

MARTHA COAKLEY
DISTRICT ATTORNEY

THE COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX DISTRICT ATTORNEY
100 CONCORD PLACE
FRAMINGHAM, MA 01701

TEL: 508-875-4141
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By Certified Mail

June 12, 2001

Michael Elberry (057634)
SECC Prison 00-A
12 Administrative Road
Bridgewater, MA 02324

Re: Commonwealth v. Michael Elberry
Docket No.: 00-3006

Dear Mr. Elberry:

Enclosed please find:

- (1) Commonwealth's Bill Of Particulars;
- (2) Commonwealth's Response To Court Order On Defendant's Omnibus Discovery Motion, with attachments;
- (3) Copy of the video referred to in item number three; and
- (4) Affidavit and attached certified medical records which are being served pursuant to G.L. c. 233, sec. 79G.

Yours Truly,

A handwritten signature in black ink, appearing to be "M. Coakley", written over a horizontal line.

Middlesex District Attorney's Office
(508) 875-4141

cc: Framingham District Court Clerk's Office

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

FRAMINGHAM DISTRICT COURT
DOCKET NO. 00-3006

COMMONWEALTH

v.

MICHAEL ELBERRY

COMMONWEALTH'S BILL OF PARTICULARS

Now comes the Commonwealth in the above-entitled matter and in response to defendant's request for a bill of particular states as follows:

Date: On or about July 4, 2000.


Place: The assault and battery and the assault and battery with a dangerous weapon took place at the Speen Street Mobil Gas station/market at 696 Cochituate Road/Route 30 in Framingham, Massachusetts.

Manner and means: On the above dates, the defendant intended to and did in fact did touch Peter Gear without having any right or excuse for doing so, and such touching was done without Mr. Gear's consent and was intended to and did in fact cause bodily harm to Mr. Gear. The dangerous weapon used by defendant was his shod foot.

The Commonwealth reserves the right to amend or supplement this bill of particulars at any reasonable time prior to or at trial.

Respectfully Submitted,
For the Commonwealth

MARTHA COAKLEY
DISTRICT ATTORNEY



Special Assistant District Attorney
100 Concord Place
Framingham, MA 01701
(508) 875-4141

Dated: June 12, 2001

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

FRAMINGHAM DISTRICT COURT
DOCKET NO. 00-3006

COMMONWEALTH

v.

MICHAEL ELBERRY

**COMMONWEALTH'S RESPONSE TO COURT ORDER
ON DEFENDANT'S OMNIBUS DISCOVERY MOTION**

Now comes the Commonwealth in the above-entitled matter and in response to this Court Order (Stoddart, J., May 17, 2001) on Defendant's Omnibus Discovery Motion as follows:¹

Request Number 1

- (a) the booking photos were provided to defendant prior to this Court's Order;
- (b) a copy of the booking sheet is attached hereto;
- ✓ (c) there is no such video in the possession, custody or control of the District Attorney's Office;
- (d) see response to 1(a) and 1(b);
- (f) see response to 1(b).

Request Number 2

- (a) a copy of the set of photographs were provided to defendant prior to this Court's Order and the originals of the same have, are and will be available for inspection.

Request Number 3

Not applicable to District Attorney's Office.

Request Number 4

- (a) – (d) see the Framingham Standard Offense Report (Case Number 0004248), a copy of which was previously provided to defendant.

¹ Only those requests which were allowed are responded to herein.

Request Number 10

A copy of the video is enclosed.

Request Number 12

An original certified copy of the docket is enclosed.

Request Number 15

According to Framingham Police Department, the number used is simply an identification number for Mr. Gear, having no independent significance to the Department.

Request Number 17

A copy of a portion of the Framingham Police Department Police Log is enclosed herewith. There are no other such transcripts in the possession, custody or control of the District Attorney's Office, nor does it intend to use any transcripts at the trial in this action.

Request Number 18

See copy of defendant's record enclosed herewith.

Request Number 19

See copies of defendant's criminal convictions, the receipt for Mr. Gear's purchase of gasoline, and Mr. Gear's medical records which have been certified pursuant to G.L. c. 233, sec. 79G, copies all of which are enclosed herewith. The Commonwealth also reserves the right to use additional documents at trial, which have not yet been identified, including, but not limited to any and all motions and papers sent to the Court by defendant.

Request Number 20

There are no such documents in the possession, custody or control of the District Attorney's Office.

Request Number 25

See response to Request Number 10.

Request Number 27

See the Framingham Standard Offense Report (Case Number 0004248), a copy of which was previously provided to defendant.

Request Number 28

See the Framingham Standard Offense Report (Case Number 0004248), a copy of which was previously provided to defendant. According to the Framingham Police Department, no other notes exist.

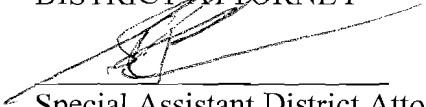
Request Number 33

Not applicable to District Attorney's Office.

The Commonwealth reserves the right to amend or supplement this response at any reasonable time prior to or at trial.

Respectfully Submitted,
For the Commonwealth

MARTHA COAKLEY
DISTRICT ATTORNEY


Special Assistant District Attorney
100 Concord Place
Framingham, MA 01701
(508) 875-4141

Dated: June 12, 2001

Framingham Police Department
POLICE LOG

Time

02:37 911 HANGUP: 696 COCHITUATE RD, SPEEN ST MOBIL (GOA) 951: VIZAKIS 960: DONES 941: ESPINOSA CALLER STATED, PROBLEM WITH CUSTOMER, PERSON IS DRUNK AND WONT PAY FOR GAS

03:56 MEDICAL: 70 PEARL ST (FIRE TRANSPORT) 950: MCCANN CALLER REQUESTS MEDICAL ASSISTANCE.

04:43 ALARM - RESIDENTIAL: 4 RESERVOIR RIDGE (BLDG CK/SECURE) 951: VIZAKIS 960: DONES CALLER REPORTS A BASEMENT ALARM.

04:58 MESSAGE: 71 WILSON DR (ASSISTED) 950: MCCANN CALLER REQUESTS THAT WE ATTEMPT TO CONTACT THE RESIDENT AT 71 WILSON DR CONCERNING A FAMILY MATTER.

05:15 RELEASED: STATION (LOGGED) MICHAEL HOBART, INCIDENT #0004234, RELEASED FROM PROTECTIVE CUSTODY PER ORDER OF THE C.O.

05:15 DISTURBANCE: 15 EDMANDS RD, EDMANDS HOUSE (ADVISED) 941: ESPINOSA 953: SHASTANY 960: DONES CALLER STATES THAT A MALE IS YELLING AT A FEMALE IN THE APAARTMENT NEXT TO HIM, HE LIVES IN #156 V/ PERSON ISIDE APARTMENT#140 WAS TALKING TO HIMSELF, MAKING LOUD NOISES.

0004237 05:53 TRESPASS TOW: 55 PHELPS RD, SHERWOOD PARK APARTMENTS (LOGGED) 269: KEITH A RED 1999 GMC JIMMY, MA REG 9645JO, WAS REMOVED FROM THE PREMISES PER ORDER OF THE MANAGEMENT.

0004238 05:57 TRESPASS TOW: 55 PHELPS RD, SHERWOOD PARK APARTMENTS (LOGGED) 269: KEITH A YELLOW MECREDES BENZ, MA REG 7974PM, WAS REMOVED FROM THE PROPERTY PER ORDER OF THE MANAGEMENT.

06:02 911 HANGUP: 74 MAIN ST (UNABLE TO LOCATE) 950: MCCANN 911 HANG UP FROM WORLD LINK COMMUNICATIONS. THERE IS NO BUSINESS NAMED WORLD LINK COMM AT 74 MAIN ST.

06:53 PERSONNEL: STATION (LOGGED) OFFICER GAVIN ON DUTY AT 0645 HOURS.

07:20 UNDESIRABLE: 430 WAVERLY ST, STORE 24 (ADVISED) 942: LINEHAN 949: ANTONIO CALLER REPORTS AN UNDESIRABLE IN THE STORE 24.

07:32 PERSONNEL: STATION (LOGGED) L/TEAL AND S/DELANEY ON DUTY AT 0730 HOURS.

