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COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, SS. DISTRICT COURT
NO. 1149-CR-2236

COMMONWEALTH OF MASSACHUSETTS,)
Plaintiff,)
vs.)
HAROLD WOLFE,)
Defendant.)

TRIAL BEFORE THE HONORABLE DAVID W. CUNIS

APPEARANCES:

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Framingham, Massachusetts
October 5, 2012

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P R O C E E D I N G S

(Court called to order.)
(2:58 p.m.)

THE CLERK: Okay. Next up, your Honor, 11-CR-2236, Harold Wolfe. This is scheduled for a jury waived bench trial, your Honor. I believe counsel I believe is acting pro se for bench trial.

THE COURT: Okay. Who's here? Is Mr. Wolfe here? Oh, that's you, sir. Okay. Do you want to step up?

THE CLERK: Judge, I don't see a waiver. Did the defendant sign a waiver -- a waiver of jury trial?

MR. WOLFE: I believe I did. I don't know.

MS. HOGAN: This is the fifth time it's been on for a trial, so it may be --

THE COURT: We'll take a look at the file. If not, we'll just go through that.

THE CLERK: Do you want to have him file a waiver, Judge?

THE COURT: Yeah. He should file a

1 waiver.

2 THE CLERK: Okay. Top drawer. Why
3 don't you step back. All right. This is a jury
4 waiver that you're going to represent
5 yourself --

6 MR. WOLFE: Yep.

7 THE CLERK: -- as a defendant. Why
8 don't you sign right there.

9 MR. WOLFE: This was probably signed
10 somewhere along the ways. This thing has been
11 delayed so many times that --

12 THE COURT: Do you want to read the
13 form, sir, and if you agree with it, you can
14 sign it, and I have to -- I have to ask you
15 those same questions in open court on the
16 record. I have to do that.

17 THE CLERK: Okay. Sign right where
18 that "X" is right there. Okay. Date it
19 10/5/12, today's date.

20 THE COURT: How many witnesses do you
21 have?

22 MS. HOGAN: There is one witness for
23 the Commonwealth, your Honor.

24 THE COURT: Okay.

1 THE CLERK: Okay. Could I have
2 whoever is going to testify to this trial,
3 please raise your right hand and also, sir, you
4 want to stand up because you have to go through
5 the waiver.

6 MR. WOLFE: I'm not testifying.

7 THE CLERK: But you -- you're
8 waiving. Just -- he's going to go over the
9 colloquy. And why don't you raise your right
10 hand, Mr. Wolfe.

11 WITNESSES, Sworn

12 THE CLERK: Commonwealth moving for
13 sequestration of witnesses?

14 MS. HOGAN: Yes.

15 THE COURT: Yes.

16 THE CLERK: Okay. The witnesses are
17 requested to wait outside the courtroom. We
18 will call you as you are needed. Please
19 remember, do not discuss this matter amongst
20 yourselves or with any other persons, so all
21 witnesses wait outside.

22 THE COURT: Okay. Thank you. Just a
23 couple of questions I have for Mr. Wolfe.

24 MR. WOLFE: Sure.

1 THE COURT: First of all, you're
2 representing yourself?

3 MR. WOLFE: Yes.

4 THE COURT: I just have a -- and
5 you're also giving up your right to have a jury
6 trial so I have a few questions to ask you on
7 those two issues. I want to make sure this is a
8 knowing, voluntary and intelligent waiver of
9 your right to have a jury trial and also of your
10 waiver of your right to have a lawyer.

11 MR. WOLFE: Yep.

12 THE COURT: And let me just ask you,
13 sir. How old are you?

14 MR. WOLFE: I am 63.

15 THE COURT: And how far have you gone
16 in school?

17 MR. WOLFE: A master's degree plus
18 some.

19 THE COURT: A master's degree plus --

20 MR. WOLFE: Some.

21 THE COURT: Okay. Are you employed
22 presently?

23 MR. WOLFE: I'm retired.

24 THE COURT: You're retired. All

1 right. Are you under the influence of any
2 drugs, alcohol, medication at this time?

3 MR. WOLFE: (Indiscernible at
4 3:00:47), no.

5 THE COURT: Okay. And have you ever
6 suffered from any mental illness that causes you
7 any impairment today?

8 MR. WOLFE: No.

9 THE COURT: All right. Now, on the
10 issue of your right to have a lawyer. You're
11 giving up that right, meaning you're
12 representing yourself and you understand, sir,
13 that a lawyer is a person who is trained in the
14 law and the rules of evidence and in courtroom
15 procedures and trial procedures. You understand
16 that?

17 MR. WOLFE: Yes.

18 THE COURT: And a lawyer is someone
19 who is probably better able to understand those
20 rules than you would be, and would be able to
21 assist you in the defense of this case. You
22 understand that, sir?

23 MR. WOLFE: I'm not an incompetent
24 nitty.

1 THE COURT: What's that?

2 MR. WOLFE: I'm not an incompetent
3 nitty.

4 THE COURT: No. I know that, but I
5 just want to make sure on the record that you
6 understand the role of a lawyer in a criminal
7 case.

8 MR. WOLFE: Yeah.

9 THE COURT: And you're giving up your
10 right to have assistance from a lawyer in this
11 case.

12 MR. WOLFE: Well, you know, it
13 depends on the rules of evidence here about
14 people that (indiscernible at 3:01:41). That's
15 a problem there, so --

16 THE COURT: Okay. Well, the thing is
17 is the rules of evidence do apply to you as the
18 same as they would apply to anyone in this
19 courtroom. People represented by lawyers and
20 people who are not represented by lawyers still
21 must abide by the rules of evidence. And a
22 lawyer is better able to understand the rules of
23 evidence and actually is trained in the rules of
24 evidence and in trial procedure. Do you

1 understand that, sir?

2 MR. WOLFE: Yes.

3 THE COURT: And you still wish to
4 proceed without a lawyer?

5 MR. WOLFE: Yes.

6 THE COURT: All right. And on the
7 question of your giving up your right to have a
8 jury trial, you understand that a jury in
9 District Court would be -- consist of six
10 persons?

11 MR. WOLFE: Yes.

12 THE COURT: And you could participate
13 in the selection of your jury. If you were to
14 have a jury trial, you would go over the juror
15 questionnaires. You could challenge any number
16 of jurors if you had a reason to challenge them.
17 You can challenge up to two for no reason at
18 all. The jurors are impanelled. They're sworn
19 to hear the evidence against you and they reach
20 a verdict of guilty or not guilty, and in a
21 criminal case that verdict must be unanimous.

22 Now, you're giving up your right to
23 have that jury trial. Do you understand that?

24 MR. WOLFE: Yes.

1 THE COURT: And with that what you're
2 doing now is you're asking a judge, namely me,
3 to hear the evidence against you and I alone
4 decide any of the factual issues and any of the
5 legal issues --

6 MR. WOLFE: Right.

7 THE COURT: -- that are pertinent to
8 this case. You understand that, sir?

9 MR. WOLFE: By the way, what's your
10 name?

11 THE COURT: I'm Judge Cunis.

12 MR. WOLFE: Could you spell that,
13 please?

14 THE COURT: Cunis, C-U-N-I-S.

15 MR. WOLFE: Okay. Unfortunately, you
16 judges don't announce yourselves by name on the
17 court certs.

18 THE COURT: Okay. All right. So
19 you -- you understand, sir, and you've signed
20 this waiver of right to be tried by a jury?

21 MR. WOLFE: Yes.

22 THE COURT: Okay. So I'm going to
23 sign this certificate that this is a knowing,
24 intelligent and voluntary waiver of your right

1 to be tried by a jury. So I wanted to get those
2 two issues out of the way. I do have to put
3 them on the record because I do have to make a
4 record of this case. I always do. Every case
5 that comes before me has -- we're recording
6 everything that we're doing.

7 MR. WOLFE: Excellent.

8 THE COURT: All right. Now, the
9 Commonwealth has one witness?

10 MS. HOGAN: That's correct, your
11 Honor.

12 THE COURT: All right. And you have
13 one witness; is that correct, sir?

14 MR. WOLFE: Yes.

15 THE COURT: Okay. The Commonwealth
16 bears the burden of proof beyond a reasonable
17 doubt. They have an opportunity to make an
18 opening statement which is somewhat like a
19 roadmap of the case. They can tell me what they
20 expect the evidence will be in the case. After
21 they make an opening statement, sir, if you wish
22 to make an opening statement, you can do that.
23 It's usually very brief. It's a minute or two
24 of just sort of summarizing what the evidence --

1 you expect the evidence will be in the case.

2 MR. WOLFE: Okay.

3 THE COURT: Do you wish to make an
4 opening statement?

5 MS. HOGAN: Very briefly, your Honor.

6 THE COURT: Okay.

7 OPENING STATEMENT FOR THE COMMONWEALTH

8 MS. HOGAN: Jessica Hogan on behalf
9 of the Commonwealth. The Commonwealth
10 anticipates you will hear the testimony of
11 Stephanie Harris Hodge who will tell your Honor
12 that on August 22nd of 2011 as she left her
13 employment at Wal-Mart, she went to go pull into
14 the parking lot of BJ's Wholesale Club. As she
15 was parked there in her motor vehicle on her
16 cell phone with her window rolled up the
17 defendant, who was unknown to her at that time,
18 approached her screaming vulgarities at her,
19 screaming about the job that she did parking.

20 While screaming at her with that
21 window rolled up he began banging on that door,
22 kicking that door, causing imminent fear of
23 battery to Ms. Hodge and causing damage to that
24 door. The defendant finally fled the area after

1 taking photographs of that motor vehicle.

