

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
TRIAL COURT DEPARTMENT

CHRISTOPHER RIVERA,

Plaintiff,

v.

COMMONWEALTH OF
MASSACHUSETTS,

Defendant.

Civil Action No. 22-10530A

PLAINTIFF REQUESTS
A JURY TRIAL

2022 MAR 10 AM 11:38
MICHAEL JOSEPH CORCORAN
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SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE

COMPLAINT

The Commonwealth prosecuted Plaintiff Christopher Rivera for a felony he did not commit. A jury convicted Mr. Rivera, and the Superior Court sentenced him to a term of incarceration of two and a half years, with one year to serve and the balance suspended, a sentence he served to completion. In 2019, Mr. Rivera successfully vindicated his innocence when the Supreme Judicial Court reversed the conviction because his conduct was not criminal, and the Superior Court entered a judgment of acquittal. Mr. Rivera now brings this action under the Erroneous Convictions statute, Mass. Gen. Laws ch. 258D, against the Defendant Commonwealth of Massachusetts. As grounds for this complaint, Mr. Rivera states and alleges as follows:

INTRODUCTION

1) This action arises from the wrongful prosecution and conviction of Mr. Rivera in the Superior Court case *Commonwealth v. Christopher Rivera*, SUCR2012-10345.

The Commonwealth had charged Mr. Rivera with assaulting and battering Kenneth Soto, as well as with being an accessory after the fact to the murder of Kenneth Soto. A jury found Mr. Rivera not guilty of assault and battery but returned a guilty verdict on the accessory charge. On the single offense of conviction, the Superior Court sentenced Mr. Rivera to imprisonment in the Suffolk County House of Correction for two and a half years, with twelve months to be served and the balance suspended, as well as five years of probation to follow the term of imprisonment.

2) Mr. Rivera served and completed his sentence.

3) The Supreme Judicial Court subsequently vacated the judgment of conviction. In a published decision, the Supreme Judicial Court held that “the evidence was insufficient as a matter of law to sustain the conviction” and directed the Superior Court to enter a judgment of acquittal. *Commonwealth v. Rivera*, 482 Mass. 145, 146 (2019). The Superior Court entered the judgment of acquittal on May 8, 2019.

4) Mr. Rivera now seeks compensation for the wrongful conviction and the damages the conviction caused him.

PARTIES

5) Plaintiff Christopher Rivera (“Mr. Rivera”) is a natural person residing in the City of Boston in the Commonwealth of Massachusetts.

6) Defendant Commonwealth of Massachusetts (“Commonwealth”) is a sovereign state within the United States.

JURISDICTION AND VENUE

7) The Superior Court has exclusive jurisdiction over actions brought under Mass. Gen. Laws ch. 258D. *See* Mass. Gen. Laws ch. 258D, § 3.

8) Because the judgment of conviction at issue in this case originated in Suffolk County, the Superior Court in Suffolk County is the appropriate venue. *See* Mass. Gen. Laws ch. 258D, § 3.

FACTUAL ALLEGATIONS

Mr. Rivera's Background

9) Mr. Rivera has lived his entire life in and around Boston. His mother, a high-school graduate, raised him. His father, a high-school dropout, lives out of state. Before his wrongful conviction, Mr. Rivera lived with his mother and helped support her financially.

10) As a young adult, Mr. Rivera tested into the John D. O'Bryant School of Math and Science, where he was a student athlete. He played guard for the basketball team and outside linebacker and cornerback for the football team. He also ran the two-hundred meter race for the track team. Mr. Rivera received excellent grades, and after graduating in the spring of 2007, enrolled at Bridgewater State University.

11) At Bridgewater State, Mr. Rivera focused his studies in social work and worked hard to prepare himself for a future in helping at-risk youths, with backgrounds like his, to succeed despite their backgrounds. Mr. Rivera worked with the Brockton STARR Program, a transition house, and later with the Institute for Global Youth Development. His peers and professors thought highly of his work and work ethic.

