

Michael Elbery, C5634  
S.E.C.C. Prison A 406  
12 Administration Rd.  
Bridgewater, Mass. 02324  
2-19-01

Mass.S.J.C.  
1300 New Court House  
Pemberton Sq.  
Boston, Mass. 02108

RE: Petition C. 211 s. 3  
Com. v. Elbery #0049CR1893A (Amended 3006AB)  
Framingham District Court

Dear Clerk:

Please find for immediate filing and review by a Single Justice,  
"Petition under MGL C. 211 s. 3"

Please send me a docket number on this case. If a fee is required either inform me and I will have the prison treasurer send you the money or have the Court attach my inmate account. To my best knowledge there is no fee for an incarcerated petitioner.

Thank you.

*Mike, please*

Petition 211 s.3

Regarding: Com. v. Elbery  
Framingham District Court #0049CR1893A

document listing

Petition C. 211 s. 3 9 pages

Certificate of Service 1 page

Affidavits 2 pages

Exhibit A - Complaint, Com. v. Elbery, #0049CR1893 amended to  
#003006 1 page

Exhibit B - Docket Entries, Com. v. Elbery, #0049CR1893  
and amended #3006 3 pages

Exhibit C - 4 letters firing Robertson 6 pages

Exhibit D - Defendant's Notice to Continue Prose 8 pages

Exhibit E - Defendant's Notice Court Appointed lawyer  
fired 7 pages

Exhibit F - Defendant's Objection and Refiling of 6  
Pro se Discovery Motions 11 pages

Ex. 1 - Defendant's Motion for Supplemental  
Discovery 8 pages

Ex. 2 - Defendant's Motion for Additional  
Discovery 4 pages

Ex. 3 - Defendant's Motion for Evidentiary  
Hearing of Peter H. Gear 5 pages

Ex. 4 - Defendant's Motion for Court Order and Related Subpoena	5 pages
Ex. 5 - Defendant's Motion for Discovery Post- Brekka	14 pages
Ex. 6 - Defendant's Motion for Discovery	3 pages
Exhibit F - Defendant's Motion Bill of Particulars	3 pages
Exhibit H - defendant's Motion for Omnibus Discovery	13 pages

COMMONWEALTH OF MASSACHUSETTS

Single Justice

Mass. S.J.C.

Docket #

Commonwealth of Massachusetts

v.

Michael Elbery

PETITION UNDER M.G.L. C. 211 S. 3  
to

ORDER REINSTATEMENT OF THE DEFENDANT'S SELF-REPRESENTATION

for the

3-8-01 PRE-TRIAL HEARING AND ENTIRETY OF CASE

and

ORDER DISTRICT COURT TO DOCKET PRO SE DISCOVERY MOTIONS

AND

STAY OF CASE UNTIL ORDERS OBEYED BY THE DISTRICT COURT

1. The defendant above docketed petitions the Single Justice of the Massachusetts S.J.C. to stop an injustice at the Framingham District Court regarding the criminal action Commonwealth v. Michael Elbery docket #0049CR1893A (amended to #00-CR-03006AB) as is required by M.G.L. C. 211 s. 3, Superintendence of Inferior Courts. The injustice at the Framingham District Court against this defendant constitutes a violation of Mass. law and the U.S. Constitution's 6th and 14th Amendments and thus the defendant's substantive rights. See Exhibit A.

2. The injustices and violations of this defendant's substantive rights are as follows:

a. The Court, Judge Paul Healy, refuses to allow the defendant to represent himself at the scheduled 3-08-01 Pre-Trial Hearing in order to prevent the defendant from arguing his, previously filed, pro se discovery motions. This will result in a wholesale sell-off by the Court appointed attorney of exculpatory defense evidence that would be yielded by these discovery motions.

b. The Court refuses to docket 6 of this defendant's pro se discovery motions.

#### BACKGROUND FACTS

3. The petitioner/defendant, Michael Elbery, was arrested, supposedly, due to an incident while he was working at a Mobil convenience store in Framingham, Mass. on 7-4-00.

4. This defendant, during that incident in #3, was attacked with various weapons by a drunken customer (the alleged victim) at around 2:30 a.m. This while the defendant was recording the drunk's auto registration number while the drunk was absconding with a full tank of stolen gas from that Mobil.

5. The drunk (alleged victim) pursued, kicked and bludgeoned this defendant with weapons while the defendant was trying to lock himself

inside the Mobil.

6. A group of "Good Samaritans" chased the drunk-robber, who fled with the stolen tank full of gas. This while the defendant was locked inside the Mobil store.

7. Framingham Police Dept. (hereinafter F.P.D.) investigating officer, Sgt. Hector Sanchez, claims the drunk robber is a victim because he has injuries.

8. The entire incident, alleged criminal episode, was filmed by 3 video cameras, however, the F.P.D. destroyed that video.

9. The defendant has been in prison since 7-7-00 due to the charges claimed by the Middlesex D.A.'s Office and the F.P.D.

INJUSTICE #1 - Defendant Deprived of the Right to Self-Representation at Scheduled 3-08-01 Pre-Trial Hearing.

10. The defendant hired attorney Ken Brekka in July '00 to defend the above charges. See Exhibit B.

11. Brekka withdrew from the case on 11-14-00 claiming he was a witness. Brekka observed a F.P.D. booking photo taken on 7-4-00, at 1:20 p.m., of the alleged victim for an outstanding 6 year old felony charge. That booking photo did not reveal the head injury depicted in the F.P.D.'s photos of the alleged victim, (supposedly caused by the defendant), taken on 7-5-00 by the F.P.D. These fabricated photos are the prosecution's case-in-chief. Brekka claimed he was not able to obtain the booking photo from the F.P.D.

12. The defendant represented himself, pro se, from 11-14-00. On 12-28-00, at a hearing of the same case, this defendant requested a "stand-by counsel" to assist him to perform "discovery chores" that the defendant cannot do because of incarceration.

13. The Framingham Court, Judge Paul Healy, at the 1-31-01 hearing of the case, assigned a counsel, Attorney James Robertson, to the defendant and informed the defendant that Attorney Robertson, not the pro se defendant, would be arguing this defendant's pro se discovery motions at the Pre-Trial Hearing on 3-08-01. Those pro se discovery motions had already been filed.

14. In open court on 1-31-01 the defendant protested this Healy activity in #13.

15. This pro se defendant immediately, on 1-31-01, fired Attorney James Robertson, in writing, and notified the Framingham District Court of the same. See Exs. C,D,E.

16. This defendant, Michael Elbery, refuses to allow any bar-attorney to represent him and argue his pro se discovery motions at the scheduled 3-08-01 Pre-Trial Hearing or for the balance of this case.

17. This defendant demands as is his right via the U.S. Constitution's 6th Amendment, to remain pro se and represent himself before a jury.

18. At this late date, 2-19-01, this defendant has heard no response regarding his notice and motions in #15, as the Framingham District Court refuses to allow this defendant to represent himself pro se and require Attorney James Robertson to withdraw. This is an outrageous violation of this defendant's "Right to Self-Representation" under the 6th Amendment of the U.S. Constitution. See Memo of Law below. The state actors at Framingham District Court will use Attorney Robertson to ignore this pro se defendant's discovery motions, as below, and acquiesce in those state actors' plan to maliciously prosecute and frame this defendant via a wholesale sell-off of this defendant's right to mandatory discovery from the prosecution.

Injustice #2 - Defendant's Pro se Discovery Motions not Docketed by the Court - Violation of Substantive and Procedural Due Process Rights Under the 14th Amendment of the U.S. Constitution

19. The defendant was notified by his then attorney, Ken Brekka, that he would be withdrawing and that he, Brekka, could not file certain discovery motions as requested by this defendant, Michael Elbery.

20. As a result of the activity in #19 this defendant filed 4 Pro se discovery motions, in October and November of '00. See Exhibits 1 through 4 of Exhibit F.

21. The defendant requested docket entries of the above case on 2-7-01 and found that those 4 discovery motions in #20, as well as, 2 subsequently filed Pro se discovery motions were not docketed. See Ex. B

22. This Pro se defendant resubmitted/refiled via certified mail these same 6 Pro se discovery motions in #'s 20, 21. See Ex. F and its supporting exhibits 1 through 6.

23. This Pro se defendant also filed an "Omnibus Discovery Motion" and "Bill of Particulars" on 2-17-01 to further protect his discovery rights. See Exs. G and H.

24. The state actors at the Framingham District Court pretend the defendant's Pro se discovery motions in #'s 19-23, above, do not exist, this in order to railroad and frame this defendant-citizen via deprivation of his mandatory and excupatory discovery as required by the Federal Brady laws and M.R.Cr.P-14 and M.G.L. C. 218 s. 26A. This activity (Injustice #2) by the Framingham District Court state actors is a violation of this defendant's 6th and 14th Amendments of the U.S. Constitution and Article 12 of the Massachusetts Declaration of Rights - the defendant's Substantive Rights to a Fair Trial, the Right to be Prepared for

Trial, the Right to Present a Complete Defense, and a Right to Due Process of Law.

MEMORANDUM OF LAW AND ARGUMENT

Right to Self-Representation

Per Blumenson, Mass. Criminal Practice, Vol. 1 p. 153 ('98), the defendant has a Constitutional Right to represent himself, Com. v. Lee, 394 Mass. 209, 216 ('85) (6 other state and Federal-1st Circuit cases cited), even where the defendant has no legal knowledge.

The right to self-representation is established in the U.S. Constitution by the Sixth Amendment Rights to defend and to counsel and the Fourteenth Amendment Due Process Clause; and the Mass. Declaration of Rights via Article 12, guaranteeing the right to defend in person or by counsel. Com. v. Chapman, 8 Mass. App. Ct. 260, 265, (1979).

Violation of this Right, self-representation, is reversible error per se. McKaskie v. Wiggins, 465 U.S. 168, 177 n. 8 ('84); Com. v. Confrey, 410 Mass. 1, 10 ('91) (other Mass. and U.S. cases cited).

The Massachusetts and Federal law on this issue, self-representation, could not be any stronger, the Framingham District Court must allow this defendant to represent himself at the 3-08-01 Pre-Trail Conference, of the above docketed case, and the entirety of the case.

This demand for self-representation does not delay the case, as this defendant alerted both Robertson and the Court that Robertson was fired and the defendant remained pro se the same day the Court appointed him, 1-31-01. See Exhibits C, D, F for this and the defendant informing the Court he would be prepared to argue discovery motions/issues on the scheduled 3-8-01 Pre-Trail Hearing.

Due Process Violation - Impeding the Defendant's Use of the Court

The state of Massachusetts provides discovery procedures for every criminal defendant, including the right to motion for government held evidence via M.R.Cr.P. - Rule 14a. The Fourteenth Amendment of the U.S. guarantees this criminal defendant use of these same state discovery procedures. Richards v. Jefferson County, Ala., 116 S. Ct. 1761, 517 U.S. 793; Alexander v. Whitman, 114 F3d 1392. The Court's refusal to docket this pro se defendant's discovery motions is an outrageous, arbitrary action that shocks the conscience and interferes with rights implicit in the concept of ordered liberty, which the Due Process Clause of the Fourteenth Amendment protects this defendant against. Real v. Okin, 738 F2d 1: Pisa v. Street 491 F. Supp. 530, (state violates Due Process Clause when it acts in such a way as to shock the conscience through behavior which offends a sense of justice or runs counter to the decencies of civilized conduct).

In addition, this same activity, not docketing the defendant's motions, by the state actors at the Framingham District Court violates the defendant's Right to Access to the Court. This defendant cannot get a Fair Trail if he is not allowed state mandated discovery procedures that allow him to prepare for trial.

Lastly, this activity of not docketing this defendant's motions ties in to the plan by the state actors at the Framingham District Court to prevent this defendant from self-representation at the Pre-Trial Hearing on 3-8-01. This defendant's pro se discovery demands are dangerous to the prosecutions case and they act like they know it.

M.G.L. C. 211 s. 3 - Why the above injustices of the defendant's substantive rights should not have to wait for relief via appeal.

The above scenario (gross and brazen violation of the Constitution) involving this defendant at the Framingham District Court is nothing but a kangaroo court aimed at railroading (malicious prosecution) a U.S. citizen, Michael Elbery, who, as everyone in the Mass. Judicial System and the Mass. Executive Branch knows, is already doing a 10 year prison sentence for an unconstitutional conviction in Worcester Superior Court in July of '93. This defendant exposed Superior Court Judge Dan Toomey's participation in that '93 conspiracy to maliciously prosecute and falsely imprison this defendant causing the Governor of Massachusetts to "overlook" Toomey's application for S.J.C. Justice. Toomey had been billed as the favored applicant amongst 15 finalists for the first of five S.J.C. vacancies. See Boston Globe, page 1, 9-27-99.

This entire criminal charge, as above, at the Framingham District Court and related false imprisonment and malicious prosecution is, in part, a retaliation for this citizen's, Michael Elbery's, crusade for justice against Judge Dan Toomey and that unconstitutional conviction for "attempted mayhem" in '93.

The state actors at the Framingham District Court aim at having a court appointed lawyer agree with the Court to ignore this defendant's discovery requests that otherwise will produce evidence that will make a mockery of the prosecutor's case. Against this defendant's repeated written objections the state actors at the Framingham District Court plan on using one of their attorneys, James Robertson, to "sell-out" this defendant's rights to that same mandatory discovery that would be produced by the defendant's discovery motions.

