

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
Docket No. SJ-2017-M0008

KEVIN BRIDGEMAN, *et al.*

vs.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT, *et al.*

FIRST REPORT OF THE SPECIAL MASTER

The full court's opinion in Bridgeman v. District Attorney for the Suffolk Dist., 476 Mass. 298 (2017) (Bridgeman II), was issued on January 18, 2017. The decision called upon each of the District Attorneys in the seven districts for which the State chemist Annie Dookhan tested samples of suspected drugs – Suffolk, Essex, Middlesex, Norfolk, Plymouth, and Bristol Counties, and Cape & Islands – to file, by April 18, 2017, three letters with the Clerk of the Supreme Judicial Court for Suffolk County. The Bridgeman II opinion provided that the first letter of each District Attorney is to list all defendants who had been identified as "Dookhan defendants" on a list previously submitted by the District Attorney to the single justice but who in fact were not properly classified as "relevant Dookhan defendants" under the Bridgeman II opinion.¹ The second letter

¹ These include individuals who pleaded guilty before the drugs were tested by Annie Dookhan as well as individuals who

was to list all the relevant Dookhan defendants whose Dookhan drug convictions the District Attorney would move to vacate and dismiss with prejudice, "regardless of whether the case could be successfully re-prosecuted if a new trial were ordered, and the convictions that the district attorney could not successfully re-prosecute if a new trial were ordered."² Bridgeman II, supra at 327. The third letter was to list all the relevant Dookhan defendants whose convictions the District Attorney would not move to vacate and dismiss with prejudice, based on an individualized assessment of the case and a certification that the Commonwealth would be able to prosecute with untainted evidence should the defendant obtain the opportunity for a new trial on account of Dookhan's misconduct.³

Each of the seven District Attorneys filed the requested letters on a timely basis on April 18. The letters indicate that, collectively, the District Attorneys are moving to vacate and dismiss with prejudice over 21,500 cases out of a total of slightly fewer than 22,000 cases involving relevant Dookhan defendants. As these numbers show, the District Attorneys appear to have taken extremely seriously the court's charge in

had adjudicated a claim or claims relating to their Dookhan convictions before Bridgeman II was decided.

² This group of relevant Dookhan defendants is referred to as "Group 2."

³ This group of relevant Dookhan defendants is referred to as "Group 3."

Bridgeman II to conduct a careful review of each relevant Dookhan defendant case in light of Dookhan's misconduct and the importance of integrity and fairness in our criminal justice system. Other relevant considerations include the continuing burden these cases place on that system and the tax on the system's resources that the cases impose, the fact that most if not all of these defendants have already served a sentence, and the continuing adverse consequences of these convictions for the relevant Dookhan defendants. The seven District Attorneys are to be commended for their commitment to accomplish this task in a careful and timely manner, and for the enormous amount of work that they and their staffs have done. I would like to thank and commend in particular the Assistant District Attorneys who have worked so hard on this effort, a group that includes Assistant District Attorney Vince DeMore of the Suffolk County District Attorney's Office and Assistant District Attorney Quentin Weld of the Essex County District Attorney's office, who initiated this review of Dookhan cases more than two and one-half years ago; Assistant District Attorney Gail McKenna of the Plymouth County District Attorney's Office; Assistant District Attorney Patrick Bomberg of the Bristol County District Attorney's Office; First Assistant Brian Glenny of the Cape & Islands District Attorney's Office; Assistant District Attorney Susanne O'Neil of the Norfolk County District Attorney's Office; and

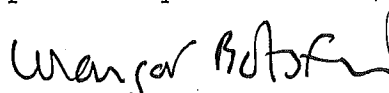
Assistant District Attorney Robert Bender of the Middlesex County District Attorney's Office. Assistant District Attorneys O'Neil and Bender, along with defense attorneys Nancy Caplan of the Committee for Public Counsel Services and Carl Williams of the American Civil Liberties Union, who represent defendants in the Bridgeman litigation, have served and continue to serve as members of a small working group providing invaluable assistance to this court in the ongoing efforts to implement the Bridgeman II decision. The working group has met every two weeks since the Bridgeman II decision was issued in January to work on implementation issues that are briefly summarized below. All the members of the working group, including Assistant Clerk Amy Stewart, Mark Prior, the Trial Court's deputy chief information officer, and many other participating court staff members have dedicated countless hours, consistently made thoughtful and creative contributions to the group effort, and exhibited a degree of mutual cooperation and dedication to the task that has been quite extraordinary.

What follows is a partial summary of the work that we collectively have undertaken to effectuate the Bridgeman II decision; most of this work is ongoing.

1. Drafting the notices to be sent to relevant Dookhan defendants in Group 2 and Group 3 - the work included a review and revisions to accommodate more "plain English";

2. Studying mailing options for the notices; the proposed decision is to use delivery by UPS with signature required, with some exceptions; mailing is to be sent on or before May 18, 2017;
3. Working on an outreach plan to enhance notice to relevant Dookhan defendants, including the use of social media;
4. Creating materials to be posted on the Court website concerning Bridgeman II and its protocols, to be accessed at www.mass.gov/courts/druglab;
5. Arranging for translations of the notices for relevant Dookhan defendants into eight languages in addition to English; translated versions of the notices will appear on the court website;
6. Working with the Massachusetts Probation Service in the Trial Court to arrange for all dismissals of the convictions the District Attorneys have included in their Group 2 Letters to be reflected on CARI, and thereby on CORI; the Probation Service anticipates this work may take two to three months, but will accomplish it as soon as is possible;
7. Working with the Deputy Court Administrators and court staff in the four departments of the Trial Court in which convictions involving relevant Dookhan defendant convictions have taken place – the District Court, Boston Municipal Court, Superior Court, and Juvenile Court – to arrange for dismissals of the convictions included in the District Attorneys' Group 2 letters to be properly reflected in court docket entries; court staff anticipates this may take up to two months to complete, but again intend to accomplish it as soon as it is possible.

Respectfully submitted,



Margot Botsford
Special Master

Dated: 20 April 2017