The Criminal Case

12) A few months before Mr. Rivera's expected graduation from Bridgewater State, Mr. Rivera attended a party with a few friends and acquaintances from his

neighborhood. While driving home together from the party in the early morning hours, Mr. Rivera and two others—Josue Santos and Hector Soto—stopped at a convenience store for Mr. Santos to buy a drink. While waiting for Mr. Santos (the driver), Hector Soto began arguing in the parking lot with Kenneth Soto, a passenger of a car parked next to theirs. When Hector Soto and Kenneth Soto began exchanging blows and wrestling, Mr. Rivera ran over to assist Hector Soto and joined the fight. During the fray, Hector Soto stabbed Kenneth Soto. Moments later, Mr. Rivera and Hector Soto jumped back into Mr. Santos's car, and Mr. Santos quickly drove away. Kenneth Soto later died from the stab wounds.

13) A week later, Detectives Garrett G. Mitchell and Michael T. Walsh of the Boston police department conducted a recorded interview of Mr. Rivera about the incident.

14) Mr. Rivera's statements during the interview formed the basis for the Commonwealth's allegation that Mr. Rivera materially assisted Hector Soto by lying to the detectives about his own actions and whereabouts on the morning of the killing, referring to Hector Soto as "Joel" while claiming no knowledge of Hector Soto's other names, and refusing to provide detectives with Hector Soto's phone number.

15) The Commonwealth charged Mr. Rivera with assault and battery and being an accessory after the fact to the murder. Upon a warrant from the West Roxbury Division of the Boston Municipal Court, police officers arrested Mr. Rivera. The court arraigned Mr. Rivera and ordered him held on \$25,000.00 cash bail. The court committed Mr. Rivera to the Suffolk County Jail. Mr. Rivera posted bail and was released.

16) Shortly thereafter, a Suffolk County grand jury indicted Hector Soto for the murder of Kenneth Soto. The grand jury also indicted Mr. Rivera for assault and battery of Kenneth Soto, in violation of Mass. Gen. Laws ch. 265, § 13A, and for being an accessory after the fact to murder, in violation of Mass. Gen. Laws ch. 274, § 4. The case was dismissed from the West Roxbury Division and proceeded in the Superior Court.

The Fallout from the Charges

17) Mr. Rivera reported the charges to his academic advisor and professors at Bridgewater State. Within days, the vice president of student affairs met with Mr. Rivera and told him that the University was suspending him pending a University hearing on the issue. At the hearing, his professors supported Mr. Rivera's reinstatement, but the University ultimately expelled him and banned him from campus.

18) Rather than let the expulsion derail his life, Mr. Rivera worked with his professors, all of whom were willing to accommodate him, to complete his coursework remotely. Although he was ineligible to receive a diploma or enter school grounds, Mr. Rivera completed all the work his professors requested of him.

19) Upon the advice of his professors, Mr. Rivera also appealed the University's decision to expel him. Mr. Rivera ultimately succeeded in his appeal, and the University bestowed upon him the degree of bachelor of science, and mailed him his diploma in the fall of 2012.

20) After finishing his coursework, Mr. Rivera also looked for work to help support his family. His mother had become unemployed after taking time off to care for her own mother suffering from Alzheimer's, so Mr. Rivera's ability to contribute

financially became critically important. With the charges pending, Mr. Rivera had difficulty finding work in his field, but he nevertheless settled on a full-time job with T&L Limousine driving a shuttle bus between the Hampton Inn on Massachusetts Avenue and area hospitals. Up to the date of his trial, Mr. Rivera worked five-days-a-week, with extended shifts on weekends. During the trial, Mr. Rivera worked extra shifts on weekends to make up for the hours he missed during the work week.

The Procedural History of the Criminal Matter

21) The Commonwealth tried Hector Soto and Mr. Rivera together in the Superior Court. On April 23, 2013, the jury found Hector Soto guilty of second-degree murder and Mr. Rivera guilty as an accessory after the fact. The jury acquitted Mr. Rivera of assault and battery.

22) Upon the jury's verdict, the Superior Court revoked Mr. Rivera's bail and committed him again to the Suffolk County Jail.

23) On May 1, 2013, the Superior Court sentenced Mr. Rivera to a term of imprisonment at the Suffolk County House of Correction for a period of two and a half years. The Superior Court ordered that Mr. Rivera would serve twelve months of the sentence, with the balance of the sentence suspended. The Superior Court placed Mr. Rivera on probation for a period of five years from and after his release from the Suffolk County House of Correction.