Note, this defendant should have already received the discovery as requested per his discovery motions incorporated herein. The discovery requested is mandatory under Rule 14a of the M.R.Cr.P and M.G.L. C. 218 s. 26A. The Pre-Trial Hearing was originally scheduled for 11-14-00 and continued when Brekka quit. Brekka also continued the Pre-Trial Conference but the prosecutor refuses to talk to this defendant. The prosecutor has had plenty of time to produce the re-

quested discovery, most of which is mandatory.

The above are violations of the defendant's substantive rights which will upon public exposure undermine the Massachusetts Judicial System causing shame and embarrassment to those men and women in the judiciary that the society has entrusted to run the Courts and safe-guard justice. The case above, like the one in Worcester in '93, where Toomey Knowingly gave an innocent man 10years in a state prison, will not just cause an injustice for the defendant but will cause the members of society to distrust the Courts in Massachusetts even more.

The Mass. S.J.C. has been alerted to the situation and must act now to stop the violation of this defendant's substantive rights as the Massachusetts legislature intended via C. 211 s. 3 , or, otherwise be held to advocate such treachery in their courts.

Society has a right to have its appointed judicial officials in the Mass. S.J.C. stop the lynch mob that is railroading this defendant, as above. The S.J.C. should not excuse the criminal conduct, enumerated above, with existence of an appeal process.

WHEREFORE,

The pro se defendant, Michael Elbery, asks the Mass. S.J.C. to acknowledge and witness this injustice, as above, and,

1. order the state actors at Framingham District Court to recognize , immediately, the defendant's right to self-representation before the Pre-Trial Hearing scheduled for 3-08-01 takes place,
2. the defendant further asks the S.J.C. to order the Framingham District Court to docket the 6 discovery motions the court is pretending do not exist and have the court review and allow those 6 motions and Exhibits G and H to be argued at the 3-8-01 Pre-Trial Conference.
3. stay the proceedings of the above docketed case until the Framingham Court obeys these orders,
4. insure that the state actors at the Framingham District Court do

not rig the jury. For a man as unpopular in the Mass. courts there can only be 1 reason why the AB-DW charge did not result in Superior Court jurisdiction where the prison sentence would be much greater, that is, a jury of six

is easier to fix  
than 12.



Michael Elbery, C57634

SECC Prison A-406  
12 Administration Rd.  
Bridgewater, Mass. 02324

2-19-01

Certificate of Service

I the defendant, Michael Elbery, sent this C. 211 s. 3 Petition to the Clerk-Mass. S.J.C. at 1300 New Court House, Pemberton Sq. Boston, Mass. 02108 and to the Mass. Attorney General's Office, 1 Ashburton Place, Boston, Mass. 02108 and to the Clerk - Criminal Framingham District Court, 600 Concord St., Framingham, Mass. 01701 and to the Framingham D.A.'s Office, 100 Concord St., Framingham, Mass. 01701 all via U.S. certified mail\* prepaid on 2-23-01 from S.E.C.C. Prison.



Michael Elbery, prose

S.J.C. - certified mail 2-21-01 # 7099 3800 0010 7041  
return receipt 6678

Aff. Gen's Office - certified mail 2-22-01# 7099 3800 0010 7041  
return receipt 6517

Clerk-Framingham Dist. Ct - certified mail - 2-22-01 # 7099 3800  
return receipt 0010 7041 6524

D.A.'s Office - cert. mail return receipt - 2-22-01 # 7099 3800  
0010 7041 6654

② filing S.J.C. - certified U.S. mail - return receipt # 7099 3800 0010 7041  
on 2-23-01 6692

COMMONWEALTH OF MASSACHUSETTS

Commonwealth

Mass. S.J.C.

v.

Elbery

AFFIDAVITS IN SUPPORT  
OF  
PETITION UNDER M.G.L. C. 211 S.3  
REGARDING #0049CR1893A

FRAMINGHAM DISTRICT COURT

I am the defendant pro se, Michael Elbery, I am falsely incarcerated at SECC Prison, Bridgewater, Mass.

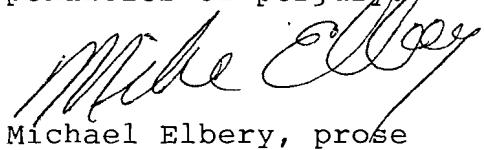
1. The courtroom clerk at the 12-28-00 hearing of the case at Framingham District Court complained to the judge about me filing the 4 pro se motions that are incorporated in Exhibit F.
2. I saw that same court clerk with the motions in his hands as he complained that I had filed those 4 pro se motions.
3. As per docket entries of the case, Exhibit B, the originally scheduled Pre-Trial Conference was continued from 11-14-00 as was the Pre-Trial Conference by my attorney who quit, Ken Brekka.
4. The Pre-Trial Conference was continued so I could run the discovery because Brekka said there were requests that I was making that he could not make.
5. I have yet to hear anything from the prosecution. The prosecu-

tion has yet to produce many of the mandatory discovery that is obvious in this case that I have had to demand through discovery motions. An example of this is the alleged victim's hospital and doctors records for his alleged injuries. See exhibit H.

6. I fired court appointed attorney, James Robertson, on 1-31-01 which was the same day the court appointed him. I also sent notice to the Framingham District Court of this Robertson dismissal on 1-31-01. See Exhibits C, D, E.

7. I hate the term but it was I who was the victim. I was working at the Mobil store and was robbed by a drunk. I was the one who got hit over the head during that robbery that it caused me to be hospitalized at the Deaconess-Glover in Needham and treated by Dr. Buchler. My head injury was bad enough that I was given a CAT SCAN.

Signed on this 19th day of February, 2001 under the pains and penalties of perjury



Michael Elbery, pro se

## CRIMINAL DOCKET

DOC NO.  
0 CR003006COURT DIVISION  
Framingham INTERPRETER REQUIREDATTORNEY NAME  
*K*

Ex. A

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

ELBERRY, MICHAEL  
168 FAIRFIELD STREET  
NEEDHAM, MA

DATE and JUDGE

OCT 17, 2000  
GARCO

DOCKET ENTRY

- Attorney appointed (SJC R. 3:10)  
 Atty denied and Deft Advised per 211D (2A)  
 Waiver of counsel found after colloquy

Terms of release set:

- PR  Bail: 500 -  
 Held (276 §58A)  
 See back for special conditions

Arraigned and advised:

- Potential of bail revocation (276 §58)  
 Right to bail review (276 §58)  
 Right to drug exam (111E §10)

Advised of right to jury trial:

- Does not waive  
 Waiver of jury trial found after colloquy

DEFT. DOB AND SEX

02/08/1952 M

DATE OF OFFENSE(S)

07/05/2000

PLACE OF OFFENSE(S)

FRAMINGHAM

COMPLAINANT

TRASK, STEVEN

POLICE DEPARTMENT (if applicable)

FRAMINGHAM PD

DATE OF COMPLAINT

10/17/2000

RETURN DATE AND TIME

10/17/2000 09:00:00

Advised of trial rights as pro se (Supp. R. 4)

Advised of right of appeal to Appeals Ct (R. 28)

COUNT/OFFENSE

1. 265/13A/B A&amp;B c265 §13A

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

SENTENCE OR OTHER DISPOSITION

 Sufficient facts found but continued without guilty finding until: Probation  Pretrial Probation (276 §87) - until: To be dismissed upon payment of court costs/restitution Dismissed upon:  Request of Comm.  Request of Victim Request of Deft  Failure to prosecute  Other: Filed with Deft's consent  Nolle Prosequi  Decriminalized (277 §70C)

FINAL DISPOSITION

JUDGE

DATE

 Dismissed on recommendation of Probation Dept. Probation terminated: defendant discharged

COUNT/OFFENSE

2. 265/15A/A A&amp;B WITH DANGEROUS WEAPON c265 §15A

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

SENTENCE OR OTHER DISPOSITION

 Sufficient facts found but continued without guilty finding until: Probation  Pretrial Probation (276 §87) - until: To be dismissed upon payment of court costs/restitution Dismissed upon:  Request of Comm.  Request of Victim Request of Deft  Failure to prosecute  Other: Filed with Deft's consent  Nolle Prosequi  Decriminalized (277 §70C)

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COUNT/OFFENSE

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

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DATE

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COUNT/OFFENSE

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

SENTENCE OR OTHER DISPOSITION

 Sufficient facts found but continued without guilty finding until: Probation  Pretrial Probation (276 §87) - until: To be dismissed upon payment of court costs/restitution Dismissed upon:  Request of Comm.  Request of Victim Request of Deft  Failure to prosecute  Other: Filed with Deft's consent  Nolle Prosequi  Decriminalized (277 §70C)

FINAL DISPOSITION

JUDGE

DATE

 Dismissed on recommendation of Probation Dept. Probation terminated: defendant discharged ADDITIONAL COUNTS ATTACHED

A TRUE COPY ATTEST: X

CLERK/MAGISTRATE/ASST. CLERK

ON (DATE)

6/16/01

COURT ADDRESS  
Framingham District Court  
600 Concord Street  
PO Box 828 Framingham, MA 01701-8003

## CRIMINAL DOCKET

DOC  
01

R003006

ATTORNEY  
*K*

Ex. A

COURT DIVISION  
Framingham INTERPRETER REQUIRED

DATE and JUDGE

DOCKET ENTRY

OCT 17 2000

GARCO

 Attorney appointed (SJC R. 3:10) Atty denied and Deft Advised per 211D §2A  
 Waiver or counsel found after colloquy

OCT 17 2000

Terms of release set:

- PR  Bail: \$500  
 Held (276 §58A)  
 See back for special conditions

OCT 17 2000

Arraigned and advised:

- Potential of bail revocation (276 §58)  
 Right to bail review (276 §58)  
 Right to drug exam (111E §10)

Advised of right to jury trial:

- Does not waive  
 Waiver of jury trial found after colloquy

DEFT. DOB AND SEX

02/08/1952 M

DATE OF OFFENSE(S)

07/05/2000

PLACE OF OFFENSE(S)

FRAMINGHAM

COMPLAINANT

TRASK, STEVEN

POLICE DEPARTMENT (if applicable)

FRAMINGHAM PD

DATE OF COMPLAINT

10/17/2000

RETURN DATE AND TIME

10/17/2000 09:00:00

COUNT/OFFENSE

1. 265/13A/B A&amp;B c265 §13A

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

JULY 17 2000 - *Stoddard*

## SENTENCE OR OTHER DISPOSITION

- Sufficient facts found but continued without guilty finding until:  
 Probation  Pretrial Probation (276 §87) - until:  
 To be dismissed upon payment of court costs/restitution  
 Dismissed upon:  Request of Comm.  Request of Victim  
 Request of Deft  Failure to prosecute  Other:  
 Filed with Deft's consent  Nolle Prosequi  Decriminalized (277 §70C)

## FINAL DISPOSITION

- Dismissed on recommendation of Probation Dept.  
 Probation terminated: defendant discharged

JUDGE

DATE

COUNT/OFFENSE

2. 265/15A/A A&amp;B WITH DANGEROUS WEAPON c265 §15A

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

JULY 17 2000 - *Stoddard*

## SENTENCE OR OTHER DISPOSITION

- Sufficient facts found but continued without guilty finding until:  
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 Dismissed upon:  Request of Comm.  Request of Victim  
 Request of Deft  Failure to prosecute  Other:  
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 Probation terminated: defendant discharged

JUDGE

DATE

COUNT/OFFENSE

FINE

SURFINE

COSTS

RESTITUTION

V/W ASSESSMENT

 WAIVED

DISPOSITION DATE and JUDGE

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DISPOSITION DATE and JUDGE

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 Filed with Deft's consent  Nolle Prosequi  Decriminalized (277 §70C)

## FINAL DISPOSITION

- Dismissed on recommendation of Probation Dept.  
 Probation terminated: defendant discharged

JUDGE

DATE

 ADDITIONAL COUNTS ATTACHEDA TRUE COPY  
ATTEST: X

CLERK-MAGISTRATE/ASST. CLERK

ON (DATE)

COURT ADDRESS  
Framingham District Court  
600 Concord Street  
PO Box 828 Framingham, MA 01701-8003

## Commonwealth of Massachusetts

**Ex.B**

District Court Department of the Trial Court  
Framingham Division

Docket Sheet As of: WEDNESDAY, FEBRUARY 7, 2001, Time: 11:30:02

ANTHONY M. COLONNA, Clerk-Magistrate      ROBERT V. GRECO, First Justice  
 ELEANOR M. WILLIAMS, 1st Asst. Clerk      PAUL F. HEALY, Justice

## Docket Sheet

Docket No : 00-CR-03006 A - B   Process : ADD'L COMPLAINT  
 Applie. Date : 10/17/2000   Place of off: FRAMINGHAM  
 Offense Date : 7/5/00   Diary Date : 03/08/2001 9:00 AM