08:02 ALARM - BUSINESS: 51 WORCESTER RD (BLDG CK/SECURE) 951: GAVIN [GEN BURG ALARM AT THE RAT PACK]

08:08 PERSONNEL: STATION (LOGGED) ON DUTY AT 07:30 HOURS DAY SHIFT RANKING OFFICERS. C.O. LT. TEAL AND PATROL SUPERVISOR SGT. DELANEY. ON DUTY AT 07:45 HOURS PATROL FORCE DISP GALVANI CLERKS FRAZIER AND CALVAO. AREA A PELHAM BURMAN CR 941 SS

Time Framingham Police Department
POLICE LOG

SUBST STRANGE CR 969 AREA B PEREIRA CR 956 LANGMEYER CR 942
AREA C LOUGHMAN MC1 ABT MC2 NS SUBST ALFANO CR 943 AREA D
GAVIN CR 951 (ALREADY ON SWING SHIFT.)

08:27 ALARM - BUSINESS: 969 CONCORD ST, NORTHERN MASS TELEPHONE
(BLDG CK/SECURE) 943: ALFANO 951: GAVIN GENERAL BURG.

0004239 09:03 LARCENY: 547 WORCESTER RD, 51 (SEE REPORT) 943: ALFANO 940:
EADIE

10:20 CIVIL MATTER: 64 HOLLIS ST, APT 1 (ADVISED) 956: PEREIRA
CELIO VIEIRA STATES THAT HE IS HAVING PROBLEMS WITH ROOMMATES
WHO WONT ALLOW HIM BACK INTO HIS APARTMENT

11:08 MEDICAL: 73 ANGELICA DR (FIRE TRANSPORT) 943: ALFANO

11:09 MV DMV: WORCESTER RD, FRIDAYS (GOA) MV IN ROADWAY IN FRONT OF
FRIDAYS.

11:09 UNDESIRABLE: 1 WORCESTER RD, LOGAN EXPRESS (ADVISED) MC1:
LOUGHMAN MC2: ABT

0004240 11:10 ARREST: KRUEGER, STEPHEN 16 JUNIPER LN #18 NORTH ATTLEBORO, MA
DOB:07/21/78 SS:026-70-2051 Arrested@ STATION for
WARRANTS-OUTSIDE SEE REMARKS Officer: BURMAN

11:31 CIVIL MATTER: 46 IRVING ST, 2 (ADVISED) 969: STRANGE 941:
BURMAN

11:34 MEDICAL: 37 ARSENAL RD (FIRE TRANSPORT) 956: PEREIRA 37 A MAN
DOWN FIRE DEPARTMENT DISPATCHED.

11:35 ALARM - RESIDENTIAL: 35 FOX HILL RD, COHEN RESIDENCE (BLDG
CK/SECURE) 951: GAVIN 943: ALFANO HOLD UP ALARM.

12:09 UNDESIRABLE: 358 WAVERLY ST, CHICKEN BONE SALOON (REMOVED)
941: BURMAN

12:15 MV COMPLAINT: 14 DONNA RD (ADVISED) MC1: LOUGHMAN MC2: ABT

12:24 BAILED: STATION (LOGGED) REF CASE 0004240 DRUEGER, STEPHEN DOB
7/21/78 BAILED PER ORDER B.C. DELUCA.

0004241 13:18 ARREST: GEAR, PETER 58 CLINTON ST FRAMINGHAM, MA DOB:02/15/62
SS:034-38-1958 Arrested@ 81 UNION AV TER for WARRANTS-OUTSIDE
SEE REMARKS RAYNHAM PD/TAUNTON DIST CT WARRANT 9431CR004589
LARC BY CHECK OVER 250.00] Officer: CALVAO

Time Framingham Police Department
POLICE LOG

03:59 ALARM - BUSINESS: 575 WORCESTER RD, WILD OATS (CK OK) 944:
SANCHEZ 951: VIZAKIS

04:14 ASSISTANCE: 931 WORCESTER RD, FRAMINGHAM CENTRE ANTIQUES
(TRANSPORT) 944: SANCHEZ 951: VIZAKIS TRANSPORT STRANDED
PERSON TO STATION

05:08 ALARM - BUSINESS: 259 COCHITUATE RD, BURGER KING (EMP ERROR)
944: SANCHEZ 951: VIZAKIS WEST PERIMETER DOOR ALARM DELIEVERY
MAN

06:21 PERSONNEL: STATION (LOGGED) OFF. CHISM OUT SICK FOR THE DAY
SHIFT

06:54 ACC M/V: HAMILTON ST (ASSISTED) 944: SANCHEZ CALLER REPORTS A
MINOR MVA AT THE INTERSECTION OF SCHOOL ST PLATES ARE MA.
3467DZ AND ME. CO. 688738

0004248 07:21 ASSAULT: 696 COCHITUATE RD, SPEEN ST MOBIL (SEE REPORT) 944:
SANCHEZ CALLER STATES HE WAS ASSAULTED BY AN EMPLOYEE OF THE
MOBIL STATION

07:25 PERSONNEL: STATION (LOGGED) LT. LEPORATI AND SGTS. REARDON
AND DELANEY ON DUTY AT 0730 HRS

07:33 ALARM - BUSINESS: 780 WATER ST, ROYAL PIZZA (CK OK) 944:
SANCHEZ BACK DOOR MOTION

07:56 PERSONNEL: STATION (LOGGED) (ON DUTY AT 0745 HRS FOR DAY
SHIFT:CO/LT LEPORATI, NS PTL SUP/SGT REARDON, SS PTL SUP/SGT
DELANEY; DISP/GREENGLASS; OFFICE/WERNER-KRISHTAL; AREA
A/MCGRATH 944, PEREIRA 942(SS SUB), BURMAN 941(PELHAM); AREA
B/OTTAVIANI 950, LANGMEYER 940; AREA C/FRAZIER 949, GALVANI
960, HAVEL 970(NS SUB); AREA D/BLASS 954; ACC.PREV/CALVAO 945,
ABT MC2, BABINEAU MC3; HOSUING/NEWMAN; DETS/LT
BRIDGES-HILL-SIABA-CRAWFORD; DVU/PIERS; PHOTOS/MONTUORI;
DETAILS/HAYES)



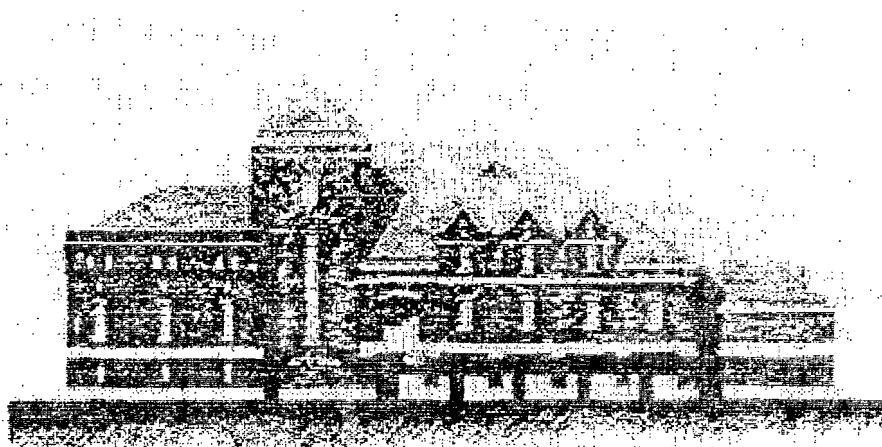
Framingham Police Department

1 William Welch Way

Framingham, Massachusetts 01702

To: <i>Genneth Brekke, Esq.</i>	For Information Call:
Department:	At: (508) 620-4920
Pages: <i>9</i>	Fax Number: (508) 872-3506

Comments:



