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COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

SUPERIOR COURT

IN THE MATTER OF:

MICHAEL G. ELBERY

GRAND JURY MINUTES

MARCH 3, 1993

FOR THE COMMONWEALTH:

PAUL F. BOLTON

ASSISTANT DISTRICT ATTORNEY

MADALINE R. ARN

VERBATIM COURT REPORTER FOR THE GRAND JURY

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I N D E X

EXAMINATION BY PAUL F. BOLTON, A.D.A.

WITNESS:

PAGE:

Thomas King

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WHEREUPON THE WITNESS, THOMAS KING, WAS DULY SWORN
AND UPON HIS OATH, TESTIFIED AS FOLLOWS:

EXAMINATION BY PAUL F. BOLTON:

Q Would you please identify yourself to the Grand Jury,
sir?

A My name is Thomas King.

Q And you're a member of the Westboro Police Department; is
that correct?

A Yes, sir.

Q However, you are also a victim in the crime that occurred
in the city; is that correct?

A Yes, sir.

Q The defendant's name is what, sir?

A Michael Elbery, E-L-B-E-R-Y.

Q The middle initial is C?

A I believe it's G.

Q And the incident happened, sir, on what date?

A It happened on 9/29/92.

Q And it began at what location, sir?

A On Shrewsbury Street there's a lounge called The Winners'
Circle.

Q Could you tell us about the incident, please?

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A Well, on 9/29/92 I went to The Winners' Circle to see a bartender/manager there by the name of Jeff Schlemer whose a friend of mine. I had been at UMass picking up some evidence for my job and was speaking with an individual who knew that I was friendly with Jeff and told me that Jeff was leaving The Winners' Circle and going to work someplace else. So I went down to see Jeff to see where he was going to work, so that I could visit him. I sat down, I ordered a drink and I was talking with Jeff and some other friends, acquaintances of mine down there, people from the Corrections Department and just friends that I've known from over the years. I had finished my drink and ordered a second drink and a man across the bar started yelling and swearing.

Q That was Mr. Elbery; is that correct?

A He was later identified as Michael Elbery. He started yelling and swearing at Jeff, the manager. So his language was becoming rather offensive. To his immediate right separated by approximately two stools were two young ladies, I believe they were the only young ladies in the bar at the time. His language was rather offensive. At this point, I started to say something to him, tell him to calm down and you know, watch his language, started walking towards him and he was becoming

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2 more agitated. I got about halfway between where I was
3 sitting across the bar from him and a friend of mine,
4 Mitch, stood up and put his hand on my stomach and
5 whispered into my ear, you know, "Tom, don't bother, you
6 know, he's a nut. You know, he's trouble, don't even
7 bother talking to him." So at that point, I turned
8 around and I went back to my seat. The individual was
9 continuing to yell at me and curse me and he asked me to
10 step outside with him and the last thing I stated to him
11 was that, you know, I wouldn't waste my time and I went
12 back and sat down with my friends and started to drink my
13 drink and talk to the friends to my immediate right.

14 Q Did he then do something, sir?

15 A Yeah, a short time later I heard the individual yell
16 something; I could not understand what he yelled. He
17 jumped to his feet and he smashed a beer bottle that he
18 had been drinking to his right, right by the bar but to
19 his right on a pole. Well, the pole was just to the left
20 of the two young ladies that were sitting there. The
21 glass went, shattering glass went everywhere and the
22 majority of the glass went in the direction of the faces
23 of the two women who were seated to his immediate right.
24 I saw both women put their hands up to their face. One
25 woman I saw blood coming out from under her hand, her

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2 face had been cut. So at that point, he had the neck of
3 the bottle in his hand and he made jabbing motions
4 towards Jeff Schlemmer who ran to the back of the bar
5 where the phone would be and then he was waving it around
6 in the direction of me and the other patrons. He was
7 yelling -- whatever he was yelling I couldn't understand
8 what he was saying.