## Complainant

## Defendant

Name : STEVEN TRASK      MICHAEL ELBERRY  
 Attorney:      KENNETH L. BREKKA

## Number | Code | Offense

00-CR-03006 A | 605 | ASSAULT AND BATTERY C265 S13A

B | 617 | ASSAULT & BATTERY BY DANG. WEAPON C265 S15A

## History

10/17/2000 ARRAIGNED BEFORE JUSTICE GRECO, ORDER OF BAIL FROM 0049 CR 1893  
 10/17/2000 TRANSFERRED TO THIS CASE, BAIL ORDERED AT \$500.00 FCT 11/14/00  
 10/17/2000 ...FOR PTC. HABE AND MITTIMUS ORDERED AND ISSUED. GRECO, J  
 11/10/2000 MOTION TO WITHDRAW, MOTION TO CONTINUE AND MOTION TO PRESERVE  
 11/10/2000 VIDEO SURVEILLANCE EQUIPMENT FILED FOR HEARING ON 11/14/00  
 11/14/2000 HABE ORDER RET 11/30/00 ..... LB  
 11/14/2000 DEF ATTY MOTION TO W//D FILED//ALLOWED...GRECO, J. LB  
 11/14/2000 FCT 11/30/00 STATUS .... GRECO, J. LB  
 11/30/2000 FCT 12/28/00 STATUS .... GRECO, J. LB  
 11/30/2000 HABE ORDER RETURNABLE 12/28/00 ..... LB  
 12/20/2000 HABE ISSUED TO SOUTHEASTERN C.D. - RETURNABLE 12/28/00.. JD  
 12/28/2000 F/C 1/31/01 STATUS...STODDART, J. .... XXXX  
 12/28/2000 HABE ORDER RETURNABLE 1/31/01 SECC BRIDGEWATER ...STODDART, J.  
 01/17/2001 ...HABE ISSUED TO SECC BRIDGEWATER - RETURNABLE 1/31/01.. JD  
 01/31/2001 ATTY. ROBERTSON ASSG. FCT 3-8-01 FOR PTC, HABE TO ISSUE. AB  
 01/31/2001 ...HEALY, J. AB  
 02/05/2001 DEFENDANT'S MOTION TO PRESERVE/IMPOUND BY COURT AND COMPEL FOR  
 02/05/2001 PRODUCTION AND INSPECTION OF PROSECUTION CONTROLLED EVIDENCE  
 02/05/2001 FILED  
 02/05/2001 DEFENDANT'S MOTION/NOTICE TO CONINE REPRESENTATION PRO SE FILED

1083

(My C.P.M.)

Ex C

Michael Elbeoy (576)  
SEC L Prison TA-406  
12 Administrative Rd.  
Bridgewater, Ma. 02329  
1-31-01

A.H. James Robertson  
747 Washington St.  
Holliston, Mass. 01746

A.H. Robertson

Today, 1-31-01, you were appointed to represent me regarding charges at the Framingham District Court. We made eye contact for a few seconds. The court bailiff gave me your business card.

It became apparent to me why you were appointed — to get between me and the motions I filed regarding this case. The motions (discovery) will yield crucial defense evidence. There is no compromise on these discovery motions.

As you may have gathered the case against me is a frame-up job motivated for various reasons.

3083

I had informed a judge on 12-28-00 regarding this same case that I needed a lawyer to engage certain discovery procedures. I am not able to do being in prison.

I will be happy to allow you to act as a "Standby counsel" only whereby, you follow my orders. You may advise me to facilitate my decisions carrying my various orders to you. As you know a criminal defendant, per the 6<sup>th</sup> Amendment makes all decisions of the case.

You will not argue any of my motion or represent me at trial. If the Court wants to railroad me they are not going to be able to point to my appointed lawyer as legal ground for doing so.

Further, since I will be trying the case much of the police evidence I seek via discovery must be observed by me.

A "Standby counsel" would be very helpful to me & the court in terms of sending

7-65

summons and witness fees etc.  
A "Standby counsel" will probably be  
helpful to both the court & myself  
regarding expert/scientific testing.  
If I work pro se the court is required  
by the Constitution to assist me.

Just to repeat so there is no misunder-  
standing, You will not be representing  
me via discovery hearings or motion or  
conference with the A.P.A. on this  
case.

If you need to withdraw that is  
your decision. I will be filing a  
motion regarding this issue.

Do not acquire this case file <sup>from</sup> with A.A. Brekka.

W.M.H., pro se

over CoJS

*(Circular stamp)*  
Ex C  
M. Elbey CS 7637  
SEC  
12 Administration Rd.  
Bridgewater, Ma. 02321  
01-31-01

Attn. James C. Robertson  
747 Washington St.  
Holliston, Ma. 01746

Attorney Robertson

As of the above date, 01-31-01, you no  
longer represent me. Do not make any  
further agreement with the D.A.'s  
office or Court.

Mitch, pro se

01-31-01

Cert. of Service sent

Mike Elbey, CS 7634  
SEC CH-406  
12 Administration Rd.  
Bridgewater, Mass. 02324  
2-2-01

pm  
COPR

A.H. James C. Robertson  
<sup>unshaven</sup>  
747 Hollister St. - Hollister  
Hollister, Ma. 01746

Ex. C

RE: Com. v. Elbey E049CR1893

A.H. Robertson

I find your counsel ineffective or  
I find that you are ineffective in your  
assistance to my client regarding the  
above case.

This creates a conflict of interest per se,  
if you have not already removed your-  
self from my case.

As you have been informed by me, you  
are fired. If you do anything regarding  
the above docketed case I will sue you.

I had only asked the Court to have you  
on "discovery motions" not represent me, you

are not able to represent me - you work  
for the Court.

Willy, pro C

*(Signature)*  
Michael Elthey (5763)  
SECC A-406  
12 Administration Rd.  
Bridgewater, Pa. 18334  
2-10-01

M.H. Robertson  
747 Washington St.  
Holliston, Mass. 01746

Ex.C

RE: Com. v. Elthey

M.H. Robertson:

By this date I should have received an acknowledgement from you that you have withdrawn from my case.

Evidently you're playing the same game as the Framingham Dist. Ct. & pretending that you received no mail from me. You will have to intercept the U.S. mail because now you are receiving, as documented by the U.S. Post Office, my previous notices to you that you are fired.

The previous letters noticing you that  
you are no longer representing me are  
enclosed. There are (2)-

Repeat get off my case.

Mic proce

### Certificate of Service

I, Michael E. Berry, sent this "letter of dismissal"  
to Mr. James Robertson 747 Washington St.,  
Holliston, Mass. 01746 via U.S. certified  
mail # 7099 3400 0010 7041 7460 prepaid  
all on 3-10-01

Mic proce

*(M)*  
*COPY*

Mike Elbey *Ex D*  
SECC A-406  
1st Administration Rd.  
Bridgewater, Ma. 02324  
01-31-01

Clerk - Criminal  
Framingham Dist. Ct.  
600 Concord St - P.O. Box 829  
Framingham, Ma. 01782

*Ex D*

RE: Lam v. Elbey 0049CR1883

Dear Clerk:

Please find enclosed for immediate filing  
for review.

"Defendant's Motion/Motion To Continue  
Representation Pro Se"

Thank you

Will, please

Commonwealth of Massachusetts

Roxbury ss

Framingham Dist. Ct.

Comm. of Mass.

Criminal Docket

v.

# 0049 CR 1893

Michael Elberg

Defendant's Motion/Notice To Continue

Representation Pro Se

1. The defendant has represented himself regarding the above docketed action since 11-14-00 when his attorney for pay quit.

2. The defendant will continue representing himself, pro se, as is his undisputed right under the 6<sup>th</sup> Amendment of the U.S. Constitution.

3. The A.D.A. - government will have to conference with this defendant, Michael Elberg, only

regarding discovery of this case.

4. The defendant will be ready for the scheduled 3-8-01 Pre Trial Conference regarding discovery.

5. To date all discovery motions for the defense have been filed by the defendant even those filed while the defendant was represented by counsel.

6. This continued Pro Se representation by the defendant means that Court appointed attorney, Att. Turner Robertson, will not be representing the defendant in any capacity.

7. Attorney Robertson will not be arguing any discovery motions or be involved in any discovery regarding this case.

8. There are certain discovery procedures that must be completed only by the trial lawyer (which is this defendant), otherwise, they are useless.

9. After the comment at today's pre-trial hearing (1-31-00) by Judge Paul Healy that this defendant's discovery motions are old, it should be noted that the original pre-trial conference was continued from 11-17-00 after the defendant's attorney for pay withdrew.
10. Attorney Robertson was appointed to my case a few weeks ago on this day 1-31-01. I presume he has made no decisions or taken any action regarding my case, including wholesale discount of my discovery evidence.
11. The Court may find it helpful to keep Robertson as a "Standby Counsel" to do certain discovery "errands" the defendant is physically incapable of doing do to incarceration.
12. It should be Noted that on 13-28-00 this defendant asked the judge at that pre-trial hearing to appoint an attorney regarding the above docketed case to do

discovery chores as directed by  
this defendant. Such as testing of evidence  
& service of summons & witness fees.

Wherefore;

the defendant will stay representing  
himself in order to get Due Process of  
Law & a Fair Trial. The Court may  
want to consider appointing Attorney  
Robertson to do various Sunday chores the  
defendant can not do because of incarceration.  
This will help the Court otherwise  
the Court will be responsible.

With, pro se  
Michael Elbry, pro se  
SEC Prison A-406  
1d Administration Rd  
Bridgewater, Ma. 02324  
1-3601

See Certificate of Service  
Exhibit

Certificate of Service

I the defendant, Michael Elbavy, sent  
this Motion of Representation to the  
Clark - Framingham Dist. Ct. 600 Concord St.,  
Framingham, Mass & the Framingham Dist.  
Att. Office 100 Concord St, Framingham, Mass  
all via U.S. 1st class mail prepaid from  
SECC Prison on 1-31-01.

Michael Elbavy

1083

(P.M.)

Michael Elbeuy (576)  
SEC L Prison A-406  
12 Administrative R.  
Bridgewater Ma. 02324  
1-31-01

Att. James Robertson  
747 Washington St.  
Holliston, Mass. 01746

Att. Robertson

Today, 1-31-01, you were appointed to represent me regarding charges at the Framingham District Court. We made eye contact for a few seconds. The court bailiff gave me your business card.

It became apparent to me why you were appointed — to get between me and the motions I filed regarding this case. These motions (discovery) will yield crucial defense evidence. There is no compromise on these discovery motions.

As you may have gathered the case against me is a frame-up job motivated for various reasons.

(2. & 3)

I had informed a judge on 12-28-00 regarding this same case that I needed a lawyer to engage certain discovery procedures. I am not able to do being in prison.

I will be happy to allow you to act as a "Stand by counsel" only whereby, you follow my orders. You may advise me to facilitate my decisions carrying my various orders to you. As you know a criminal defendant, per the 6<sup>th</sup> Amendment, makes all decisions of the case.

You will not argue any of my motions or represent me at trial. If the Court wants to vindictive me they are not going to be able to point to my appointed lawyer as legal ground for doing so.

Further, since I will be trying the case much of the police evidence I seek via discovery must be observed by me.

A "Stand by counsel" would be very helpful to me & the court in terms of sending

7.83

summons and witness fees etc,  
A "Standby counsel" will probably be  
helpful to both the court & myself  
regarding expert/scientific testing.  
If I work pro se the court is required  
by the Constitution to assist me.

Just to repeat so there is no misunder-  
standing, You will not be representing  
me via discovery hearings or motion or  
conference with the A.A.A. on this  
case.

If you need to withdraw that is  
your decision, I will be filing a  
motion regarding this issue -

Do not acquire this case file <sup>botti</sup> with A.A. Brekka.

W.M.H., pro se

over CoS

*Conrad*

my copy  
handwritten

M. Elbery, C87634  
SEC A-406  
12 Administration Rd.  
Bridgewater, Ma. 02324  
3-2-01

Ex. E

Clerk - Framingham Dist. Ct.  
Criminal Docket  
600 Concord St.  
Framingham, Mass. 01701

RE: Con. v. Elbery # 0049CR1893

Dear Sir:

Please find for immediate filing & review & Mark-up at earliest possible date.

"Notice Defendant - Elbery continues to Represent Himself & Court Appointed Lawyer is Fired"

Thank you.

Mike, pro

Commonwealth of Mass.

Middlesex ss

Foxborough Dist. Ct.  
Criminal Docket  
#0049 CR 1893

Court of Mass.

v.

Michael Elbey

Notice that Defendant - Elbey  
continues to Represent himself  
Court Appointed Attorney - Robertson is  
Fired

1. The defendant, above docketed, on 12-28-00 requested legal counsel to do "discovery errands" (a "standby counsel") the incarcerated defendant cannot do.
2. The defendant's original attorney for pay quit on 11-14-00 & the defendant has been representing himself pro se to date,

01-71-01.

All defense discovery motions have been produced by the defendant, pro se, in this case.

3. On 1-31-01 Judge Paul Healy appointed this defendant an attorney, evidently to insure the defendant receives no discovery.
4. Judge Healy, at the 1-31-01 pre-trial hearing, stated he would have Attorney Robertson argue the defendant's pro se discovery motions.  
No, Robertson will not be arguing the defendant's motions or representing the defendant. There will be no whole-sale settlement of the defendant's evidence via required/mandatory discovery. (Brady & MR CP-14).
5. The defendant now stops the intended injustice by immediately firing, (3 hours after appointment) Attorney James Robertson.

