

Michael Elbery, C5763
SECC Prison O.U.
12 Administration RD.
Bridgewater, Mass.
3-13-01

Clerk Criminal
Framingham District Court
600 Concord ST.
FRamingham, Mass. 01701

RE: Com. v. Michael Elbery, #0049CR1893A (Amended 3006)

Dear clerk:

Please find for immediate filing and review,

"Defendant's Objection to Case Proceedings etc. and Motion to Compel"

Thank you.

M. Elbery

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Ct.

Docket #0049CR1893A

(Amended 3006)

Commonwealth

v.

Michael Elbery

Defendant's Objection to Case Proceedings

No Pre-Trial Conference

No Pre-Trial Conference Report

Limitation of Defendant's Participation at Pre Trial Hearing

&

Defendant's Motion to Compel Mandatory Exculpatory Discovery

1. The defendant, above docketed, Michael Elbery-pro se, objects to the proceedings of this instant case, as above docketed.

No Pre-Trial Conference

2. The defendant never received a Pre-Trial Conference in this case. The defendant raised this issue at the Pre-Trial Hearing of this case on 3-08-01. A Pre-Trial Conference is required by Mass. law in this case. See Mass. Rule Cr. P.-Rule 11.

Pre-Trial Conference Report

3. There has been no Pre-Trial Conference Report filed at this late date in this case. This is required by Mass. law. See Mass. Rules of Criminal Procedure - Rule 11, a PreTrial Conference Report is required by law in order to hold a PreTrial Hearing.

PreTrial Hearing

4. This defendant was not allowed to participate at the alleged PreTrial Hearing of 3-8-01 of this case.
5. The judge, Paul Healy, found this defendant in contempt during the scheduled 3-8-01 PreTrial Hearing after this defendnat violated the judge's orders as follows:
 - a. The defendant was not allowed to object on the record.
 - b. The defendant was prohibited from arguing constitutional grounds.
 - c. The defendant's participation at the PreTrial Hearing was limited to responding to the judge's questions.
 - d. The defendant was only allowed to answer yes or no to the leading questions of the judge.
6. The defendant was warned that he would be found in contempt if he did not obey the above orders in #5.
7. The defendant questioned the judge's, Paul Healy's, independence regarding the case and the defendant was found in contempt of Court.
8. The defendant's further participation at that 3-08-01 Pre-Trial Hearing, and avoidance of imprisonment via contempt, was conditioned on the defendant agreeing to the above orders and only speaking when allowed by the judge.
9. The defendant, pro se, was never allowed, as a result of the above unconstitutional conditions, to argue the various discovery motions he submitted on this case, as also documented by this defendant's Mass. G.L. C. 211 s.3 Petition to the S.J.C. regarding this case.
10. The defendant's numerous discovery motions to the Court were never considered by the Court at the 3-8-01 PreTrial Hearing.
11. This defendant has submitted over $\frac{1}{2}$ dozen discovery motions

on this case specifically seeking police and prosecution held and controlled exculpatory documents and other specifically requested evidence.

12. At this late date (case is 8 months old) the defendant has received a police report and application for complaint.

13. The result is that the prosecution team has been allowed to knowingly withhold relevant, material and exculpatory evidence from the defendant with the auspices of the Court.

14. The above concealment of evidence is a violation of Federal Brady laws and Massachusetts Rules of Criminal Procedure-Rule 14 and the Mass. Declaration of Rights - Article 12.

WHEREFORE,

This pro se defendant motions the Court to compel the prosecution to provide the mandatory exculpatory evidence as specifically requested by this defendant via hsi numerous discovery motions filed by this defendant in this case.



Michael Elbery, prose
SECC Prison
12 Administration Rd.
Bridgewater, Mass..02324
3-12-01

Certificate of Service

I the defendant pro se, Michael Elbery, sent this Motion & Objection to the Clerk-Framingham District Court, 600 Concord St., Framingham, Mass. and to the D.A.'s Office, 100 Concord St., Framingham, Mass. all via U.S. certified mail¹⁰ return receipt prepaid on 3-14-01 from SECC Prison.



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11/11/01 7041 6067