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Attorney Nikolas Andreopoulos
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Re: Commonwealth v. Tamik Kirkland, Indictment 11-444

Dear Attorneys Klyman and Andreopoulos:

The authentication of a DOC photo of Mr. Kirkland, with time stamp of 4/22/11, may be an issue the parties can agree upon. However, I wanted to memorialize some of my concerns which will need to be addressed before I can enter the agreement.

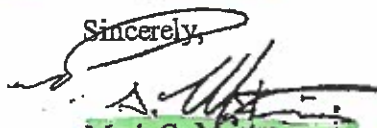
Presently the evidence shows Mr. Kirkland escaped from DOC on an unknown date but the warrant was active at the time of the incident. I think it is fair to suggest an inference was invited by the Defense that Mr. Kirkland was hiding in the trunk based on the warrant only.

It would be reasonable for the jury to infer the escape and warrant was very close in time to the shootings on 4/30/11. This invites further inference that Mr. Kirkland escaped a day or two before the alleged crimes. However, the escape occurred late night 4/24/11 or early morning 4/25/11. A jury could believe the hairstyle in the photo of 4/22/11 was taken at the prison and such a facility would restrict braiding or other types of hairstyles beyond basic.

The reality is that Mr. Kirkland was on the street for 5-6 days after escaping and could have easily changed his hairstyle. Such a changed hairstyle may also be viewed as further liberating himself from prison rules and regulations.

Accordingly, we can talk further about a stipulation but it would have to include at a minimum the following: that on 4/22/11 the photo of Mr. Kirkland was taken at the DOC and on 4/24/11 or the early morning of 4/25/11 Mr. Kirkland escaped. This would allow the jury to consider the time on the street to change hairstyle and also consider the defense point of the basic hairstyle eight days before the incident on 4/30/11.

Sincerely,


Mark G. Mastroianni
District Attorney