Pre-Trial Conference 3-08-01

6. The defendant will be ready to represent himself at the pre-trial conference scheduled for 3-08-01. If there is any need to argue for these evidentiary discovery requests, which are all mandatory discovery by Massachusetts Federal Constitutional law, the defendant, Elbey, will do it so proper record is created.
7. The A.D.A./D.A.'s Office will have to confer with the defendant prior to 3-8-01. They have been notified by this defendant.
8. The defendant-Elbey never asked for an attorney to talk for him or to assist him in discovery proceedings, the defendant is physically unable to do because of incarceration. The defense of this case will continue as it has since 11-14-00.
9. Failure to abide by the law, See memo below, regarding this issue of pro bono representation will result in a

Petition to the S.J.C. - Single Justice under H.G.L. C. 311 s. 3 (general Superintendance of the Courts) and a newspaper article exposing the Judge who acts contrary to the Constitution.

- n. There is no delay of the proceedings due to this demand by the defendant to continue his own defense.

Wherefore,

the defendant exercises his right under the 6<sup>th</sup> Amendment of the U.S. Constitution to represent himself, pro se, regarding the above docketed case. This in order that the defendant receive a Fair Trial / Due Process of Law, and not get a bum's rush.

Milk, pro se  
1-31-01

Means of Law

Per Blumenthal, Mass. Criminal Practice,

Vol. I p. 153 ('88), the defendant has a Constitutional Right to represent himself, Com. v. Lee, 394 Mass. 209, 216 ('85)(6 other State & Federal - 1<sup>st</sup> Circuit cases cited), even where the defendant has no legal knowledge.

The right to self-representation is established in the U.S. Constitution by the Sixth Amendment Rights to defend and to counsel and the Fourteenth Amendment Due Process Clause; and the Mass. Declaration of Rts. via Article 12, guaranteeing the right to defend in person or by counsel. Com. v. Chapman, 8 Mass. App. Ct. 260, 265, (1978).

Violation of this Right is reversible error per se. Mchastie v. Wiggins, 465 U.S. 168, 177 n.8 ('84); Com. v. Conroy, 410 Mass. 1, 10 ('91)(other Mass. & U.S. 1<sup>st</sup> Cir. cases cited).

The law on this issue could not be any stronger.

With regards  
Michael Elberg, pro se  
S.E.C.C. #406

12 Administration Rd.  
Bridgewater, Ma. 02324  
3-1-01

Certificate of Service

I the defendant, Michael Elberg, sent  
this "Notice of Pro Se Representation"  
to Clerk - Criminal Framingham Dist. Ct.,  
600 Concord St., Framingham, Mass 01751  
& the Framingham Dist. Att. Office, 100  
Concord St., Framingham, Mass. all via U.S.  
mail - prepaid - 1<sup>st</sup> class on 27-01 from  
S.E.C.C. Prison.

Mitch, psal

M. Elberry (5763)  
SECC Prison A-406  
12 Administration Rd.  
Bridgewater, MA 02324  
3-9-01

(My Copy State P.C.  
Pending Motion P.C.)

Ex. F

Clerk-Criminal  
Framingham Dist. Ct.  
600 Concord St.  
Framingham, MA 01701

RE: Com. v. Elberry  
Docket #00 CR 1893 A

Dear Clerk:

Please find for immediate filing & review  
& Mark-up at the 3-9-01 scheduled  
hearing of the above docketed case.

"Pro Se Defendant's Objection to Court's  
Refusal to Docket & Acknowledge  
⑥ Discovery Motions of the Defendant's  
&  
Resubmission of the ⑥ Discovery Motions

for

Filing & Docketing"

Also Mark-Up for hearing the (6) enclosed and attached discovery motions for 3-8-01 hearing already scheduled. These (6) discovery motions were, as per certificate of service, already filed by this pro se defendant but the Court did not docket them.

The (6) Discovery Motions to be Marked-up for hearing on 3-8-01 are as enclosed & attached:

1. "Defendant's Motion for Supplemental Discovery & Related Court Orders"
2. "Defendant's Motion for Additional Discovery"
3. "Motion for Evidentiary Hearing of Peter H. Gear (Alleged Victim) & Caron, Resident & Occupants of 58 Clinton St., Framingham, Mass. including Norman & Carole Gear Regarding the witnesses at the Location where Gear Drove to & Called the F.P.D. on 7-4-00."
4. "Defendant's Motion for Court Order & Related

Subpoenas In Order to Produce Exculpatory Evidence & Have a Fair Trial."

5. "Defendant's Motion for Discovery Post-Bekka withdrawal" (certificate of service 2-1-01)

6. "Motion for Discovery" (certificate of service 2-2-01)

Thank you.

Micheal Ellery  
Michael Ellery 057634  
SEC C A-406

12 Administration Rd  
Bridgewater, Ma. 02324  
2-9-01

Commonwealth of Massachusetts

Middlesex ss

Commonwealth

v.

Michael Ellery

Framingham Dist Ct

#00CR01893A

Pro Se Defendant's Objection to Court

Refusal to Docket & Acknowledge

⑥ Discovery Motions of the Defendant's

Resubmission of the ⑥ Discovery Motions

for

Filing & Docketing

1. Per the docket entries of the above case at #7-01 there are ⑥ discovery motions that were filed by this defendant, pro se, that were not docketed

2. ④ of these motions for discovery were filed prior to the originally scheduled Pre-

Trial Conference that was continued due to  
the defendant's attorney withdrawing.  
See Schedule below.

3. This Pro Se defendant demands that the  
⑥ discovery motions, as above, and as scheduled  
below, be Marked-Up for hearing &  
reviewed on 3-8-00.
4. This pro se defendant is now resubmitting  
and filing all ⑥ motions that have been  
previously filed but the Court refuses to  
ocket. This through U.S. certified  
mail. See ⑥ motions attached.
5. This Pro Se defendant is filing a Petition  
under Mass. G.L. C. 211 s. 3 to a Single  
Justice of the Mass. S.J.C. regarding this  
injustice which is a planned and deliberate  
deprivation of this Pro Se defendant's  
rights to the most basic mandatory dis-  
covery from the prosecution.

6. Schedule of Pro Se Defendant's Motions  
Filed not Docketed

Discovery Motions Filed Prior to 11/14/00 per  
certificate of service

1. "Defendant's Motion for Supplemental  
Discovery & Related Court Orders"
2. "Defendant's Motion for Additional Discovery"
3. "Motion for Evidentiary Hearing of Peter  
H. Gear (Alleged Victim) & Owners, Residents &  
Occupants of 58 Clinton St., Framingham,  
Mass. including Norman & Carole Gear  
Regarding the witnesses at the location  
where Gear Drove to & called the F.P.D.  
on 7-4-00."
4. "Defendant's Motion for Court Order &  
Related Subpoenas In Order to Produce  
Exculpatory Evidence & Have a Fair Trial."

Motions Filed upon receipt of Attorney  
Brekke's file on the case

5. "Defendant's Motion for Discovery Post-  
Brekke withdrawal" (certificate of service  
2-1-01)

6. "Motion for Discovery" (certificate of Service  
2-7-01)

SEE defendant's affidavit in support  
of motion - attached.

SEE Ho ⑥, as above, Pro Se defendant's  
Discovery Motions attached - for filing &  
docketing & Mark up.

wherefore

the defendant Pro Se, Michael Elbay  
demands as the law requires that the Court  
obey the U.S. Constitution's 5<sup>th</sup>, 6<sup>th</sup> &

14<sup>th</sup> Amendment, and docket file same

⑥ discovery motions and order the prosecution to produce the discovery motioned for.

Mike, pp-01

Michael Elbrey, C57634

SEC C A-406

12 Administration Rd.

Bridgewater, Ma. 02324

2-9-01

Certificate of Service

I the defendant, Michael Elbrey sent to the Clerk - Criminal - Framingham Dist. Ct., 600 Concord St., Framingham, Mass via U.S.

1st class Express U.S. certified mail return receipt, both prepaid, to the D.A.'s Office, 100 Concord St., Framingham, Mass via ~~the cert~~ cert  
~~class mail~~ <sup>return</sup> ~~return~~ on 3-13-01 their "objection & Demand regarding ⑥ Discovery Motions" hereon.

\* 7099 3400 0010 7041 6838

Mike, ppse

⑥ 7099 3400 0010 7041 6708

Commonwealth of Massachusetts

Middlesex ss

Commonwealth

v.

Michael E. Elberg

Framingham Dist. Ct.

# 00 CP 01893A

### Affidavit in Support of

Pro Se Defendant's Objection to Court's  
Refusal to Docket & Acknowledge

⑥ Discovery Motions of the Defendant's  
Resubmission of the ⑥ Discovery Motion for  
Filing & Docketing

1. I am the Pro se defendant, Michael E. Elberg.  
I am incarcerated at SECC Prison, Bridgewater.

2. I filed ⑥ discovery motions with Framingham  
District Court & Framingham D.A.'s Office  
regarding the above docketed action which does  
not appear on the docket sheet of that  
same case.

3. (4) of these discovery motions were filed prior to 11-14-00 which was the date of the originally scheduled Pre Trial Conference. These (4) discovery motions are as follows, their mailing date is included in each motion's certificate of service.

a. "Defendant's Motion for Supplemental Discovery & Related Court Orders"

b. "Defendant's Motion for Additional Discovery"

c. "Motion for Evidentiary Hearing of Peter A. Gear (Alleged Victim) & Jones, Residents & Occupants of 58 Clinton St, Framingham, Mass including Norman & Carole Gear Regarding the witnesses at the location where Gear Drove to & Called the F.P.D on 7-4-00.

d. "Defendant's Motion for Court Order & Related Subpoenas In Order to Produce Exculpatory Evidence & Have a Fair Trial."

4. I also sent (3) other discovery motions regarding the above docketed that do not

appear on the docket sheet, they are as follows

a. "Defendant's Motion for Discovery Post-Breka withdrawal" (certificate of service 2-7-01)

b. "Motion for Discovery" (certificate of service 2-7-01)

I declare under the penalties and pains of perjury the foregoing is true & correct on this 9<sup>th</sup> day of February, 01.

Michael Ellery  
Michael Ellery

(My copy) - 00X  
Michael Elberg  
C57634  
S.E.C.C.  
12 Administration Rd.  
Bridgewater, Ma. 02324  
11-3-00

Clerk-Framingham Dist.Ct.  
100 Concord St.  
Framingham, Ma. 02324

Ex 1 of F

RE: Com. v. Elberg #0049CR1893

Dear Clerk:

Please find for immediate filing & review,

Defendant's Motion for Supplemental  
Discovery &  
Related Court Orders

Please "Mark-UP" for Hearing on  
the already scheduled 11-14-00 hearing  
regarding this case.

Thank you.

Mike Elberg

1087

Commonwealth of Massachusetts

Middlesex ss.

Commonwealth

v.

Michael Elbery

Criminal Docket  
#0049CR 1893

Defendant's Motion for Supplemental

Discovery &  
Related Court Orders

The defendant above captioned motions  
for discovery as follows:

1. Docket entries of all activity regarding  
the above docketed case.
2. Review (listening) by this defendant of the  
⑤ F.P.D. (Framingham Police Dept.) phone tapes  
that are evidence of this case. ③ recording  
conversations with Michael Elbery. ② recording  
conversations with Peter Gear.
  - a. The defendant needs a transcript of  
each of these ⑤ police phone tapes, so  
that he can compare the transcripts to  
the tapes.

- b. In addition the defendant needs an expert to test the tapes he is recorded on due to the fact that parts of the conversations are missing or there are words missing on those tapes
3. The defendant needs a medical expert who can review the defendant's & Peter Gear's injuries. This expert will testify at trial. The defendant asks the Court to insure that a medical expert is provided for trial.
4. Court Order - Ordering the Mobil Corp or Station Operator's Inc. to produce the payroll records of the Route 30 Mobil, 696 Cochituate Rd. Framingham for the month of July '00.
5. Court Order - Ordering Mobil Corp. & Station Operators Inc. to produce all written communications & the substance of all verbal communications between the Mobil Mgr., Dolly Stetki, (at Route 30 Mobil-Framingham) and any & all personnel, supervisors & executives at at Mobil Corp. & Station Operators Inc regarding the above docketed action and the underlying incident on 7-4-00.
6. Court Order - Ordering the Management at

the Route 30 Mobil, 696 Cochituate Rd, Framingham  
 have to produce to the defendant the  
 local address headquartered in Massachusetts  
 and New England of Mobil Corp headquarters  
 and Station Operators Inc. headquarters in  
 order that the defendant can subpoena  
 witnesses regarding evidentiary issues  
 on this case.

2. Court Order - reserve for the defendant  
 and provide for at the trial of this case  
 a VCR & monitor for evidentiary demonstra-  
 tion regarding this case.
3. Court Order - ordering this defendant's  
medical records from the Mass D.O.C. (Dept. of  
 Corrections) and Glover-Deaconess Hospital in  
 Needham, Mass regarding treatment for  
 injuries sustained by this defendant during  
 the underlying incident that caused this  
 action. Included in this discovery should  
 be tests done on this defendant's eyesight  
 be R.N. Rose Berry at Concord State  
Prison in July '80. The hospital at Concord  
 is operated by CMS Inc, Bridge St., Dedham, Mass.
4. Court Order - ordering Mobil Corp to produce  
 a person with knowledge of the glass  
 used at the Route 30 Mobil, 696 Cochituate  
 Rd, Framingham. The witness should be

- able to testify why the glass at that station is unbreakable or what type of glass is used and what its resistance strength is.
10. Court Order - Ordering Mobil Corp or Station Operators Inc. to produce to the defendant Mobil's manual for video security (or a manual that includes video surveillance security) that is provided to each by its gas station managers.
  