24) Mr. Rivera was thus committed to the Suffolk County House of Correction.

25) Mr. Rivera filed a timely notice of appeal of the judgment of conviction, as did his co-defendant Hector Soto. The case was entered in the Appeals Court on August 4, 2014, as Appeals Court case number 2014-P-1196.

26) During the pendency of the appeal, Mr. Rivera completed his sentence of incarceration, and the Suffolk County House of Correction released Mr. Rivera to begin serving his term of probation.

27) After a lengthy delay from Hector Soto's preparation and anticipated litigation of a new-trial motion in the trial court, the Appeals Court dismissed the joint appeal and re-entered Mr. Rivera's appeal as Appeals Court case number 2018-P-0357 such that Mr. Rivera could prosecute his appeal independently of Hector Soto's appeal.

28) The Supreme Judicial Court subsequently transferred Mr. Rivera's case to its own docket *sua sponte*. The case was entered in the Supreme Judicial Court on September 14, 2018, as Supreme Judicial Court case number SJC-12605. The Court heard oral argument on January 7, 2019.

29) On May 1, 2019, the Court ordered that Mr. Rivera's "conviction as an accessory after the fact to murder is reversed[,] [t]he judgment of conviction is vacated, and a judgment of acquittal is to be entered for" Mr. Rivera. *See Order, Commonwealth v. Rivera*, SJC-12605, at 1 (Mass. May 1, 2019). The Court also issued an unanimous, written decision, authored by Chief Justice Gants, explaining its decision.

30) In its written decision, the Supreme Judicial Court explained that "the evidence was insufficient as a matter of law to sustain the conviction" because "the defendant did not provide the police with a false alibi or comparable information that would exculpate the principal felon (here, the killer), a false narrative of the crime that

would give the principal a defense, or false information to assist in the principal's escape." *Commonwealth v. Rivera*, 482 Mass. 145, 145–46 (2019). As a consequence, Mr. Rivera's statements to the police "do not constitute the 'aid' or 'assistance' required to find a defendant guilty as an accessory after the fact." *Id.*

31) The Supreme Judicial Court's decision also excluded the possibility that the Commonwealth could have charged Mr. Rivera with other criminal offenses instead. For example, the Court noted that Mr. Rivera "could not be charged with perjury because his statements were not made under oath." *See Rivera*, 482 Mass. at 151.

32) The Court also noted that Mr. Rivera had not violated the witness-intimidation statute, Mass. Gen. Laws ch. 268, § 13B, because "the Commonwealth would be unable to prove that the defendant's false statements under the circumstances in this case reasonably could have led the investigators to pursue a materially different course of investigation." *Rivera*, 482 Mass. at 151–52.

33) On remand, counsel for Mr. Rivera and the Commonwealth jointly requested the Superior Court to enter a judgment of acquittal.

34) The Superior Court entered a judgment of acquittal on May 8, 2019.

35) By this time, Mr. Rivera had completed his entire sentence, including payment of probation supervision fees.

Picking Up the Pieces of His Life

36) Mr. Rivera emerged from an under-privileged upbringing to earn the respect of his peers, professors, and family as a young man of integrity, intelligence, and purpose.

37) The wrongful conviction and Mr. Rivera's subsequent incarceration threw his entire life into disarray.

38) The conviction and subsequent incarceration set Mr. Rivera back years in his career. Mr. Rivera lost time to incarceration. The wrongful conviction and incarceration also necessitated a career shift: Although he had studied social work, the wrongful conviction and incarceration made it all but impossible for Mr. Rivera to find employment as a social worker. Altogether Mr. Rivera lost many years of potential earnings.

39) Even with the burden of his wrongful conviction and incarceration, Mr. Rivera has worked hard to find success in his life. After his release from incarceration, Mr. Rivera worked hard to find gainful employment and succeeded in working in another field. He maintained this employment, even as he continued to dream of becoming a social worker.

40) Not until nearly a decade after the Commonwealth initiated the criminal case against him has Mr. Rivera finally succeeded in finding a job doing social work. He is now a resource social worker (social worker associate) with a major Boston-based organization.