2 THE COURT: Okay. Sir, do you wish
3 to make an opening statement?

4 MR. WOLFE: Yes.

5 OPENING STATEMENT FOR THE DEFENDANT WOLFE

6 MR. WOLFE: This is really a
7 situation where she took two parking spaces and
8 I just had to call her an idiot to do that and I
9 did not even touch the car, and basically the
10 incident was over in approximately two minutes.
11 And not only that, the prosecution has no
12 photographic evidence of damage. They claim
13 damage. They have a damage assessment report.
14 They have actually no photographic evidence of
15 damage.

16 THE COURT: Okay. All right. Thank
17 you. All right. Commonwealth, you can call
18 your first witness. Now, while waiting for the
19 witness to come in, I'm just going to let you
20 know that the prosecutor is going to ask
21 questions of the witness. The witness will
22 answer the questions. When the prosecutor is
23 done, you'll have an opportunity to ask
24 questions of witnesses as well. It's called

1 cross-examination; okay?

2 MR. WOLFE: I do wish to make a
3 statement that Officer Tibor should not be in
4 the office when she's testifying. Once
5 infected --

6 MS. HOGAN: He's been sequestered.
7 He has been sequestered. He'll be in the
8 hallway.

9 THE COURT: Yeah. He's been
10 sequestered. Right. All the witnesses have
11 been sequestered. Is Officer Tibor -- is he --

12 THE CLERK: He came in.

13 THE COURT: Ma'am, you've been sworn.
14 Just wait for the prosecutor to begin asking you
15 questions.

16 DIRECT EXAMINATION

17 BY MS. HOGAN:

18 Q. Good afternoon. Can you please state your name
19 for the record, spelling your last name?

20 A. Stephanie, last name H-A-R-R-I-S.

21 Q. And do you work?

22 A. Yes.

23 Q. Where do you work?

24 A. Wal-Mart in Framingham.

1 Q. How long have you been working there?

2 A. Two years.

3 Q. And what's your role at Wal-Mart?

4 A. I work in -- an accountant associate.

5 Q. Drawing your attention to August 22nd of 2011,
6 were you working that day?

7 A. Yes.

8 Q. While you were working over at Wal-Mart, did
9 anything unusual happen in the store?

10 A. No.

11 Q. And what time did you get out of work that day?

12 A. I got out at two -- two o'clock. I left about
13 two. About five past two. Something like that.

14 Q. When you were leaving work were you headed
15 anywhere?

16 A. I was headed over to BJ's to purchase my
17 daughter a birthday cake.

18 Q. How were you going to get over to BJ's?

19 A. I drove in my car.

20 Q. And what does your car look like?

21 A. I have a Chrysler 300, black.

22 Q. Who owns that car?

23 A. I do.

24 Q. Did you, in fact, go over to BJ's?

1 A. Yes, I did.

2 Q. And can you just tell us what happened when you
3 went over to BJ's?

4 A. I got over to BJ's and I got into the parking
5 lot and my sister called and we were discussing
6 what kind of cake to buy her for her birthday.

7 Q. Can you just describe -- just slow down a little
8 bit. Can you just describe the parking lot for
9 the judge?

10 A. The parking lot where I parked my car, it's BJ's
11 entrance where I was on the entrance on the
12 (indiscernible at 3:07:37) on that side and my
13 car was parked going forward like if you would
14 go out -- if you were to drive out, you would
15 come right out into the drive with the set of
16 lights and then there was -- not a parking
17 space. Like a sidewalk behind my car and the
18 carriages, where you return your carriages right
19 there, but I was parked in the first level.

20 Q. Okay. Are there lines showing the parking for
21 cars?

22 A. Yes. There were lines -- there were lines how
23 when you drive into your parking space for each
24 line like any ordinary, like here in the back

1 parking lot. Just like that.

2 Q. Now, did you pull into the spot between the
3 lines or were you perpendicular to those lines?

4 A. I pulled straight in to the spot.

5 Q. And you stated you pulled in and you were on a
6 cell phone?

7 A. My cell phone rang as I was pulling in so I was
8 talking. Once I parked, I was talking to my
9 sister.

10 Q. Were you alone in the car?

11 A. Yes.

12 Q. And what time was this?

13 A. At that time it could have been, like, maybe
14 2:20, 2:25. Somewhere around that time.

15 Q. In the afternoon?

16 A. Yes.

17 Q. Was it light out?

18 A. Yes. It was light outside.

19 Q. Was it raining or anything like that?

20 A. No. It was a dry day.

21 Q. Could you see pretty well?

22 A. Yes.

23 Q. So while you're on your cell phone, was your
24 window open or closed?

1 A. My windows were closed.

2 Q. All of your windows?

3 A. Yes.

4 Q. And can you tell the judge what happened at that
5 point?

6 A. At that point I was still speaking to my sister
7 about what type of cake to get Unique
8 (phonetic), my daughter, and I was just sitting
9 there talking to her and then all of a sudden
10 this guy came out of nowhere. I don't know him,
11 never seen him a day in my life and he started
12 kicking my car and started calling me names and
13 he said, You stupid "B," black -- black "B,"
14 whatever, a whole bunch of profan -- a whole
15 bunch of names and --

16 Q. I'm just going to slow you down right there.
17 You said a man approached the car?

18 A. Yes.

19 Q. Do you see that person in court today?

20 A. Yes.

21 Q. Can you identify that person by something that
22 they're wearing?

23 A. He's wearing the same shirt that he had on, the
24 plaid shirt. He's sitting here in front of me

1 with gray hair.

2 MS. HOGAN: May the record reflect
3 the identification of the defendant?

4 THE COURT: Yes.

5 BY MS. HOGAN:

6 Q. You stated you've never -- you had never seen
7 that man before?

8 A. I had never seen him before in my life.

9 Q. And how close did he come to your car?

10 A. He came all the way up to my car window and I
11 was really, really -- I was really, really
12 scared and I just started screaming and yelling.
13 I'm telling my sister to call the police and
14 she's, like -- and I'm, like, I'm in Framingham
15 at BJ's and as I was real -- I was very scared
16 and he just kept kicking my car, kicking my car,
17 calling me names, and then he backed up off my
18 car and then he started -- he pulled out a red
19 camera and then he started taking pictures of my
20 car and -- of my car and at that point I opened
21 the car door and I said, What are you doing?
22 What's wrong with you?

23 And then he's, like, You stupid "B."

24 You're parked on a line. That's not how you

1 park your damn -- your damn car, you -- all
2 these sorts of names he was calling me, and at
3 that point, you know, when he started -- he was
4 taking pictures of the car, I said, I'm calling
5 the police, and that's when I -- I started
6 dialing the police, 911, and I'm, like, There's
7 this guy who's kicking my car. He's calling me
8 all types of names. He's telling me that I'm
9 parked on a line. I shouldn't be parked like
10 that. I'm stupid, and at this point he starts
11 running to his car and I'm looking. I'm, like,
12 his car was -- my car was here and I think maybe
13 three cars down he had his car parked and he had
14 his car backed in and it was a gray Honda
15 Accord.

16 Q. Did you see anyone in his car?

17 A. No. He was by himself.

18 Q. Was anyone else around?

19 A. No. He was -- he was by himself and when all
20 this was going on, it was a lady, her husband
21 and her baby putting their items into the car
22 and they were saying, Are you okay? Are you
23 okay? And they kept saying, Don't go near --
24 don't go near it, and I was -- I'm getting a

1 license plate. I'm calling the police, and they
2 stood there with me.

3 Q. Now, you said he hit your car. What did he hit
4 your car with?

5 A. He was kicking my car with his feet -- with his
6 feet and banging, like, with his hand onto my
7 window, just constantly just kicking it and
8 calling me names.

9 Q. Can you tell the judge how you felt when he was
10 doing that?

11 A. I was real scared, real frightened. I was very,
12 very, scared and I --

13 Q. What were you scared of?

14 A. I was scared that he was really going, like, he
15 was going to attack me, like he was going to
16 break the window in.

17 Q. Now, once the defendant left the area, were you
18 able to look at your car?

19 A. Yeah.

20 Q. What did you see?

21 A. The officer came.

22 Q. What, if anything, did you see?

23 A. I see he dented the driver's side door and a lot
24 of dent marks on it and a lot of scratches onto

1 the driver's side of the car.

2 Q. And you own this car?

3 A. Yes.

4 Q. Did those dents or scratches, were they there
5 before the defendant approached your car?

6 A. No. No.

7 MS. HOGAN: Your Honor, if I could
8 just have a moment?

9 THE COURT: Sure.

10 MS. HOGAN: Your Honor, I have no
11 further questions at this time.

12 THE COURT: Okay. Do you have any
13 questions for the --

14 MR. WOLFE: Oh, I have many, many
15 questions.

16 THE COURT: All right.

17 MR. WOLFE: I have almost 100 of
18 them.

19 THE COURT: Okay.

20 CROSS-EXAMINATION

21 BY MR. WOLFE:

22 Q. You got a police report -- a copy of the police
23 report on this; right?

24 A. No.

1 Q. You never got a copy of the police report?

2 A. No. I read the police report with an officer,
3 but I don't have a copy of the police report.

4 Q. Okay. Did you get a copy of the 911 call that
5 you made?

6 A. No, I didn't.

7 Q. No. That's interesting. Did you buy the
8 Chrysler new?

9 A. Did I buy my Chrysler new?

10 Q. Yeah.

11 A. No.

12 Q. Okay. So there's (indiscernible at 3:12:44).
13 This is just a question about the cost. What
14 price did you pay for the car?

15 MS. HOGAN: Objection.

16 MR. WOLFE: Objection? Fine.

17 BY MR. WOLFE:

18 Q. Do you have any pictures of the car before this
19 incident?

20 A. No.

21 Q. No. Okay. Have you done any repairs on your
22 car since this incident?

23 A. No. I haven't had any repairs because I don't
24 feel as though I should be paying the deductible

1 for my car.

2 Q. A critical question. So -- okay. So you have
3 no -- you haven't filed any insurance claims
4 based on this incident?