  11. Court Order - Ordering Dolly Heckl, the manager at the Route 30 Mobil, 696 Cochituate Rd., to produce the Mobil employee training manuals. These would be the same manuals that the defendant was required to study & be tested on in order to work at that same gas station.
    - a. Start with the Manual on the "wayne-Dressler" cash register & the manual or book on Mobil's "friendly service".
  
  12. Court Order - Ordering Dolly Heckl, as above, and her supervisors and Mobil Corp & Station Operators Inc. to produce to the defendant for trial evidence the ② back-up or detail tapes that recorded the sale or transaction by the alleged victim Peter H. Gear on 7-4-00.

at about 2:10. It is known by the defendant that all sales or transactions through the registers at the Rt. 30 Mobil are recorded by ⑦ back-up tapes.

- 13 Court Order - ordering the F.P.D. to produce to the defendant for recording & review the phone call the defendant made to the F.P.D. between 10:00 pm on 7-6-00 and 3:00 am on 7-7-00. This same phone call was made by the defendant. It left a message to a Sgt. Sanchez as to the source of the identities of the witnesses who observed the underlying incident that caused the above action.  
 a. The defendant also needs a transcript of this taped phone call.
- 14 Court Order - ordering Attn. Ken Brekka and the management at the Route 30 Mobil, 696 Cochituate Rd. to produce all communication (written) and/or letters sent by Attn. Brekka to that Mobil.
15. All information regarding the return of a video tape to the Route 30 Mobil, 696 Cochituate Rd. including,  
 a. Names of officers on the F.P.D. that returned the video tape.

607

- b. the date the video tape was returned
  - c. who the video tape was returned to
  - d. who viewed the video tape prior to the F.P.D. returning it,
  - e. All conversations made when members of the F.P.D. returned the video tape
    - i. including F.P.D. personnel
    - ii. including Mobil personnel
16. Court Order - ordering A.H. Ken Brekka to give the defendant his Secretary's full name. Her first name is Maureen. She will be a defense witness.

Wherefore,

The defendant requests the above evidence, witnesses & information & Court Orders to obtain the same in order that he can have a fair trial and so the defendant can be informed of his case so that he can intelligently make the proper decisions & tactics regarding his case & so he can, as is law, instruct his attorney about decisions to be made regarding the injustice against him. This is as guaranteed by the 6<sup>th</sup> Amendment of the U.S. Constitution.

Michael E. Berg  
Michael E. Berg 057634

7-57

S.E.C.C. Prison  
12 Administration Rd.  
Bridgewater, Mass. 02324  
11-3-00

Certificate of Service

I the defendant, Michael Elberry, sent this Discovery Motion & Court Orders to the Clerk - Framingham Dist. Ct., 600 Concord St., Framingham Ma. & Framingham Dist. Att. Office at 600 Concord St., Framingham, Mass. all via U.S. mail - 1st class - prepaid on 11-3-00 from S.E.C.C. prison mail.

Mike Elberry

pw  
WPA

Mike Elbey  
C57634  
S.E. C.C. - O.U.A  
12 Administration Rd.  
Bridgewater, MA 02324

Clerk - Framingham Dist. Ct.  
600 Cambridge Concord St.  
Framingham, Mass. 01701

Ex-2 off

RE: Com. v. Elbey  
Criminal # 0089 CP 1893

Dear Clerk:

Please find for immediate filing review,

"Defendant's Motion for Additional  
Discovery"

Thank you.

Mike Elbey

47 387

Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex ss

Criminal Docket  
#0049CA1893

Commonwealth

v.

Michael Elbery

Defendant's Motion for Additional Discovery

1. The defendant requests additional discovery, he submits this motion prior to the scheduled discovery hearing of 11/14/00 regarding this case. The defendant asks as follows:
  - / a list of all F.P.D. (Framingham Police Dept.) officers on duty the 147 Shift during the month of May, '00. Please indicate officer, day worked, & shift via official F.P.D. documentation.
  - / b. The relationship between the A.D.A. handling this case, Hurley, and Lt. James Hurley of the Shrewsbury Police Dept.
  - / c. Viewing by the defendant (personally) of the 7-3-00 Mobil video which is currently being held by the F.P.D.
  - / d. The ancestry of the alleged victim?  
To gear a few?

- e. The tape, #11, recorded by the F.P.D. of the defendant, Michael Elberry, calling the Framingham Police between 10pm-July 6 and 3:00am July 7, '00. In this tape Elberry leaves a message for a Sgt. Sanchez telling him that he can find the ③ men who witnessed the alleged criminal episode by contacting Mary Floyd who works at the same Mobil Station.
- f. The police log containing the second call gear made on 7-4-00 am to the F.P.D.
- g. Copy of all pictures the prosecution will use at trial
- h. Names of all prosecution witnesses.
- i. All Hospital Records of Peter H. Gear, the alleged victim, resulting from the incident at the Mobil on 7-4-00.
- j. All written statements of all defense & prosecution witnesses held by or taken by the prosecution team.
- k. The defendant's inculpatory & exculpatory statements both written & verbal
- l. The Mobil Video of 7-4-00.
- m. The names & addresses & identification of all witnesses interviewed by the Com-

Commonwealth, police, D.A.'s Office & team.  
Include who, how many times, where, what  
was said regarding the interviews of these  
witnesses.

The list of witnesses should include  
Dolly Slecki, James Regal & any and  
all Mobil employees.

n. All notes taken by the responding F.P.D.  
& officers on 7-4-00 at the Mobil Station,  
696 Cochituate Rd., Framingham where the  
alleged criminal episode took place that  
caused this action.

a. Bill of Particulars

The cause of each injury as depicted  
in each of the F.P.D. photos taken of  
the alleged victim, (Year). The date the  
pictures were taken.

p. List of all police & members of the prosecution team  
that spoke to Mobil Managers, Dolly Slecki & James "J."  
Regal.

Wherefore,

The defendant motions for the above  
discovery, as the law allows & requires.

Michael Ellery

Certificate of Service

I the defendant, Michael Ellery, sent this "Motion  
for Additional Discovery" to the Clerk-Framingham  
Dist. Ct., 600 Concord St., Framingham Ma. 01701 &  
to the D.A.'s Office 600 Concord St., Framingham  
01701 via U.S. mail - 1st class - prepaid from SEC Prison.  
Michael Ellery all on 10-28-00.

My Copy

Mike Elberry  
CS7634  
S.E. C.C. - O.U. A  
12 Administration Rd.  
Bridgewater, Ma.  
02304

Clerk - Framingham Dist. Ct.  
600 Concord St.  
Framingham, Mass. 01701

Ex-3 of F

RE: Com. v. Elberry  
Criminal #0049 CR 1893

Dear Clerk:

Please find enclosed for immediate  
filing & review.

"Defendant's - Motion for Evidentiary  
Hearing of Peter H. Gear etc.,

Thank you,

Mike pr.su

Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex Co.

Commonwealth

v.

Michael Elbry

Criminal Docket  
#0049CF1873

Motion For Evidentiary Hearing  
of  
Peter H. Gear (Alleged Victim)  
&

Owners, Residents & Occupants of 58 Clinton St.,  
Framingham, Mass, including Norman Koofoe Gear  
Regarding

The Witnessed at the location where Gear  
Drove to & Called the F.P.D. on 7-4-00

1. The defendant, above docketed, Michael Elbry, motions the Court for an Evidentiary Hearing in order to obtain from the alleged victim, Peter H. Gear, information as to the witnessed who were present in the location where Gear called the F.P.D. on 7-4-00 regarding the underlying incident that caused this action, above docketed.
2. On 7-4-00 between 5:00am & 2:30am Peter H. Gear robbed this defendant, Michael Elbry, while stealing a tank full of gas from the Mobil Gas Station on Rock 30,

Framingham where this defendant was working.

3. Amongst other illegal activity, Gear kicked & bludgeoned this defendant while this defendant was retreating to the Station's front door after recording the robber's auto registration number.
4. The defendant, after retreating, was waiting locked inside the Mobil convenience store as the alleged victim & downrobber, Peter H. Gear, slammed the Mobil's bullet-proof glass with various Mobil inventory. The defendant was waiting to be rescued, as per the F.B.I. 911 tape, the defendant called the police before going out to record Gear's registration number & before Gear attacked the defendant, whereby, Gear committed armed robbery.
5. Hours later, on 7-4-00, after absconding from the police & good Samaritans at the Mobil Station at the end of the above instant incident, as above items #2-4, Gear called the F.P.D. from 58 Clinton St., Framingham, Mass.
6. Gear was recorded, via 911 F.P.D. tape, as in #5 above, as he fabricated a big story that he was given a severe beating for absolutely no reason at the Mobil after refusing, per Gear, to pay for his gasoline.
- \*7. During that 911 police conversation, as in #5 & #6 above, there were other voices recorded

while Gear & the police were talking. That is, you can hear witness talking in the background on that tape.

8. Per M.R.C.P. this defendant has a right to the names & address of all witnesses who saw Gear after he left the Mobil & while he made that call to the F.P.D. on 7-4-00 many hours after fleeing due to his criminal conduct & episode.

9. I, the defendant, gave written order on 10-5-00 to my Attorney, Ken Brekha, to Subpoena Peter H. Gear & the residents of 58 Clinton St., Framingham for the evidentiary hearing that was held on 10-17-00 regarding this case.

Brekha refused to follow that order, and more exculpatory evidence for the defendant is vaporizing.

Wherefore,

the defendant asks the Court to Order Peter H. Gear, Norman & Carolyn Gear, & the residents, owner, occupants of 58 Clinton St., Framingham to be present for the hearing on 11-14-00 regarding the above docketed case in order that the defendant can obtain the crucial evidence, (names & address) of the people that saw the victim (alleged), Peter H. Gear, that 7-4-00 after he consciously fled the Mobil in guilt.

Michael Elbrey, pro se  
Michael Elbrey, pro se  
S.E.C.C. Prison  
12 Administration Rd.  
Bridgewater, Mass. 02324  
10-24-00

Certificate of Service

I the defendant, Michael Elbrey, sent  
this Motion for Gavel's Evidentiary  
Hearing to the Clerk-Framingham Dist.  
Ct., 600 Concord St., Framingham, Mass.  
01701 & to the Framingham Division of  
the District Attorney's Office, 100 Concord  
St., Framingham, Mass. 01701 via U.S.  
1st class mail - prepaid from S.E.C.C.  
Prison on 10-24-00.

ME, pro se

M. Elbey C57634  
S.E.C.C. - Q.O.  
1a Administration Rd.  
Bridgewater, Ma. 02324  
10-26-00

Clerk-Criminal

Framingham Dist. Ct.  
600 Concord St.

Framingham, Mass. 01701

Ex. 4 of F

R.F.: Com v. Elbey  
# 0089 CR 1893

Dear Sir:

Please find enclosed for immediate filing  
& review,

"Defendant's Motion for Court Order  
&  
Related Subpoena"

Thank you-

Mik Elbey, pro se

Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex 55

Commonwealth

v.

Michael Elbery

Criminal Docket  
#0049CR1893

Defendant's Motion for Court Order  
&  
Related Subpoenas

In Order  
To Produce Exculpatory Evidence & Have a  
Fair Trial

1. The defendant, above docketed, motions the Court for Court Orders, in order to obtain exculpatory evidence, & related Subpoenas for trial, so that the defendant can get a fair trial. This as required by the 6<sup>th</sup> & 14<sup>th</sup> Amendment of the U.S. Constitution. The defendant requests as follows:

- a. Record of all mail this defendant, Michael Elbery, sent out of Concord State Prison from 7-7-00 through 10-11-00. Include the names, addresses & the destination of all outgoing mail sent by Elbery from Concord Prison and the date each piece of mail was sent.

There will be a need to subpoena a  
Prison official for trial who is custodian  
or has knowledge of the operation of that  
mail system at Concord Prison.

b. Court order to the management at the  
Mobil Station at 696 Cockiture Rd, Fram-  
ingham, Ma. & Station Operators Inc of  
Dallas, Texas & Exxon-Mobil Corp demand-  
ing they furnish the names and addresses  
of executives with "final decision making  
authority" regarding the video surveillance  
system used at the Route 30 (696 Cockiture  
Rd.), Framingham, Ma. - Mobil Station, made  
7-11-00, where the underlying incident  
occurred that gave rise to this instant  
action, above docketed.

c. As well, the same parties in b, above,  
should be ordered by the Court to produce  
the Mobil Manual on video security  
as used by its Gas Station Managers.

To date my attorney, Ken Brekka, has been  
"put-off" on these important evidentiary  
issues in b&c, above, due to the fact  
that he has been requesting that evidence  
from the Mgr., Dolly Skeki, at the  
Mobil gas station. Skeki is a pivotal  
person regarding the conspiracy to malicious-  
ly prosecute the defendant & related  
cover-up. The Court orders, <sup>for</sup> this discovery  
in b&c, should go to Skeki's superiors  
at-

Station Operator Inc. P. O. Box 1140 Dallas, TX 75201-0140

Mobil Corp.  
68 Attn: Ken M. Homsey  
300 Essex St.  
Lawrence, Mass. 01840  
(Attn: Breffka has a Westboro  
address for Mobil, also.)

