates we discovered many interesting issues of great concern. For example, we know that 144 Hispanic offenders pleaded guilty, 92 inmates (46%) used the services of a public attorney and 52 inmates (26%) used the services of a private attorney. The biggest surprise was to find that only 19 Hispanic offenders have complaints against their public attorneys in connection with their individual deals with the court when they pleaded guilty. Twenty-eight Hispanic offenders have had more disturbing problems with their private attorney in arranging deals with the court. Most of their complaints related to the part of the bargain which never took place, where Hispanic offenders were pressured to plead guilty, despite the fact that the majority of them were first-time offenders.

In her book, Money and Justice, Judge Lois G. Forer provides an additional perspective on the dynamic of pleading guilty:

"Most guilty pleas now take approximately twenty minutes ... The courts conveniently dispose of 90 percent of criminal cases swiftly, legally, and without challenge because they have complied with the prescribed ritual. But conscience compels one

SUPREME JUDICIAL COURT
BOSTON, MASSACHUSETTS 02108

MAUREEN D. MCGEE
EXECUTIVE ASSISTANT
TO THE CHIEF JUSTICE

July 20, 1990

Mr. Luis Perez
Post Office Box 466
Gardner, MA 01440

Dear Mr. Perez:

I write to acknowledge your letter to Chief Justice Liacos dated June 24, 1990. The Chief Justice asked me to thank you for forwarding to him information regarding "the complexity of problems that are affecting the entire Latino Community in prison." Your letter and attachments will be forwarded to the Commission to Study Racial and Ethnic Bias in the Judicial System's Task Force which is studying the prosecution and adjudication of criminal cases and treatment of defendants.

Sincerely yours,

Maureen McGee
Maureen McGee

MM/ccm

State's court chief says sentencing bias may spark appeals

By MAGGIE MULVIHILL

The head of the Massachusetts court system predicted yesterday that discrimination in sentencing criminals may trigger a wave of litigation from defendants claiming they were more harshly punished because they are minorities.

A report released yesterday by the Supreme Judicial Court's Commission to Study Racial and Ethnic Bias in the

Courts states that a review of robbery convictions across the state show blacks were more likely to get prison sentences than whites and that other "disparity in sentencing" exists.

"Somebody could bring a lawsuit because the truth always creates problems," said Supreme Judicial Court Justice Paul L. Liacos in acknowledging that defendants may "get some inspiration" from the commission's findings.

The 213-page study, which cost

\$750,000 and took four years to prepare, concluded that widespread bias exists against minorities in Massachusetts courts.

The study found that minorities and non-English speaking people face higher bail than whites in criminal cases, have a harder time getting restraining orders and are more likely to lose custody of their children.

When a black person walks into a Massachusetts courthouse, "the likeli-

hood is that they are not going to get equal justice," said Liacos.

The report also found minority judges are severely underrepresented on the bench.

The report recommends a series of ways to diminish discrimination, including hiring more interpreters, hiring more minority court employees, making court forms available in many languages and diversifying jury pools.

EXHIBIT

Courts
are guilty
of racism

The Associated Press

BOSTON — Minority and non-English-speaking residents in Massachusetts courts face higher bail than whites in criminal cases, have a harder time getting restraining orders and are more likely to lose custody of their children, according to a four-year, \$750,000 study. They also may get harsher sentences, the report said.

When a black person walks into a Massachusetts courthouse, "the likelihood is that they are not going to get equal justice," said Chief Justice Paul Liacos.

The report, by the state Commission to Study Racial and Ethnic Bias in the Courts, was released yesterday after four years in preparation.

It found state courts were guilty of overt and subtle racism, especially in cases that involved non-English-speaking people.

And while the state court system's antiquated record-keeping made it impossible to analyze sentencing trends, a limited review of robbery convictions showed that blacks were more likely to get prison sentences than whites. The report said sentencing disparities also probably exist for other crimes.

"A lot of times this is not malicious," said Liacos. "It is subtle. A lot of times we don't realize we're motivated in ways that lead to these results."

But the report, and several members of the study commission, blamed what one called "too much political meddling."

"Only when the Legislature gets their hands out of the courts' pockets will minorities have a chance to succeed," said Appeals Court Judge and commission member Frederick L. Brown.

Minorities comprise just under 14 percent of employees in state courts, and most are in low-level jobs or in courts that serve primarily minority areas. Of 328 judges who hear trials, 21 are black, five are Hispanic, two are Asian and one is Cape Verdean.

SUPREME JUDICIAL COURT
130 NEW COURT HOUSE
BOSTON, MASSACHUSETTS 02108

F. Burke
Executive Assistant
Mr. S. Bloom
Administrative
Assistant

725-8083/8084

October 22, 1991

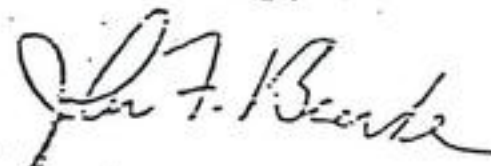
Mr. Luis Perez
P.O. Box 466
Gardner, MA 01440

Dear Mr. Perez:

I acknowledge receipt of your letter of October 20, 1991 to
Chief Justice Liacos.

I have referred your letter to the Director of the Committee
on Racial and Ethnic Bias, Ms. Antoinette Roise, for her
consideration.

Sincerely,



John F. Burke

FB:pg
cc: A. Roise

THE WEEK AHEAD

STATE HOUSE

TOMORROW

- Legislative briefing on single-payer health care proposal, 10:30 a.m.
- TEAM news conference, releasing organization's economic recovery plan, 11 a.m.

TUESDAY

- Primary elections in New Bedford, Gloucester.
- Taxation Committee considers bill to maintain state income tax level for education, 11:30 a.m.

WEDNESDAY

- Secretary of State Michael Connolly addresses AFL-CIO convention, 10 a.m.
- Judiciary Committee hears bill to reform state courts system, 1 p.m.

THURSDAY

- Joint meeting with Massachusetts Governor's Council, 11 a.m.
- Supreme Judicial Court commission studying racial and ethnic bias holds public hearing, 3 p.m.