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2021 APR 10 AM 11:13

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SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

COMMONWEALTH

v.

KAREN READ

**COMMONWEALTH'S MOTION IN LIMINE OF INTENT TO OBTAIN CORI
RECORDS OF POTENTIAL JURORS**

Prior to swearing in the jury, the Commonwealth moves in limine for the opportunity to inquire into the criminal records of jurors, to determine whether they are qualified to serve. See Mass. R. Crim. P. 20 (c) (2) (outer time limit for the exercise of peremptory challenges is “before the jurors are sworn”); Mass. R. Crim. P. 20 (b) (3) (challenges for cause to be made “before the juror is sworn to try the case.”); Commonwealth v. Hampton, 457 Mass. 152, 166 (2010).

“Inquiring into the criminal records of jurors in a criminal case for the purposes of determining their qualifications to serve and their impartiality fits squarely within the ‘criminal justice duties’ of prosecutors” and is permitted by the CORI statute. Commonwealth v. Cousin, 449 Mass. 809, 816-817 (2007) (mistrial occurred as result of three jurors failing to disclose their extensive criminal histories); G.L. c. 6, §167, §172. Further, the Commonwealth is allowed to inquire into the criminal histories of jurors to determine a juror’s ability to be impartial. Cousins, 449 Mass. at 817; Commonwealth v. Hampton, 457 Mass. 152, 160-162 (2010); Commonwealth v. Smith, 360 Mass. 600, 603 (1966). A juror who purposefully conceals their criminal history cannot be found to be impartial or able to follow the court’s instruction. See Cousins, 449 Mass.

at 817 (despite a lengthy voir dire that focused largely on jurors' attitudes toward law enforcement, the jurors' silence about their criminal histories was found to be purposeful).

Before the jury is sworn, the Commonwealth intends to check the criminal histories of all sixteen prospective jurors. The Commonwealth's right to examine a juror's criminal records is "not a radical one" and the Commonwealth will produce the CORI records to defense counsel. See Id. at 818 ("if the prosecutor checks jurors' criminal records, which ordinarily should be done at the start of a trial, the information must be shared immediately with defense counsel."); see also Hampton, 457 Mass. at 169 (judges encouraged to exercise discretion to order CORI records of selected jurors before they are sworn where procedure is not unduly burdensome or time consuming).

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