

Michael Elbery, c57634
SECC Prison
12 Administration Rd.
Bridgewater, Mass.02324
5-22-01

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

RE: Commonwealth v. Michael Elbery 00-3006

Dear Clerk:

Please find enclosed for immediate filing and review,

"Defendant's Motion to Compel Alleged Victim's Medical Records
From
Emergency Room and Past Primary Care Provider
As
Exposed By Dr. Tamara Martin "

and Certificate of Service and Supporting Documents and Affidavits

Thank you.

MIT, p-20

COMMONWEALTH OF MASSACHUSETTS

COMMONWEALTH

Framingham District Court

v.

00-3006

Michael Elbery

Document Listing

Affidavits in Support	3pgs
Exhibit A - Drs. Schissel, Martin and Docken's Report	17 pgs
Exhibit B - Norwood Health Care Ass. - Notes	8 pgs
Exhibit C - Defendant's Motion to Preserve/Impound by Court & Compel for Production & Inspection of Prosecution Controlled Evidence	4 pgs
Exhibit D - Defendant's Motion for Discovery	3 pgs
Exhibit E - Defendant's Motion for Additional Discovery	4 pgs
Exhibit F - Defendant's Motion to Compel Prosector to Produce Discovery Motions	7 pgs
Certificate of Service	

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth

Six Man Jury Session

v.

Criminal Docket

Michael Elbery

00-3006

Defendant's Motion to Compel Alleged Victim's Medical Records

From

Emergency Room and Past Primary Care Provider

As

Exposed By Dr. Tamara Martin

Per Dr. Martin-Peter H. Gear, alleged victim, went to an Emergency Department

1. On 3-08-01 Judge Paul Healy, as a result of this defendant's Motion To Compel and Numerous discovery motions, (See Exhibits C, D, E, F, '), ordered the prosecutor to produce all medical records of Peter H. Gear, alleged victim, relating to care of his injuries he suffered on 7-4-00 regarding the underlying incident at the Route 30 Mobil that caused this action.

2. The prosecution produced, on 5-3-01, only Exhibits A and B, which are Gear's medical records from Drs. Schissel, Martin, and Docken.

3. Per Exhibit A, Dr. Tamara Martin, who treated Gear at the referral of Dr. Schissel, documents that Gear admits he went to an Emergency Room or Department at an "Unknown Facility" prior to being treated by Dr. Schissel at Brigham Internal Medicine, Boston. See paragraph 2 of Dr. Martin's 10-12-00 report per exhibit A.

4. Making that Emergency Room's records even more crucial and relevant, material and Exculpatory to this defendant is that Dr. Martin reveals, per her report in 3, above, that Gear discloses that Emergency Room did studies on Gear's right foot and the Study's results were "Negative".

5. Gear and the prosecution are claiming that Gear has a "right foot injury" causing him to be permanently disabled and that same "right foot injury" was caused by this defendant on 7-4-00 and is the central issue to the prosecutions assault charges against this instant defendant.

6. This fraudulent "right foot injury" is what Gear and the Prosecutor are using as alleged injury evidence to put this defendant in prison and sue the Mobil Corp.

7. Dr. Martin reveals in this same 10-12-00 medical record that Gear has not disclosed the name of that "Unknown Facility" where the Emergency Room was that Gear's right foot was studied to have no injury.

Per Dr. Martin, Gear has Exculpatory Evidence from a "Past Primary Care Provider"

8. Dr. Martin also reveals, per her 10-12-00 report, Ex. A, that Gear was diagnosed with Fibromyalgia from an "Unknown Primary Care Provider" some 10-12 years ago. See paragraph 2 of that same report.

9. Dr. Schissel documents, per his report of 3-14-01, Exhibit A, that Gear's "right foot pain", per evaluation of referral doctors Martin and William Docken, is a "Non-Specific Pain Syndrome" (likely Fibromyalgia) possibly triggered by over-use of his right foot after his left leg trauma this past summer".

10. Gear evidently refuses to disclose the name of this "Past Primary Care Provider" to his doctors because he has to conceal evidence that is exculpatory to this defendant.

ARGUMENT

"Past Primary Care Provider's" Records

One of Peter H. Gear's objectives per his taped 911 call to the Framingham Police (F.P.D.) on 7-4-00 is to sue Mobil Corp. (the alleged incident occurred at the Route 30 Mobil, Framingham). It is likely that Gear's "Past Primary Care Provider" has information not only of an exculpatory nature about Gear's "right foot pain" and his Fibromyalgia but that he has a history of phony personal injury lawsuits.