9 At that point, he turned and ran out the door and
10 threw the neck of the bottle on the ground. I don't know
11 if it went in the club or on the outside but he threw it
12 down as he was exiting the establishment. I yelled for
13 somebody to call the police, I pursued him on foot, not
14 knowing who the individual was. I was going to try and
15 get a license plate number, description of the vehicle,
16 and direction of travel. The individual ran down
17 Shrewsbury Street east, approximately 50 or 60 yards with
18 me in foot pursuit. I caught up with the individual, he
19 turned around, faced me, and I told him, "Listen, you
20 hurt somebody in there, you hurt one of the women in
21 there." I said, "You're not going anywhere until the
22 Worcester Police come." I stood there with my arms
23 outstretched to my side, and my hands open in a non-
24 threatening manner and said, "You're not going to leave
25 because I'm going to keep you here until the Worcester

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2 Police come." He took several swings at me; one I
3 blocked most of his swings. One blow struck me in the
4 left eye. At that point, I went and grabbed him around
5 the arms trying to hold his arms to keep from hitting me
6 more and just to subdue him. I did not have handcuffs
7 with me or a weapon or mace, at that point, so I'm trying
8 to hold his arms. He managed to struggle free, removing
9 one arm. He took his right arm and he took his thumb and
10 he jammed it into my left eye. And the fingernail in
11 behind my eye and kept pushing into my eye as if he was
12 trying to pop my eye out, you know, or blind me.

13 At that point, I managed to knock his hand away from
14 my eye and I knocked him down to the ground by sweeping
15 his legs out from underneath him. At that point, I
16 jumped on top of him, tried to hold his arms, realizing
17 at this point I can not see out of my eye, I was blinded,
18 temporarily blinded in that eye. His arms were flailing
19 and he was trying to hit me. I finally got ahold of one
20 arm and then, at that point, he jammed his thumb into my
21 same eye that I had injured previously on the opposite
22 side with his thumbnail and kept jamming his thumb into
23 the eye and trying to blind me.

24 Finally, I was able to knock his hand out of my eye.
25 At that point, I got his hand out of my eye; I could hear

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2 people behind me, figuring it was the people from the
3 store, from the club, I said, "Somebody hold him until
4 the Worcester Police come." I said, "I'm hurt." At that
5 point, I rolled off of him, put my hand on my eye and I
6 saw the vitreous-type fluid with blood coming from my
7 eye, my eye was blinded. I said, "Somebody just hold him
8 for the Worcester Police. I'm going to need a ride to
9 the hospital." At that point, I was transported to
10 Memorial Hospital.

11 Q Did you receive some injury to your eye, sir?

12 A Yes, I had two lacerations of the eyeball; I had some
13 swelling in the back of the eye; some muscle damage to
14 the eye.

15 Q Has this caused any permanent damage?

16 A I have headaches, I have reading glasses but -- which I
17 only have to read if I was doing a lot of studying or
18 anything, now I have to write them to write a check.

19 Q So there's been some loss of sight?

20 A Yes, I'll get a headache if I don't wear my glasses.

21 Q And this person was eventually placed under arrest and
22 the subject of a Probable Cause Hearing?

23 A Yes, he was.

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MR. BOLTON: I have no further questions of the

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witness.

(To Jurors) Does anyone have any questions?

Jurors indicate no further questions.

(The witness is excused.)

MR. BOLTON: That would be the close of the evidence.

FOREMAN: All those in favor of allowing the Assistant District Attorney to remain in the room, so indicate.

(Vote is taken.)

Vote is unanimous.

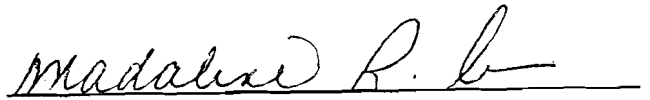
(Positive unanimous vote is recorded.)

End of matter.

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C E R T I F I C A T E

I, MADALINE R. ARN DO HEREBY CERTIFY THAT THE PRECEDING
PAGES, 3 THROUGH 9 ARE A TRUE AND ACCURATE TRANSCRIPTION OF MY
DICTATED TAPES RELATIVE TO THE MATTER OF: COMMONWEALTH VS.
MICHAEL G. ELBERY AS PRESENTED BEFORE THE GRAND JURY ON 3,
MARCH, 1993.



MADALINE R. ARN

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