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24 Most Significant Criminal and Delinquency Appellate Opinions of 2024

You can't keep us down, no, you billy-club clowns, 'cause we don't speak your language.

Benjamin Selman, ed.

January 6, 2025

Cases appear in alphabetical order by defendant/petitioner name.

1. **Commonwealth v. A. Z., 493 Mass. 427 (2024)**

Know this case if: you defend criminal or delinquency cases.

Hot take: an at-liberty defendant who may not be involuntarily hospitalized for purposes of a G. L. c. 123, § 15(b) competency evaluation unless a judge finds by clear and convincing evidence that there is no less restrictive setting for such evaluation.

See: January 30, 2024 advisory (Selman); October 22, 2024 advisory (Selman/Strout).

2. **Baez v. Commonwealth, 494 Mass. 1001 (2024)**

Know this case if: you are defending a client who has been deported or is otherwise physically unavailable for trial.

Hot take: a judge is not required to allow a defendant's virtual (e.g., Zoom) presence at trial if the Commonwealth objects.

See: Case Summaries vol. 23 (June 10, 2024).

3. **Commonwealth v. Baez, 494 Mass. 396 (2024)**

Know this case if: your client is charged as a coventurer by virtue of their role as a "getaway driver."

Hot take: proof that client acted as a getaway driver does not, by itself, prove knowledge of principal's criminal intent.

See: Case Summaries vol. 25 (Dec. 9, 2024).

4. **Boston University v. Cambridge District Court, 495 Mass. 56 (2024)**

Know this case if: you handle pre-arraignment show cause hearings.

Hot take: moving forward, the clerk-magistrate must give the accused notice of and an opportunity to be heard on a third party's request that a show cause hearing be made public.

See: Case Summaries vol. 26 (forthcoming).

5. **Campbell v. Commonwealth, 494 Mass. 750 (2024)**
Know this case if: you take cases at arraignment.
Hot take: rape is a valid G. L. c. 276, § 58A force-clause predicate.
See: Case Summaries vol. 26 (forthcoming).
6. **Commonwealth v. Canjura, 494 Mass. 508 (2024)**
Know this case if: your client has a conviction for carrying a switchblade, esp. where the conviction entered after Bruen was decided (June 23, 2022).
Hot take: so much of G. L. c. 269, § 10(b) as criminalizes the carrying of switchblades runs afoul of the Second Amendment.
See: Case Summaries, vol. 25 (Dec. 9, 2024).
7. **Cruz v. Commonwealth, 104 Mass. App. Ct. 549 (2024)**
Know this case if: you take cases at arraignment.
Hot take: ADW is a valid G. L. c. 276, § 58A force-clause predicate.
See: Case Summaries, vol. 25 (Dec. 9, 2024).
8. **Commonwealth v. Dilworth, 494 Mass. 579 (2024)**
Know this case if: you seek discovery related to an equal-protection claim.
Hot take: Commonwealth compliance with a judge’s equal-protection discovery order is not optional.
See: forthcoming advisory (Raisler Cohn).
9. **Commonwealth v. Du, 495 Mass. 103 (2024)**
Know this case if: police have covertly videorecorded your client’s oral communications.
Hot take: a wiretap violation by police requires suppression of both video and audio components of the recording.
See: Case Summaries vol. 26 (forthcoming).
10. **Commonwealth v. Encarnacion, 105 Mass. App. Ct. 46 (2024)**
Know this case if: you are defending a firearm possession case.
Hot take: it is inadmissible hearsay and a confrontation clause violation for a Dept. of Criminal Justice Information Services (CJIS) witness to testify to the results of a firearms registry search conducted by a different individual.
See: Case Summaries vol. 26 (forthcoming).
11. **Commonwealth v. Gil, 104 Mass. App. Ct. 124 (2024)**
Know this case if: you try criminal cases, esp. in the Dist./Muni./Juv. Courts.
Hot take: when one judge determines a motion in limine and a different judge presides over the trial, the prior judge’s ruling is always open to reconsideration.
See: Case Summaries vol. 23 (June 10, 2024)
12. **Commonwealth v. Gaines, 494 Mass. 525 (2024)**
Know this case if: you handle postconviction matters.
Hot take: developments in eyewitness identification science can be “newly discovered evidence.”
See: Case Summaries vol. 25 (Dec. 9, 2024).

