

Michael Elbery, 057638  
S. E. C. C.,  
12 Administration Rd  
Bridgewater, Ma. 02324  
11-5-73

my copy

Clerk - Criminal  
Framingham Dist. Ct.  
600 Concord St.  
Framingham, Mass. <sup>01701</sup> ~~02324~~

RE: Com v. Elbery #0049CR1893

Dear Clerk:

The defendant, above docketed, Michael Elbery, has set in 5 motions regarding the above docketed case in the past several weeks, please

"MARK-UP" for hearing on 11/14-15 those same 5 motions. They are as follows:

- ① "Defendant's Motion for Court Order for Attorney Ken Brebba to Produce Documentary Evidence, etc."
- ② "Defendant's Motion for Court Order & Related Subpoenas - In Order - To Produce Exculpatory Evidence & Have a Fair Trial."

③ "Defendant's Motion for Additional  
+ Discovery"

④ "Defendant's Motion for Court Order to Gain  
Entrance to the Mobil Premises where  
Alleged Crime Occurred. In Order to Test  
Video System & Gain Evidence as Directed  
by Defendant."

⑤ "Defendant's Motion for Evidentiary Hearing  
+ of Peter H. Gear (Alleged Victim)  
4

Owners, Residents & Occupants of 58 Chilton  
St., Framingham, Ma. including Norman & Carolyn  
Gear Regarding the witnesses at location where  
Gear Drive to & Called the P.P.M. on 7-4-00.

There are ② other motions that this  
defendant will file that are already  
indicated "MARK-UP" for Hearing on  
11-14-00.

Thank you.

Will post  
Michael Elbery, 457634  
S.E.C.C.  
12 Administration Rd.

Bridgewater, Mass. 02324

Certificate of Service

I the defendant, Michael Elberg, sent this "MARK-UP" Notice to the Clerk-Criminal Framingham Dist Ct., 600 Concord St., Framingham, Mass. 01701 & to the Framingham D.A.'s Office at 200 Concord St., Framingham, Mass. 01701 all via U.S. mail-prepaid-1<sup>st</sup> class on 11-5-00 from S.E.C.C. Prison.

Willypote

July  
2004

Michael Elbery, 05731  
S.E.C.C.  
12 Administration Rd.  
Bridgewater, Ma. 02321  
10-26-00

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

RE: Com. v. Elbery  
#0049 CP/03

Dear Sir:

Please find for immediate filing review,

"Defendant's Motion for Court Order for  
Attorney Ken Brekke to Produce Document-  
ary Evidence, etc."

Thank you.

Michael Elbery

Commonwealth of Massachusetts

1 of 7

Framingham Dist. Ct.  
Middlesex ss

Criminal Docket  
#0049CR1893

Commonwealth

v.

Michael Elbery

Defendant's Motion for Court Order  
for

Attorney Ken Brekka  
to

Produce Documentary Evidence, etc.

1. The defendant, above docketed, has attempted to obtain various pieces of crucial evidentiary information & documentation from his attorney of record, Attorney Ken Brekka. This so the defendant can be informed of his case as the 6<sup>th</sup> & 14<sup>th</sup> Amendment of the U.S. Constitution

requires his bar counsel to do. The defendant asks the Court to Order my counsel to produce to me the following:

- a. Maureen's Notes (Brekka's Secretary) regarding 7-13-00 phone interview with James "J" Regal, the asst. manager of the Route 30 Mobil, Framingham.

Per this defendant's phone conversation with Attorney Ken Brekka's secretary, Maureen, on or about 7-13-00, Maureen told this defendant that James "J" Regal (herein "J") admitted the police brought back the video tape and that the police claimed the cameras were not working very well that 7-4-00 (date of the underlying incident that caused this action). "J" further told Maureen the same video tape was secure in the safe. Maureen told me she made sure that "J" knows to hold on to the tape. Att. Brekka confirmed

It was this defendant that ordered Brekka's Office to make that call, as above, because the incident that caused this criminal action was video taped. The policy at

that Mobil was to have the video surveillance recording 24/365 days a year.