- d. Court Order requiring the same parties in b & c, above, to disclose what kind of glass is used or in place in the plate windows at the Mobil gas station at 686 Cochituate Rd, Framingham - Mass where the underlying incident occurred.
- e. Court Order to the Mobil Gas Station at 686 Cochituate Rd, Framingham and its management, Dolly Mackie & James T. Regal to turn over the video tape of 7-4-00 that recorded the underlying incident that caused the above docketed action. The same video tape that James T "Regal", the Asst. Mgr. of that gas station, told Attn: Ken Breffka's Office was returned and was secured in the safe. As well, this same Court Order should go to Station Operator Inc. & Exxon-Mobil Corp, addressee in c, above.
- f. Written communication to the alleged victim, Peter H. Gear, telling him that he can not sue Exxon - Mobil if the defendant is unjustly convicted via Gear's lies. Tell Gear the law - If an employee commits a crime he is out

of the "scope of employment" and the  
employer can not be held liable. Per  
the 911 tape of Gear, this is one of  
his motives to falsely prosecute, to  
make a fortune off the richest  
company in the world via suit against  
Exxon-Mobil Corp.

Wherefore,

the defendant asks the Court to issue  
the above Court Orders in order to secure  
the above related evidence. There will also  
be a need for the Court to issue Subpoenas  
for witnesses described, above, and in parti-  
cular Mobil Corp. & Station Operators Inc.  
Executives & Janes "J" legal.

Michael Elly

10-26-00  
SE.C.C., 12 Administrative Rd.,  
Bridgewater, Ma. 02384

Certificate of Service

I the defendant, Michael Elly, sent this  
Motion for Court Orders & Subpoenas, to the Clerk-  
Framingham Dist. Ct., 600 Concord St., Framingham,  
Mass. 01701 & Framingham D.A.'s Office at you,  
Concord St., Framingham via U.S. mail- 1st class-pre-  
paid on 10-29-00 from SE.C.C. Prison mail.

Mike Elly

My  
Copy

M. Elbey, C57634  
SEC I A-406  
1st Administration Rd.  
Bridgewater, Ma. 02324  
2-11-01

Clerk-Criminal  
Framingham Dist. Ct.  
600 Concord St.  
Framingham, Ma. 01752

Ex. 5 of F

RE: Com v. Elbey #0049CR1893

Dear Clerk,

Please find for immediate filing review,

"Defendant's Motion for Discovery  
Post-Breakfast withdrawal"

Thank you.

MMR, psd

Commonwealth of Massachusetts

1.69

Middlesex ss  
Framingham District

Criminal Docket  
# 0049 CR 1893

Commonwealth

v.  
Michael Elberg

Defendant's Motion for Discovery

Post-Brethka Withdrawal

The defendant's attorney, Ken Brethka, withdrew from the above docketed case and this defendant, as a result of reviewing Brethka's case file, makes discovery demands as follows:

1. Regarding the arrest of Peter H. Gear (alleged victim) by the F.P.D. on 7-4-80 the defendant

- a. the booking photos of that arrest
  - b. the booking sheet & booking report of that arrest
  - c. The booking video of that arrest
  - d. all information the F.P.D. has of that arrest
  - e. Amount of bail - date bailed - who paid
  - f. All statements made.
- 
2. Regarding the alleged injuries that the alleged victim, (Peter H. Gear), sustained causing this instant action the defendant demands
    - a. ② sets of the ⑥ photos the F.P.D. has of these injuries
    - b. to know type of camera the F.P.D. used to take the ⑥ photos in (a), above.
    - c. where & when were the ⑥ pictures in (a), above, taken
    - d. who took the ⑥ pictures in (a), above,
    - e. who developed those same ⑥ pictures
    - f. Court impound the negatives that produced those ⑥ pictures
  
  3. Regarding the larceny charge originating filed at the Taconic Dist. Ct. (docket # 19431 (R 45894)

that the F.P.D arrested Peter H Gear for  
on 7-4-00 the defendant requests

- a. All court and probation records regarding  
that arrest
- b. the amount of the larcenies, number of larcen-  
ies, date of larcenies/offenses that caused  
that arrest
- c. date the charges were disposed of
- d. the disposition of the charges
- e. Per Gear's CORI - what does PTP  
mean & what is it's significance - See  
Ex. A.

4. where was & when did Peter H. Gear  
(alleged victim) report the alleged crime to the  
F.P.D. that caused this instant action.

- a. To whom was it reported
- b. where was it reported, (address or  
location)
- c. Copy of the tape recording, log & com-  
puter printout of any phone call that  
preceded or caused the F.P.D. to  
take Gear's complaint

d. What time did Gear report the alleged crime to the F.P.D.

4

5. Name of the therapist & address that, as per Mass. Region #9 Parole officer - Karen Rourke-Gatty, Gear went to for therapy or treatment. - See Ex. D

- a. All reports from that therapist regarding Gear's treatment
- b. All information from that therapist via reports or otherwise indicated or revealing where Gear went in terms of a physician's or hospital treatment regarding his alleged injuries.

6. Viewing & listening by the defendant to the F.P.D. recording machine that records the times ~~of~~<sup>before</sup> talk to the F.P.D., the same recording machine Attorney Ken Brekka obtained the information regarding the defendant's 911 call on 7-4-00 to the F.P.D., see Ex. B

- a. Including all ⑦ known phone calls involved in this instant case to the F.P.D.
- b. In particular the ⑦ phone calls Gear made on 7-4-00 to the F.P.D.

- c. the phone call made by Vizikas at the Route 30 Mobil on 7-4-00 upon arrival after being called to the Mobil by the defendant.
7. Mass. Registration information for the last ⑥ years of Peter H. Gear with the Registry of Motor Vehicles.
8. Regarding the phone calls made to or from/by the F.P.D. concerning the above located case, the defendant requests (See calls listed below).
- a. A computer printout of each phone call
  - b. that he listen to the tape recording of each call on the original F.P.D. recording machine
  - c. that he get a transcript of the recording of each call
  - d. a print out of the F.P.D. log of each call

	<u>Caller</u>	<u>Time</u>	<u>Day</u>
1.	Elberry	9:22	7-4-00
2.	Gear	?	7-4-00 (per Attorney Breckha)
3.	Gear	?	7-4-00 (per Attorney Breckha)

4. Elberg	2:37	7-4-00 (per F.P.D. log)
5. Gear	7:51 am	7-5-00
6. Elberg	3:30 am	7-7-00
7. Sanchez (F.P.D.)	7:30 am	7-6-00

9. Meaning of the abbreviations (all) on the F.P.D. computer print-out. See Ex C.
10. A Copy of the 7-3-00 Mobil video that is in possession of the F.P.D. for the defendant's viewing.
11. The Synagogue or temple Gear was bar mitzvahed at.
12. The Docket Entries of this instant case.
13. ④ applications for criminal complaint.
14. "Chain of Custody" of the Mobil video of 7-3-00 thru 7-3-00 that the F.P.D. possesses and Court ordered impounded during this instant case.

a. Name of the officer who picked up the tape,

from the Mobil & date & time the officer picked up that tape

b. Name of F.P.D. officer who brought back the tape to Mobil. Date & time & Day of this event.

c. Describe all activity of the F.P.D. regarding the Mobil video, above, after it was initially picked up until Sanchez put it in evidence at F.P.D. on 7-7-00.

1. Trouble names of F.P.D. employees who engaged in all & any requested activities.

2. The time & day & date of all requested activity

15. What is the meaning of the number 556078321 per the F.P.D. tape 911 recording of Peter H. Gear on 7-7-00.

16. The defendant requests all recordings of the F.P.D. regarding the above docketed case, including all phone tapes radio communications of the underlying incident.  
a. All foorer tapes,

b. including the recording from the Chinese Rest,  
(#16cont) by Dorset Vizikas after they left the Mobil

8

17. All transcripts made by the prosecution  
of any of the tapes or recordings in the  
instant action.
  - a. All transcripts the prosecution intends  
on using during the trial of this  
instant case.
18. The criminal record of the defendant.
19. All documentary evidence the prosecution  
will use at trial
  - a. including all documents signed by the  
defendant Michael Elberg,
20. Out-of-State & Federal "rap sheet"  
or record of criminal convictions of the  
alleged victim Peter Gear.
21. Inspection by the defendant of the prosecutor's  
file regarding this instant case.
22. Prosecutor to search & turn over to the defendant  
all records of Peter Gear's involvement  
with drugs.

(9089)

Mike pro se  
Michael Elbey, 157634  
SECC Prison A-806  
12 Administration Rd.  
Bridgewater, Mass. 02384  
01-31-01

Certificate of Service

I the defendant, Michael Elbey, sent this  
Post-Breckha Discovery Motion to the Clerk-  
Clerical Framingham Dist. Ct., 600 Concord St.,  
Framingham, Mass & the Framingham Dist. Atty.  
Office at 100 Concord St., Framingham, Mass.  
all via 1st class - U.S. mail prepaid on  
2-1-01 from SECC Prison

Mike pro se

PRIM NAME: GEAR, PETER H DOB: 02/15/1962 PCF# 2092445

SEX: M SS #: 034-38-1958 MOTHER: CAROLE KIRBY  
FATHER: NORMAN  
HOME ADDR : 58 CLINTON ST FRAMINGHAM MA  
ZIP CODE : 01702-**MASSACHUSETTS  
COURT ACTIVITY  
RECORD INFORMATION**

ETHNICITY: WHITE HGT: 507 WT: 170 HAIR: BROWN EYES: GREEN

DT: 07/05/2000 CPT: 10UNION DISTRICT (31) DKT# 9431CR47090

OFFENSE: LARCENY BY CHECK (LAR CK)

DISPOSITION: PTP 9/2/02 REST TO DISM STATUS: CLOSED

DT: 10/18/1993 CPT: NEWTON DISTRICT (12) DKT# 9312CP12460

OFFENSE: OPER UNL INFL OFF LTC (110)

DISPOSITION: C 11/8/93 G PROB 11/22/94 UNIF PD VOL/WD DUE 9/9 PROB 9/14/95 FINE 9/17/94 R/R PROB 3/2/95 PROG TERM STATUS: CLOSED

Bos 7/26/00 15:30

Ex B

End Tim 7/3/00 16:15

~~24 hour  
Tape~~

View Whole Tape no EC Brdg

911

2:24:27 #1 line

INITIAL 911 -

HANG ON I GOT TO GET HIS LICENSE PLATE -

2:26:33 Phone disconnect

2:28:12 - Cops not there yet

2:28:19 - Police ARRIVE

2:29:13 - ASSAULT TOOK PLACE -

2:30 - Chicks (61er)

2:33 - Phone call  
from ~~ESP~~ VISAKIS

(000) 200-0000 TK003 00:33:29 | TO 00:33:29 | RLS 00:33:29 | DUR 00:00:01  
2000/07/04 HIT CALL

Current time: 00:45 (2000/07/04)  
System message: APU # 002 RMT SEND BY 0000 07/04 00:47:26

(508) 877-0916 TK001 00:47:05 | RI 00:47:07 | C0002 00:47:11 | TT013 00:47:21  
| DI002 00:47:41 | RLS 00:47:43 | DUR 00:00:38

2000/07/04

201 RESD 00:47 07/04 (508) 877-0916 LEWIS, ERMOND F 5 BURBANK CIR FRAMINGHAM ESN=204 INP FRAMINGHAM PD FRAMINGHAM FD FRAMINGHAM FD

Current time: 00:59 (2000/07/04)  
Current time: 01:11 (2000/07/04)  
Current time: 01:23 (2000/07/04)  
Current time: 01:35 (2000/07/04)  
Current time: 01:47 (2000/07/04)  
Current time: 01:59 (2000/07/04)  
Current time: 02:11 (2000/07/04)  
Current time: 02:23 (2000/07/04)

(508) 875-1424 TK002 02:22:09 | RI 02:22:11 | C0001 02:22:16 | DI001 02:24:11  
| RLS 02:24:14 | DUR 00:02:05

2000/07/04

202 BUSN 02:22 07/04 (508) 875-1424 MOBIL OIL CORP 696 COCHITUATE RD FRAMINGHAM ESN=204 INP FRAMINGHAM PD FRAMINGHAM FD FRAMINGHAM FD

Current time: 02:36 (2000/07/04)  
Current time: 02:48 (2000/07/04)  
Current time: 03:00 (2000/07/04)  
Current time: 03:12 (2000/07/04)

Page# 001 Calls on this page Cumulative calls today Total calls  
All Calls TIU:03 MIU:00 LIU:00 TIU:0003 MIU:0000 LIU:0000 today:0003

Tuesday 2000/07/04 03:24 \*\*\* FRAMINGHAM \*\*\* Page # 002

Current time: 03:24 (2000/07/04)  
Current time: 03:36 (2000/07/04)  
Current time: 03:48 (2000/07/04)  
System message: APU # 002 RMT SEND BY 0000 07/04 03:55:37

(508) 879-6978 TK003 03:55:10 | RI 03:55:12 | C0002 03:55:18 | C0004 03:55:30  
| A0152 03:55:30 | TT013 03:55:31 | DI004 03:55:31  
| C0004 03:55:31 | A0152 03:55:31 | DI004 03:55:32  
| C0004 03:55:32 | A0152 03:55:32 | DI002 03:55:56  
| DI004 03:55:58 | RLS 03:55:59 | DUR 00:00:49

