

The Commonwealth of Massachusetts

Committee for Public Counsel Services

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FOR IMMEDIATE RELEASE
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Statement – Deputy Chief Counsel Randy Gioia – RE: Farak Litigation – 11-30-2017

Good morning.

This case is a reflection of how a misguided war on drugs turned into a war on poor people and people of color. If you're wealthy and white and you have a drug problem, you quietly go to drug rehab. If you're a poor person, you can't quietly go to drug rehab; more likely you get arrested and maybe you get put on probation or maybe you go to jail. And it turns out, for thousands of people the system that sent them to jail or put them on probation was rotten to the core.

Sonja Farak was a state chemist at the Massachusetts drug lab in Amherst. She started working at the lab in 2004. From the time she started working until the day she was arrested, she committed fraud after fraud after fraud. She corrupted 1000s of cases. She stole drug standards, seized drug samples she was supposed to test and used the stolen drugs to get high on the job. And not one of her co-workers or her supervisors ever discovered her criminal activity until she was arrested in January 2013. And when she was arrested, prosecutors from the former Attorney General's office didn't want to know the extent of her criminal conduct. And they didn't want the thousands of people whose cases had been corrupted by Sonja Farak to know that their cases had been corrupted.

So these prosecutors concealed evidence from defense lawyers and a judge that would have revealed the full extent of Sonja Farak's criminal activity. Prosecutors, who were sworn to prosecute criminal conduct, concealed evidence of criminal conduct. Why? Was it because the people with drug problems who were the victims of Sonja Farak's criminal didn't matter?

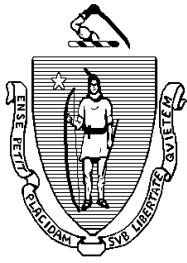
But for the persistence of court-appointed attorney Luke Ryan, who spent over a year fighting to look at the concealed evidence, the true scope of this scandal would never have come to light. And another courageous and persistent lawyer, Rebecca Jacobstein, a staff public defender at CPCS – who you will hear from shortly -has devoted hundreds if not thousands of hours to unravel this fraud on the court and get to the bottom of this massive scandal.

The concealing of evidence was not just a mistake, not just an oversight. As a Superior Court judge found after a six-day hearing in Springfield :

“Despite the drug lab defendants’ diligent discovery efforts, [two Assistant Attorneys General] managed to withhold the mental health worksheets through deception. They tampered with the fair administration of justice by deceiving [the court] and engaging in a pattern calculated to interfere with the court’s ability impartially to adjudicate discovery in the drug lab cases and to learn the scope of Farak’s misconduct. [Their] misconduct improperly influenced and distorted [the court’s] fact finding and legal conclusions and it unfairly hampered the defendants’ presentation of defenses. Their conduct constitutes a fraud upon the court.”

Dismissal of all affected cases with prejudice is the only appropriate remedy. Dismissal vindicates the rights of our clients to due process and a fair prosecution and restores the integrity to the justice system by sending a clear message to prosecutors that no conviction will be allowed to stand in the face of such fraud. There can only be zero tolerance for a war on drugs that is fought by committing fraud on a court of justice.

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Statement – Attorney Rebecca Jacobstein – RE: Farak Litigation – 11-30-2017

While our goal in this litigation is to deliver justice for all Farak defendants, it is important to remember that some injustices cannot be undone.

When the news of the Amherst Lab scandal broke, there were people in prison based on tainted Farak drug certificates. Some of them filed motions to stay their sentences and got out; they went home, returned to their families, while the justice system attempted to sort out what had happened. And then, because the Attorney General's Office hid exculpatory evidence and lied to the court, the justice system got it wrong. Because of the Attorney General's Office's deception and withholding of crucial evidence, the court ordered people, our clients, to leave their homes, leave their families, and report back to prison. One of my clients had to go back and serve 15 more months in prison, 15 months he would not otherwise have had to serve, because attorneys at the Attorney General's Office just didn't care about how their dishonesty would affect him, or anyone else for that matter. My client doesn't get that time back. Nor do any of the other defendants who lost months or years of their lives while the truth was being concealed. This is an outrage.

And now here we are, almost five years later, and no one has been held accountable for the lies, the deception, the tampering with the fair administration of justice. To my knowledge, the Attorney General's Office hasn't even publicly acknowledged it did anything wrong. Shame on them. Shame on them for caring more about punishing poor people and people of color than punishing the corruption in their midst.

As of today, the district attorneys have agreed to dismiss, with prejudice, over 5600 cases. That is a lot of cases, but it is not all of the cases. Therefore, that number is unacceptably low. Not all injustices can be undone, but tainted convictions can be, and they should be.

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