Drs. Schissel, Martin, and Docken evaluate Gear's "right foot injury/pain" as "likely caused by Fibromyalgia". This makes this "Past Primary care Provider's" records on Gear relevant, material, and exculpatory under Federal "Brady" laws and Mass. Rule 14 of the M.R.C.P.. Obviously, this alleged "right foot injury/pain" problem with Gear is nothing new but has been ongoing for over a decade.

Gear's Medical Records - Emergency Room at "Unknown Facility"

Gear's medical records at the "Unknown Emergency Room" revealed by Dr. Martin via her 10-12-01 report, Exhibit A, are exculpatory, relevant, and material because, as above 1-7, there was nothing wrong with Gear's, now, allegedly lame right foot, immediately after the incident on 7-4-00. These "ER" records of Gear's will

, at a minimum, provide medical evidence Gear's foot was fine and injury free immediately after the 7-4-00 incident at the Mobil. Just as Dr. Martin reveals a "Negative Study".

Obviously, Gear and the prosecutor are hiding something they don't want this defendant and the Jury to know. Better to disclose this evidence before trial rather than letting the Jury and public know evidence is being allowed to be concealed during trial.

A.D.A. Ford's Cover-Up & Concealment of the Exculpatory "Emergency Room evidence/records

The prosecutor, A.D.A. Ford, on 5-17-01 claimed that the "Unknown Emergency Room" is actually Dr. Schissel's Association. This is Foolishness! The two documented Schissel associations per Exhibits A & B (Brigham Internal Medicine and Norwood Health Care Associates), are not Emergency Rooms and do not have Emergency capability. Additionally, as per Dr. Schissel's 3-14-01 report, EX. A, Schissel referred Gear to Dr. Martin and Dr. Docken. As a result Dr. Martin would not call Schissel's organization an "Unknown Facility". Further, per Dr. Schissel's reports, Exs. A & B, Schissel did no tests or studies on Gear's right foot on 7-5-00. Schissel per those same reports did not examine Gear's right foot until 7-26-00. It is debatable what Schissel is claiming about Gear's alleged right foot, per Schissel's reports subsequent to 7-26-00 but it is certainly not "Negative". Per Dr. Schissel's 8-7-00 report, EX. A, Schissel claims the right foot injury is a "soft tissue injury" caused by this defendant during the "original trauma on 7-4-00".

WHEREFORE,

The defendant asks the Court to order the prosecutor to produce Gear's medical records at the "Emergency Department of the Unknown Facility" and the "Past Unknown Primary Care Provider" as itemized above in this motion. Otherwise, the Jury will be allowed to know only that there is all kinds of exculpatory evidence being concealed preventing the truth from being known. This defendant cannot get a "Fair Trial" and "Present a Complete Defense" as

is his Constitutional Right under the 6th and 14th Amendments of the United States without these exculpatory medical documents.

See affidavits in Support, attached.

A handwritten signature in black ink, appearing to read "Michael Elbery, pro se". The signature is stylized with a large, looped "M" and "E".

Michael Elbery

12 administration Rd.

SECC Prison

Bridgewater, Mass. 02324

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Six Man Jury Session

Commonwealth

Criminal Docket

v.

00-3006

Michael Elbery

Affidavits In Support

of

Defendant's Motion to Compel Alleged Victim's Medical Records

1. I am the defendant, pro se, Michael Elbery.
2. I motioned for the alleged victim's, Peter H. Gear's, medical records via 4 of my discovery motions, See exhibits C, D, E, F.
3. On 3-08-01, Judge Paul Healy ordered the prosecution to produce the alleged victim's, Peter H. Gear's, medical records to this defendant. This after the case was 8 months old.
4. I was brought into court on 5-3-01 without any advanced notice that a hearing would be held. At this 5-3-01 alleged Discovery Compliance Hearing a trial date was set on this case for 5-17-01. Noteworthy, not one word was spoken about discovery at that 5-3-01 Discovery Compliance Hearing.
5. On 5-17-01 the trial was continued and without any notice the new Judge, Stoddard, held a "Discovery Motion Hearing". The alleged "Pre-Trial Hearing" was held on 3-08-01.
6. I had none of my discovery motions on 5-17-01, as I was prepared for trial not a "Motion Hearing" that should have been held by the 3-08-01 Pre-Trial Hearing.

