

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
NO. 8484CR48699

COMMONWEALTH

V.

JOSEPH POPE

NOLLE PROSEQUI

Now comes the Commonwealth in the above captioned matter and respectively states that it will no longer prosecute the above-captioned indictment.

As grounds therefor, the Commonwealth respectfully asserts the following:

1. On August 15, 1984, a Suffolk County Grand Jury returned the above-referenced indictment charging the defendant Joseph Pope, AKA Louis Jackson (hereinafter "the defendant") – and a second indictment charging co-defendant Floyd Hamilton, AKA Albert Brown – with first degree murder, armed robbery, and possession of a shotgun¹, for the May 23, 1984, shooting death of Efrain DeJesus and armed robbery of Bienvenido DeJesus.
2. In 1985, the defendants were tried together before a Suffolk County jury, but the deliberating jury was unable to reach a unanimous verdict and a mistrial was declared.
3. In 1986, on the eve of trial, the matters were severed after co-defendant Hamilton was allowed to proceed pro se and his request for a continuance was allowed. The Commonwealth elected to proceed to trial against the defendant where he was found guilty of first degree murder under the theory of felony murder and armed robbery.
4. Steele, J., sentenced the defendant to state prison for life without the possibility of parole. The Supreme Judicial Court affirmed the defendant's conviction on direct appeal. *Commonwealth v. Pope*, 406 Mass. 581 (1990).


¹ The Suffolk County Grand Jury only returned an indictment for possession of a shotgun against Hamilton.

5. In May of 1987, Floyd Hamilton was convicted by a Suffolk County jury of first degree murder and armed robbery and was acquitted of possession of a shotgun.
6. Welch, J., sentenced Hamilton to state prison for life without the possibility of parole with a concurrent sentence of 35-45 years committed on the armed robbery. The Supreme Judicial Court affirmed Hamilton's conviction on direct appeal. *Commonwealth v. Hamilton*, 411 Mass. 313 (1991).
7. At each trial, the Commonwealth presented evidence that on May 23, 1984, the defendant and Hamilton arrived at the home of Efrain and Bienvenido DeJesus to meet with Efrain DeJesus regarding the sale of cocaine. Bienvenido DeJesus testified that Hamilton shot and killed Efrain DeJesus with a shotgun and that the defendant, with whom Bienvenido DeJesus was familiar with from work, committed an armed robbery of Bienvenido DeJesus by putting a handgun to his head and stealing approximately \$12 in U.S. currency from Bienvenido DeJesus.
8. On February 22, 2021, the Honorable Judge Squires-Lee denied the Defendant's Rule 30 Motion for Postconviction Relief. The defendant filed a timely appeal.
9. On June 7, 2022, the Supreme Judicial Court allowed the defendant's appeal, ordering a new trial for the defendant due the Commonwealth's failure to provide exculpatory evidence. *Commonwealth v. Pope*, 489 Mass. 790 (2022).
10. The Supreme Judicial Court found the Commonwealth failed to provide to the defendant several exculpatory inconsistent statements of Bienvenido DeJesus as well as names and addresses of potential witnesses that were contained in two documents prepared by Assistant District Attorney Robert Goodale.
11. The Commonwealth has considered a number of facts including (1) the lead investigators for the Boston Homicide Unit are deceased. These investigators may have been able to put in context the statements contained in the Goodale documents and would have been able to respond to an expected Bowden defense that their prior trial testimony did not address; (2) after a thorough search of the Boston Police Archives, the Boston Police Department has not been able to locate the original homicide investigative file; (3) after an exhaustive search, the Boston Police Firearms Analysis Unit and Boston Police Crime Laboratory have not found the physical evidence connected to this investigation; and (4) that the defendant is now seventy years old and served thirty-seven years in prison before his release.
12. While Bienvenido DeJesus is available to testify, the Commonwealth cannot adequately investigate or prepare the case for trial without access to the original investigators and investigative materials.
13. Consequently, and due to the passage of time, the Commonwealth's ability to prove the charged offenses beyond a reasonable doubt is significantly impaired.

14. The Commonwealth has reached this conclusion after a thorough and comprehensive review of the case.
15. In view of the numerous legal and practical considerations set forth above, the filing of this nolle prosequi by the Commonwealth is appropriate.

Respectfully Submitted
For the Commonwealth

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