

**Bristol County District Attorney's Office**  
**C. Samuel Sutter**  
**District Attorney**

**Press Release**  
**December 31, 2008**

District Attorney Sam Sutter will go before the Supreme Judicial Court Monday, January 5<sup>th</sup> to argue that his innovative use of the state's Dangerousness Statute in all illegal firearm cases involving a felony is legally valid. District Attorney Sutter will personally handle the arguments before the SJC, and will be assisted by Assistant District Attorney Rachel Eisenhaure, of the office's Appeals Unit.

The argument before the SJC will center on the cases of Commonwealth vs. Shamusideen Alabi , Commonwealth vs. Thomas Young and Commonwealth vs. Jermaine Rodriguez.

In the Alabi case, the defendant was arrested after a motor vehicle stop in the Corky Row section of Fall River, and charged with, among other crimes, carrying a loaded 9mm semi-automatic handgun and carrying an illegal firearm with three previous serious felony convictions. Per office policy, the District Attorney's Office moved for a dangerousness hearing in Fall River District Court. The hearing judge made a finding that the defendant was "dangerous," and Alabi was held without bail. He was then indicted, and his case transferred to Superior Court, where once again the District Attorney moved for a dangerousness finding, and Judge Frances McIntyre agreed, and the defendant was held without bail. The defendant petitioned the single justice of the SJC for review, but his challenge to Sutter's use and interpretation of the Dangerousness Statute was rejected without a hearing by Justice Roderick L. Ireland last July. The defendant has since appealed the Single Justice ruling to the full SJC.

In the Young and Rodriguez cases, defendant Young was arrested following a motor vehicle stop in the Whittenton section of Taunton and charged with carrying a loaded Smith & Wesson .357 Magnum. Defendant Rodriguez was also arrested in Taunton following a motor vehicle stop and charged with, among other crimes, possession of a

large capacity firearm. After their respective indictments, the District Attorney moved to have Young and Rodriguez deemed dangerous and held without bail in the Superior Court, but Judge David McLaughlin denied those requests. The District Attorney appealed Judge McLaughlin's findings, contending that he committed legal error when he ruled that carrying a loaded firearm is not inherently dangerous according to the statute. District Attorney Sutter maintains the Legislature wanted the Dangerousness Statute to encompass the charge of carrying an illegal firearm.

The overriding issue in both cases, however, will be whether carrying a loaded firearm without a license by its nature presents a substantial risk that physical force against another will result. District Attorney Sutter has repeatedly pointed to the first section of the statute to support his argument that the statute does encompass the crime of carrying an illegal firearm without a license. The first section explicitly states that the Commonwealth may move for a dangerousness hearing if the charge a defendant faces is a "felony that by its nature involves a substantial risk that physical force against the person of another may result." District Attorney Sutter has constantly asserted, in view of the dozens of illegal firearm related fatalities each year in Massachusetts, the Legislature unquestionably intended that the statute to cover this crime.

The District Attorney's interpretation of the statute has been almost uniformly accepted by District, Superior and Appellate Court judges. In fact, in her ruling to detain Alabi after a Superior Court dangerousness hearing last year, Judge Frances McIntyre wrote, "no legitimate reason comes to mind for ( a loaded 9mm semi-automatic handgun's) ready accessibility under these circumstances, but for its use against another person, with consequent injury....No legitimate reason, i.e., hunting or sporting, exists for the availability of a deadly weapon in most circumstances, but for its use against another person, with harmful results."

"I've been looking forward to this day for a long time. I believe that the Supreme Judicial Court is going to rule that my interpretation that the dangerousness statute encompasses the crime of carrying an illegal loaded firearm is a valid one," District Attorney Sutter said.

Since instituting the dangerousness hearing policy immediately after he was sworn into office two years ago, District Attorney Sutter's prosecutors have triumphed in 141 of the 197 illegal-firearm related dangerousness hearings held in the county's four district courts. During the past two years, Bristol County has seen a corresponding decline in illegal gun violence.

In 2006 in New Bedford, some 38 individuals were shot. Over the past 24 months, the rate of shootings has been cut by more than 50 percent. Reports of shots fired in Fall River and Taunton have also dropped since 2006. Fall River saw a 36 percent decrease in shots fired from 2006 to 2007. In 2008, reports of shots fired in Fall River have remained nearly the same as in 2007. Taunton also saw its shots fired calls decrease from 118 in 2006 to 86 in 2007. The number of shots fired in Taunton in 2008 have remained

the same, with the Taunton Police Department reporting 84 shots fired calls though December 30, 2008.

The arguments are scheduled to begin at 9 a.m. in Courtroom 1 inside the John Adams Courthouse at 1 Pemberton Square in Boston. Alabi will be represented by Fall River Elizabeth Doherty, Young will be represented by attorney Willie Davis of Boston and Rodriguez will be represented by Fall River attorney Paul Patten.

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