7. I alerted Judge Stoddard at that 5-17-01 "Surprise Motion Hearing" that Judge Healy ordered all of the alleged victim's medical records concerning his injuries to be produced to the defense. Judge Stoddard claimed there was no record of such an order.

8. I alerted Judge stoddard, at the "Surprise 5-17- 01 Motion Hearing, that Gear went to an Emergency Room prior to being seen by Schissel on 7-5-00 and that there was exculpatory, relevant and material medical evidence being concealed , as revealed by Dr. Martin's 10-12-01 medical report, see Ex. A.

9. Judge Stoddard did not want to talk about the concealed exculpatory medical evidence as revealed in Dr. Martin's report and as alerted to him by me.

10.** During that 5-17-01 "Surprise Discovery Motion Hearing" I was allowed only 10 minutes to argue my 12 discovery motions that were filed over the past 10 months.

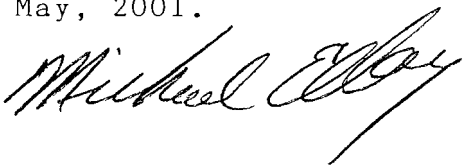
11.**During that same 5-17-01 "Surprise Discovery Motion Hearing" I asked Judge Stoddard to remove my manacles (not leg irons)so I could write and hold paper. Stoddard refused. There were 6 cops in the small courtroom.

12.**The Judge, cops, Assistant District Attorneys, and representative from the local chapter of a well-known hate group watched me struggle as I was publicly mocked and degraded.

13. On 5-17-01, during that "Surprise Motion Hearing", I spoke briefly to A.D.A. Ford, who claimed that Dr. Martin's reference to an "Unknown Emergnecy Department" was simply Dr. Schissels Norwood Healthcare Association and that I would not be getting the "Past Unknown Primary Care Provider;s" medical records of Gear's.

14. Norwood Healthcare Associates has no Emergency Room or facilities and Dr. Martin was referred to Gear by Dr. Schissel so it would be impossible that Schissel's organization could be the "Unknown Emergency Dept."

Signed under the pains and penalties of perjury on this 22d day of May, 2001.

A handwritten signature in cursive script, appearing to read "Michael Elbery". The signature is written in dark ink and is positioned below the typed text of the signature.

Michael Elbery, pro se
SECC Prison
12 Administration Rd.
Bridgewater, mass. 02324
5-22-01

Certificate of Service

I the defendnat, Michael Elbery, sent this Motion for Gear's concealed medical evidence to the clerk criminal - Framingham District Court, 600 Concord St. Framingham, Mass. 01701 and to the D.A.'s Office at 100 Concord St., Framingham, Mass. 01701 all via U.S. certified mail - return receipt prepaid on May 25, 2001 . all from Prison mail.

Michael Elbery

Exhibits A & B

omitted

those ② Exhibits

consist of Gear's

medical records

my
copy

Mike Elbery, CJ 1857
12 Administration Rd
SECC Prison A-406
Bridgewater, Ma. 02324
01-28-01

Ex. C.

Clerk - Criminal
Framingham Dist. Ct.
600 Concord St. - P.O. Box 828
Framingham, Mass.

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

Dear Clerk: See # 4's
Hospital report

Please mark-up for Hearing at the
next available date the enclosed

"Defendant's Motion To Preserve/Impound
By Court &
Compel For Production & Inspection of
Prosecution Controlled Evidence"

You may already have been forward a copy
of this Motion via the 1-31-01 hearing.
Thank you.

Mike Elbery

Commonwealth of Mass.

Middlesex, ss

Framingham Dist. Ct.

Com. of Mass.

Criminal Docket

v.

0049 CR1893

Michael Elbery

Defendant's Motion To Preserve/Impound
By Court
#

Compel for Production & Inspection
of

Prosecution Controlled Evidence

1. The defendant, above docketed, requests/
motions that the Court Impound for the
defendant's inspection and use at trial
the following evidence controlled by the
prosecution.

2. The F.P.D. Booking Photo, Booking
Report, Booking Video, Booking Sheet &

related documentation of the F.P.D.'s 7-400 arrest of Peter H. Gear (alleged victim - this instant case). Including all statements recorded of Gear at that 7-400 arrest/bookings.