5 A. Excuse me? Can you repeat that?

6 Q. Have you filed any insurance claims based on
7 this incident?

8 A. No, I haven't.

9 Q. Okay. Okay. Now, the point back to one of our
10 many previous D.A.'s, Christopher Baker asked
11 you for evidence of damage that you claimed?

12 MS. HOGAN: Objection.

13 THE COURT: Well, what some previous
14 A.D.A. had asked her or requested of her --

15 MR. WOLFE: Christopher Baker. I
16 mean, she --

17 THE COURT: You can ask her about
18 what damages and so forth of the vehicle.

19 MR. WOLFE: Okay. I'm just saying
20 that Christopher Baker asked her for evidence
21 and she went to Brigham Gill's to get a damage
22 assessment report.

23 THE COURT: Well, you can ask her
24 about that if you want.

1 MR. WOLFE: Okay.

2 BY MR. WOLFE:

3 Q. You have a copy of the damage assessment report?

4 A. No, I haven't. I turned it in.

5 Q. Can I show you -- may I show you the copy?

6 A. Yes, you can.

7 Q. Okay.

8 MR. WOLFE: You have a copy of it?

9 MS. HOGAN: Actually, I do.

10 MR. WOLFE: Okay. Let's see. Can
11 you give that to her, please?

12 THE COURT: Actually, you can
13 approach her and show it to her.

14 MR. WOLFE: Okay. Well, it's --

15 BY MR. WOLFE:

16 Q. Please show me -- tell me which line would apply
17 to the damage according to the police report in
18 this assessment report?

19 A. They all apply.

20 Q. All apply?

21 A. Uh-huh.

22 Q. Okay. Interesting.

23 THE COURT: Sir, do you wish to have
24 that marked as an exhibit?

1 MR. WOLFE: Oh, yes. It was
2 forwarded to me by the D.A.'s office.

3 THE CLERK: Okay. Defendant's No. 1.

4 THE COURT: Any objection from the
5 prosecutor?

6 MS. HOGAN: No objection.

7 (Damage Assessment Report marked Exhibit No. 1.)

8 BY MR. WOLFE:

9 Q. Okay. Now, let me get another copy of that
10 particular -- okay.

11 Tell me all the -- you don't have any
12 pictures of the damage, do you?

13 A. No, I don't.

14 Q. You have a camera?

15 A. No, I don't.

16 Q. Do you have a cell phone?

17 A. No, I don't. Yes. I do have a cell phone, but
18 I --

19 Q. Thank you.

20 A. -- I don't have any pictures of the car.

21 Q. But it does have a camera?

22 A. Does my cell phone have a camera?

23 Q. Yes.

24 A. One of them do and one of them don't.

1 Q. Well, can we see your cell phone?

2 MS. HOGAN: Objection.

3 BY MR. WOLFE:

4 A. I don't have my cell phone.

5 Q. Well, it's true.

6 A. You're not allowed to bring cell phones into the
7 courthouse.

8 Q. Okay. Anyway, the notion that you're saying
9 that I caused all of this according to the
10 police report. If you read the police report,
11 the police say something about the driver's side
12 door?

13 MS. HOGAN: Objection.

14 THE COURT: Well -- okay. You can't
15 testify from what the police report says or she
16 can't testify to it or you can't read it.
17 That's hearsay. It doesn't come into evidence.
18 You can ask her questions about her own personal
19 knowledge of this -- in this case; okay? Thank
20 you.

21 MR. WOLFE: Well, the trouble is
22 that's she's saying that all of this was caused
23 by this incident. That's simply not true.

24 THE COURT: Well, you can ask her

1 questions about it.

2 MR. WOLFE: Okay.

3 BY MR. WOLFE:

4 Q. Okay. So let's talk about Item 48 of this
5 report talking about (indiscernible at 3:16:53)
6 headlights. According to the police report,
7 does it say anything about the headlights?

8 MS. HOGAN: Objection.

9 THE COURT: Yeah. According to the
10 police report. You can ask her about the
11 headlights, but you can't ask her about what the
12 police report says. The police report's not in
13 evidence. It's someone else's statement. It
14 was made by someone else who's not here to
15 testify so it's called hearsay.

16 MR. WOLFE: Well, now wait a second.
17 I can't use the police report?

18 THE COURT: No. She's not -- she
19 didn't write that report. That's not her police
20 report. That's someone else's police report.

21 MR. WOLFE: Well, will this police
22 report be brought into this case?

23 THE COURT: Nope. It's hearsay
24 unless --

1 MR. WOLFE: I mean, it was the
2 officer that filed the charges against me based
3 on the report.

4 THE COURT: Right. But the
5 officer -- I mean, you can call the officer in
6 to testify for you.

7 MR. WOLFE: Yes.

8 THE COURT: But you haven't done
9 that. You could call an officer in if you
10 wanted to question him as a witness.

11 MR. WOLFE: Well, I'd certainly like
12 to call him as a witness.

13 THE COURT: Well, I don't think -- is
14 he here? Who is the officer?

15 MS. HOGAN: He is here, your Honor.
16 He's in the hallway.

17 THE COURT: Oh, is that officer --

18 MS. HOGAN: Tibor.

19 MR. WOLFE: It's Tibor.

20 THE COURT: Okay. You can call
21 Officer Tibor if you wish, but you can't just
22 read his police report. You can call him and
23 ask him questions about those if you wish.

24 MR. WOLFE: Okay.

1 THE COURT: Okay.

2 MR. WOLFE: Well, I guess he knows
3 about this.

4 THE COURT: Yeah. See, that's called
5 hearsay. It's someone -- it's someone's
6 statements and a statement that was made out of
7 court by someone who is not here to testify.

8 MR. WOLFE: Okay.

9 BY MR. WOLFE:

10 Q. Anyway this report -- this interesting damage
11 assessment report mentions Travelers Insurance.
12 Your insurance is Commerce?

13 MS. HOGAN: Objection.

14 THE COURT: It's really not relevant
15 about her insurance. I'll let you ask a few
16 questions on it if you wish.

17 MR. WOLFE: I mean, is she trying to
18 pull an insurance scam here? Why does Travelers
19 Insurance show up in this assessment report when
20 her actual insurance company is Commerce?

21 MS. HOGAN: Objection.

22 THE COURT: The issue -- the issue is
23 whether or not you committed the assault and you
24 vandalized her property. It's not so much

1 whether she's insured or whether she's
2 committing some kind of a scam as you like -- as
3 you say, but, you know, --

4 MR. WOLFE: We should bring that up.
5 Okay.

6 BY MR. WOLFE:

7 Q. Now, so you have no photographic evidence. Now,
8 when you were asked for evidence of damage, what
9 made you think of going to a car dealer to get a
10 damage assessment report?

11 MS. HOGAN: Objection.

12 THE COURT: I'll let her answer the
13 question.

14 BY MR. WOLFE:

15 A. Why did I go to the car dealer?

16 Q. Yeah.

17 A. Because that's where I bought my car from, from
18 the car dealer.

19 Q. That's where you bought your car?

20 A. So I brought my car -- yes, and that's where I
21 bring my car for everything.

22 Q. And it just occurred to you that you should get
23 a damage assessment report without any feedback
24 from the D.A.'s office or --

1 MS. HOGAN: Objection.

2 MR. WOLFE: Object to what, you know?

3 Okay.

4 THE COURT: Next question.

5 BY MR. WOLFE:

6 Q. Have you received any monies or funding from the
7 Middlesex District Attorney's office for this
8 damage assessment report?

9 THE COURT: Okay. Are you objecting?

10 MS. HOGAN: Objection.

11 THE COURT: I'll sustain that. Next
12 question.

13 BY MR. WOLFE:

14 Q. Let's see. Okay. This is an issue about
15 identification, the identification process that
16 occurred on May 25th. Abe Stoddard (phonetic)
17 had told Christopher Baker the procedure for
18 identification.

19 MR. WOLFE: No. Don't say anything
20 yet.

21 MS. HOGAN: You haven't asked a
22 question.

23 MR. WOLFE: Yes, I know.

24 THE COURT: But she's getting ready.

1 She's --

2 MR. WOLFE: Anyway, she --

3 THE COURT: Well, ask the question.

4 BY MR. WOLFE:

5 Q. I wanted to ask you how many times you spoke to
6 Mr. Tibor during that May 25th incident?

7 A. Excuse me? Repeat that.

8 Q. How many times did you speak to Mr. Tibor on May
9 25th during the identification process?

10 MS. HOGAN: Objection.

11 THE COURT: I'll let her answer it.

12 BY MR. WOLFE:

13 A. Who is Mr. Tibor?

14 Q. The officer.

15 A. I haven't spoke to him at all.

16 Q. You haven't spoken to him at all?

17 A. No. I speak to the D.A.

18 Q. You haven't --

19 A. They contact me. I have no dealings with them.

20 Q. Really? Wow.

21 A. Really.

22 THE COURT: Next question.

23 BY MR. WOLFE:

24 Q. Let's see. Okay. So you're going to deny that

1 too.

2 So you have had no communications
3 with Officer Tibor by any former communications?

4 A. No, sir.

5 Q. Interesting. Now, I have the witness that says
6 that --

7 THE COURT: No. No. Not what one of
8 your witnesses will say. Your witness can
9 testify, but don't ask her to comment on the
10 credibility of another witness. That's
11 improper.

12 MR. WOLFE: Okay. All right. I see.
13 It's just that I have a hard time connecting the
14 different items.

15 BY MR. WOLFE:

16 Q. Have you had any contact with any Framing -- any
17 other Framingham Police officer about this
18 incident?

19 A. No.

20 Q. You didn't meet Sergeant Baker during the
21 incident?

22 A. No.

23 Q. Okay. So only Officer Tibor showed up at the
24 BJ's?

1 A. Yes.

2 Q. Okay. And what do you call him since you seem
3 to be confused by the name Tibor?

4 A. Officer.

5 Q. Just officer?

6 A. Officer.

7 Q. Interesting. Interesting. Okay. So now you
8 had just testified that you pulled into an
9 unoccupied space. This is just a regular
10 parking space; right?