POLICE HEADQUARTERS DEDICATION

JANUARY 26, 1995

*****NOTICE OF CONFIDENTIALITY*****

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FRAMINGHAM POLICE STANDARD OFFENSE REPORT

DISPATCHED CITIZEN ON VIEW <u>2</u>	DATE/TIME REPORTED <u>07-05-00 01:30^{Am}</u>	DATE/TIME OCCURRED <u>07-04-00</u>	CASE # <u>0004248</u>
LOCATION OF OFFENSE <u>696 Cochituate Rd</u>		TYPE OF PREMISE	
INCIDENT/OFFENSE (list most serious first) <u>A/B</u>		1 STREET 2 SINGLE RESIDENCE 3 MULTIPLE RESIDENCE 4 COMMERCIAL 5 GAS STATION 6 STORE 7 PHARMACY/DOCTOR OFFICE 8 PUBLIC COMMUNITY BLDG/SCHOOL (INSERT NUMBER) <u>5</u>	
		9 RESTAURANT 10 WARE HOUSE 11 TAVERN BAR 12 VEHICLE 13 BANK 14 OPEN AREA (PARK, FIELD, ET) 15 OTHER	

CODES (INSERT LETTER) V=VICTIM B=BUSINESS W=WITNESS F=PARENT DC=DISCOVERED CRIME RP=REPORTING PARTY

NAME LAST, FIRST, MIDDLE <u>SANCHEZ, Hector M.</u>							1 CODE <u>RP</u>	RESIDENCE ADDRESS-PHONE <u>1 William H. Welch Way</u>			
SEX <u>M</u>	RACE <u>W</u>	HAIR <u>BRN</u>	EYES <u>BRN</u>	HT.	WT.	DOB <u>02-15-62</u>	AGE	OCCUPATION	BUSINESS ADDRESS-PHONE		
NAME LAST, FIRST, MIDDLE <u>Gear, Peter H.</u>							2 CODE	RESIDENCE ADDRESS-PHONE <u>58 Clinton St.</u>			
SEX <u>M</u>	RACE <u>W</u>	HAIR <u>BRN</u>	EYES <u>BRN</u>	HT.	WT.	DOB <u>02-15-62</u>	AGE	OCCUPATION	BUSINESS ADDRESS-PHONE <u>617-480-1551</u>		
NAME LAST, FIRST, MIDDLE							3 CODE	RESIDENCE ADDRESS-PHONE			
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	OCCUPATION	BUSINESS ADDRESS-PHONE		
DID VICTIMS RECEIVE MEDICAL ATTENTION? WHERE?							ADDITIONAL INFORMATION (LOCAL USE ONLY)				
VIC #1 _____ VIC #2 _____ VIC #3 _____											

 PROPERTY STATUS: (INSERT LETTER) S=STOLEN RE=RECOVERED-SAFEKEEPING SUPPLEMENT STATUS
 F=FOUND HE=HOLD FOR EVIDENCE ANALYSIS "A" DESTROY "D"

STATUS	QTY	DESCRIPTION OF PROPERTY	CODE	MODEL SERIAL OWNER APPLIED NO.	VALUE
1	HE	6 Photos of Victims injuries	-	-	-
2					
3					
4					
5					
6					
7					
8					

 A: CURRENCY/MAIL/CHECKS/STAMPS
 B: JEWELRY/PRECIOUS METALS
 C: CLOTHING
 D: LOCALLY STOLEN MOTOR VEHICLES
 E: OFFICE EQUIPMENT
 F: TV/RADIOS/STEREOS/ELECTRONIC EQUIP

 G: FIREARMS/WEAPONS
 H: HOUSEHOLD GOODS
 I: CONSUMABLE GOODS/DRUGS
 J: LIVES/LACK/PETS
 K: BUILDING & CONSTRUCTION EQUIP/MATERIAL
 LAWN EQUIP./MIS.

PROPERTY CODES

 A
 (INSERT LETTER)

 CASE STATUS
 ACTIVE _____ INACTIVE _____ CLEARED _____

 FURTHER ACTION
 YES _____ NO _____

 CASE DISPOSITION
 ARREST _____ ADULT _____ JUVENILE _____

 UNFOUNDED
 EXCEPTIONAL CLEARANCE

Sanchez 233

TIME DATE

(INSERT NUMBER) WHERE APPLICABLE

WEAPON	METHOD OF ENTRY	POINT OF ENTRY	INSTRUMENT USED FOR ENTRY INTO BUILDING	COMPLETE THEFTS ONLY	RELATIONSHIP OFFENDER TO VICTIM
0 NO WEAPON	1 FORCEBLE	1 FRONT	1 KEY	1 COB-OPERATED MACHINES	1 HUSBAND
1 HANDGUN	2 UNLAWFUL NO FORCE	2 REAR	2 PRY TOOL	2 FROM BLDGS	2 WIFE
2 SHOTGUN	3 ATTEMPTED FORCEBLE	3 SIDE	3 SAW-DRILL	3 MV PARTS & ACCESSORIES	3 FATHER
3 RIFLE			4 HAMMER	4 SHOPLIFTING	4 MOTHER
4 KNIFE			5 BOLT CUFFER	5 POCKET-PICK	5 SON
5 HANDS ETC.			6 CHOPPING TOOL	6 PURSE-SNATCH	6 DAUGHTER
6 OTHER WEAPON			7 CHAN LOCKS	7 BROTHER	7 BROTHER
	SAFE ENTERED	1 DOOR	8 VISE GRIPS	8 EMBEZZLEMENT	8 SISTER
	1 YES	2 WINDOW	9 PHYSICAL FORCE	9 POSS STOLEN PROPERTY	9 STEPFATHER
	2 ATTEMPTED	3 PATIO DR	10 THROWN OBJECT	10 ALL OTHER	10 STEPMOTHER
	3 NO	4 DUCT-VENT			11 STEPSON
		5 ROOF			12 STEPDAUGHTER
		6 WALL			13 STEPBROTHER
		7 ADJ. BLDG.			14 STEPSISTER
		8 OTHER			15 GRANDPARENT
					16 GRANDCHILD
					17 IN-LAW
					18 EX-HUSBAND
					19 EX-WIFE
					20 CL HUSBAND
					21 CL WIFE
					22 OTHER FAMILY
					23 GUARDIAN
					24 BOYFRIEND
					25 GIRLFRIEND
					26 EX-BOYFRIEND
					27 EX-GIRLFRIEND
					28 ACQUAINTANCE
					29 FRIEND
					30 EMPLOYER-EMPLOYEE
					31 STRANGER
					00 UNKNOWN
					V1 V2 V3

PHYSICAL EVIDENCE

— FINGERPRINTS	— TOOLMARKS	— STAINS, BLOOD, SEMEN, ETC.	— MUD-SOIL	— CLOTHING	— DOCUMENTS
— GLOVEPRINTS	— TOOLS-INST	— PAINT SAMPLES	— CIG. BUTTS	— FIBERS	— RAPE KIT
— SHOEPRINTS	— WEAPON	— HAIR	— PHOTOGRAPHS	— VEHICLE	— OTHER
— TIRE MARKS	— SHELLS-BULLETS	— FRAGMENTS	— INSULATION DUST	— DRUGS PARA	

SUSPECT NO.	NAME(LAST, FIRST, MIDDLE)	ADDRESS
1	Elbern, Michael	168 Fairfield St. Needham MA
SEX	RACE	HAIR
M	W	
EYES	HT.	WT.
DOB	AGE	DATE ARRESTED
02/08/52	48	
SUSPECT NO.	NAME(LAST, FIRST, MIDDLE)	ADDRESS
2		
SEX	RACE	HAIR
EYES	HT.	WT.
DOB	AGE	DATE ARRESTED
SUSPECT NO.	NAME(LAST, FIRST, MIDDLE)	ADDRESS
3		
SEX	RACE	HAIR
EYES	HT.	WT.
DOB	AGE	DATE ARRESTED

