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SJC-09899

COMMONWEALTH vs. MELVIN B. EWING.

September 28, 2007.

Practice, Criminal, Cross-examination by prosecutor, Argument by prosecutor, Appeal, New trial.

The defendant was convicted by a jury of rape. The Appeals Court reversed his conviction and ordered a new trial. Commonwealth v. Ewing, 67 Mass. App. Ct. 531 (2006). The court held that multiple errors in the prosecutor's cross-examination of the defendant and in her closing argument created a substantial risk of a miscarriage of justice. Id. at 541-545. We allowed the Commonwealth's application for further appellate review. Having carefully reviewed the parties' arguments and the record, we agree that a new trial is required for the reasons set forth by the Appeals Court in its opinion.¹

Judgment reversed.

Verdict set aside.

Remanded for a new trial.

J. Thomas Kirkman, Assistant District Attorney, for the Commonwealth.

Aziz Safar for the defendant.

¹ The Appeals Court rejected various other claims made by the defendant concerning the denial of his motion to suppress certain forensic evidence, the sufficiency of the evidence of rape, and the alleged ineffectiveness of his trial counsel. Commonwealth v. Ewing, 67 Mass. App. Ct. 531, 537-541 & 546 n.13 (2006). We likewise reject those claims, again for the reasons set forth by the Appeals Court.