- 13. Commonwealth v. Gelin, 494 Mass. 777 (2024)**
Know this case if: you handle probation surrenders.
Hot take: equal-protection suppression is not available in the probation surrender context.
See: Case Summaries vol. 26 (forthcoming).
- 14. Graham v. Dist. Atty. for Hampden, 493 Mass. 348 (2024)**
Know this case if: you defend criminal or delinquency cases.
Hot take: prosecutors must air their police witnesses' dirty laundry.
See: January 30, 2024 advisory (Jacobstein).
- 15. Commonwealth v. Hand, 104 Mass. App. Ct. 815 (2024)**
Know this case if: your client was interrogated by police.
Hot take: where police obtain an incriminating statement by overbearing a client's will, subsequent statements to non-government actors can be suppressed as tainted by the initial unlawful interrogation.
See: Case Summaries vol. 26 (forthcoming).
- 16. Commonwealth v. James, 493 Mass. 828 (2024)**
Know this case if: the Commonwealth seeks forfeiture of property seized pursuant to a warrant.
Hot take: a judge cannot simply order property forfeit "in the public interest," and must instead follow the procedures set forth in G. L. c. 276, §§ 4 to 8.
See: Case Summaries vol. 23 (June 10, 2024).
- 17. Makis M. v. Commonwealth, 494 Mass. 23 (2024)**
Know this case if: you defend delinquency or youthful offender cases.
Hot take: a judge cannot order an incompetent juvenile to undergo remediation programming.
See: May 16, 2024 advisory (LoPresti).
- 18. Commonwealth v. Mattis, 493 Mass. 216 (2024)**
Know this case if: you have an emerging-adult client.
Hot take: life without parole is unconstitutional for defendants aged 18-20 at the time of their offense.
See: Case Summaries vol. 22 (April 16, 2024).
- 19. Commonwealth v. Rezac, 494 Mass. 368 (2024)**
Know this case if: you are raising a lack of criminal responsibility defense.
Hot take: the "capacity to appreciate" prong of the McHoul, 352 Mass. 544 (1967) analysis is disjunctive, and the Commonwealth may prove responsibility by showing that defendant did not lack the substantial capacity to appreciate the criminality or wrongfulness of their conduct.
See: Case Summaries vol. 25 (Dec. 9, 2024).
- 20. Commonwealth v. Russo, 494 Mass. 356 (2024)**
Know this case if: you are defending an animal cruelty case.
Hot take: declining to euthanize a dying animal is not animal cruelty per G. L. c. 272, § 77.
See: Case Summaries, vol. 25 (Dec. 9, 2024).

21. Commonwealth v. Shehadi, 105 Mass. App. Ct. 60 (2024)

Know this case if: you are defending a stun gun possession case, or if your client has a past stun gun conviction.

Hot take: stun guns not shaped like handguns are not firearms per pre G. L. c. 140, § 121 as it existed prior to October 2, 2024; stun guns which do not fire projectiles may not be firearms, regardless of the date of offense.

See: forthcoming advisory (Garland).

22. Smith v. Ariz., 602 U.S. 779 (2024)

Know this case if: the Commonwealth seeks to elicit substitute-analyst/expert testimony (or, in the postconviction context, did elicit such testimony at trial).

Hot take: if an absent analyst/expert's statements only support an opinion if true, then they are hearsay.

See: Case Summaries vol. 24 (October 28, 2024).

23. Commonwealth v. Yasir Y., 494 Mass. 432 (2024)

Know this case if: you defend youthful offender cases.

Hot take: a youthful offender state prison sentence may be appealed to the App. Div. of the Superior Court, just like a criminal state prison sentence, per G. L. c. 278, § 28A.

See: November 29, 2024 advisory (LoPresti).

24. Commonwealth v. Zachairah Z., 494 Mass. 417 (2024)

Know this case if: you handle probation surrenders.

Hot take: affirmative lack of criminal responsibility defense is not available in the probation surrender context (though evidence of mental illness may still be relevant).

See: August 20, 2024 advisory (LoPresti).