HAIR LENGTH	HAIR STYLE	FACIAL HAIR	GLASSES	SCARS-MARKS	TATTOO	TEETH	EYES
1 LONG	1 Afro	1 FULL BEARD	1 SUNGLASSES	1 HEAD-FACE	1 EXTREMITY	1 GOLD SILVER	1 MISSING
2 MEDIUM	2 WAVY	2 GOATEE	2 EYE GLASSES	2 NECK	2 BODY	2 GOLD DESIGN	2 CROSSED
3 SHORT	3 SHAG	3 MUSTACHE	3 FRAMES	3 HAND	3 FACE	3 MISSING GAPS	3 BULGING
4 BALDBALDING	4 STRAIGHT	4 SIDEBURNS	3 PLASTIC	4 ARM	4 PICTURES	4 PROTRUDING	4 SQUINT
5 OTHER	5 BRAIDED	4 UNUSUAL	4 WIRE RIMMED	5 BODY	5 NAME/INITIAL	5 DECAYED DIRTY	5 BLINK
6 UNK.	6 WIG	5 OTHER	5 OTHER	6 OTHER	6 OTHER	6 BROKEN	6 AFFLICTED EYE
	7 OTHER	6 NONE	6 NONE	6 UNK.	6 UNK.	7 VERY WHITE	7 OTHER
	8 UNK.					8 OTHER	8 UNK.
						9 UNK.	
S1	S1	S1	S1	S1	S1	S1	S1
S2	S2	S2	S2	S2	S2	S2	S2
S3	S3	S3	S3	S3	S3	S3	S3

COMPLEXION	BUILD	SPEECH	GENERAL APPEARANCE	SUSPECT WORE	AT TIME OF OFFENSE SUSPECT UNDER INFLUENCE OF	OTHER IDENT MARKS
1 LIGHT	1 SMALL	1 PROFANE ABUSIVE	1 NEAT WELL DRESSED	1 SKI MASK	1 ALCOHOL	
2 MEDIUM	2 MEDIUM	2 SOFT POLITE	2 DIRTY RAGGED	2 STOCKING MASK	2 DRUGS	
3 DARK	3 HEAVY	3 APOLOGETIC	3 UNIFORMED	3 CAP HAT	3 BOTH	
4 ACNE	4 MUSCULAR	4 ACCENT	4 MOD UNUSUAL	4 COAT/JACKET	4 UNKNOWN	
5 FRECKLED	5 UNK.	5 STUTTER	5 UNUSUAL JEWELRY	5 SPORTSWEAR		
6 RUDDY		6 DEEP RASPY	6 OTHER	6 GLOVES		
7 OTHER	R/L HANDED	7 HIGH	6 UNK.	7 OTHER		
8 UNK.	1 RIGHT	8 EFFEMINATE		8 UNK.		
	2 LEFT	9 LSP				
	0 UNK.	0 UNK.				
S1	S1	S1	S1	S1	S1	
S2	S2	S2	S2	S2	S2	
S3	S3	S3	S3	S3	S3	

VEHICLE INFORMATION

VEHICLE INFORMATION	REG. NO	STATE	YEAR	MAKE	MODEL	BODY TYPE
<input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED						
<input type="checkbox"/> WANTED <input type="checkbox"/> TOWED						
	COLOR(S)	VIN				

NARRATIVE

(DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

1 OF 4

On 07-05-00 while on patrol I was called to the station, to take a report of an assault that happen at the Mobil Gas station on Rte. 30 on 07-04-00.

When I arrived at the station, I spoke to Peter H. Bear DOB 02-15-62 Mr. Bear stated that he was getting Gas at the Mobil station on Rte. 30. Went to pay for the Gas, at the counter I was going thru my wallet for a Credit Card.

Mr. Bear stated, that the attendant said to him, hurry up move it, Lets go. there are people behind you waiting. Mr. Bear said, Excuse me, why are you talking to me that way. Would you mind if you can take care of the man behind, while I pick out a credit Card to pay for the gas.

The attendant said no, you cant you are in the Register. He was raising his voice, was getting very angry. Mr. Bear stated that at this time the man behind him put his money on the counter and left the station. Mr. Bear said I am leaving, started to leave. The buy said I am taking your plate. Mr. Bear said

Search 233

OFFICER'S SIGNATURE

DATE

REVIEWED BY

DATE

NARRATIVE

* (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

2 OF 4

I am not doing with this "mishgas" Mr. Bear said that the attendant, said "you mother fucking Jews" you are all the same.

While walking out the door the attendant grabs me and puts me in a bear hug, fell to ground, Rolling around with the attendant on me. Mr. Bear said he tried to get away. Mr. Bear stated that the attendant got up first, while Mr. Bear was on ground he was kick.

Mr. Bear stated that he reached for a traffic cone to defend himself.

Mr. Bear stated that the attendant ran back inside gas station he threw the cone away got in his veh and left, when he reached his home called police.

Mr. Bear stated that in the morning he went back to the gas station to pay for gas, he also talked to Manager, to report what had happen to him, that he was assaulted by an employee. The employee's name is Michael Elberg.

Samhey 233

OFFICER'S SIGNATURE

DATE

REVIEWED BY

DATE

NARRATIVE

* (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

3 OF 4

On the morning of 07-04-00, Michael Elberry DOB 02-08-52, who is the Gas attendant at the Mobil Gas station 696 Cockituate Rd. called the police to Report a Gas evaition. Officers Dones and Vizakis responded when they arrived, Mr. Elberry stated to them that he had an altercation with a customer who did not pay for gas. Mr. Elberry stated that the Customer later I.D as Peter Gear DOB 02-15-62 assaulted him when he tried to him from leaving. When the officers asked Mr. Elberry for his I.D and information he refused to give it to the officers. The officers advised Mr. Elberry if he wanted Mr. Gear's info to call the police in the morning. Mr. Elberry never called back.

On 07-04-00 this officer called Mr. Elberry at his home to get his side of story on what had happen on 07-04-00. Mr. Elberry was uncooperative, he said he had 3 witnesses that saw what happens on the night of 07-04-00. I asked him if he would give me the names, he said he would not.

Sanchez 233

OFFICER'S SIGNATURE

07-06-00

DATE

REVIEWED BY

DATE

NARRATIVE

* (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

4 OF 4

I told him, he was accused of an assault and it was to his benefit if I talked to the witnesses, he again refused to give the names

I told him since he was on parole I was going to notify his parole officer

This officer is going to take out a warrant for ~~assault~~^{ARSON} against Mr. Michael Elberry DOB 02-08-52

There are 4 photos of Peter H. Bear injuries taken at Police station also there is a tape, placed into evidence.

Sanchez 233

OFFICER'S SIGNATURE

07-04-00

DATE

REVIEWED BY

DATE

07/07/00 Case# 0004248

On July 04, 2000 at approximately 0230 hours this Officer and Officer Vizakis were dispatched to the Speen St Mobil located at 696 Cochituate Rd in Framingham for a 911 call.

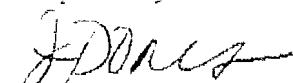
Upon our arrival we spoke with the cashier, later identified as Michael Elberry from 168 Fairfield St. in Needham. Mr. Elberry stated a man pumped some gas into his motor vehicle (totaling 24.60). The customer then walked into the gas station to pay for the gas. Mr. Elberry stated the man had about 15 credit cards and some cash. He stated the customer appeared to be drunk or on drugs. He said the customer was taking to long and could not decide what credit card to use. Mr. Elberry stated there was another client waiting in line. The male subject then got into an argument with the other customer. Mr. Elberry told the male subject to hurry up. This is when the male subject left the gas station and was not going to pay for the gas.

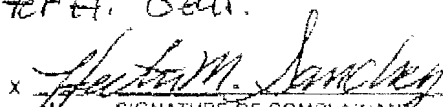
At this time, Mr. Elberry decided to get the male subjects plate. I had dispatch run the plate, which came back to a Peter H. Gear, DOB 02/15/62 from 65 Strathmore Rd. apt 3 in Brighton. Mr. Elberry stated when he went to get the plate the male subject attacked him. Mr. Elberry did have scratches on his forearms. The male subject threw to gallons of water against the glass door. He then took a traffic cone and hit Mr. Elberry over the head with the cone. Mr. Elberry stated he ran inside the gas station and dialed 911 for help.

I asked Mr. Elberry for an I.D. to get some information for a report I was going to file. He said he did not have an I.D. I then asked him for his name. He said oh no I don't want to give you that. I explained to Mr. Elberry that I needed his information to file the report. He stated why I stated if he wanted charges taken out on this male subject I would need his information to file the report and that he would have to go to court and testify. I explained to him we would charge the male subject with assault and battery and larceny. Mr. Elberry said oh no I don't want to go to court. I then asked him what he would like us to do. He then said nothing. I don't want to give you my information and I don't want to go to court. Mr. Elberry did not want to take out charges against the male subject.

