

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT OF
THE TRIAL COURT
NOS. 14-10417, 15-10384

COMMONWEALTH

v.

AARON HERNANDEZ

DEFENDANT'S OPPOSITION TO MOTION FOR RETURN OF TOYOTA

The defendant Aaron Hernandez opposes the motion for return of the Toyota. In opposition to this motion, the defendant states:

1. The Toyota is needed for a view at trial. As set forth in the accompanying Affidavit of Charles W. Rankin in Opposition to the Motion for Return of Toyota 4-Runner, Alexander Bradley and at least four other witnesses will testify about the events around the time of the shooting and their descriptions of the Toyota and its occupants. There are numerous contradictions about important facts among those five witnesses. The jury's assessment of that testimony will be greatly facilitated by an opportunity to see the actual Toyota. The use of photographs would not enable the jury to fully assess the witnesses' testimony because the photographs do not adequately convey the size and configuration of the Toyota, or the mechanisms for moving the seats.
2. The movant will not suffer any irreparable harm if the Toyota is retained by the Commonwealth through the conclusion of the trial. From the moving papers, it appears that the motion is prompted by a prospective sale of the Toyota dealer, and a desire by the

parties to that sale to "tie up loose ends." It appears that the dealership has paid off the note and no longer owes money for the Toyota. The Commonwealth has now been in possession of this vehicle for more than 30 months. It is essential to protect the defendant's rights to due process under the Fifth and Fourteenth Amendments to the United States Constitution and Article XII of the Massachusetts Declaration of Rights that the Toyota remain in the Commonwealth's custody and available for the jury's inspection until the conclusion of trial.

Respectfully submitted
The defendant Aaron Hernandez
By his counsel



Charles W. Rankin, BBO No. 411780
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CERTIFICATE OF SERVICE

I certify that I have served the foregoing upon counsel of record in hand to Robert V. Ward, Jr., Law Offices of Kenneth Kurnos, 100 State St., Boston, MA 02109, 617-557-4900 and to Patrick Haggan, Teresa Anderson, and Janis Smith, Assistant District Attorneys, on February 16, 2016.



Charles W. Rankin

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**AFFIDAVIT OF CHARLES W. RANKIN IN OPPOSITION TO
MOTION FOR RETURN OF TOYOTA 4-RUNNER**

Being duly sworn, Charles W. Rankin states:

1. I am a member of the bar of the Supreme Judicial Court and I represent the defendant Aaron Hernandez. I submit this affidavit based upon personal knowledge.
2. According to the Commonwealth's theory, Aaron Hernandez fired several shots in the direction of a BMW automobile from the front passenger seat of the Toyota 4-Runner, and as a result of those shots, two people in the BMW were killed and one was wounded.
3. At the trial, the credibility of Alexander Bradley will be critical to the jury's assessment of whether the Commonwealth can prove its case beyond a reasonable doubt. According to the Commonwealth, Bradley's story is that he was driving the Toyota, pulled up to the right of the BMW, rolled down the driver's side window, and then leaned and/or pushed the seat back, while Hernandez leaned across Bradley, extended his arm out of the window and fired 5 or 6 shots out the driver's side window of the Toyota. *See* grand jury testimony of Bradley, 10/18/13, p. 51; 10/25/13, p. 27; GJ exhibit 52 (CD of Bradley's 10/8/13 interview), and transcription of interview at pages 43-46.

4. In addition to Bradley, two other individuals testified before the grand jury who were in a car a block behind the shooting. They testified about observations they made as the Toyota passed by them, before reaching the BMW. *See* grand jury Tr. 7/18/13.
5. Finally, two of three people in the back seat of the BMW testified in the grand jury. Tr. 7/18/12; 7/10/13; 7/11/13.
6. There are numerous contradictions among the testimony of these five people. Many of the contradictions concern what occurred inside the Toyota, where people were seated, and what they were doing. The defendant will not recount the grand jury testimony because the Court has it (submitted with the motion to dismiss) and has reviewed it.
7. In order for the defendant to present an effective defense in this case, the jury must be able to see the Toyota for itself, including the internal dimensions and the mechanisms for moving the seats. In the circumstances of this case, photographs and videos of the Toyota are not an adequate substitute for the jury's ability to actually see the vehicle, its dimensions, and configuration. In short, the Toyota is needed for a view at trial.


Signed under the penalties of perjury on February 16, 2016.



Charles W. Rankin

CERTIFICATE OF SERVICE

I certify that I have served the foregoing upon counsel of record by hand to Robert V. Ward, Jr., Law Office of Kenneth Kurnos, 100 State St., Boston, MA 02109, and Patrick Haggan, Teresa Anderson, and Janis Smith, Assistant District Attorneys, 1 Bulfinch Place, Boston, MA 02114 on February 16, 2016.



Charles W. Rankin