

Mr. Winston made a request for an instruction on Ms. Willingham's possible bias due to criminal activity was. The Court ended up giving a modified form of the instruction.

WITNESS BIAS – POSSIBLE PROSECUTION FOR CRIMINAL ACTIVITY

There has been evidence introduced that Ms. Willingham engaged in criminal activity before the time of her initial (and subsequent) accusation against Mr. Winston. You may consider this evidence to determine what effect, if any, this criminal activity had on the witness's testimony.

You are allowed to consider this evidence to determine whether there is a possibility that a prosecution witness is hoping for favorable treatment regarding criminal activity even if the Commonwealth has offered no inducements to the witness and even if there is no evidence indicating that there was any threat of prosecution. You are also permitted to consider this evidence to determine whether any bias on the part of Ms. Willingham existed at the time of Ms. Willingham's initial accusation.

See Commonwealth v. Henson, 394 Mass. 584, 587 (1985); *Commonwealth v. Decoste*, 51 Mass. App. Ct. 691, 694 (2001); *Commonwealth v. Joyce*, 382 Mass. 222, 230-31 (1981); *See* Debra S. Krup & Paul R. Rudof, *MCLE: Trying Sex Offense Cases in Massachusetts, Chapter 17: Jury Instructions* (2012 ed.).