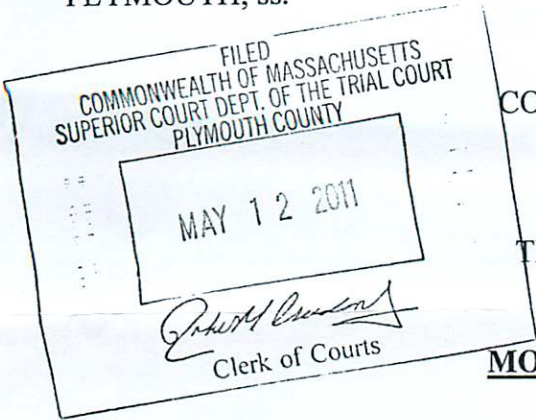


File. 5/12/11 18

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SUPERIOR COURT DEPT.
DOCKET NO. PLCR2010-00191



COMMONWEALTH

v.

TERRY LOWERY

MOTION TO SEVER

Now comes the defendant, Terry Lowery, and respectfully requests that this Honorable Court sever the charges against him from those of his co-defendants and order that the matters be tried separately.

This request is made pursuant to the 5th, 6th, and 14th Amendments to the United States Constitution, as well as Article XII of the Massachusetts Declaration of Rights and Mass.R.Crim.P. 9.

In support thereof, Mr. Lowery states the following:

1. Severance is required to protect Lowery's constitutional rights pursuant to 5th, 6th, and 14th Amendments to the United States Constitution, as well as Article XII.
2. Severance is required because Lowery and his co-defendants will present mutually antagonistic defenses.
3. Severance is required because joinder would unfairly prejudice Lowery and prevent him from obtaining a fair trial.
4. Severance is required because of alleged statements made by Lowery's co-defendants.
5. Severance is required to ensure that Lowery's rights to due process, to confront witnesses, and to present a complete defense are not violated.
6. Because of the small number of witnesses and evidence necessary for this short trial, any prejudice to the Commonwealth caused by severing the cases would be minimal.

5/12/11 (Chin, J.) After hearing, motion Allowed. Attach: John C. Barry, Asst. Clerk

CC PR 135 5-13-11