I told Mr. Elberry if his manager needed the male subjects information to give me a call at the police station.

Respectfully submitted,


J. Dones #234

APPLICATION FOR COMPLAINT		<input checked="" type="checkbox"/> ADULT <input type="checkbox"/> JUVENILE	NUMBER	Trial Court of Massachusetts Dist. Court Department	
<input type="checkbox"/> ARREST <input type="checkbox"/> HEARING <input type="checkbox"/> SUMMONS		<input type="checkbox"/> WARRANT		COURT DIVISION	
The within named complainant requests that a complaint issue against the within named defendant, charging said defendant with the offense(s) listed below.				Framingham District Court 600 Concord St. - P.O. Box 828 Framingham, MA 01701	
DATE OF APPLICATION		DATE OF OFFENSE		PLACE OF OFFENSE	
07-06-00		07-04-00		696 Cochituate Rd	
NAME OF COMPLAINANT			NO.	OFFENSE	G.L. Ch. and Sec.
Hector M. Sanchez			1.	Assault/Bat ^{q/w} shod foot	265-15A
ADDRESS AND ZIP CODE OF COMPLAINANT			2.		
1 William H. Welch Way Framingham, MA. 01702			3.		
NAME, ADDRESS AND ZIP CODE OF DEFENDANT			4.		
Michael Elberry 168 Fair Field St. Needham, MA.					
COURT USE ONLY →		A hearing upon this complaint application will be held at the above court address on		DATE OF HEARING	TIME OF HEARING
				AT	
					COURT USE ONLY ←
CASE PARTICULARS — BE SPECIFIC					
NO.	NAME OF VICTIM (owner of property, person assaulted, etc.)	DESCRIPTION OF PROPERTY (Goods stolen, what destroyed, etc.)	VALUE OF PROPERTY (Over or under \$250.)	TYPE OF CONTROLLED SUBSTANCE OR WEAPON (Marijuana, gun, etc.)	
1	Peter H. Bear			Shod foot	
2					
3					
4					
OTHER REMARKS: ON 07-04-00 Michael Elberry Rob. 02-08-52 did assault Peter H. Bear by grabbing, pushing to ground, while on ground Michael Elberry did kick Peter H. Bear.					
 SIGNATURE OF COMPLAINANT					
DEFENDANT IDENTIFICATION INFORMATION — Complete data below if known.					
DATE OF BIRTH	PLACE OF BIRTH	SOCIAL SECURITY NUMBER	SEX	RACE	HEIGHT
02-08-52	Worcester, MA	01642 4787	M	W	
OCCUPATION	EMPLOYER/SCHOOL	MOTHER'S NAME (MAIDEN)	FATHER'S NAME		
Gas atten	Mobil Gas station 696 Cochituate Rd.	June Ramsey	Norman		
↓ COURT USE ONLY ↓					
DISPOSITION					AUTHORIZED BY
NO PROCESS TO ISSUE <input type="checkbox"/> At request of complainant <input type="checkbox"/> Complainant failed to prosecute <input type="checkbox"/> Insufficient evidence having been presented					
PROCESS TO ISSUE TYPE OF PROCESS <input type="checkbox"/> Sufficient evidence presented <input type="checkbox"/> Warrant <input type="checkbox"/> Defendant failed to appear <input type="checkbox"/> Summons returnable					
<input type="checkbox"/> Continued to					
COMMENTS					

COPY

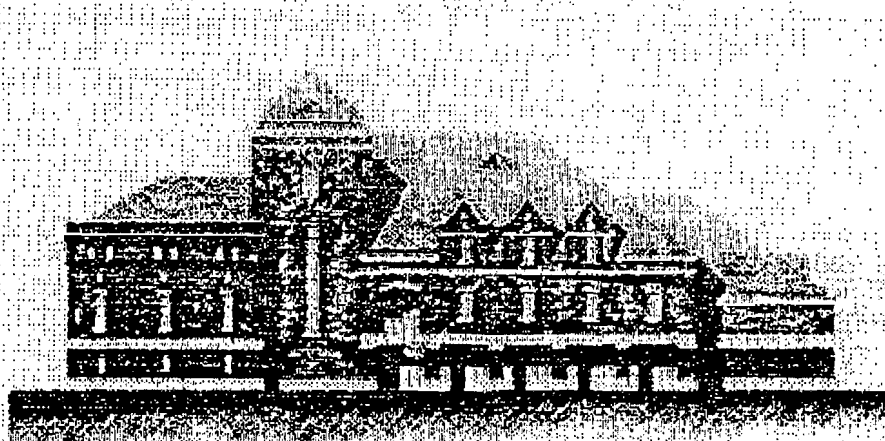


Framingham Police Department

1 William Welch Way
Framingham, Massachusetts 01702

To: <i>Jenneth Brekke, Esq.</i>	For Information Call:
Department:	At: (508) 620-4920
Pages: <i>9</i>	Fax Number: (508) 872-3506

Comments:



POLICE HEADQUARTERS DEDICATION

JANUARY 26, 1995

*****NOTICE OF CONFIDENTIALITY*****

This transmission is intended only for the addressee(s) listed above and may contain information that is confidential and privileged. If you are not the addressee, any use, disclosure, copying or communication of the contents of this transmission is prohibited and may result in fine, imprisonment, or both. If this message was received in error, please call the Framingham Police Department immediately at (508) 872-1212.

08/10/00

08:06



Framingham PD

002/009

FRAMINGHAM POLICE STANDARD OFFENSE REPORT

DISPATCHED CITIZEN ON VIEW <u>2</u>	DATE/TIME REPORTED <u>07-05-00 0130^{Am}</u>	DATE/TIME OCCURRED <u>07-04-00</u>	CASE # <u>0004248</u>
LOCATION OF OFFENSE <u>696 Cochituate Rd</u>		TYPE OF PREMISE	
INCIDENT/OFFENSE (list most serious first) <u>A/B</u>		1 STREET 2 SINGLE RESIDENCE 3 MULTIPLE RESIDENCE 4 COMMERCIAL 5 GAS STATION 6 STORE 7 PHARMACY/DOCTOR OFFICE 8 PUBLIC COMMUNITY BLDG/SCHOOL (INSERT NUMBER) <u>5</u>	
D.		9 RESTAURANT	
E.		10 WARE HOUSE	
F.		11 TAVERN BAR	
		12 VEHICLE	
		13 BANK	
		14 OPEN AREA (PARK, FIELD, ET)	
		15 OTHER	

CODES (INSERT LETTER) V=VICTIM B=BUSINESS W=WITNESS P=PARENT DC=DISCOVERED CRIME RP=REPORTING PARTY

1 NAME LAST, FIRST, MIDDLE <u>Sanchez, Hector M.</u>							1 CODE <u>RP</u>	RESIDENCE ADDRESS-PHONE <u>William H. Welch Way</u>			
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	OCCUPATION	BUSINESS ADDRESS-PHONE		
						<u>0</u>					
2 NAME LAST, FIRST, MIDDLE <u>Gear, Peter H.</u>							2 CODE	RESIDENCE ADDRESS-PHONE <u>58 Clinton St.</u>			
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	OCCUPATION	BUSINESS ADDRESS-PHONE		
<u>M</u>	<u>W</u>	<u>BRN</u>	<u>BRN</u>			<u>02-15-62</u>			<u>617-480-1551</u>		
3 NAME LAST, FIRST, MIDDLE							3 CODE	RESIDENCE ADDRESS-PHONE			
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	OCCUPATION	BUSINESS ADDRESS-PHONE		
DID VICTIMS RECEIVE MEDICAL ATTENTION? WHERE?							ADDITIONAL INFORMATION (LOCAL USE ONLY)				
VIC #1 _____ VIC #2 _____ VIC #3 _____											

 PROPERTY STATUS: (INSERT LETTER) S=STOLEN RE=RECOVERED-SAFEKEEPING SUPPLEMENT STATUS
 F=FOUND HE=HOLD FOR EVIDENCE ANALYSIS "A" DESTROY "D"

STATUS	QTY.	DESCRIPTION OF PROPERTY	CODE	MODEL-SERIAL-OWNER APPLIED NO.	VALUE
1	<u>HE</u>	<u>60</u>	<u>Photos of Victim's inkings</u>	<u>-</u>	<u>-</u>
2					
3					
4					
5					
6					
7					
8					

PROPERTY CODES

 A: CURRENCY/MAIL/CHECKS/STAMPS
 B: JEWELRY/PRECIOUS METALS
 C: CLOTHING
 D: LOCALLY STOLEN MOTOR VEHICLES
 E: OFFICE EQUIPMENT
 F: TV/RADIOS/STEREOS/ELECTRONIC EQUIP

 A
 (INSERT LETTER)

 G: FIREARMS/WEAPONS
 H: HOUSEHOLD GOODS
 I: CONSUMABLE GOODS/DRUGS
 J: LIVESTOCK/PETS
 K: BUILDING & CONSTRUCTION EQUIP/MATERIAL
 LAWN EQUIP/MIS.