2000/07/04

203 BUSN 03:55 07/04 (508) 879-6978 PATHWAYS RESIDENTS 70 PEARL FRAMINGHAM ESN=204 INP FRAMINGHAM PD FRAMINGHAM FD FRAMINGHAM FD

Current time: 04:08 (2000/07/04)  
Current time: 04:20 (2000/07/04)  
Current time: 04:32 (2000/07/04)  
Current time: 04:44 (2000/07/04)  
Current time: 04:56 (2000/07/04)  
Current time: 05:08 (2000/07/04)  
Current time: 05:20 (2000/07/04)  
Current time: 05:32 (2000/07/04)

Ex. D

- 6-14-00 V 2:40pm. PO met with subject and viewed final checks from Merrit Gas periods ending 5-26,6-2-00 for 17½ hours each week. PO also viewed most receipt check stubs from Mobil Gas for 35 hours which is an avg. of 17.25 hours per week. Subject is meeting a standard number of hours imposed by the Board which is 35 hours weekly. Subject reports no changes other than that in employment. No problems.KR/jd
- 6-30-00 M PO on vacation from 7-3-00 to 7-7-00.KR/jd
- 7-6-00 TC/SI PO Stanford spoke with Officer Sanchez of Framingham PD. Subject was involved in an A&B at a gas station, investigation on-going.KR/jd
- 7-7-00 DET. PS advised by Framingham PD that a criminal complaint was filed against the subject for A&B D/W. PS authorized a WTC. PO Bello and Stanford along with Needham PD arrested subject at his residence at 6:30pm. Subject proclaimed his innocence.KR/jd
- 7-10-00 TC/PH PH set for 7-17-00 at MCI-Concord.KR/jd
- 7-11-00 PH PH rescheduled to 7-19-00.KR/jd
- 7-11-00 RI Computer check reveals no pending cases.KR/jd
- 7-12-00 L Form A faxed to MCI-Concord this date.KR/jd
- 7-12-00 TC PO spoke with the victim who informed PO that he sought medical treatment after the assault and was still under doctors care. The victim told PO that he was traumatized and fearful of the subject. PO referred victim to the Victims Service Unit. KR/jd
- 7-12-00 PVR Submitted. PO recommends Provisional Revocation.KR/jd
- 7-20-00 PBV Provisional Revocation. KR/jd
- 7-26-00 L Return of service received this date.KR/jd
- 8-7-00 L Subject postponed his final revocation hearing.KR/jd

M. Elbery, C57634  
SEC A-406  
12 Administration Rd  
Bridgewater, Ma. 02324  
2-4-01

04/05/01

Clerk-Criminal  
Framingham Dist. Ct.  
600 Concord St.  
Framingham, Ma. 01704

Ex 6 of F

RE: Com. v. Elbery #0049CR1893

Dear Clerk:

Please find for immediate filing previous "Defendant's Motion for Discovery." This was originally written by my attorney for pay who withdrew and a Continuance given by the Court on the Conference & Report and Pre-Trial Conference date on this case.

Thank you.

MML/prob

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

TRIAL COURT OF THE COMMONWEALTH  
DISTRICT COURT DEPARTMENT  
FRAMINGHAM DIVISION  
DOCKET NO. 0049 CR 1893

COMMONWEALTH OF MASSACHUSETTS )

VS. )

MICHAEL ELBERY )

) MOTION FOR DISCOVERY

Now comes the Defendant, MICHAEL ELBERY, and moves this Honorable Court pursuant to Rule 14 of the Massachusetts Rules of Criminal Procedure to order the Commonwealth to provide the following information to the Defendant in addition to the discovery information contained in the pretrial conference memorandum:

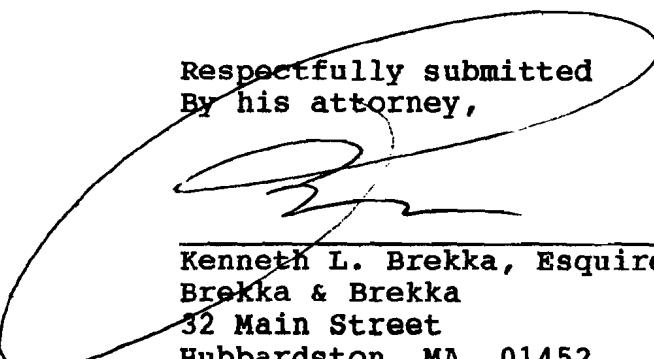
1. The date and time that all video tapes were received by the police in this case.
2. The full name of the officer who received any video tape in this case.
3. The full name and address of the person who provided the police with the video tape in this case.
4. The complete chain of custody of all video tapes collected by the police in this case.
5. All facts observed by the police officer who received the video tape in this case, including, but not limited to the location of the video tape prior to receiving the tape.
6. All statements by any individual related to the video tapes in this case.
7. The time and date that the police viewed all video tapes in this case.
8. All information related to any attempts to obtain additional video tapes in this case.
9. All information related to the whereabouts of the correct video tape in this case.
10. All hand written notes of all police officers related to this matter.
11. All medical records of the complaining witness, Peter

*NOT filed  
Client to  
make decis  
on motions*

Gear, related to this incident.

12. The name and address of any medical facility, including but not limited to any hospital, clinic, emergency room or doctor's office, that the complaining witness, Peter Gear, sought medical attention as a result of this incident.
13. Copy of all police log entries of all telephone calls related to this incident.
14. All photographs related to this incident.
15. The address and phone number of the location from which the complaining witness, Peter Gear, called the police on two occasions on July 4, 2000 and the name and address of all persons present at that location on that day who saw or spoke to Peter Gear.
16. All Framingham police documents related to Peter Gear's arrest on July 4, 2000, including but not limited to, booking sheets, police reports, photographs, computer images, statements by Gear, etc.

Respectfully submitted  
By his attorney,

  
Kenneth L. Brekka, Esquire  
Brekka & Brekka  
32 Main Street  
Hubbardston, MA 01452  
(508) 928-5000

CERTIFICATE:

Pro se Defendant - Approved  
Mike Ellory

Certificate of Service - Pro se Defendant

I, the defendant, Michael Ellory, sent this motion to the Clerk-Criminal Framingham Dist. Ct via U.S. 1st class pre-paid mail to the D.A. 100 Concord St, Framingham, Ma. on 2-7-01.

Miller, 2001

1-12-87

Ex. G

Michael Elbery, C57634  
SECC Prison A-406  
12 Administation Rd.  
Bridgewater, Mass. 02324  
2-14-01

Clerk-Criminal  
Framingham District Court  
600 Concord St.  
Framingham, Mass. 01701

RE: Com. v. Michael Elbery #0049CR1893A  
*3066*

Dear Clerk:

Please find for immediate filing and review and Mark Up for the 3-08-01 Hearing of this instant case.

"Defendant's Motion for Bill of Particulars"

"Defendant's Omnibus Discovery Motion"  
Please note that all this Pro se filings will be by U.S. certified mail to insure Due Process of Law.

Thank you.

*Melba pro se*

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham Dist. Court

Commonwealth of Mass.

Criminal Docket

#0049CR1893A

*CR 7006*

v.

Michael Elbery

DEFENDANT'S MOTION FOR BILL OF PARTICULARS

The Pro se defendant Motions for a Bill of Particulars regarding the crime alleged in the above docketed action. The prosecution's discovery provided to this defendant does not adequately detail the alleged crime so that the defendant, pro se, can be prepared for trial and defend his case regarding the charges against him.

The Pro se defendant demands as the law requires

1. State how each alleged injury occurred as depicted via the 6 F.P.D. pictures of the alleged victim, Peter H. Gear.
  
2. State the number of times the alleged victim was battered causing his each of his alleged injuries.
  
3. State any weapons the prosecutor alleges were used to inflict each injury as depicted by the 6 F.P.D. photos.
  
4. State how many times each alleged weapon was used causing the alleged

victim's injuries.

5. State where each weapon contacted the alleged victim.

*Mike, pro se*  
Michael Elbery, Pro se  
SECC A 406 C57634  
12 Administration Rd.  
Bridgewater, Mass. 02324  
2-14-01

I the pro se defendant, Michael Elbery, sent this "Bill of Particulars" to the Clerk-Criminal-Framingham District Court, 600 Concord St., Framingham, Mass. via U.S. certified mail-prepaid and the Framingham D.A.'s Office, 100 Concord St., Framingham the same all on 2- -01 from SECC Prison.

*Mike, pro se*

\* Sent Clerk- U.S. cert. mail return receipt - 70893400 0010 7081 6630  
\* Sent D.A. - U.S. cert. mail return receipt - 70893400 0010 7081 6623

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth of Massachusetts  
v.

Criminal Docket  
#0049CR1893A  
*CR 3006*

Michael Elbery

Defendant's Omnibus Discovery Motion

Due to the Court refusing to docket this Pro se defendant's Discovery Motions the Pro se defendant files this discovery motion. The defendant, Pro se, makes the following discovery demands which will yield discovery that is mandatory per M.R.Cr.P.- Rule 14.

1. Regarding the arrest of Peter H. Gear (alleged victim) by the Framingham Police (hereinafter the F.P.D) on 7-4-00 the defendant requests
  - a. the booking photos of that arrest by the F.P.D.
  - b. the booking sheet and booking report of that arrest
  - c. the booking video of that arrest
  - d. all information the F.P.D. has of that arrest
  - e. the amount of bail, date of bail and who paid the bail regarding that arrest
  - f. All statements made by Gear during that arrest
2. Regarding the alleged injuries that the alleged victim, Peter H. Gear,

sustained causing this instant action the defendant demands

- a. 2 sets of the 6 photos the F.P.D. has of those injuries
- b. to know the type of camera the F.P.D. used to take the 6 photos in (a), above.
- c. Where and When were the 6 photos in (a), above, taken?
- d. Who took the 6 pictures in (a), above?
- e. Who devoloped those same 6 pictures?
- f. Court impound the negatives that produced those 6 pictures

3. Regarding the larceny charge originating/filed at the Taunton Dist. Court (docket #9431CR4589A) that the F.P.D. arrested Peter H. Gear for on 7-4-00 the defendant requests

- a. all court and probation records regarding that arrest
- b. the amountof the larcenies, number of larcenies, date of larcenies/offenses that caused that arrest
- c. date the charges were disposed of
- d. the disposition of the charges
- e. Per Gear's CORI - what does PTP mean and what is its significance  
- see Ex. A.

4. Where and when did Peter H. Gear (alleged victim) report the alleged crime to the F.P.D. that caused this instant action.

- a. to whom was the alleged crime reported?
- b. state the exact address where the alleged crime was reported
- c. Produce a copy of the tape recording, log and computer printout of any phone call that preceded the report by Gear and that cause the F.P.D. to take Gear's complaint.
- d. State the time that Gear reprtred the alleged crime to the F.P.D. which resulted in a police report to Sgt. Sanchez.

5. State the name of the therapist and addressthat, as per Mass. Region #9 Parole officer - Karen Rouke-Gatty, Gear went to for therapy or treatment. See Ex. D.

- a. Produce all reports from that therapist regarding Gear's treatment needed because of the incident that caused this action
  - b. Produce all reports from that therapist via reports or otherwise indicating or revealing where Gear went in terms of a physician's or hospital treatment regarding his alleged injuries.
6. A viewing and listening by the defendant to the F.P.D. recording machine that records the times and phone calls to the F.P.D., the same recording machine Attorney Ken Brekka obtained the information regarding the defendant's 911 call on 7-4-00 to the F.P.D. and their response to that call, See Ex. B.
- a. Including all 7 known phone calls involved in this instant case to the F.P.D. - See #8 below for a list of the 7 phone calls
  - b. In particular the 2 phone calls Gear made on 7-4-00 to the F.P.D.
  - c. Also the phone call made by F.P.D. Vizikas from the Route 30 Mobile on 7-4-00 upon arrival to the Mobil as a result of the defendant's 911 call from the Mobil.
7. Produce all information for the last 6 years of Peter H. Gear with the Mass. Registry of Motor Vehicles regarding his registration of automobiles
8. Regarding the phone calls made to or from/by the F.P.D. concerning the above docketed case, the defendant requests (See calls listed below)
- a. A computer print out of each phone call
  - b. that he listen to the original tape recording of each call on the original F.P.D. recording machine
  - c. that he get or receive a transcript of the recording of each call
  - d. a print out of the F.P.D. log of each call

	<u>Caller</u>	<u>Time Call Made</u>	<u>Date</u>	<u>Source</u>
1.	Elbery	2:22 a.m.	7-4-00	F.P.D., Computer
2.	Gear	?	7-4-00	F.P.D. 911 tape

3.	Gear	?	7-4-00	F.P.D. 911 tape
4.	Elbery	2:37 a.m.	7-4-00	F.P.D. log
5.	Gear	7:21 a.m.	7-5-00	F.P.D. log
6.	Elbery	3:30 a.m.	7-7-00	Attorney Ken Brekka & F.P.D. tape
7.	F.P.D. Sanchez	7:30 a.m.,	7-6-00	F.P.D. tape

9. Meaning of the abbreviations, all, on the F.P.D. computer printout . See Ex. C.

10. A copy of the 7-3-00 Mobil video that is in possession of the F.P.D for the defendant's viewing.

a. or a viewing of that tape by the defendant at the Court.

