

COMMONWEALTH OF MASSACHUSETTS

Middlesex ss

Framingham District Court

Commonwealth

Six Man Jury Session

v.

Michael Elbery

00-3006

Defendant's Motion and Notice Regarding His Prior Convictions

Under Mass C. 233 s.21

1. This defendant, Michael Elbery, has only one felony conviction available to the prosecution for impeachment purposes under M.G.L. C. 233 s. 21. That illegal conviction took place in Worcester Superior Court in 1993 before judge Dan Tooney. That conviction was exposed as a conspiracy and has been acted on by the Mass. Executive Branch twice as being a conspiracy to maliciously prosecute, see Boston Globe 9-27-99 - front page where Governor Cellucci rejected Judge Toomey's application for S.J..C. Justice.

the conviction was for "assault with intent to maim" or "attempted mayhem".

2. At the same trial 2 sentences for 2 misdemeanor charges were imposed on 7-15-93 for disorderly person and assault & battery C. 265 s. 13A. Both these alleged crimes carry a maximum sentence of 2½ years in the house of correction making them misdemeanors,

only , under Mass. law.

3. The statute M.G.L. C. 233 s. 21 which allows admission of prior convictions to impeach a witness specifically states,

"The record of his conviction of a misdemeanor shall not be shown for such purposes after 5 years from date on which sentence on said conviction was imposed".

Wherefore,

Only the conviction for "assault with intent to maim" is admissible under C. 233 s.21 to impeach the defendant should he opt to testify in the above docketed action.



Michael Elbery, C57634, Pro se  
7-17-01

Certificate of Service

I the defendant, Michael Elbery, hand delivered this motion to the court and Prosecutor at the trial of this case on 7-18-01.