41) Put differently, the wrongful conviction and incarceration have significantly damaged Mr. Rivera by, not least of which, delaying his social-work career for nearly a decade.

OUTLINE OF EXHIBITS

42) Attached to this complaint as **Exhibit A** is a true copy of the text of the Supreme Judicial Court's decision in *Commonwealth v. Christopher Rivera*, SJC-12605, in

which the Supreme Judicial Court vacated Mr. Rivera's conviction and ordered the entry of a judgment of acquittal in favor of Mr. Rivera. Both the Massachusetts Reporter and the North Eastern Reporter have published this decision. *See Commonwealth v. Rivera*, 482 Mass. 145, 121 N.E.3d 1121 (2019).

43) Also attached to this complaint are certified copies of the mittimus showing Mr. Rivera's sentence to incarceration (**Exhibit B**), the Supreme Judicial Court rescript and associated papers vacating the conviction and requiring the entry of a judgment of acquittal (**Exhibit C**), and the Superior Court case docket entries showing the entry of the judgment of acquittal (**Exhibit D**).

COUNT ONE

Violation of Mass. Gen. Laws ch. 258D, § 1 *Erroneous Conviction*

44) Mr. Rivera re-alleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

45) Mr. Rivera is a member of the class of persons eligible for relief under § 258D:

- a) The Supreme Judicial Court granted Mr. Rivera judicial relief on grounds which tend to establish Mr. Rivera's innocence.
- b) The Superior Court entered a judgment of not guilty in Mr. Rivera's favor.
- c) No criminal proceedings are pending or can be brought against Mr. Rivera for any act associated with the felony conviction. *See Mass. Gen. Laws ch. 277, § 63 (2020); see also Commonwealth v. Rivera*, 482 Mass. 145, 151–52 (2019) (“[T]he defendant here could not be

charged with perjury because his statements were not made under oath, and he was not charged with a violation of [Mass. Gen. Laws. ch. 268,] § 13B, perhaps because the Commonwealth would be unable to prove that the defendant's false statements under the circumstances in this case reasonably could have led the investigators to pursue a materially different course of investigation.").

46) The offense of conviction—accessory after the fact to murder—is a felony. *See* Mass. Gen. Laws ch. 274, §§ 1, 4 (2020).

47) Mr. Rivera did not plead guilty to the offense or any lesser included offense.

48) As a result of the conviction, the Superior Court sentenced Mr. Rivera to incarceration for not less than one year in state prison or a house of correction.

49) Mr. Rivera has served the entirety of his sentence.

50) Mr. Rivera was incarcerated solely on the basis of the conviction for the offense that is the subject of this claim.

51) Mr. Rivera did not commit the crimes or crime charged in the indictment or any other felony arising out of or reasonably connected to the facts supporting the indictment or complaint, or any lesser included felony.

52) No portion of Mr. Rivera's incarceration was or will be credited toward a sentence for, or during which Mr. Rivera was also serving a concurrent sentence for the conviction of another crime.

53) Mr. Rivera is entitled to damages, including but not limited to the income he would have earned, but for his incarceration; the particular circumstances of the trial and other proceedings; the length and conditions under which he was incarcerated; and any other factors deemed appropriate under the circumstances to fairly and reasonably compensate him.

54) Mr. Rivera is entitled to an award of the costs of the litigation and reasonable attorneys' fees.

REQUESTS FOR RELIEF

WHEREFORE, Mr. Rivera requests this Court:

1. Enter judgment in favor of Mr. Rivera against the Commonwealth;
2. Award damages in an amount that will fully and fairly compensate Mr. Rivera, including all permitted nominal, compensatory, and punitive damages, plus costs and attorneys' fees; and
3. Award such other relief as the Court deems appropriate.

JURY DEMAND

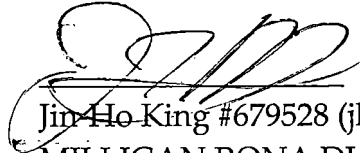
PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

CHRISTOPHER RIVERA,
By his attorneys

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Dated: March 10, 2022



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