

RECEIVED & FILED
2024 APR 10 AM 11:12
CLERK OF THE COURTS
NORFOLK COUNTY
NORFOLK, SS

SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

COMMONWEALTH
v.
KAREN READ

COMMONWEALTH’S MOTION IN LIMINE TO ADMIT PHOTOGRAPHS OF THE
VICTIM’S INJURIES AS OBSERVED BY MEDICAL PROVIDERS ON JANUARY 29,
2022 AND PHOTOGRAPHS FROM THE AUTOPSY

The Commonwealth moves this Honorable Court allow into evidence graphic photographs of John O’Keefe’s injuries as he appeared at Good Samaritan Hospital on January 29, 2022 and photographs that further depict his cause of death from the autopsy. Whether graphic photographs may be admitted is within the sound discretion of the trial judge. Commonwealth v. Stockwell, 426 Mass. 17, 20 (1997). “[I]f the photographs possess evidential value on a material matter, they ‘are not rendered inadmissible solely because they are gruesome [or duplicative] or may have an inflammatory effect on the jury.’” Commonwealth v. Keohane, 444 Mass. 563, 573 (2005), quoting Commonwealth v. Ramos, 406 Mass. 397, 407 (1990).

The Commonwealth is entitled to a full presentation of its case. See Keohane, 444 Mass. at 573; Commonwealth v. Bradshaw, 385 Mass. 244, 269–270 (1982). The Commonwealth is entitled to present the jury with photographs of the victim’s injuries as he appeared upon arrival to Good Samaritan Hospital to support its evidence of how the murder occurred and the autopsy photographs, to be introduced during the medical examiner’s testimony, to aid the jury in understanding the nature of the wounds and cause of death. Id.; Keohane, 444 Mass. a 573 (no abuse of discretion in admitting four photos from murder scene and three from autopsy).

The Commonwealth recognizes that the probative value of these photographs must not be substantially outweighed by its prejudicial effect. Mass. G. Evid. § 403; Commonwealth v. Vizcarrondo, 431 Mass. 360, 362 (2000) (trial judge must exercise discretion to “determine whether the inflammatory nature of a photograph outweighs its probative value.”). The Commonwealth intends to introduce only those photographs necessary to sustain its burden and not to inflame the jury.

To limit any prejudicial effect this court could inform the jury venire during jury selection that the trial would include the introduction of graphic photographs. Any potential juror could be asked at sidebar “about their ability to decide the case fairly and impartially in light of the planned introduction of the graphic photographs” those who express difficulty could be excused by the court. Commonwealth v. Bell, 473 Mass. 131, 143 (2015); Commonwealth v. Amran, 471 Mass. 354, 358 (2015) (by taking measures to mitigate potential prejudice by alerting venire during jury selection judge proceeded with the degree of care and special attention recommended for the admission of graphic photographs). Additionally, the court could give a general and cautionary instruction that emotion or sympathy has no place in deliberations and that the photographs are to be considered only for the nature of the injuries and nature of the incident itself. Id.

Respectfully Submitted,
For the Commonwealth
Michael W. Morrissey
District Attorney
By: */s/ Adam Lally*
Adam C. Lally
Assistant District Attorney