11 A. It's a regular parking space where anybody that
12 shops at BJ's can park their car.

13 Q. Right. But a parking space being defined by a
14 black such a vessel with two lines?

15 A. Regular two lines, a regular parking space just
16 like you have in the back. Yes.

17 Q. And you were parked -- and you were parked in a
18 regular parking space?

19 A. Yes, I was.

20 Q. Okay.

21 MR. WOLFE: I would like to present
22 something as evidence. You had -- I submitted
23 this as evidence.

24 MS. HOGAN: What is -- whose car is

1 car.

2 THE COURT: Is that your car, ma'am?

3 THE WITNESS: This is -- I -- I'm
4 going to say it's a black Chrysler 300, but I'm
5 not going to sit here and say because I can't
6 see the plate. It could be someone else's car.

7 BY MR. WOLFE:

8 Q. Would you -- would you like a magnifying glass?

9 A. No, I wouldn't. No.

10 Q. Okay. I didn't think so.

11 A. So I can't see the plate on there, so I'm not
12 going to say this is my car.

13 THE COURT: Okay. Let me --

14 BY MR. WOLFE:

15 A. Unh-unh. I can't.

16 THE COURT: Let me just take a look
17 at it. All right.

18 BY MR. WOLFE:

19 Q. The plate is very readable. What -- what's your
20 license plate number?

21 MS. HOGAN: Objection.

22 THE COURT: Well, all right. What
23 are you -- where are you going with this
24 photograph?

1 MR. WOLFE: She stated she --

2 THE COURT: She can't testify that
3 it's her car, so it's -- I'm going to say --

4 MR. WOLFE: Well, no. No. She --
5 she -- she stated that she can't testify, but is
6 she telling the truth, though; okay? Here's
7 a -- here's a picture of a car with a license
8 plate, a readable license plate, and she's
9 denying that this is her car.

10 THE COURT: She can't see the license
11 plate, sir.

12 MR. WOLFE: Well, I offered her a
13 magnifying glass. It's very readable, 669-GV6.

14 BY MR. WOLFE:

15 Q. What's your license plate number?

16 MS. HOGAN: Objection.

17 THE COURT: You can ask her her
18 license plate number.

19 BY MR. WOLFE:

20 A. That is my license plate number, but I can't --
21 I do have a black Chrysler 300. I cannot see --
22 I cannot see that because -- my eyes cannot see
23 that. Maybe you could see it with your
24 magnifying glass and that is BJ's parking lot.

1 If that is my car -- if that is my car in the
2 space that I was parked, that's where I was at
3 BJ's, but for you to come up to my car and tell
4 me that I'm not parked right, that's exactly
5 what you did and that is my car.

6 THE COURT: Okay. Hold on. Let's
7 stop before we break into an argument here.

8 THE WITNESS: No.

9 THE COURT: What's the next question
10 you want to ask?

11 BY MR. WOLFE:

12 Q. Let's see. Where was I here? Okay. Did
13 Officer Tibor or Officer ask you whether you had
14 moved your car from its original position?

15 A. Excuse me?

16 Q. Did Officer Tibor ask you whether you had moved
17 your car from its original position?

18 MS. HOGAN: Objection.

19 THE COURT: Yeah. I'll sustain it.

20 BY MR. WOLFE: Because I suspect that
21 she may have moved her car before Tibor got
22 there.

23 BY MR. WOLFE:

24 A. No.

1 THE COURT: No. You can ask her
2 that. Did you move your car?

3 BY MR. WOLFE:

4 A. No. The officer did not -- no. The officer --
5 he did not ask me did I move my car.

6 Q. He did not?

7 A. He just came -- he just came on the scene and my
8 car was still sitting in the same spot when he
9 came. I never moved my car. I got out of my
10 car.

11 THE COURT: The question -- the
12 questions I want you to ask, not about what the
13 officer did or what the officer said, but about
14 what she did, what she saw, what she said.

15 MR. WOLFE: I'm asking her if --

16 THE COURT: Her actions, her conduct.

17 MR. WOLFE: -- if Officer Tibor
18 asked -- asked her --

19 THE COURT: Why don't you just ask
20 her -- ask her if she moved her car.

21 BY MR. WOLFE:

22 Q. Did you move your car at all?

23 A. No, I didn't.

24 Q. You did not. Okay. Let's see. Okay. 911

1 call.

2 MS. HOGAN: I'm going to object to
3 the 911 call, your Honor.

4 MR. WOLFE: I'm sorry. You gave me
5 that. The D.A.'s office gave me that.

6 THE COURT: Is the -- I mean, did
7 you -- she said she called 911 so if you want to
8 ask her questions about when she called 911.

9 MS. HOGAN: My concern is he has a
10 transcript of the 911 call.

11 MR. WOLFE: Yes. Because I listened
12 to it over and over again until I was able to
13 write a transcript.

14 THE COURT: Okay. You have a
15 transcript of the 911 call? Okay. Well, you
16 can ask her questions about it and we'll see
17 where it goes from there.

18 MR. WOLFE: God forbid if someone
19 should have a transcript of the 911 call.

20 BY MR. WOLFE:

21 Q. In the 911 call you were twice specifically
22 asked by the 911 operator --

23 THE COURT: Well, hold on a second.
24 Are you objecting to that coming into evidence?

1 MS. HOGAN: Yes, your Honor.

2 THE COURT: Okay.

3 MS. HOGAN: It was not professionally
4 transcribed.

5 THE COURT: Okay. Oh, it wasn't.
6 Okay. You trying to admit that into evidence?

7 MR. WOLFE: Yes.

8 THE COURT: Is that an official
9 transcript?

10 MR. WOLFE: Oh, absolutely.

11 THE COURT: Or is that your own
12 transcription?

13 MR. WOLFE: It's my own transcript.

14 THE COURT: Okay. No. That won't be
15 coming in. That won't be coming into evidence
16 then.

17 MR. WOLFE: You guys -- you guys can
18 listen to this 911 call 100 times in order to
19 provide the same transcript, but --

20 THE COURT: She's objecting. She has
21 a valid basis for the objection, so I'll sustain
22 it.

23 MR. WOLFE: So I can't use the 911
24 call?

1 THE COURT: Well, do you have the
2 actual call, the playing of it?

3 MR. WOLFE: Well, I have it on CD but
4 I expected her to bring it.

5 THE COURT: Does anyone have the CD?

6 MS. HOGAN: Your Honor, I may have a
7 CD in my file. I would still object and say
8 that it's hearsay to play the 911 call.

9 MR. WOLFE: It's interesting how you
10 people suppress evidence. It's really
11 interesting.

12 THE COURT: All right. Next
13 question. I just want to -- just to be clear,
14 sir. If it's not an official transcription
15 that's certified by a certified court
16 transcriber, I'm not going to let it into
17 evidence. Okay. That's why. I'm just giving
18 you a basis for why I'm not letting that in.

19 MR. WOLFE: So you guys are the only
20 ones qualified to actually transcribe this
21 stuff. Okay. All right.

22 BY MR. WOLFE:

23 Q. You stated someone kicked your door; right? You
24 stated that someone kicked your door?

1 A. Yes, sir. Yes, sir.

2 Q. How many times did they kick your door?

3 A. Several times you kicked my door.

4 Q. Several times. What's several?

5 A. You kicked my door. Several, three to four

6 times you kicked my door.

7 Q. Three to four times?

8 A. Yes. And you called me names as you were

9 kicking the door and banging on my window.

10 Q. Me?

11 A. Yes.

12 Q. And you said -- let's see. You said somebody

13 pounded on your window or banged on your window?

14 A. Yes. Mr. Harold banged on my window.

15 Q. Huh?

16 A. Yes. You banged on my window.

17 Q. Banged? Not pounded?

18 A. Yes. Either or. Same thing.

19 Q. Same thing. Okay. And what object was being

20 used to bang on your car?

21 A. Your fists.

22 Q. Okay.

23 A. And your hand.

24 Q. And let's see. You stated in the police report

1 a time. One at a time.

2 BY MR. WOLFE:

3 A. I opened my car door because you had your camera
4 and the same picture. I gather that's what you
5 took with your camera --

6 Q. So you opened your car door?

7 A. -- and I climbed out my car because you ran and
8 I ran to get your license plates on your gray
9 Honda Accord.

10 Q. Yeah. So you opened your car door. Is that
11 intuitive for someone in fear?

12 A. Yes. I did have fear because there were
13 other --

14 Q. But you opened your car door?

15 A. -- there were other people standing around that
16 could witness if you would -- if you did attack
17 me, but I ran and got out of my car with my
18 phone with 911 on the line so I could get your
19 license plate, sir, because they're asking me
20 what's the license plate number and you ran and
21 you have a fetish for people parking on the line
22 and you said it.

23 Q. Interesting. A fetish for people parking on --

24 A. Yeah. You have a fetish for people parking on

1 the line. I mean --

2 Q. You agree that you did park on the line?

3 THE COURT: Did he say that?

4 THE WITNESS: Yeah. He did. He did.
5 He's, like, You stupid black bitch. You're
6 parking on the line. You're stupid. Don't you
7 know how to park? Don't you know how to park,
8 you dumb bitch. You idiot. He called me every
9 name that he could possibly think of and I'm
10 saying this man is -- something's wrong with
11 him.

12 BY MR. WOLFE:

13 Q. Okay. Now, you claim I kicked your door several
14 times; is that correct?

15 A. Yes.

16 Q. Okay. Good. I have a little test for you.

17 THE COURT: No. We're not going to
18 do a test. We're just going to ask questions.
19 Did you say we're going to do a test?

