

copy  
handwritten

M. Elbery, 157634  
SECC A-406  
12 Administration Rd.  
Bridge water, Ma. 02324  
3-2-01

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

RE: Com. v. Elbery #0049 CR1893

Dear Sir:

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

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

Thank you.

M. Elbery

Commonwealth of Mass,

Middlesex ss

Cour. of Mass.

v.  
Michael Elbery

Framingham Dist. Ct.  
Criminal Docket  
#0049 CR1893

Notice that Defendant - Elbery  
continues to Represent Himself  
Court Appointed Attorney - Robertson is  
Fired

1. The defendant, above docketed, on 12-31-00 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,

01-31-01,

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 set-off of the defendant's evidence via required/mandatory discovery. (Body 4 MRCP-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, Elbery, 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 3-8-00. They have been notified by this defendant.
8. The defendant - Elbery never asked for an attorney to talk for him only to assist him in discovery procedures, 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 venue below, regarding this issue of pro se representation will result in a

Petition to the S.J.C. - Single Justice  
under M.G.L. c. 211 s. 3 (general super-  
intendance of the courts) and a newspaper  
article exposing the Judge who acts  
contrary to the Constitution.

10. 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.

Mik, pro se  
1-31-01

Memo of Law

Per Blumenthal, Mass. Criminal Practice,

Vol. I p. 153 ('98), 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, (1979).

Violation of this Right is reversible error per se. McKasbie v. Wiggins, 465 U.S. 168, 177 n. 3 ('84); Com. v. Confrey, 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.

WMA, prose  
Michael Elbey, prose  
S.E.C.C. A-406

12 Administration Rd.  
Bridgewater, Ma. 02724  
2-1-01

Certificate of Service  
I the defendant, Michael Elbery, sent  
this "Notice of Pro Se Representation"  
to Clerk - Criminal Framingham Dist. Ct.,  
600 Concord St., Framingham, Mass 01701  
& the Framingham Dist. Att. Office, 100  
Concord St., Framingham, Mass. all via U.S.  
mail-prepaid-1st class on 2-1-01 from  
S.E.C.C. Prison.

M. Elbery, pro se