

Ex. C

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

SUPERIOR COURT  
CRIM. NOS.  
93-01351, 93-01352, and  
93-01354

COMMONWEALTH	)
	)
v.	)
	)
MICHAEL ELBERY	)
	)

AFFIDAVIT IN SUPPORT OF  
DEFENDANT'S MOTION FOR  
NEW TRIAL

Dr. Joe Hull being duly sworn deposes and says:

1. That I am a licensed physician in the Commonwealth of Massachusetts. I am board certified in emergency and internal medicine. I am presently Medical Director of the Emergency Department of Anna Jaques Hospital in Newburyport.
2. I have reviewed the hospital record of Thomas King attached hereto and marked Exhibit One.
3. The record reveals that the injury to the left eye consisted of superficial abrasions to the lids and a small laceration of the conjunctiva which did not require suturing. The globe (eyeball) was not penetrated and there was no bleeding into any part of the eye or impairment of vision. Treatment was conservative with application of antibiotic ointment and a patch which is typical for minor injuries to the superficial covering of the eye.
4. In my opinion, these injuries are superficial and are consistent with being poked in the eye. In my opinion, one would expect to find more serious injuries if someone had jammed his

thumb into that eye on the inside of the eye and kept pushing his thumb into the eye.

5. In my opinion, the injury sustained here would not have resulted in the leaking of any vitreous fluid or noticeable blood loss from the eye.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 5<sup>th</sup> DAY OF

~~1/5/96~~, 1996.

January

Joe Hull  
Dr. Joe Hull

March 12, 1996

Dear Bob,

Here are the answers to your questions. Sorry it has taken me so long to get back to you.

1. "Conjunctiva plus 3" means that there was moderate inflammation of the conjunctival membrane, i.e., the eye was red.
2. "Angio. #20" is a 20 guage intravenous needle that was started in the arm.
3. Betadine prep. is a very clean, iodine washing/preparation or cleansing of the skin to remove bacteria.
4. Injected means red and inflamed. I think keroaltin is a misspelling of keratin, the outer, most superficial cell layer of the skin and eye.
5. The anterior chanber of the eye is normal when it is formed and quiet (an odd term to mean not inflamed or diseased).
6. The fundus is the back of the eye where the retina is seen after the pupil is dilated and one looks through the pupil with an ophthalmoscope. The optic nerve head is the disc and it should be normally flat and the cup should be sharp and pink when normal.

Let me know if you have any more questions.

*Handwritten signature*

No. 93-0

A.D.A. BRDL  
ROOM 220

14509

Commonwealth of Massachusetts

Ex. I

Worcester, ss.

To

Keeper of Records  
Medical Center of Central Massachusetts  
Memorial Campus  
119 Belmont St., Worcester, MA

PLEASE BRING ANY AND ALL RECORDS RELATING TO THE TREATMENT/DIAGNOSIS OF THOMAS KING, D.O.B. 9/27/49 ON OR ABOUT 9/29/92 TO WORCESTER SUPERIOR COURT CLERK'S OFFICE ON OR BEFORE 4/30/93.

Greeting.

In the Name of the Commonwealth, you are hereby required to appear before the Superior Court at Worcester, ~~Worcester~~ in the County of Worcester, on the ~~XXXXXX~~ day of ~~Friday~~ current. ~~at 30th~~ of the clock in the ~~behalf of said Commonwealth,~~ ~~or Indictment there pending against~~ ~~at 9:00 a.m.~~ ~~April~~ forenoon; then and there in said court to testify what you know relative to a Complaint

MICHAEL G. ELBERRY

Hereof fail not, as you will answer your default under the pains and penalties by law in that behalf provided. And the Sheriffs of our several counties, and their Deputies, the State Police Officers of said Commonwealth, and the Constables and Police Officers of any City or Town within said Commonwealth, are in like manner, and under like penalties commanded to make legal service and due return of this process.

Date at Worcester ~~this~~ ~~Friday~~ this ~~2nd~~ day of ~~April~~ 1993

*Lois J. Amoreux*

Clerk

A copy. Attest:

Deputy Sheriff.

Court Officer.

State Police.

46 C.P.

FOR FURTHER INFORMATION CALL DISTRICT ATTORNEY'S OFFICE 755-8601

Exh. # 18 4/29/93



This is to certify that the attached is a true  
record of this hospital concerning the  
treatment of:

THOMAS KING

---

"SUBSCRIBED AND SWORN TO UNDER THE  
PAINS AND PENALTIES OF PERJURY."

TOTAL NUMBER OF PAGES:

3

---

*Natasha Narain*  
NATASHA NARAIN

---

04/30/93



CONSENT TO RELEASE MEDICAL INFORMATION AND AUTHORIZATION  
TO PAY INSURANCE BENEFITS

PART I

- A. 1. I authorize The Med Center to disclose to my insurance company, Blue Cross, Medicare and/or any other third party payor, medical information contained in the hospital record as may be necessary in order for the Hospital to secure reimbursement for the medical care rendered to me.
2. I voluntarily assign any and all of my rights to payment of benefits payable for any physician services to the physician or organization performing those services at The Med Center.
3. I voluntarily assign any and all of my rights to payment to The Med Center for hospital-based physicians providing professional services in Pathology, Clinical Laboratory, EKG, EEG, and Radioactive Isotopes for the unpaid charges of the physicians, and of benefits otherwise payable to me but not to exceed the hospital's regular charges.
4. I UNDERSTAND THAT IN THE EVENT PAYMENT FOR MEDICAL CARE RENDERED TO ME IS DENIED BY MY INSURER, EMPLOYER, OR ANY OTHER THIRD PARTY PAYOR, I AM FINANCIALLY RESPONSIBLE FOR ALL DEDUCTIBLE AND CO-INSURANCE AMOUNTS AND ALL NON-COVERED CHARGES TO THE HOSPITAL.

