

Extra

Michael Elbery, C57634
SECC Prison
12 Administration Rd
Bridgewater, Mass. 02324
5-27-01

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

RE: Commonwealth v. Elbery, 00-3006

Dear Clerk:

Please find for immediate filing and review,

Combined
Defendant's Motion for
Clarification
Motion for Pre-Trial Conference
Pre-Trial Conference Report

Supporting Affidavits and Certificate of Service.

Thank you.

Mich, p. 2

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth

Six Man Jury

Criminal Docket

v.

00-3006

Michael Elbery

Combined

Defendant's Motion for Clarification

&

Motion for Pre-Trial Conference

&

Pre-Trial Conference Report

1. The above docketed action was scheduled for trial on 5-17-01. That trial date was set on 5-3-01 and this defendant was notified of that 5-17-01 date by a transport cop in the F.D.C. holding tank. The defendant was given no notice that there would be a 5-3-01 hearing.
2. This defendant, after complaining at a 3-08-01 hearing that he had received no Pre-Trial Conference, as is required by Mass. law, filed an Objection to the case proceedings. See Ex. A.
3. Amongst other illegalities , this defendant specified, in Ex. A, that, regarding the above docketed case, he received no Pre-Trial Conference and no Pre-Trial Conference Report had been produced.
4. This defendant submitted a proposed Pre-Trial Conference Report

on 2-5-01 to the D.A.'s Office and the Court. Both A.D.A. Ford and Judge Douglas Stoddard claim they never received it, so this defendant resubmitted the same Pre-Trial Conference Report and related documents on 5-24-01 via U.S. certified mail-return receipt.

5. On 5-17-01 after continuing the trial date to 7-18-01 the Judge, Douglas Stoddard, without notification to this defendant, had a motion hearing/argument on this defendant's 12 discovery motions filed over the past 10 months of the case. This defendant notified the Judge, Douglas Stoddard, that he had none of his discovery motions because he was pre-~~pared~~ for trial not a "Motion Hearing".

6. Judge Douglas Stoddard ordered this defendant to argue his 12 discovery motions in 10 minutes. Stoddard ordered this defendant's leg irons and manacles left on in order to create greater entertainment for the various "state actors" and representative from a "Hate Group". Handling papers and writing ^{was} impossible.

7. After the Court, Judge Douglas Stoddard, took a 10 minute recess, during that 5-17-01 "Surprise Motion Hearing", this defendant was provided with Ex. A by a Mass. Transport cop.

8. This defendant was immediately removed from the Court after the Judge returned and this defendant received Ex. A.

9. This defendant was able to read Exhibit A and Judge Stoddard's Order to have the "Pre-Trial Conference and Report Today" (see memo on front page of Ex. A) only after being removed from the Framingham District Court by 2 Mass. Transport cops.

10. Since the Transport cops took this defendant out of the Court in chains before this defendant ever received or read

Ex. A, there was not provided a means to have Pre-Trial Conference and produce a Conference Report.

WHEREFORE,

the defendant demands a Pre-Trial Conference be held and related Pre-Trial Conference Report be produced and further asks for clarification as to how it would have been possible to conduct a Pre-Trial Conference under the above conditions.

Mike, pro se

Michael Elbery, pro se
SECC Prison
12 Administration Rd.
Bridgewater, Mass.02324
5-25-01

Supporting Affidavits attached

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth

Six Man Jury

Criminal Docket

v.

00-3006

Michael Elbery

Affidavits In Support

Combined
Defendant's Motion for Clarification

&
Motion for Pre-Trial Conference

&
Pre-Trial Conference Report

1. I am the defendant, Michael Elbery.
2. I was brought to Framingham District Court on 5-3-01 without being notified of that hearing.
3. At that 5-3-01 hearing, as in #1, I was told by Judge Robert Greco that my case was going to the jury session.
4. While in the holding tank at the Framingham District Court on 5-3-01 a transport cop told me my trial was scheduled by Judge Paul Healy for 5-17-01.
5. I have not at this date, 5-25-01, received, as Mass. law requires, a Pre-Trial Conference or a Pre-Trial Conference Report, although the trial of the case was initially set for 5-17-01.

6. I submitted, on 2-5-01, a proposed and signed Pre-Trial Conference Report, to the Court and D.A.'s Office. This Proposed Pre-Trial Conference Report was accompanied by documents and information required by Mass. Rule-14a.

7. Judge Douglas Stoddard and A.D.A. Ford, at the 5-17-01 hearing, claimed they had no record of my original Proposed Pre-Trial Conference Report and related documents, as in 6, above.

I re-submitted the documents and report in 6&7 via U.S. certified mail-return receipt on 5-26-01.

8. I have since mid-February '01 submitted all my motions and paper to the Court and D.A. regarding the above docketed case via U.S. certified mail-return receipt because I discovered none of my motions and papers I filed on this case had been docketed.

I alerted the Mass. S.J.C. to this illegality via Petition under Mass. C. 211 s. 3, it is docket SJ - 2001 - 0119.

9. On 5-17-01, after my trial was continued, Judge Douglas Stoddard had a "Discovery Motion Hearing" on my 12 discovery motions I had filed on this ^{case} over the past 10 months.

10. I notified Judge Douglas Stoddard I was prepared for trial not a "Motion Hearing" and that I had none of my discovery motions with me.

11. Judge Douglas Stoddard ordered that I had 10 minutes to argue my discovery motions.

12. I asked Judge Douglas Stoddard to allow my manacles to be removed (not my leg irons) so I could handle paper and write with a pen.

13. Judge Douglas Stoddard refused making me stuggle in order to provide entertainment for an audience of mean spirited cops, 2 A.D.A.'s , and a representative from a "Hate Group" who was observing me.

14. I was provided with Ex. A (Judge Stoddard's decision to have the Pre-Trail Conference on 5-17-01 (today))by the transport cops after being removed from the Court.

Signed under the pains and penalties of perjury on this 27th day of May, 2001.

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

Certificate of Service

I the defendant, Michael Elbery, sent this Combined Motion for Clarification and Pre-trial Conference & Report to the Clerk Criminal at 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 from SECC Prison mail on May 30, 2001.

A handwritten signature in black ink, appearing to read "Michael Elbery", written in a cursive style.

Ex. A

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Ct.

Commonwealth

Docket #0049CR1893A
(Amended 3006)

v.

Michael Elbery

5/17/01
The parties will complete a pre-trial conf. memo today
Dorey Stoddart
Other requests denied
Dorey Stoddart

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.

See order

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 defendant 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.

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, pro se
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 mail*return receipt prepaid on 3-14-01 from SECC Prison.

Michael Elbery, pro se

*DA 7099 3Y00 0010 7041 6128
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