20 MR. WOLFE: I need to know something
21 about the kick; okay? This is very important,
22 sir, and I'm going to show you why. Okay. I
23 want you to see her basically simulate this kick
24 that she allegedly saw because it's important.

1 THE COURT: You want her to simulate
2 a kick?

3 MR. WOLFE: Yes. I want her actually
4 to get on this side over here or on this side
5 and show me how I kicked your door.

6 MS. HOGAN: Your Honor, I'd ask that
7 she just be able to testify to it and that she
8 doesn't have to demonstrate how he kicked her
9 door.

10 MR. WOLFE: It is important to the --
11 my defense.

12 THE COURT: I'll let her do it.

13 THE WITNESS: Then, your Honor, I
14 just want to say at this time he wants me to
15 show him how he kicked my door. I can't. I
16 just had a major surgery or operation and I
17 cannot show him how I kicked his door.

18 THE COURT: Okay. So -- okay. So
19 apparently she's -- there's a physical issue she
20 has with --

21 THE WITNESS: No.

22 THE COURT: -- a demonstration of a
23 kick, so I'll -- on those grounds she can
24 describe it, but she won't be able to

1 demonstrate it. I'm not going to make her
2 injure herself.

3 MR. WOLFE: Okay. If I may?

4 THE WITNESS: Can he stay over there,
5 please?

6 BY MR. WOLFE:

7 Q. Can you stand right there?

8 THE COURT: Ma'am -- sir, rather.
9 She can't demonstrate a kick because of physical
10 limitations.

11 MR. WOLFE: I understand that. I
12 want her to show me where the kick occurred on
13 the car door.

14 THE COURT: Well, she can -- she can
15 describe it. You don't have the car right here
16 in the room, so --

17 BY MR. WOLFE:

18 A. It's on the pass -- it's on the driver's side of
19 the door where you were pounding. As you was
20 pounding at my window and you were kicking at my
21 door on the same side where the dent still is in
22 my car.

23 Q. Where the dent still is?

24 A. Yes.

1 Q. And you have a picture of that dent?

2 A. No, I don't.

3 Q. Okay.

4 MR. WOLFE: I would like to enter
5 another piece of -- another picture of this car.

6 BY MR. WOLFE:

7 Q. Now, this -- according to the -- well, okay. I
8 can't use the police report.

9 THE WITNESS: Can I just say -- can I
10 just say why he's -- with these pictures of this
11 car -- of my car. He's been coming to my job at
12 Wal-Mart stalking my car at Wal-Mart.

13 THE COURT: All right.

14 THE WITNESS: Okay.

15 THE COURT: We'll take that up.

16 That's -- that's not really relevant to the
17 case. We'll just -- let's find out what he's
18 got next. Do you got another photograph, sir?

19 MR. WOLFE: I have tons of
20 photographs of her car.

21 THE WITNESS: These were all at my
22 job.

23 THE COURT: Let's -- you have a lot
24 of photographs of her car. Why don't we just --

1 in order to speed this along, I want to see if
2 we can pick this up a little bit. If you got a
3 lot of pictures, you can show her the pictures.
4 If she agrees that it's her car, then you can
5 ask her questions about it. If she just says,
6 I'm not sure if it's my car, then I'm not going
7 to let her ask questions about it -- let you ask
8 questions about it. All right. So go ahead.

9 MR. WOLFE: Let's see. Let me find a
10 good image. I'm going to guess that she's going
11 to deny this is her car, but anyway.

12 THE COURT: Why don't you just give
13 it to the clerk; okay?

14 THE CLERK: Sir.

15 THE COURT: Okay. You're showing her
16 a photograph. Ma'am, is that your car?

17 THE WITNESS: No. That's not my car.

18 THE COURT: That's not your car?

19 THE WITNESS: I can't even say that's
20 my car because I don't see no plate on it. I
21 don't see anything. I'm not going to say that's
22 my car. It could be someone else's car.

23 MR. WOLFE: And here I am, you know,
24 being prosecuted and I'm the only one that has

1 pictures of the car which is kind of interesting
2 to me. Well, you know, in the bottom line we
3 can always check her car and check all those
4 dents; okay? I mean, the car is in the parking
5 lot, and I think it's important.

6 If you're not -- if she's going to
7 testify -- if she's going to lie about all these
8 pictures, then the only solution to me is to
9 actually check her car. Do you have any
10 problems with that.

11 THE COURT: Of you?

12 MS. HOGAN: I would object, your
13 Honor. She's testified to what the damages are
14 to the car and she actually went and turned over
15 the paperwork from the collision expert.

16 MR. WOLFE: Yes. But the paperwork
17 from the collision expert doesn't say anything
18 about the dents on the door.

19 THE COURT: Are the dents still on
20 the car, ma'am?

21 THE WITNESS: Yeah. It's only where
22 he dented it and where he -- the dent on the
23 driver's side of the car, the dent's still there
24 because I haven't went and had the car fixed

1 yet, so I was waiting for the outcome of this
2 and I just have to pay a deductible to have the
3 car fixed which isn't a problem.

4 MR. WOLFE: So the damage is still
5 there.

6 THE COURT: Is the car here?

7 THE WITNESS: Yes. My car's here.

8 THE COURT: And are the dents still
9 in it? Are they still visible?

10 THE WITNESS: Yeah. My -- the dent's
11 still there.

12 THE COURT: Okay. You know, we'll
13 take a view. I think the defendant wants to
14 take a look at the car.

15 MR. WOLFE: Thank you. That would
16 satisfy my need.

17 THE COURT: Satisfy his need to have
18 the court see the car and the damage. Sure.
19 We'll take a view.

20 MR. WOLFE: That way we can say it's
21 her car and there are dents or there are no
22 dents.

23 THE COURT: Where's your car parked,
24 ma'am?

1 THE WITNESS: Right here in the
2 parking lot.

3 THE COURT: Is it behind the
4 building, to the side?

5 THE WITNESS: Right here to the side
6 of the building.

7 THE COURT: What's the quickest way
8 we can get out there so we can get back in? I
9 don't want to go --

10 THE CLERK: Go down here. Down the
11 hall.

12 THE COURT: Okay. We're just going
13 to have the two of the -- the defendant, the
14 prosecutor, court officer, me. Do you know
15 where her car is? Do you know what it looks
16 like? Have you seen it?

17 MS. HOGAN: I do not.

18 THE WITNESS: It's a black --

19 THE COURT: Ma'am, are you okay to
20 come with us?

21 THE WITNESS: Yes. I'm fine.

22 THE COURT: Okay. Why don't you -- I
23 know you have some surgery recently. I don't
24 want to --

1 THE WITNESS: No. That's fine. I
2 can go.

3 THE COURT: Okay. You can come with
4 us if you want.

5 THE CLERK: All rise.

6 THE COURT: We'll just take a quick.
7 This is just --

8 (Recording stopped at 3:36 p.m.)

9 (Recording resumed at 3:39 p.m.)

10 THE CLERK: Okay. Back on record.
11 Commonwealth versus Wolfe.

12 THE COURT: Any more questions?

13 MR. WOLFE: Yes. Well,
14 unfortunately, I can't get her to simulate the
15 kick which is very important, but, you know, if
16 people want to suppress this evidence, there's
17 nothing I can do. Okay. So I don't need to --

18 THE COURT: Well, why don't you just
19 ask the question, sir. Okay. The commentary,
20 we don't really need. It's not helpful and --
21 so just ask questions and avoid the commentary
22 and remarks and so forth and so on. Okay.

23 BY MR. WOLFE:

24 Q. So do you have any proof that this scratch

1 hasn't been here for four years? Have any
2 evidence that the scratch hadn't been here four
3 years?

4 A. No. Because it wasn't there before.

5 Q. How do we know that?

6 A. Because I know. I know my car.

7 Q. It's your word against mine.

8 A. I drive my car every day.

9 Q. Okay. That's fine, but -- okay. So I can't use
10 the motion of kicking in. Was I wearing shoes?

11 A. I don't know what you was wearing.

12 Q. So you don't even know whether I was wearing
13 shoes or not?

14 A. I don't -- I don't know what you was wearing. I
15 know -- the only thing I know is you was wearing
16 what you have on now, the same plaid shirt and
17 your gray hair.

18 Q. But you don't know what kind of shoes I had?

19 A. I don't know. No. I wasn't looking --

20 Q. Or whether I was wearing shoes at all?

21 A. I wasn't looking at what you were wearing.

22 Q. But you saw the little red camera from a
23 distance of 20 feet?

24 A. Yeah. You pulled that out of your pocket.

1 Q. But you saw it for 20 feet and yet you couldn't
2 tell whether I was wearing shoes?

3 A. No. I couldn't tell what you was wearing.

4 Q. Okay. You didn't take a picture of the damage,
5 but you -- you do know how to operate the camera
6 on your phone; right?

7 A. Excuse me?

8 Q. You know how to operate --

9 THE COURT: We've already been
10 through this. She doesn't know if she has a
11 camera or not.

12 BY MR. WOLFE:

13 A. What does my camera have to do with you kicking
14 my car or you coming up to my car attacking?
15 What does that have to do with anything?

16 Q. I'm just wondering why there's no photographic
17 evidence.

18 A. That's actually irrelevant.

19 THE COURT: We've already been
20 through this. There is no photographic
21 evidence. She hasn't taken any photographs.
22 Let's move on.