Maureen, due to the fact she & Brekka could not find the Mobil's phone number, was instructed by this defendant to call June Elbery, (the defendant's mother), who gave them the Mobil's phone number.

When this defendant spoke to Maureen by phone, as above, she had to read her interview notes with "J".

If, the defendant, have asked Att. Brekka repeatedly for Maureen's "J" interview notes and on Friday, 10-13-00, at a lawyer's visit, at S.E.C.C. Prison, Brekka declined to give this defendant the same notes even though he had the entire case file with him. He admitted Maureen's notes were in the file with him.

b. Notes taken by Att. Ken Brekka while interviewing Mobil Mgr. Dolly Olecki on various dates, including 8-9-00 & 9-13-00, and by phone & in person. These interview notes with Dolly Olecki that this defendant requested from Brekka were regarding the investigation of the Mobil Video

4057

surveillance on 7-4-00 & Dolly Olecti's conversation with alleged victim, Peter H. Gear, on 7-4-00 at about 2:00 pm.

- c. Atty. Gen. Brekka's notes taken when interviewing James "J" Regal, the Asst. Manager at the Route 30 Mobil-Framingham. Brekka interviewed James "J" Regal at least once, on about 10-16-00, by phone. Brekka showed me his notes regarding Regal on 10-17-00 at Framingham Dist. Ct. pickup. Brekka promised me these notes but now declines. Regal, during this Brekka interview, admitted he told Maureen the cop returned the video tape & it was in the safe.
- d. Transcript of the 911 tapes, (4), that the F.P.D. recorded involving Michael Elbery, (2), & Peter H. Gear (2). Brekka has a copy of these tapes & this defendant has ordered Brekka to send the defendant a transcript of each tape for review. I listened to the tapes once and there were words missing which I made note of regarding my tapes. These tapes will be tested for tampering by an

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expert, Brebka has disobeyed my order regarding production of a transcript for each of these tapes.

e. Transcript of the 10-17-00 Evidentiary Hearing at Framingham Dist. Ct. regarding this case.

f. Notes Brebka took at the 10-17-00 hearing as in e, above.

i. including the name of the cop(s) who took the video tapes from Dolly Stecki at the Mobil.

ii. The name of Dolly Stecki's boss & address.

iii. The name & address of the person who filled in for Dolly Stecki at the Route 30 Mobil, Framingham when she was on vacation.

iv. The address of James "J" Regal - Art Manager at the same Mobil, Home address.

6 of 7

- g. The original & Amended Complaint regarding this criminal action.
- h. All discovery documents exchanged between Atty. Brelha & the prosecutor on 10-17-00 and any other time regarding this instant action.
- i. The home address of James "J" Regal for future trial subpoena & testimony.

Wherefore,

the defendant Motions the Court for Orders to obtain the above evidentiary materials from Atty. Ken Brelha.

Michael O'Leary

Michael Elbery

S.E.C.C. - O.U.A.

12 Administrative Rd.

Bridge water, Me. 02324

10-26-00

7057

Certificate of Service

I the defendant, Michael Elbery, sent this Motion for Court orders to Bretha to the Clerk - Criminal - Framingham Dist. Ct. at 600 Concord St., Framingham, Mass. 01701 & to the Framingham D.A.'s Office at 100 Concord St., Framingham, Mass. 01701 via U.S. mail - 1st class - prepaid on 10-28-00 from S.E.C.C. Prison mail,

Mike Elbery

M. Elbery, C57634  
S.E.C.C. - a.o.  
12 Administration Rd.  
Bridgewater, No. 02323  
10-26-00

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

RE: Com. v. Elbery  
# 0049 CR/293

Dear Sir:

Please find enclosed for immediate filing  
& review,

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

Thank you

Mark Olby, prose

Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex ss

Commonwealth

v.