3. The ⑥ pictures & related negatives that produced those ⑥ pictures, taken by the F.P.D., allegedly on 7-5-00, of Peter H. Gear's injuries supposedly causing the above docketed action.
4. The therapist's reports and Doctors/Hospital reports of Peter H. Gear that Gear claims exist as a result of his alleged beating that caused this action.
5. All A.D.A.'s & D.A.'s notes regarding this case including the 1st A.D.A. handling this case.

Request Hearing

Mik, pro se

Michael Elbery pro se

SE. C. C. Prison A-406
12 Administration Rd.
Bridgewater, Ma. 02324
1-29-01

Certificate of Service

I the defendant, Michael Elbery, sent
this Motion To Impound to the Clerk
Framingham Dist. Ct - ~~100~~ Concord St.,
Framingham, & the Framingham Dist.

A.H. Office, 100 Concord St., Framing-
ham, Mass., all via U.S. 1st class -
prepaid mail on 2-1-01.

W. Elbery

my
copy

M. Elbery, 157634
SECC A-406
12 Administration Rd
Bridgewater, Ma. 02324
2-4-01

Ex. D

Clerk-Criminal
Framingham Dist. Ct.
600 Concord St.
Framingham, Ma. 01741

Grew's
Hospital
Records
#11

RE: Com. v. Elbery #0049CR1893

Dear Clerk:

Please find for immediate filing & review
"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.

M. Elbery, pro se

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

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

*Not
Filed
Client to
make dec-
on motion*

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

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~~

(508) 928-5000
Pro Se Defendant - Approved
Mike Elroy

CERTIFICATE:

Certificate of Service - Prose Defendant

I the defendant, Michael Elbey, sent this Motion to the City-Criminal from which Dist. Ct via U.S. 1st prepaid

Ex. E



Mike Elbery
CS7634
S.E. C.C. - O.V.A.
12 Administration Rd.
Bridgewater, Mass. 03324

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

R.E. Com. v. Elbery
Criminal # 0049 CR 1893

Dear Clerk:

Please find for immediate filing & review,

"Defendant's Motion for Additional
Discovery"

Thank you.

Mike Elbery

see I-
Gen. Hospital
Records

Commonwealth of Massachusetts

Framingham Dist. Ct.
Middlesex ss

Criminal Docket
#0049CR1893

Commonwealth

v.

Michael Elbery

Defendant's Motion for Additional Discovery

1. The defendant requests additional discovery, he submit 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 14th 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 names of the alleged victim?

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 7-4-00 (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.

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

monwealth, 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 Olecki, 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 Lockhate Rd., Framingham where the
alleged criminal episode took place that
caused this action.

o. Bill of Particulars

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

p. List of all police & members of the prosecution team
that spoke to Mobil Managers, Dolly Olecki, & James J.
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 via U.S. mail - Registered Mail - RECEIVED.

Ex. F

Michael Elbery
C57634
SECC Prison
12 Administration RD.
Bridgewater, Mass.
3-13-01

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

RE: Com. v. Michael Elbery #0049CR1893 (Amended 3006)

Dear Clerk:

Please find for immediate filing and review,

Defendant's Motion to Compel Prosecutor to Produce Discovery
Evidence as Requested by Defendant's Discovery Motions.



Thahnk you.

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth

Criminal Docket
#0049CR1893A (3006)

v.

Elbery

~~Defendant~~
~~Defendant~~
Defendant's Motion to Compel Prosecutor
to
Produce Discovery Evidence

as

Requested by Defendant's Discovery Motions

1. The defendant-pro se, Michael Elbery, Motions the Court to Compel the prosecution to produce the exculpatory, relevant and material evidence asked for in the defendant's 12 discovery motions filed in this instant case.
2. There has been no Pretrial Conference or Pretrial Report regarding this instant case.
3. This defendant was allowed only limited participation at the Hearing Pretrial, see Defendant's "objection to Case Proceedings etc.," filed on this instant case.
4. At this late date the Court has yet to discuss the defendant's discovery requests made via his motions to the prosecution.

5. All the discovery per this defendant's discovery Motions are for relevant, material, exculpatory evidence.

Specific Evidence this defendant Motions the Court to Compel the Prosecution to Produce from the Defendant's already Filed Discovery Motions filed in this instant case.