23 MR. WOLFE: All right. Well, the
24 kick simulation would have been really, really

1 helpful because I have --

2 THE COURT: She can't do it, sir.
3 She's got some physical --

4 MR. WOLFE: I know she can't do it.
5 It's very -- it's very convenient, but anyway.

6 THE COURT: Sir, I said avoid -- I
7 don't want any more commentary.

8 BY MR. WOLFE:

9 Q. All right. You made a 911 call. What was the
10 nature of your emergency since I was no longer
11 around?

12 A. You have the police report.

13 Q. So does that mean I can use the police report?

14 A. Read your police report.

15 Q. Huh?

16 A. Read your police report.

17 Q. Now, after making that 911 call how long did it
18 take the police to show up?

19 MS. HOGAN: Objection.

20 THE COURT: Is this relevant?

21 MR. WOLFE: Yes.

22 THE COURT: How so?

23 MR. WOLFE: In terms of how much time
24 she had to move the car. I'm certain she moved

1 the car. I'm absolutely certain of it.

2 BY MR. WOLFE:

3 A. I don't recall.

4 THE COURT: Next question. Go ahead.

5 BY MR. WOLFE:

6 A. All I know is they showed up.

7 Q. Did you -- oh, after you dialed 911 did you go
8 shopping?

9 MS. HOGAN: Objection.

10 THE COURT: That's irrelevant.

11 BY MR. WOLFE:

12 A. I don't recall what I did.

13 THE COURT: That's irrelevant. Just
14 move on.

15 BY MR. WOLFE:

16 Q. So did any Framingham Police officer ask you any
17 questions concerning your responses to the 911
18 call?

19 A. You have the police report.

20 Q. No. No. I'm asking you did any Framingham
21 Police officer ask you any questions concerning
22 your responses in the 911 call? Yes, no? Did
23 any Framingham Police officer ask you --

24 A. I don't recall any of that.

1 Q. Huh?

2 A. I don't recall any of that.

3 Q. You don't recall anyone asking you any
4 questions?

5 A. No.

6 Q. Okay. Did Officer Tibor ask you any questions
7 about the kicks that I allegedly made?

8 MS. HOGAN: Objection.

9 MR. WOLFE: Why?

10 THE COURT: What Officer Tibor said
11 is hearsay. You can ask Officer Tibor all you
12 want about what he saw.

13 MR. WOLFE: Okay.

14 THE COURT: But out-of-court
15 statements by -- are hearsay, sir.

16 BY MR. WOLFE:

17 Q. How is the point of damage -- actually, since
18 you stated that I kicked your car multiple
19 times, how was the point of damage determined?

20 A. You have the report from the collision.

21 Q. And what does that tell me?

22 A. You're asking me the same questions over and
23 over.

24 Q. Your report from the collision --

1 A. So I don't recall. Look at your reports.

2 Q. It tells me nothing about what happened in this
3 incident.

4 A. Okay. The judge already said that to you
5 already.

6 THE COURT: This is your exhibit,
7 sir. It's come into evidence. It's a report of
8 the damage to her vehicle. This report is not
9 going to tell how it happened. It's just going
10 to tell what the estimates of the repairs are,
11 so next question.

12 MR. WOLFE: Well, I guess I'll ask
13 Tibor about all this stuff.

14 BY MR. WOLFE:

15 Q. How long was your interview with Officer Tibor
16 at BJ's?

17 MS. HOGAN: Objection.

18 MR. WOLFE: Come on. You can't
19 object about that.

20 THE COURT: What's the point of it?
21 What's the relevance of it? Sir, evidence has
22 to be relevant, okay, how long she talked to
23 him, to the officer at BJ's is irrelevant, sir.

24 MR. WOLFE: May I make a statement

1 here about the relationship that these two have
2 built up over time and I can show you evidence
3 that they have built up a relationship. Okay.

4 THE COURT: I don't care about their
5 relationship, sir. I don't care about their
6 relationship, sir. If you want to show bias or
7 something of that sort, I, you know -- but he's
8 not even testifying in this trial. I'm just
9 trying to speed things along, sir.

10 MR. WOLFE: Okay.

11 THE COURT: We're wasting a lot of
12 time on irrelevant matters. Trials are supposed
13 to be efficiently put before the factfinder and
14 we are not -- we are -- at this point you're
15 being very inefficient with the time that you
16 have, sir.

17 BY MR. WOLFE:

18 Q. Did Officer Tibor take any pictures of your car
19 during the time you were with him?

20 A. I don't recall.

21 Q. Huh?

22 A. I don't recall.

23 Q. You don't recall?

24 A. No.

1 THE COURT: She doesn't recall. Next
2 question.

3 BY MR. WOLFE:

4 Q. Officer Tibor came to visit you the next day at
5 Wal-Mart?

6 MS. HOGAN: Objection.

7 THE COURT: Did Officer Tibor come to
8 visit you the next day at Wal-Mart?

9 THE WITNESS: No, he didn't.

10 THE COURT: No, he didn't. Next
11 question.

12 MR. WOLFE: Your Honor, that's in the
13 police report.

14 THE COURT: Sir, the police report is
15 not in evidence.

16 MR. WOLFE: All right. All right.

17 THE COURT: For the last time you
18 cannot tell me what's in the police report. It
19 is not evidence. It is hearsay. Do not -- do
20 not recite for me what is in the police report.
21 If you want to call Officer Tibor as a witness,
22 you may do that --

23 MR. WOLFE: Okay.

24 THE COURT: -- but you cannot read to

1 me his police report.

2 MR. WOLFE: Okay.

3 THE COURT: Sir, the rules of
4 evidence apply to you as they apply to the
5 prosecutor as they apply to any party coming
6 before this court.

7 MR. WOLFE: Okay.

8 BY MR. WOLFE:

9 Q. On June 20th, this year, did Officer Tibor
10 escort you out of the courthouse to your car?

11 MS. HOGAN: Objection.

12 THE COURT: Yeah. What is the
13 relevance of that?

14 MR. WOLFE: The relationship.

15 BY MR. WOLFE:

16 A. I can go -- I can go -- I can go to on
17 June 20th. I had a major operation, a major
18 surgery.

19 THE COURT: You know, it's okay. I
20 sustained the objection. I know you had
21 surgery.

22 MR. WOLFE: We're coming to an end
23 here. You're not going to like this question
24 either.

1 BY MR. WOLFE:

2 Q. Has Officer Tibor told you anything about me as
3 an individual?

4 MS. HOGAN: Objection.

5 THE COURT: Absolutely sustained.

6 MR. WOLFE: Okay. That's all of my
7 questions for her. Now, how do I get Tibor over
8 here?

9 THE COURT: Excuse me?

10 MR. WOLFE: How do I get Officer
11 Tibor here?

12 THE COURT: How do you get what?

13 MR. WOLFE: Officer Tibor to testify.

14 THE COURT: You want to call him?

15 MR. WOLFE: Oh, absolutely.

16 THE COURT: Well, not yet.

17 MR. WOLFE: Okay.

18 THE COURT: Are you all finished with
19 this witness? No further questions. Do you
20 have any further questions?

21 MS. HOGAN: I do not.

22 THE COURT: Okay. Ma'am, you can
23 step down and please step outside the courtroom.
24 Thank you very much.

1 THE WITNESS: Thank you.

2 (Witness excused.)

3 THE COURT: Okay. Commonwealth, do
4 you have any further witnesses?

5 MS. HOGAN: No. The Commonwealth
6 rests.

7 THE COURT: The Commonwealth has
8 rested. Okay. Sir, do you have any evidence to
9 present?

10 MR. WOLFE: You mean for what?

11 THE COURT: Do you have any
12 witnesses?

13 THE COURT OFFICER: Sir, please
14 stand.

15 MR. WOLFE: No.

16 THE COURT: Do you have any witnesses
17 to present?

18 MR. WOLFE: Well, I have -- where is
19 Mr. Rizoli?

20 THE COURT: Okay. You're going to
21 call a witness?

22 MR. WOLFE: He disappeared on me.

23 THE COURT: All right. Well, the
24 witnesses were sequestered, so he's probably

1 outside waiting. We will just have your witness
2 come in.

3 MR. WOLFE: Jim Rizoli.

4 THE COURT OFFICER: What's his name?

5 MR. WOLFE: Jim Rizoli.

6 THE COURT: Jim Rizoli?

7 THE CLERK: The witness has been
8 sworn, your Honor.

9 THE COURT: He's been sworn. Okay.
10 Thank you. Okay. Whenever you're ready, sir.

11 DIRECT EXAMINATION

12 BY MR. WOLFE:

13 Q. You were at BJ's the day of this incident; is
14 that correct?

15 A. Yes.

16 Q. Okay. And basically we did not meet at that
17 particular day. We learned about it later. You
18 were there at a separate time that I was. In
19 other words, you did not see me there?

20 A. Right. That's correct.

21 Q. Okay. And where did you park your van when you
22 went to BJ's?

23 A. Right next --

24 MS. HOGAN: Objection.

1 THE COURT: He can answer that
2 question.

3 BY MR. WOLFE:

4 A. I was parked next to the -- a black Chrysler
5 300. I think it's a big black Chrysler 300.

6 Q. And you were witnessing Officer Tibor
7 basically --

8 A. Yeah. Absolutely. Yeah. In fact, I -- what
9 happened was --

10 THE COURT: Hold on a second.
11 What -- where were -- okay. Why don't you break
12 this down a little bit because I'm not sure. He
13 was next to a black Chrysler.

14 MR. WOLFE: Right.

15 THE COURT: Okay. Go ahead. What's
16 the next question?

17 BY MR. WOLFE:

18 Q. And basically you were watching Officer Tibor
19 look for damage on the Chrysler?

20 A. Right.

21 Q. He was searching for --

22 A. Do you want me to explain how it happened?

23 Q. Yes, please.

24 A. Okay. My brother and I were in BJ's. We came

1 out of BJ's and now I'm -- I'm -- I'm at the
2 car. I'm at my car and I see a policeman, you
3 know, like, right, like, here. Right where the
4 car is, looking over at the car. So I'm saying,
5 What the heck's he doing here? What's he
6 looking at?