_____(INSERT NUMBER) WHERE APPLICABLE

WEAPON	METHOD OF ENTRY	POINT OF ENTRY	INSTRUMENT USED FOR ENTRY INTO BUILDING	COMPLETE THEFTS ONLY	RELATIONSHIP OFFENDER TO VICTIM
0 NO WEAPON 1 HANDGUN 2 SHOTGUN 3 RIFLE 4 KNIFE 5 HANDS ETC. 6 OTHER WEAPON	1 FORCIBLE 2 UNLAWFUL NO FORCE 3 ATTEMPTED FORCIBLE SAFE ENTERED 1 YES 2 ATTEMPTED 3 NO	1 FRONT 2 REAR 3 SIDE 1 DOOR 2 WINDOW 3 PATIO DR. 4 DUCT VENT 5 ROOF 6 WALL 7 ADJ. BLDG. 8 OTHER	1 KEY 2 PRY TOOL 3 SAW/DRILL 4 HAMMER 5 BOLT CUTTER 6 CHOPPING TOOL 7 CHAN LOCKS 8 VISE GRIPS 9 PHYSICAL FORCE 10 THROWN OBJECT 11 OTHER	1 COIN-OPERATED MACHINES 2 FROM BLDGS 3 MV PARTS & ACCESSORIES 4 SHOPLIFTING 5 POCKET-PICK 6 PURSE-SNATCH 7 EMBEZZLEMENT 8 POSS STOLEN PROPERTY 9 ALL OTHER	1 HUSBAND 2 WIFE 3 FATHER 4 MOTHER 5 SON 6 DAUGHTER 7 BROTHER 8 SISTER 9 STEPFATHER 10 STEPMOTHER 11 STEPSON 12 STEPDAUGHTER 13 STEPBROTHER 14 STEPSISTER 15 GRANDPARENT 16 GRANDCHILD 17 IN-LAW 18 EX-HUSBAND 19 EX-WIFE 20 CL HUSBAND 21 CL WIFE 22 OTHER FAMILY 23 GUARDIAN 24 BOYFRIEND 25 GIRLFRIEND 26 EX-BOYFRIEND 27 EX-GIRLFRIEND 28 ACQUAINTANCE 29 FRIEND 30 EMPLOYER-EMPLOYEE 31 STRANGER 00 UNKNOWN V1 ____ V2 ____ V3 ____

PHYSICAL EVIDENCE ☐ FINGERPRINTS ☐ TOOLMARKS ☐ STAINS, BLOOD, SEMEN, ETC. ☐ MUD-SOIL ☐ CLOTHING ☐ DOCUMENTS
☐ GLOVEPRINTS ☐ TOOLS-INST ☐ PAINT SAMPLES ☐ CIG. BUTTS ☐ FIBERS ☐ RAPE KIT
☐ SHOEPRINTS ☐ WEAPON ☐ HAIR ☐ PHOTOGRAPHS ☐ VEHICLE ☐ OTHER
☐ TIRE MARKS ☐ SHELLS-BULLETS ☐ FRAGMENTS ☐ INSULATION DUST ☐ DRUGS PARA

SUSPECT NO. 1: NAME (LAST, FIRST, MIDDLE)					ADDRESS				
Elberry, Michael					168 Fairfield St. Needham MA				
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	DATE ARRESTED	
M	W					02/08/52	48		
SUSPECT NO. 2: NAME (LAST, FIRST, MIDDLE)					ADDRESS				
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	DATE ARRESTED	
SUSPECT NO. 3: NAME (LAST, FIRST, MIDDLE)					ADDRESS				
SEX	RACE	HAIR	EYES	HT.	WT.	DOB	AGE	DATE ARRESTED	

HAIR LENGTH	HAIR STYLE	FACIAL HAIR	GLASSES	SCARS-MARKS	TATTOO	TEETH	EYES
1 LONG 2 MEDIUM 3 SHORT 4 BALDBALDING 5 OTHER 6 UNK.	1 APO 2 WAVY 3 SHAG 4 STRAIGHT 5 BRAIDED 6 WIG 7 OTHER 8 UNK.	1 FULL BEARD 2 GOATEE 3 MUSTACHE 4 SIDEBURNS (UNUSUAL) 5 OTHER 6 NONE	1 SUNGLASSES 2 EYE GLASSES 3 PLASTIC 4 WIRE RIMMED 5 OTHER 6 NONE	1 HEAD-FACE 2 NECK 3 HAND 4 ARM 5 BODY 6 OTHER 7 UNK.	1 EXTREMITY 2 BODY 3 FACE 4 PICTURES 5 NAME/INITIAL 6 OTHER 7 UNK.	1 GOLD SILVER 2 GOLD DESIGN 3 MISSING GAPS 4 PROTRUDING 5 DECAYED DIRTY 6 BROKEN 7 VERY WHITE 8 OTHER 9 UNK.	1 MISSING 2 CROSSED 3 BULGING 4 SQUINT 5 BLINK 6 AFFLICTED EYE 7 OTHER 8 UNK.
S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____

COMPLEXION	BUILD	SPEECH	GENERAL APPEARANCE	SUSPECT WORE	AT TIME OF OFFENSE SUSPECT UNDER INFLUENCE OF	OTHER IDENT MARKS
1 LIGHT 2 MEDIUM 3 DARK 4 ACNE 5 FRECKLED 6 RUDDY 7 OTHER 8 UNK.	1 SMALL 2 MEDIUM 3 HEAVY 4 MUSCULAR 5 UNK. R/L HANDED 1 RIGHT 2 LEFT 3 UNK.	1 PROFANE ABUSIVE 2 SOFT POLITE 3 APOLOGETIC 4 ACCENT 5 STUTTER 6 DEEP RASPY 7 HIGH 8 EFFEMINATE 9 LISP 10 UNK.	1 NEAT WELL DRESSED 2 DIRTY RAGGED 3 UNIFORMED 4 MOD UNUSUAL 5 UNUSUAL JEWELRY 6 OTHER 7 UNK.	1 SKI MASK 2 STOCKING MASK 3 CAP HAT 4 COAT/JACKET 5 SPORTSWEAR 6 GLOVES 7 OTHER 8 UNK.	1 ALCOHOL 2 DRUGS 3 BOTH 4 UNKNOWN	
S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	S1 ____ S2 ____ S3 ____	

VEHICLE INFORMATION

VEHICLE INFORMATION		REG. NO	STATE	YEAR	MAKE	MODEL	BODY TYPE
<input type="checkbox"/> STOLEN	<input type="checkbox"/> WANTED						
<input type="checkbox"/> RECOVERED	<input type="checkbox"/> TOWED	COLOR(S)	VIN				
<input type="checkbox"/> SUSPECT	<input type="checkbox"/> IMPOUNDED						
	<input type="checkbox"/> OTHER						

NARRATIVE

* (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

1 OF 4

On 07-05-00 while on patrol I was called to the station, to take a report of an assault that happen at the Mobil Gas station on Rte. 30 on 07-04-00.