11. The synagogue or temple Gear was barmitzvahed at.

12. The Docket Entries of this instant case.

13. 4 applications for criminal complaint.

14. Provide the "Chain of Custody" of the Mobil video of 7-2-00 through 7-3-00 that the F.P.D. possess and the Court ordered impounded during this instant action/case.

a. State the name of the officer who picked up that video tape or any other video tape from the Mobil.

- b. State the date and time the officer in (a), above, picked-up that video tape or any video tape from the Route 30 Mobil
  - c. State the name of the F.P.D. officer who brought back that same video tape or any video tape to the Route 30 Mobil
  - d. State the time and day and date that the officer in (c), above, brought back that Mobil video tape to the Mobil and which Mobil employees did you give the tape to.
- e. Describe all activrty of the F.P.D regarding the Mobil video, above, after it was initially picked-up until Sanchez put it in evidence at the F.P.D. on 7-7-00
    - i. Include the names of all F.P.D.employees and prosecution team members who participated in any and all of the requested "chain of custody" and activities
    - ii. The date, day and time of all requested activity of the video "chain of custody"
    - iii. State the name of any and all Mobil employees contacted regarding any and all Mobil video tapes
15. State the meaning of the number S56078321 per the F.PD. tape 911 recording of Peter H. Gear on 7-4-00.
16. Produce all recordings of the F.P.D. regarding the above docketed case, including all phone tapes and radio communications of the underlying incident.
- a. Include all turret tapes.
  - b. Include the recording of F.P.D. Dones and Vizikas' radio communication from the Chinese Restaurant after leaving the Mobil on 7-4-00 after the incident that caused this action.
17. Produce all transcripts made by the prosecution of any and all tapes and recordings involving this instant action.
- a. Produce all transcripts the prosecution intends on using during the trial of this instant case.
18. The criminal CORI records of the defendant.

19. Produce all documentary evidence the prosecution will use at trial
  - a. including all documents signed by the defendant
20. Provide an "out-of-state " and Federal rap sheet or criminal convictions of the alleged victim, Peter H. Gear, for the other 49 state and Federal jurisdiction.
21. Provide for inspection by the defendant the prosecutor's file regarding this instant case.
22. Prosecutor to search and turn over to the defendant all records of Peter H. Gear's involvement with drugs.
23. Produce a list of all F.P.D. officers on duty the 11-7 shift during the month of May and June of 2000.
24. State the relationship between the Special A.D.A. handling this case, Hurley, and Lt. James Hurley of the Shrewsbury Police Dept.
25. Provide a viewing by the defendant, pro se, of the video tape taken from the Route 30 Mobil, 696 Cochituate Road, Framingham now being held by the F.P.D.
26. State the ancestry of the alleged victim, Peter H. Gear.
  - a. Religion of Gear
  - b. state whether Gear is a Jew
27. State the names, addresses, and identifications of all people and

witnesses interviewed by the Commonwealth, the F.P.D., D.A.'s Office and prosecution team regarding the above docketed case.

- a. describe the content of the subject matter of each of these interviews of each person.
- b. state day, time, and date of each such interview.

28. Produce all notes taken by the responding F.P.D. officers on 7-4-00 at the Mobil gas station, 696 Cochituate Road, Framingham, where the incident took place that caused this above docketed action.

29. List of all F.P.D. members that spoke to the following employees at the Route 30 Mobil, 696 Cochituate Road, Framingham, regarding the alleged criminal episode and anything related to that alleged criminal episode

- a. Mgr. Dolly Olecki
- b. Ast. Mgr. James "J" Regal
- c. Bill Fairbanks
- d. Mary fleyd
- e. Richard Gedsoe
- f. State the date and substance or content of each conversation

30. Provide a record of all mail this defendant, Michael Elbery, sent out of Concord State Prison from 7-7-00 through 10-10-00

- a. Include the name and address of all destinations of that mail
- b. include the date sent for each piece of that outgoing mail

31. Provide an audible copy of the tape of the 10-17-00 evidentiary hearing held at the Framingham District Court on this action.

32. Provide the results of the eyesight tests done on this defendant between 7-7-00 and 10-10-00 at Concord State Prison's H.S.U. unit.

33. Reserve a VCR and TV for trial date in order to show video evidence.
34. State who on the F.P.D. and prosecution team or any other state actor viewed any of the Mobil videos taken from the Mobil gas station, 696 Cochituate Road, Framingham
  - a. state date each state actor viewed any of the videos taken from that same Mobil
  - b. state the time of each viewing by each state actor
35. Provide an expert witness, independent of the prosecution and approved by the defendant, to test the
  - a. the 6 F.P.D. pictures and related negatives of the alleged victim Peter H. Gear
  - b. various F.P.D 911 tapes in this , as in #8 above
  - c. pictures and documents depicting injuries in this case by a physician
38. State the address of the prosecution's star witness, Peter H. Gear, from 7-4-00 to present.
39. Produce all statements held by F.P.D. internal affairs of percipient witnesses regarding this case
  - a. in particular involving any investigation of the missing Mobil video tape of 7-4-00
40. State the time F.P.D. Dones and Vizikas left the Mobil after responding to this defendant's 911 call on 7-4-00

41. See also Defendant's Bill of Particulars, Motion for Expert Testing on the F.P.D. phone tapes and recording machine and negatives of the pictures/photos (6) the F.P.D. has of the alleged victim's alleged injuries, Motion for a Medical witness to testify regarding the injuries sustained by Peter H. Gear and the defendant as per medical records and photos.

42. See also defendant's Motion to compel Attorney Brekka to disclose exculpatory evidence he gained during his investigation of this case to the defendant so the defendant can be prepared for trial.

43. See defendant's Motion for Evidentiary Hearing of Peter H. Gear so the defendant can gain exculpatory evidence.

44. See also defendant's Motions for hospital and medical records to the Deaconess-Glover Hospital and the M.C.I. Concord H.S.U. and to Mobil Oil Corp. for documents.

Michael Elbery, Pro se  
SECC Prison A 406, C57634  
12 Administration Rd.  
Bridgewater, Mass. 02324  
2-14-01

Certificate of Service

I the defendant prose, Michael Elbery, sent this Omnibus Motion to the Clerk-Criminal-Framingham District Court, 600 Concord St., Framingham, Mass. and to the Framingham D.A.'s Office, 100 Concord St., Framingham, Mass. all via U.S. certified mail-prepaid on 2- -01 from SECC Prison Mail.

Meth, page

\* sent Clark - a/c s. cost. and return receipt - 7089 34000 0010 7081 6630  
\* - D.A. - - - - - - - - - 7089 34000 0010 7081 6623

PRIM NAME: GEAR, PETER H

DOB: 08/15/1968 PCF#: 2092446

SEX: M SS #: 034-38-1958 MOTHER: CAROLE KIRBY  
FATHER: NORMAN  
HOME ADDR : 58 CLINTON ST FRAMINGHAM MA  
ZIP CODE : 01702-

**MASSACHUSETTS  
COURT ACTIVITY  
RECORD INFORMATION**

ETHNICITY: WHITE HGT: 507 WGT: 170 HAIR: BROWN EYES: GREEN

DT: 07/05/2002 RAY CPT: TAUNTON DISTRICT ( 21 ) DKT# 9431CR45690

OFFENSE: LARCENY BY CHECK (LAR CK)

DISPOSITION: PTP 9/2/98 REST NO DISM

STATUS: CLOSED

DT: 10/18/1993 CPT: NEWTON DISTRICT ( 12 ) DKT# 9312CP12460

OFFENSE: OPER UND INFL OF LTC (110)

DISPOSITION: C 11/8/93 G PROB 11/27/94 VNF PD VOL/MD DRUG VOP STATUS: CLOSED  
PROB 8/14/95 FINE 9/1/94 R/R PROB 3/2/95 PROG TERM

Bes 7/26/00 15:30

Ex B

End Tim 7/3/00 16:15

~~24 hour  
Tape~~

View Whole Tape no EL Beg

911

2:24:27 #1. b/w

INITIAL 911 -

HANG ON I GOT TO GET HIS LICENSE PLATE -

2:26:33 Phone disconnects

2:28:12 - Cops not there yet

2:28:19 - Police ARRIVE

2:29:13 - ASSAULT TOOK PLACE -

2:30 - Chicks (Gier)

2:33 - Phone call

from ~~Esp~~ Visakis

(000) 200-0000 TK003 00:33:29 | TO 00:33:29 | RLS 00:33:29 | DUR 00:00:01  
2000/07/04 HIT CALL

Current time: 00:45 (2000/07/04)  
System message: APU # 002 RMT SEND BY 0000 07/04 00:47:26

(508) 877-0916 TK001 00:47:05 | RI 00:47:07 | C0002 00:47:11 | TT013 00:47:21  
| DI002 00:47:41 | RLS 00:47:43 | DUR 00:00:38

2000/07/04

201 RESD 00:47 07/04 (508) 877-0916 LEWIS, ERMOND F 5 BURBANK CIR FRAMINGHAM ESN=204 INP FRAMINGHAM PD FRAMINGHAM FD FRAMINGHAM FD

Current time: 00:59 (2000/07/04)  
Current time: 01:11 (2000/07/04)  
Current time: 01:23 (2000/07/04)  
Current time: 01:35 (2000/07/04)  
Current time: 01:47 (2000/07/04)  
Current time: 01:59 (2000/07/04)  
Current time: 02:11 (2000/07/04)  
Current time: 02:23 (2000/07/04)

(508) 875-1424 TK002 02:22:09 | RI 02:22:11 | C0001 02:22:16 | DI001 02:24:11  
| RLS 02:24:14 | DUR 00:02:05

2000/07/04

202 BUSN 02:22 07/04 (508) 875-1424 MOBIL OIL CORP 696 COCHITUATE RD FRAMINGHAM ESN=204 INP FRAMINGHAM PD FRAMINGHAM FD FRAMINGHAM FD

Current time: 02:36 (2000/07/04)  
Current time: 02:48 (2000/07/04)  
Current time: 03:00 (2000/07/04)  
Current time: 03:12 (2000/07/04)

Page# 001 Calls on this page Cumulative calls today Total calls  
All Calls TIU:03 MIU:00 LIU:00 TIU:0003 MIU:0000 LIU:0000 today:0003

Tuesday 2000/07/04 03:24 \*\*\*\* FRAMINGHAM \*\*\* Page # 002

Current time: 03:24 (2000/07/04)  
Current time: 03:36 (2000/07/04)  
Current time: 03:48 (2000/07/04)  
System message: APU # 002 RMT SEND BY 0000 07/04 03:55:37

(508) 879-6978 TK003 03:55:10 | RI 03:55:12 | C0002 03:55:18 | C0004 03:55:30  
| A0152 03:55:30 | TT013 03:55:31 | DI004 03:55:31  
| C0004 03:55:31 | A0152 03:55:31 | DI004 03:55:32  
| C0004 03:55:32 | A0152 03:55:32 | DI002 03:55:56  
| DI004 03:55:58 | RLS 03:55:59 | DUR 00:00:49

2000/07/04

203 BUSN 03:55 07/04 (508) 879-6978 PATHWAYS RESIDENTS 70 PEARL FRAMINGHAM ESN=204 INP FRAMINGHAM PD FRAMINGHAM FD FRAMINGHAM FD

Current time: 04:08 (2000/07/04)  
Current time: 04:20 (2000/07/04)  
Current time: 04:32 (2000/07/04)  
Current time: 04:44 (2000/07/04)  
Current time: 04:56 (2000/07/04)  
Current time: 05:08 (2000/07/04)  
Current time: 05:20 (2000/07/04)  
Current time: 05:32 (2000/07/04)

Ex. 0

- 6-14-00 V 2:40pm. PO met with subject and viewed final checks from Merrit Gas periods ending 5-26,6-2-00 for 17½ hours each week. PO also viewed most receipt check stubs from Mobil Gas for 35 hours which is an avg. of 17.25 hours per week. Subject is meeting a standard number of hours imposed by the Board which is 35 hours weekly. Subject reports no changes other than that in employment. No problems.KR/jd
- 6-30-00 M PO on vacation from 7-3-00 to 7-7-00.KR/jd
- 7-6-00 TC/SI PO Stanford spoke with Officer Sanchez of Framingham PD. Subject was involved in an A&B at a gas station, investigation on-going.KR/jd
- 7-7-00 DET. PS advised by Framingham PD that a criminal complaint was filed against the subject for A&B D/W. PS authorized a WTG. PO Bello and Stanford along with Needham PD arrested subject at his residence at 6:30pm. Subject proclaimed his innocence.KR/jd
- 7-10-00 TC/PH PH set for 7-17-00 at MCI-Concord.KR/jd
- 7-11-00 PH PH rescheduled to 7-19-00.KR/jd
- 7-11-00 RI Computer check reveals no pending cases.KR/jd
- 7-12-00 L Form A faxed to MCI-Concord this date.KR/jd
- 7-12-00 TC PO spoke with the victim who informed PO that he sought medical treatment after the assault and was still under doctor's care. The victim told PO that he was traumatized and fearful of the subject. PO referred victim to the Victims Service Unit. KR/jd
- 7-12-00 PVR Submitted. PO recommends Provisional Revocation.KR/jd
- 7-20-00 PBV Provisional Revocation. KR/jd
- 7-26-00 L Return of service received this date.KR/jd
- 8-7-00 L Subject postponed his final revocation hearing.KR/jd