7 What was weird is the reason why this
8 stuck out in my mind, because he parked right
9 behind me. He parked right behind me so -- so,
10 you know, I didn't pay much attention to what he
11 was doing. I just said, Oh, the guy's parked
12 right behind me, so I saw him looking around the
13 car and that's all I saw him doing.

14 So then I went right up to him and I
15 said, Look it, sir. I -- I got to leave.
16 You're right behind me. I'll guarantee he
17 didn't even recognize me, didn't even know I was
18 there. He was so tuned into that car or
19 something and he moved his car. He moved
20 frontwards. I backed out, and I just left and
21 I'll guarantee he never saw me because you know
22 how you look at somebody and you know they're
23 not -- they're not listening to you? Well,
24 that's what it was with him.

1 Q. So -- but you -- you could not see the
2 significant damage of (inaudible at 3:51:45 -
3 simultaneous speech)?

4 A. No. I was looking because when the -- like I
5 said, the cop was right looking at the car and
6 I'm saying, What's he looking at here? There's
7 nothing going on here. I couldn't figure out
8 what he was looking at. There was no -- there
9 was no damage on the car. That's all -- that's
10 all I saw.

11 MR. WOLFE: That's it.

12 THE COURT: Okay. Any questions?

13 MS. HOGAN: No.

14 THE COURT: No questions. Thank you,
15 Mr. Rizoli.

16 (Witness excused.)

17 THE COURT: Any further witnesses,
18 sir?

19 MR. WOLFE: Well, I'd like to call
20 Officer Tibor in.

21 THE COURT: Okay. Officer Tibor.

22 MR. WOLFE: And the police report.

23 THE COURT: I guess Officer Tibor is
24 next.

1 MR. WOLFE: Does Officer Tibor have a
2 copy of the damage assessment report?

3 MS. HOGAN: I have not given Officer
4 Tibor anything.

5 MR. WOLFE: Okay.

6 THE COURT: He didn't -- did he
7 leave?

8 MS. HOGAN: Your Honor, there may
9 have been a chance that he left because he
10 wasn't going to be used by the Commonwealth and
11 he wasn't notified by the defendant.

12 UNIDENTIFIED FEMALE: I believe he's
13 here. Just a minute.

14 MR. WOLFE: He was just there a few
15 minutes ago.

16 MS. HOGAN: He is -- he'd miss his
17 shift, so that was -- if he did, I'm sure we can
18 get him right back.

19 THE COURT: Okay.

20 THE COURT OFFICER: (Inaudible at
21 3:53:07 - away from the microphone). That's his
22 security.

23 (Inaudible at 3:53:45 - away from the
24 microphone) Officer, you need to be sworn.

1 ROBERT TIBOR, Sworn

2 THE COURT: All right. Mr. Wolfe,
3 whenever you're ready, you can ask questions of
4 the officer.

5 MR. WOLFE: All right.

6 DIRECT EXAMINATION

7 BY MR. WOLFE:

8 Q. You did --

9 THE COURT: First of all, why don't
10 you just introduce yourself, Officer.

11 THE WITNESS: Good afternoon, your
12 Honor. If it please the court, my name is
13 Robert Tibor, a uniformed police officer in the
14 town of Framingham, worked as such for 40 years.

15 THE COURT: Forty years as a police
16 officer? Are you a patrolman?

17 THE WITNESS: A patrolman, right.

18 THE COURT: Okay. And go ahead, sir.

19 BY MR. WOLFE:

20 Q. Okay. You did read the report that you wrote?

21 A. Pardon me, sir?

22 Q. You did read the report that you wrote?

23 A. I haven't read it since the summertime.

24 Q. So you haven't read it since summer?

1 A. I haven't read it today, no.

2 Q. Okay.

3 THE COURT: Let me just -- to break
4 this down a little bit. Did you respond to a
5 call for assistance at the BJ's parking lot on
6 August 22nd of 2011?

7 THE WITNESS: Yes, I did, your Honor.

8 THE COURT: Somewhere -- some time
9 around 2:20 or 2:15?

10 THE WITNESS: It was -- it was
11 around 2:20. Right around that time.

12 THE COURT: Okay. And why don't you
13 tell me what you did when you got there and I'm
14 going to let you take over, sir. We got to set
15 this up a little bit so I understand what's
16 going on.

17 THE WITNESS: Okay. I respond as per
18 a radio transmission about an incident that
19 occurred in the parking lot to the east side of
20 the building, and I met a lady, later identified
21 as Stephanie Harris. Her car was parked in a
22 parking spot, and she related an incident that
23 happened to her a few moments earlier and I
24 began an investigation.

1 She was operating -- I believe it was
2 a black Chrysler. I can't recall the plate.
3 I'd have look at my report, and I also observed
4 some minor damage to the driver's door.

5 THE COURT: What was the damage that
6 you saw?

7 THE WITNESS: The damage I saw, you'd
8 have to look at it. It was -- I would consider
9 it minute damage. Just around the locking area
10 there was a small chip of paint missing and
11 there was a small dimple, like, I mean, you can
12 actually get that by putting a little pressure
13 on her car.

14 It was nothing -- I couldn't -- I'm
15 not a mechanic. I would consider it nothing
16 major. There was a faint outline of what
17 appeared to be a shoe imprint, a partial
18 outline. It looked like a sole. It was very
19 light. You'd have to look real tight at that to
20 observe it.

21 THE COURT: Okay. Go ahead, Mr.
22 Wolfe. Why don't you take over.

23 MR. WOLFE: Can I ask him any
24 questions about previous encounters in this

1 courtroom?

2 THE COURT: I think they're pretty
3 much irrelevant, sir. I don't know what
4 you're -- where you're going with about previous
5 encounters, who they involve, what they involve.

6 MR. WOLFE: No. They involve him and
7 Stephanie Hodge -- Stephanie Harris Hodge
8 particularly in the poisoning of the
9 identification process on the 25th.

10 THE COURT: Well, okay. That's not
11 how you characterize it, sir, but what I will do
12 is if you want to ask him questions that might
13 go towards bias or prejudice of any sort, I'll
14 ask a limited amount of questions on that, sir.

15 BY MR. WOLFE:

16 Q. I just want to know how many separate
17 conversations you had with Ms. Hodge on May
18 25th. You realized that we were going through
19 an identification process; right?

20 A. I didn't realize we were doing an identification
21 process. When was this, sir?

22 Q. May 25th.

23 A. Was that the original arraignment date?

24 Q. No. The second one.

1 A. I wasn't aware of that.

2 Q. You were not aware of that?

3 A. I was not aware of it.

4 THE COURT: Next question.

5 BY MR. WOLFE:

6 Q. Let's see. Did you escort Ms. Hodge out of the
7 courtroom on June 20th, this year?

8 A. What do you -- how do you mean escort her?

9 Q. Did you walk her out of the courtroom back to
10 her car?

11 A. I do that to a lot of my victims, yes.

12 Q. Okay. So --

13 A. I don't remember if I specifically did that
14 day --

15 Q. You don't remember. Okay. You don't remember.
16 Okay?

17 A. -- but I -- in all probability I did.

18 Q. Okay. Now, the Framingham Police have a crime
19 scene investigation unit; correct?

20 A. What do you mean, crime scene? Prints and
21 photos?

22 Q. Yes.

23 A. Yes.

24 Q. They have an organization called a crime scene

1 investigation unit. Did you know that?

2 A. That's the identification bureau. That's what
3 we call it at the Framingham Police Department,
4 sir.

5 Q. Okay. Was it in use at the time of this
6 incident?

7 A. No. There were no one on duty at the time. At
8 the time that I responded to BJ's?

9 Q. Right.

10 A. There was no one on duty because I requested
11 them at the scene.

12 Q. You did request them at the scene?

13 A. I did.

14 Q. But there was no one on --

15 A. We had no officers on duty.

16 Q. When do they come on duty?

17 A. They -- they have their own schedule. I don't
18 know, sir.

19 Q. I see. Interesting. Let's see. You say you
20 have not read this police report since -- did
21 you listen to the 911 call associated with this
22 incident?

23 A. Did I listen to the call?

24 Q. Yes.

1 A. No.

2 Q. You've never heard it?

3 A. I never heard it.

4 Q. You will attest to the accuracy of your police
5 report; right?

6 A. Pardon me, sir?

7 Q. You will attest to the accuracy and truth of the
8 police report?

9 MS. HOGAN: Objection.

10 THE COURT: He can answer the
11 question yes or no.

12 BY MR. WOLFE:

13 A. My report, yes. I had written it in as honest
14 way and as fair as possible.

15 Q. Okay. I would like to point out --

16 MR. WOLFE: May I see -- may I see
17 your copy of the police report, please? The
18 front page. Actually, your front page. Okay.
19 Let's see. Last but not least -- (inaudible at
20 3:59:33 - away from the microphone). Okay.
21 They seem to agree.

22 BY MR. WOLFE:

23 Q. What is Stephanie Harris Hodge's race?

24 MS. HOGAN: Objection.

1 THE COURT: What was the question
2 again? I had to -- the court officer had to get
3 something. What was the question again, sir?

4 BY MR. WOLFE:

5 Q. You filled out Stephanie Harris Hodge's race as
6 white, "W"?

7 A. Yeah. That could have been a typographical
8 error on my part.

9 Q. Uh-huh. A typographical error. Okay. You
10 mentioned -- let's see -- that the first page, I
11 guess, it described a type of the report. It
12 said destroyed?

13 MS. HOGAN: Objection.

14 THE COURT: Type, destroyed? I'm
15 sorry. I didn't hear the whole question.

16 MR. WOLFE: Well, there's a field in
17 the report that he filled out saying destroyed
18 and I wanted to ask him what was destroyed.