When I arrived at the station, I spoke to Peter H. Bear DOB 02-15-62. Mr. Bear stated that he was getting Gas at the Mobil station on Rte. 30. Went to pay for the Gas, at the counter I was going thru my wallet for a Credit Card.

Mr. Bear stated, that the attendant said to him, hurry up move it, lets go. there are people behind you waiting. Mr. Bear said, Excuse me, why are you talking to me that way. Would you mind if you can take care of the man behind, while I pick out a credit Card to pay for the gas.

The attendant said no, you cant you are in the Register. He was raising his voice, was getting very angry. Mr. Bear stated that at this time the man behind him put his money on the counter and left the station. Mr. Bear said I am leaving, started to leave. The buy said I am taking your plate. Mr. Bear said

Sanchez 233

OFFICERS SIGNATURE

DATE

REVIEWED BY

DATE

NARRATIVE

• (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

2 OF 4

I am not dealing with this "mishgas" Mr. Bear said that the attendant, said "you mother fucking Jews" you are all the same.

while walking out the door the attendant grabs me and puts me in a bear hug, fell to ground, Rolling around with the attendant on me. Mr. Bear said he tried to get away. Mr. Bear stated that the attendant got up first, while Mr. Bear was on ground he was kick.

Mr. Bear stated that he reached for a traffic cone to defend himself.

Mr. Bear stated that the attendant ran back inside gas station he threw the cone away, got in his Vek and left, when he reached his home called police.

Mr. Bear stated that in the morning he went back to the gas station to pay for gas. he also talked to Manager, to report what had happen to him, that he was assaulted by an employee. The employee's name is Michael Elberg.

Samshey 233

OFFICER'S SIGNATURE

DATE

REVIEWED BY

DATE

NARRATIVE

* (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

3 OF 4

On the morning of 07-04-00, Michael Elberry Dob 02-08-52, who is the Gas attendant at the Mobil Gas station 696 Cochituate Rd. called the police to Report a Gas evasion. Officers Dones and Vizzakis responded. When they arrived, Mr. Elberry stated to them that he had an altercation with a customer who did not pay for gas. Mr. Elberry stated that the customer later I.D as Peter Bear Dob 02-15-62 assaulted him when he tried to him from leaving. When the officers asked Mr. Elberry for his I.D and information he refused to give it to the officers. The officers advised Mr. Elberry if he wanted Mr. Bears info to call the police in the morning. Mr. Elberry never called back.

On 07-04-00 this officer called Mr. Elberry at his home to get his side of story on what had happen on 07-04-00. Mr. Elberry was uncooperative, he said he had 3 witnesses that saw what happen on the night of 07-04-00. I asked him if he would give me the names, he said he would not.

Smchy 233

OFFICERS SIGNATURE

07-06-00

DATE

REVIEWED BY

DATE

NARRATIVE

• (DESCRIBE FACT OR CONDITIONS NOT COVERED EARLIER)

4 OF 4

I told him, he was accused of an assault and it was to his benefit if I talked to the witnesses, he again refused to give the names.

I told him since he was on parole I was going to notify his parole officer.

This officer is going to take out a warrant for ~~assault~~^{throw} against Mr. Michael Elberry Dob 02-08-52

There are 4 photos of Peter H. Bear injuries taken at Police station also there is a tape, placed into evidence.

Somchay 233

OFFICER'S SIGNATURE

07-04-00

DATE

REVIEWED BY

DATE

07/07/00 Case# 0004248

On July 04, 2000 at approximately 0230 hours this Officer and Officer Vizakis were dispatched to the Speen St Mobil located at 696 Cochituate Rd in Framingham for a 911 call.

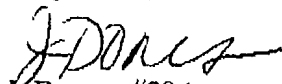
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At this time, Mr. Elberry decided to get the male subjects plate. I had dispatch run the plate, which came back to a Peter H. Gear, DOB 02/15/62 from 65 Strathmore Rd. apt 3 in Brighton. Mr. Elberry stated when he went to get the plate the male subject attacked him. Mr. Elberry did have scratches on his forearms. The male subject threw to gallons of water against the glass door. He then took a traffic cone and hit Mr. Elberry over the head with the cone. Mr. Elberry stated he ran inside the gas station and dialed 911 for help.

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I told Mr. Elberry if his manager needed the male subjects information to give me a call at the police station.

Respectfully submitted,



J. Dones #234

08/10/00 08:10

Framingham PD

008/009

APPLICATION FOR COMPLAINT		<input checked="" type="checkbox"/> ADULT <input type="checkbox"/> JUVENILE		NUMBER		Trial Court of Massachusetts District Court Department					
<input type="checkbox"/> ARREST <input type="checkbox"/> HEARING <input type="checkbox"/> SUMMONS <input checked="" type="checkbox"/> WARRANT		The within named complainant requests that a complaint issue against the within named defendant, charging said defendant with the offense(s) listed below.				COURT DIVISION Framingham District Court 600 Concord St. - P.O. Box 828 Framingham, MA 01701					
DATE OF APPLICATION		DATE OF OFFENSE		PLACE OF OFFENSE							
07-06-00		07-04-00		696 Cochituate Rd							
NAME OF COMPLAINANT						NO.		OFFENSE		G.L. Ch. and Sec	
Hector M. Sanchez						1.		Assault/Bat shod foot		265-15A	
ADDRESS AND ZIP CODE OF COMPLAINANT						2.					
William H. Welch Way						3.					
Framingham, MA. 01702						4.					
NAME, ADDRESS AND ZIP CODE OF DEFENDANT											
Michael Elberry											
168 Fair Field st.											
Needham, MA											
COURT USE ONLY →		A hearing upon this complaint application will be held at the above court address on				DATE OF HEARING		TIME OF HEARING		COURT USE ← ONLY	
						AT					
CASE PARTICULARS — BE SPECIFIC											
NO.		NAME OF VICTIM Owner of property, person assaulted, etc.		DESCRIPTION OF PROPERTY Goods stolen, what destroyed, etc.		VALUE OR PROPERTY Over or under \$250.		TYPE OF CONTROLLED SUBSTANCE OR WEAPON Marijuana, gun, etc.			
1		Peter H. Gear						Shod foot			
2											
3											
4											
OTHER REMARKS: ON 07-04-00 Michael Elberry Rob. 02-08-52 did assault Peter H. Gear by grabbing, pushing to ground, while on ground Michael Elberry did kick Peter H. Gear.											
x <u>Hector M. Sanchez</u> SIGNATURE OF COMPLAINANT											
DEFENDANT IDENTIFICATION INFORMATION — Complete data below if known.											
DATE OF BIRTH		PLACE OF BIRTH		SOCIAL SECURITY NUMBER		SEX		RACE		HEIGHT	
02-08-52		Worcester, MA		01642 4787		M		W			
OCCUPATION		EMPLOYER/SCHOOL		MOTHER'S NAME (MAIDEN)				FATHER'S NAME			
Gas atten		mobil Gas station		June Ramsey				Norman			
		696 Cochituate Rd.									