6. The defendant motions the Court to Compel the prosecution to produce the following specifically requested prosecution controlled evidence. This defendant already requested this discovery through his "Omnibus Discovery Motion"

a. The Booking evidence regarding the arrest of Peter H. Gear on 7-4-00 by the Framingham Police Dept. This evidence has already been asked for by the defendant via Request #1 of his "Omnibus Motion".

b. The 6 photos of Peter H. Gear taken by the Framingham Police alleging the injuries caused by this defendant. This has already been requested via #2 of the Defendant's "Omnibus Motion".

c. The therapists records and related information regarding treatment to the alleged victim, Peter H. Gear, needed due, allegedly, because of the beating he received causing this action. This evidence has already been requested by the defendant via his request # 5 of the defendant's "Omnibus Discovery Motion".

d. The Police telephone evidence in requests #'s 6 & 8 of the defendant's "Omnibus Discovery Motion". In particular the defendant requests the prosecution to produce the computerized print outs of the calls the alleged victim, Peter H. Gear, made to the Framingham Police on 7-4-00.

The Framingham Police informed my investigating attorney on this case, Attorney Ken Brekka, that the two Gear calls, as above, were made hours after the incident; not as the the prosecution now claim immediately after the incident. See Affidavit attached.

6. In addition, the defendant motions the Court to Compel the prosecution to produce #'s 3, 4, 7, 9, 10, 14, 15, 16, 18, 19, 20, 22, 23, 25, 27, 28, 29, 30, 31, 33, 34, 35, 38, 39, 40, 41, 42, 43, 44 of the defendant's "Omnibus Discovery Motion".

7. Gear's Hospital Records

The defendant further motions the Court to Compel the prosecution to produce the hospital and physicians records and reports that the alleged victim in this case, Peter H. Gear, incurred as a result of the underlying incident on 7-4-00 at the Route 30 Mobil that caused this instant case.

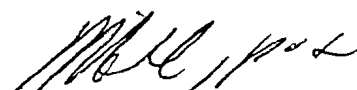
These same hospital records were requested in 3 of the defendant's Discovery Motions already filed with the Court in this case as follows:

- a. #11 Request of Defendant's "Motion for Discovery"
- b. #4 Request "Defendant's Motion to Preserve/Impound by Court & Compel for Production & Inspection of Prosecution Controlled Evidence"
- c. #1-i Request of the "Defendant's Motion for Additional Discovery"

But see Ex. D of the Defendant's "Omnibus Discovery Motion" which quotes the victim-alleged, Gear, that he went to the Hospital and was treated by a physician for weeks as a result of the underlying incident that gave rise to this action.

wherefore,

the defendant motions the Court to Compel the prosecution to produce the above discovery requests as the law of Massachusetts and Federal Brady laws require.


Michael Elbery, prose
SECC Prison 3-13-01

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth

Criminal Docket

#0049CR1893A (3006)

v.

Elbery

Affidavits in Support

of

Defendant's Motion to Compel Prosecutor

to

Produce Discovery Evidence

1. I am the defendant-pro se, Michael Elbery, I am illegally incarcerated at SECC Prison, Bridgewater, Mass.
 2. While Attorney Ken Brekka represented me on this case he interviewed several Framingham Police regarding police phone calls of this instant case.
 3. Brekka told me that every phone call that comes into the Framingham Police Dept. is recorded.
 4. All 911 calls have an associated computerized information that keeps track of each call including time, source, duration of each call. Per the Framingham Police to Brekka that information is obtainable regarding each call as involved in this case, especially the Calls made by Gear on 7-4-00 regarding this instant case.
-

5. I have recieved from Attorney Brekka computer print outs of my call to the Framingham Police Dept. regarding this case.

6. Per Brekka interview notes on this case from a named Framingham police official the Gear calls that I seek computer print outs for where made after 5:00am.

7. Based on the above facts and information I believe the Prosecution have controll of computer information and related print outs of the calls Gear made to the Framingham Police on 7-4-00 regarding the underlying incident that caused this case.

Signed under the pains and penalties of perjury this 13th day of March 2001.

A handwritten signature in dark ink, appearing to read 'Michael Elbery, prose', written in a cursive style.

Michael Elbery, prose
SECC Prison
12 Administration Rd.
Bridgewater, Mass. 02324
3-13-01

Certificate of Service

I the defendant pro se, Michael Elbery, sent this Motion to Compel Discovery to the Clerk- Framingham district Court at 600 Concord ST., Framingham, Mass. and the D.A. 's Office at 100 Concord St., Framingham, Mass. all via U.S. certified mail^{*} - return receipt prepaid on 3-15-01 from SECC prison mail.

Mike Elbery

* Clerk # 7099 3400 0010 7041 6111
D.A. # 7099 3400 0010 7041 6104