Michael Elbery

Criminal Docket

#0049 CR/1893

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 of the destinations 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 686 Cockhuate Rd, Framingham, Ma. & Station Operators Inc of Dallas Texas & Exxon-Mobil Corp demanding they furnish the names and addresses of executives with "final decision making authority" regarding the video surveillance system used at the Route 30 (686 Cockhuate Rd.), Framingham, Ma. - Mobil Station, inude 7-8-00, 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 Breffka, 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 Stecki, at the Mobil Gas Station. Stecki is a pivotal person regarding the conspiracy to maliciously prosecute the defendant & related cover-up. The Court orders <sup>for</sup> their discovery in b & c, should go to Stecki's superiors at.

Station Operator Inc.  
P.O. Box 140  
Dallas, TX 75221-0140

Mobil Corp.  
40 Atty. Gen. M. Homsey  
300 Essex St.  
Lawrence, Mass. 01840  
(Atty. Brekka 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, Framing-  
ham where the underlying incident  
occurred.

e. Court Order to the Mobil Gas Station  
at 686 Cochituate Rd, Framingham and  
its management, Dolly Skelki & James "J"  
Regal to turn over the video tape  
of 7-4-00 that recorded the underlying  
incident that caused the above booked  
action. The same video tape that  
James "J" Regal, the Ast. Mgr. of that  
gas station, told Atty. Gen. Brekka's  
Office was returned and was  
secured in the Safe.

As well, this same Court Order should  
go to Station Operator's Inc. & Exxon-  
Mobil Corp, addresses 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 Geary, 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 & James "J" Regal.

Michael Elsey

10-26-00

SE. C.C., 12 Administrative Rd.,  
Bridgewater, Ma. 02324

Certificate of Service

I the defendant, Michael Elsey, 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 100  
Concord St., Framingham via U.S. mail-1<sup>st</sup> class-pre-  
paid on 10-23-00 from SE.C.C. Prison mail.

Mich. Elsey

Ex. E



Mike Elbery  
057634  
S.E. C. C. - O.V.A  
12 Administration Rd.  
Bridgewater, Me 03324

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

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

Dear Clerk:

Please find for immediate filing review,

"Defendant's Motion for Additional  
Discovery"

Thank you.

see I-ii  
Gen'l Hospital  
Records

Mike Elbery

Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex ss

Criminal Docket  
# 0049CB1893

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 14<sup>th</sup> 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 Strewsbury 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.

e. The tape, 911, recorded by the F.P.D. of the defendant, Michael Elbery, calling the Framingham Police between 10pm - July 6 and 3:00am July 7, '00. In this tape Elbery 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 7-8-00 (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 7-8-00.

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 7-8-00.

~~xt~~ m. The names & addresses & identification of all witnesses interviewed by the Com-

... more wealth, police, D.A.'s Office & team.  
... Include when, 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 Cockhate 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, Gear. The date the  
... pictures were taken.

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

### Wherefore,

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

Michael Elbery

### Certificate of Service

I the defendant, Michael Elbery, sent this "Motion  
for Additional Discovery" to the Clerk - Framingham  
Dist. Ct., 600 Concord St., Framingham, Ma. 01701 &  
to the D.A.'s Office 60 Concord St., Framingham,  
01701

my  
copy

Michael Elbery, CS7634  
S. E. C. C. - O.U. #52  
12 Administration Rd.  
Bridgewater, Ma, 02334  
10-22-00

Clerk - Framingham Dist. Ct.  
600 Concord St. P.O. Box 1969  
Framingham, Mass. 01701

RE: Com. v. Michael Elbery  
Criminal Docket # 0049CB1893

Dear Clerk:

Please find enclosed for immediate filing  
& review,

"Defendant's Motion for Court Order to  
Gain Entrance to the Mobil Premises where  
Alleged Crime Occurred  
In order to Test Video System & Gain  
Evidence as Directed by Defendant."

Michael Elbery, pro se

# Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex ss

Criminal Action  
Docket #0049CR1893

Commonwealth

v.