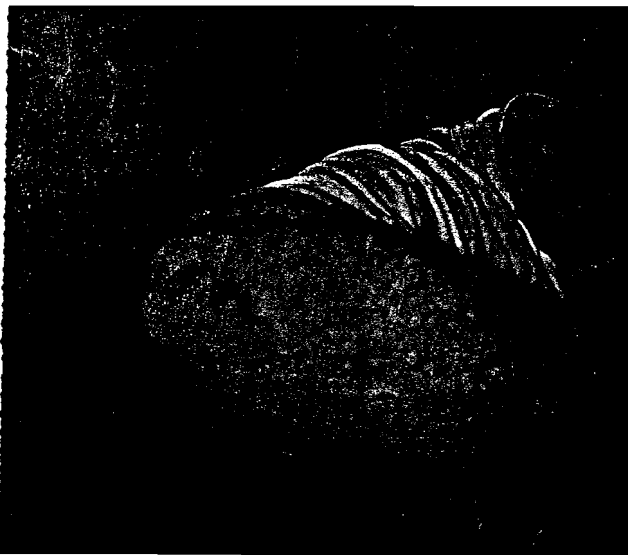
↓ COURT USE ONLY ↓	
DATE	DISPOSITION
	NO PROCESS TO ISSUE <input type="checkbox"/> At request of complainant <input type="checkbox"/> Complainant failed to prosecute <input type="checkbox"/> Insufficient evidence having been presented
	PROCESS TO ISSUE TYPE OF PROCESS <input type="checkbox"/> Warrant
	AUTHORIZED BY



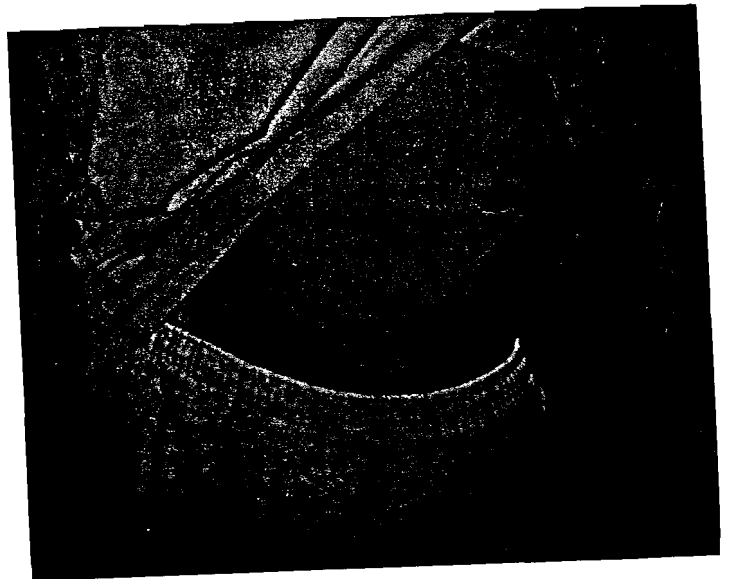
Case # 000 4248
07-05-00



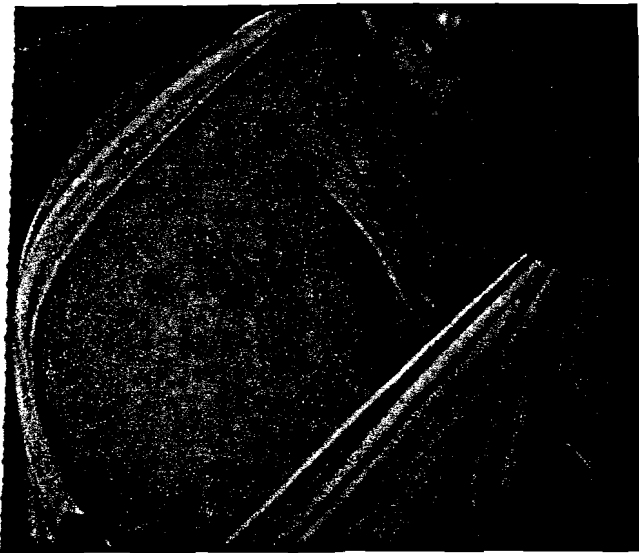
Case # 000 4248
④ 07-05-00



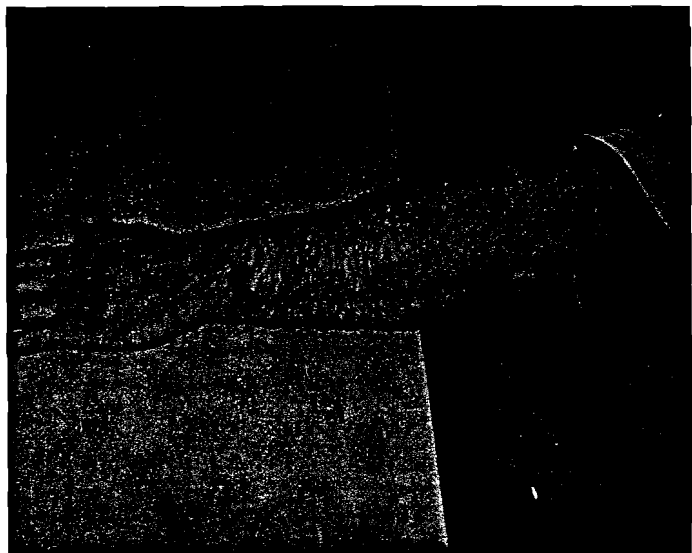
Case # 000 4248
07-05-00



① Case # 000 4248
07-05-00



Case# 000 4248
07-05-00



Case# 000 4248
② 07-05-00



MARTHA COAKLEY
DISTRICT ATTORNEY

THE COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX DISTRICT ATTORNEY
100 CONCORD PLACE
FRAMINGHAM, MA 01701

TEL: 508-875-4141
FAX: 508-879-8966

June 21, 2001

Michael Elberry (057634)
SECC Prison 00-A
12 Administrative Road
Bridgewater, MA 02324

Re: Commonwealth v. Michael Elberry, Docket No. 00-3006

Dear Mr. Elberry:

Enclosed please find the Commonwealth's Affidavit pertaining to the medical records of Peter Gear.

Yours Truly,

A handwritten signature in dark ink, appearing to be "Mc", likely representing Martha Coakley.

Middlesex District Attorney's Office
(508) 875-4141

cc: Framingham District Court Clerk's Office

Enc.

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

FRAMINGHAM DISTRICT COURT
DOCKET NO. 0149CR003006

COMMONWEALTH

V.

MICHAEL ELBERRY

AFFIDAVIT

I, Marc Canner, do hereby certify the following:

1. I am an Assistant District Attorney in the Middlesex District Attorney's Office, the office assigned to prosecute the above-captioned matter;
2. That the Commonwealth sent by certified mail the enclosed medical records to the defendant on June 12, 2001;
3. That said records were received by the defendant on June 13, 2001 (see attached); and,
4. That the Commonwealth is filing the enclosed medical records with the Framingham District Court's Clerk's Office on June 22, 2001.

Signed under the penalties of perjury on June 21, 2001.

Respectfully submitted
For the Commonwealth,
District Attorney MARTHA
COAKLEY
By:



Marc E. Canner
Assistant District Attorney
BBO # 640351
Framingham Regional Office
100 Concord Street, 3rd Floor
(508) 875-4141

Dated: June 21, 2001

CERTIFICATE OF SERVICE

I hereby certify that I served true and accurate copies of the foregoing on the defendant by hand/regular mail/facsimile to counsel of record this date.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michael Elberry
SECC Prison CO-A
12 Administrative Road
Bridgewater, MA 02324

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Albert Loun

B. Date of Delivery

6/3/01

C. Signature

X

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from servit

7001 0360 0001 4302 2461

S Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

BRIDGEWATER, MA 02324

Postage \$ 3.95

Certified Fee 1.90

Return Receipt Fee
(Endorsement Required) 1.50Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees \$ 7.35

UNIT ID: 0500

Postmark
Here

Clerk: KCMNRH

06/12/01

Sent To

Michael Elberry

Street, Apt. No.,
or PO Box No.

SECC Prison CO-A/12 Administrative Road

City, State, ZIP+ 4

Bridgewater MA 02324

PS Form 3800, January 2001

See Reverse for Instructions

Medical Records Certification

I Scott Lewis Schissel, M.D. am a treating physician for Peter H. Gear and I am a physician for Brigham and Women's Hospital 75 Francis St. Boston, MA.

to the best of my knowledge
I hereby certify that the attached Medical Records are true and accurate. Copies of documents prepared in connection with the treatment of MR. Gear at Brigham and Women's Hospital and for its affiliates.

I also hereby certify that to the best of my knowledge that the attached records were made in the ordinary course of business of said hospital and that it was the regular course of such business to make such record at the time of the occurrences or the events recorded there in.

Signed under the pains + penalties of perjury

Scott L. Schissel 5/17/01
SCOTT L. SCHISSEL, M.D.

Patient: GEAR, PETER MRN: 143834 (NW)
Author: Schissel, Scott Lewis, M.D.

Status: Signed
Visit Date: 08/23/2000

DV: 08/23/00

SLS/kjh 30749.doc

Schissel, Scott Lewis, M.D.

15 pages of
Gear's medical
records were sent
not published
at this
time