\_\_\_\_\_  
Patient Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

- B. The patient is unable to personally consent to the above and to sign this form. Having read and understanding the above provisions, I consent to these statements and authorize the hospital to act in accordance with those provisions.

\_\_\_\_\_  
Signature of Legal Guardian or Closest Relative

\_\_\_\_\_  
Date

If relative, please state relationship to patient: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

PART II

CONSENT FOR TREATMENT

- A. 1. I, \_\_\_\_\_, (Patient's Name), authorize and request treatment by the professional staff of The Med Center Emergency Department as is deemed necessary for my complaint of \_\_\_\_\_

2. I understand that I have the right to refuse, discuss, or question any or all tests and/or treatment at any time.

\_\_\_\_\_  
Patient Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time  
AM  
PM

3. The patient \_\_\_\_\_ (Patient's Name) is unable to personally consent to medical treatment for the complaint stated above because \_\_\_\_\_

Having read and understanding the above provisions relating to medical treatment of the patient, I consent to medical treatment on the patient's behalf.

\_\_\_\_\_  
Signature of Closest Relative or Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time  
AM  
PM  
AM

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

- D. In the event the patient is unable to consent to medical treatment, and there is no legal guardian or relative available or in existence to consent on the patient's behalf, complete the statement below:

I, \_\_\_\_\_ (Name of Physician), am of the medical opinion that \_\_\_\_\_ (Name of Patient)

is in need of medical treatment to prevent further serious harm or injury, preserve life and/or to prevent permanent bodily injury or deformity and that further delay in rendering treatment would be harmful to the patient. To my knowledge, unsuccessful attempts have been made to contact the known relatives or legal guardian of the patient.

\_\_\_\_\_  
Physician Signature

\_\_\_\_\_  
Date

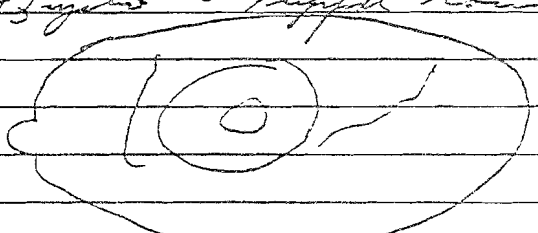
\_\_\_\_\_  
Administrative Approval

\_\_\_\_\_  
Date Obtained

PATIENT'S LAST NAME: King Thomas  
 FIRST: KING MIDDLE: THOMAS MAIDEN NAME:   
 SEX: M R: C AGE: 43Y ACCIDENT # 3333333333 MED # 3333333333

HISTORY/SUBJECTIVE:  
 432/10 police officer states he was working this evening when he was at  
 woman's work at duty state someone coming + oriented person get ahead  
 person + got stuck finger in lefty feet fluid + blood average  
 1/2 blood vision

PHYSICAL EXAM/OBJECTIVE:  
 Eye eye all responsive normal LMR, little to sunny  
 white eye + 3/4 pupil 2 pupils heart sounds & lungs  
 All found good  
 C-lyse done for Hsp  
 C-lyse 2  
 Counts return easily & lungs



EVALUATION RESULTS:  
 globe appears normal.

DIAGNOSIS(ES)/ASSESSMENT:  
 Acute trauma possible infection of retina damage

TREATMENT/PLAN (PROCEDURES):  
 to office at 591 Lincoln St

CONSULTS	TIME CALLED	TIME ANSWERED	DISPOSITION OF CASE	CONDITION OF PATIENT
			<input type="checkbox"/> POLICE <input type="checkbox"/> HOME <input type="checkbox"/> NURSING HOME <input type="checkbox"/> WORK <input type="checkbox"/> MORGUE <input type="checkbox"/> TRANSFER <input type="checkbox"/> ME NOTIFIED <input type="checkbox"/> ADMITTED <input type="checkbox"/> AMA ROOM NO.	<input type="checkbox"/> IMPROVED <input checked="" type="checkbox"/> SAME <input type="checkbox"/> WORSE <input type="checkbox"/> EXPIRED

INFORMATION SHEET GIVEN: WOUND CARE, HEAD INJURY, ABDOMINAL PAIN, NAUSEA, VOMITING AND DIARRHEA, FEVER, SPRAINS, FRACTURES, X-RAYS, BLOOD PRESSURE, BACK AND NECK INJURIES, COLD AND SORE THROAT, OTHER.

INSTRUCTIONS:  
 to office at 591 Lincoln St

FOLLOW-UP:

I HAVE RECEIVED AND UNDERSTAND THE INSTRUCTIONS INDICATED ABOVE. I UNDERSTAND THAT I HAVE HAD EMERGENCY TREATMENT ONLY, AND THAT I MAY BE RELEASED BEFORE ALL MY MEDICAL PROBLEMS ARE KNOWN OR TREATED. I WILL ARRANGE FOR FOLLOW-UP CARE AS INDICATED ABOVE.

TIME: 11:00 AM  
 SIGNATURE OF PATIENT: King Thomas  
 SIGNATURE OF PHYSICIAN: [Signature]  
 SIGNATURE OF ATTENDING PHYSICIAN: [Signature]