Michael Elbery

Motion for Court Order to Gain Entrance  
to the Mobil Premises where Alleged  
Crime Occurred

In Order to Test Video Surveillance System  
& Gain Evidence as Directed by Defendant

1. The defendant, above docketed, motions the Court to issue a Court Order allowing my attorney, who is also my investigator, to enter the Mobil Gas Station premises at 696 Cochituate Rd., Framingham, Mass. in order to test the video surveillance system & gain evidence as directed by this defendant. The attorney is Ken Brekka.
2. There is overwhelming evidence the incident

that caused this alleged criminal action was filmed by the same video surveillance system. The resulting video tape of the underlying incident and related evidence is being covered-up via conspiracy by several state actors and co-conspirators.

3. The Mobil Gas Station, in #1 above, is the location of the incident that caused the above docketed action or criminal charges.

4. I ordered my attorney for pay, Ken Brekka, to do as I am asking in this motion, (Get Court order to enter premises at Mobil to test & gain evidence), prior to the 10-17-00 hearing regarding this case.

5. As in item #4 I had a written list of instructions for Brekka to do at the Mobil including tests on the video/OCR surveillance system at that Mobil & taking pictures of the Mobil. I told Brekka to get a Court order to do this from the judge at the 10-17-00 hearing.

6. Brekka has stated that Mobil intends

to junk the video system at that location and buy an all new system in the very near future.

2. By not following my written & verbal orders to test the video surveillance system at the Mobil, via Court Order, Brebka has allowed the police, prosecution & Mobil to have time to eliminate more evidence that is crucial to this defendant.

Wherefore,  
I ask the Court to issue an Order that allows Brebka to test the VCR-video surveillance system & gain evidence as directed by this defendant at the above indicated Mobil Station so that crucial evidence for the defense can be gained.

Michael Elbery  
Michael Elbery, C57634  
S.E.C.C.

12 Administration Rd.  
Bridgewater, Ma. 02724  
10-23-00

## Certificate of Service

I the defendant, Michael Elbery, sent this Motion for Access to Mobil for testing & evidence to the Framingham Dist. Court 600 Concord St., Framingham, Mass. and to the District Attorney's office Framingham at 100 Concord St., Framingham, Mass, <sup>01701</sup> via U.S. 1<sup>st</sup>-class mail-prepaid from S.E. C.C. Prison all on 10-24-00.

Michael Elbery

my copy

Mike Elbery  
CS7634  
S.E. Co. - O.U. A  
12 Administration Rd.  
Bridgewater, Ma.  
02324

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

RE: Com. v. Elbery  
Criminal #0049CR1893

Dear Clerk:

Please find enclosed for immediate  
filing & review,

"Defendant's - Motion for Evidentiary  
Hearing of Peter H. Geer et al."

Thank you.

Mike Elbery

Commonwealth of Massachusetts

Framingham Dist. Ct.  
Middlesex ss

Commonwealth

v.

Michael Elbery

Criminal Docket  
#0049CR1893

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

Owners, Residents & Occupants of 58 Clinton St.,  
Framingham, Mass. including Norman ~~Conlon~~ Gear  
Regarding  
the witnesses at the location where Gear  
Drove to & Called the F.P.D. on 7-4-00

1. The defendant, above docketed, Michael Elbery, motions the Court for an Evidentiary Hearing in order to obtain from the alleged victim, Peter H. Gear, information as to the witnesses 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 3:00am & 2:30am Peter H. Gear robbed this defendant, Michael Elbery, while stealing a tank full of gas from the Mobil Gas Station on Route 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 & drunk-robber, 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.P.D. 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 witnesses talking in the background on that tape.

8. Per M.R.C.P. this defendant has a right to the names & addresses 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 Brettkay, to subpoena Peter H. Gear & the residents of 59 Clinton St., Framingham for the evidentiary hearing that was held on 10-17-00 regarding this case. Brettkay 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 59 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 & addresses) of the people that saw the victim (alleged), Peter H. Gear, that 7-4-00 after he consciously fled the Mobil in guilt.

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

Certificate of Service

I the defendant, Michael Elbery sent  
this Motion for Gear'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.  
1<sup>st</sup> class mail - prepaid from S.E.C.C.  
Prison on 10-24-00.

MMH, pro se