19 THE COURT: Do you know what that
20 means?

21 THE WITNESS: Yes, I do, your Honor.

22 THE COURT: Okay. Go ahead. You can
23 answer it.

24 BY MR. WOLFE:

1 A. At the scene where -- when I met Ms. Harris and
2 conducted my investigation, I have a camera in
3 my vehicle that I'm the accident
4 reconstructionist that I used to document
5 accident investigation and damages so I can copy
6 them. It was an old Sony camera. I attempted
7 to take pictures of her car and the damage and I
8 also went to your residence and took pictures
9 from the street of your vehicle.

10 The next day upon taking the camera
11 again we found out that the internal battery had
12 exploded or leaked and it corrupted the memory
13 drive so all -- all digital images that were
14 documented on that flash drive were gone.

15 Q. I'm impressed. I'm impressed by this -- you
16 went back to see Stephanie Hodge at Wal-Mart the
17 following day?

18 MS. HOGAN: Objection.

19 BY MR. WOLFE:

20 A. Pardon me?

21 Q. You went to see Stephanie Harris Hodge the
22 following day at Wal-Mart, I guess, to give her
23 some identification stuff?

24 THE COURT: I'll overrule if you're

1 going to object. You can answer the question.

2 BY MR. WOLFE:

3 A. I did.

4 Q. Okay. You didn't have a camera then?

5 A. I didn't have a camera, no.

6 Q. So, again, you declined to take a picture.

7 Interesting.

8 By the way, can I ask you, when --
9 when did you learn who was involved with this --
10 with Stephanie Harris Hodge? When did you learn
11 that I was involved? When did you learn that I,
12 Harold Wolfe, was involved in this incident?

13 A. I first learned that your vehicle was involved.

14 Q. My vehicle?

15 A. Your vehicle was involved.

16 Q. But my vehicle --

17 A. I made telephone calls to your residence. You
18 returned my calls and we played phone tag. You
19 admitted it to me on the phone so that's when I
20 learned that you were involved in it.

21 Q. Okay.

22 A. I didn't know who was operating your vehicle at
23 the time.

24 Q. Okay. Do you know who I am?

1 A. I know who you are now.

2 Q. You just know the name Harold Wolfe, but you
3 don't know anything about my political
4 activities?

5 A. Nope. Just my first and only encounter. My
6 only encounter with you as far as I know.

7 Q. I see. That's what I would have expected from
8 you.

9 THE COURT: Sir, leave out the --

10 MR. WOLFE: Yeah. Okay. I'm sorry,
11 your Honor.

12 THE COURT: Leave out the editorial
13 comments.

14 MR. WOLFE: You know, I just feel
15 something is easily wrong here.

16 THE COURT: Sir, I just want you to
17 leave out the editorial comments.

18 MR. WOLFE: Okay.

19 THE COURT: This is a trial. We
20 don't -- we leave those things out. That's not
21 important.

22 BY MR. WOLFE:

23 Q. Let's see. Oh, when -- a real question that I
24 would like to ask --

1 MR. WOLFE: Can I ask you this
2 question?

3 THE COURT: No. You ask the witness
4 the questions, sir.

5 MR. WOLFE: Okay.

6 BY MR. WOLFE:

7 Q. Who made the decision to add the assault charge?

8 MS. HOGAN: Objection.

9 THE COURT: I'll let him answer the
10 question.

11 BY MR. WOLFE:

12 A. Upon completing my report and consulting with
13 the police prosecutor and District Attorney --

14 Q. District attorney?

15 A. -- we determined that there was -- there was
16 grounds enough to take the assault charge out.

17 Q. Which District Attorney?

18 MS. HOGAN: Objection.

19 BY MR. WOLFE:

20 Q. Huh?

21 A. You'd have to ask Sergeant Montuori. I dealt
22 with him and he dealt with the D.A.'s office.

23 Q. Because I was very surprised by the assault
24 charge.

1 THE COURT: All right, sir. Just,
2 again, no more editorial comments. Just ask
3 questions.

4 MR. WOLFE: Well, who can I ask
5 questions about the assault charge later or --

6 THE COURT: Well, this is your trial,
7 sir. You have to bring in your witnesses. If
8 you don't have any witnesses on that issue, I'm
9 not even quite frankly sure it's relevant. It's
10 a charging decision. It's really not relevant.
11 We're here on the complaint. The complaint
12 charges you with vandalizing property and
13 assault.

14 The Commonwealth has the burden of
15 proving you guilty on those two charges beyond a
16 reasonable doubt. The burden rests with them.
17 Okay. And what happened and how they got -- how
18 we got to this point really is not all that
19 relevant at this point. Okay. They have a very
20 heavy burden to prove you guilty, sir.

21 MR. WOLFE: Well, I guess I want to
22 harp one more time on this assault charge
23 because I didn't realize you could actually be
24 charged with assault on a person --

1 THE COURT: All right, sir. Again,
2 sir, just ask questions. He's your witness.
3 This is the officer. It's your chance to ask
4 questions of your witness.

5 BY MR. WOLFE:

6 Q. She never sent you any pictures of the car
7 through her cell phone; right?

8 A. No.

9 Q. Okay. Oh, when you arrived at BJ's, was she
10 parked in a standard parking lot between two
11 lines?

12 A. Pardon me?

13 Q. When you arrived at BJ's and you saw her car,
14 was her car correctly parked between two lines?

15 A. Absolutely.

16 Q. Absolutely. Interesting. And yet -- let me
17 check his eyes.

18 THE CLERK: Sir --

19 MR. WOLFE: Yeah.

20 THE COURT: Show him a photograph,
21 ask him if he's familiar with what's in the
22 photograph. Usually lay a foundation before you
23 ask questions about the picture; okay?

24 MR. WOLFE: Okay.

1 THE COURT: Does the car look
2 familiar to you?

3 THE WITNESS: Yes, sir. It does.
4 Yes, your Honor.

5 BY MR. WOLFE:

6 Q. Can you read the license plate? Huh?

7 THE COURT: Go ahead, sir. You can
8 ask questions.

9 BY MR. WOLFE:

10 Q. Can you read the license plate? Would you like
11 a magnifying glass? I have one for you.

12 A. It could be, yeah.

13 Q. It could be?

14 A. I mean, what's your question, sir?

15 Q. Is -- is she parked between two lines?

16 A. On this particular photo it looks like she's
17 straddling the yellow line on the right side.

18 Q. Thank you. But if you want to read the license
19 plate, I have a magnifying glass.

20 A. I have no need to read the license plate, sir.

21 THE COURT: Yeah. He isn't -- we're
22 all set, sir.

23 MR. WOLFE: Huh?

24 THE COURT: Any more questions?

1 MR. WOLFE: Oh, yes.

2 THE CLERK: Will this be placed in
3 evidence, Judge?

4 THE COURT: Any objection?

5 MS. HOGAN: No objection.

6 THE CLERK: Okay. Defendant's No. 2.

7 THE COURT: He's sufficiently
8 identified it. We'll have it marked as an
9 exhibit.

10 (Photograph marked Exhibit No. 2.)

11 BY MR. WOLFE:

12 Q. Let's see. The -- so, now, according to the
13 police report, you stated that there was some
14 minor damage to the driver's side door; is that
15 correct?

16 A. Yes, sir.

17 Q. Can I ask you to draw a picture of that damage?

18 A. I'm not an artist.

19 THE COURT: Sir, it's been described.
20 It's been -- we've gone out. We've seen the
21 vehicle. We've described the damage. He's
22 described the damage. Ms. Harris described the
23 damage. I don't think we need to draw pictures
24 of it now at this point. I get -- I get -- I

1 understand. I have a clear understanding of the
2 damage of the vehicle and what was seen and what
3 happened, so next question.

4 BY MR. WOLFE:

5 Q. Did you by any chance ask her whether she had
6 moved her car after calling the police?

7 MS. HOGAN: Objection.

8 MR. WOLFE: Why?

9 MS. HOGAN: Relevance.

10 THE COURT: You don't ask her why
11 when she objects. You just wait for me to rule
12 on it.

13 MR. WOLFE: Oh, I see.

14 THE COURT: And I'll -- right. Okay.

15 MR. WOLFE: Okay.

16 THE COURT: So I'll -- no. I'll let
17 him ask the -- I'll let you answer the question.
18 You know the answer to it.

19 BY MR. WOLFE:

20 A. Repeat your question, sir.

21 Q. Did you ask her whether she had moved her car
22 after calling the police?

23 A. No. I don't recall. I don't believe I did.

24 Q. Okay. How was the point of damage determined?

1 A. Pardon me?

2 Q. How was the point of damage determined? In
3 other words, who determined it? Who determined
4 the point of damage, you or her?

5 A. She pointed -- pointed the area out and I
6 observed it.

7 Q. And that point of damage is approximately --
8 approximately how many inches away from the
9 driver's side door lock?

10 A. I didn't measure that, sir. I couldn't --

11 Q. Well, is it two feet away, two inches away?

12 A. Two feet away would put it -- no. It was
13 closer. It was closer to the locking mechanism.

14 Q. How close?

15 A. A few inches, sir.

16 THE COURT: He's described the
17 damage. How much -- we just -- we have to move
18 this along.

19 MR. WOLFE: Okay.

20 THE COURT: Again, there's a lot
21 of -- a lot of marginally relevant repetitive
22 types of questions.

23 MR. WOLFE: A lot of details that
24 people don't want to -- don't want to answer.

1 That's all. Anyway --

2 BY MR. WOLFE:

3 Q. So there -- let's see. You mentioned scratch
4 and paint damage in your police report; is that
5 correct?

6 A. I believe I mentioned damage. I don't know my
7 exact words. I'd have to look at the report,
8 but I did -- I did mention there was damage and
9 that there was a small --

10 MR. WOLFE: Can you provide me with a
11 copy of the report?

12 BY MR. WOLFE:

13 A. -- a small paint chip.

14 MS. HOGAN: Your Honor, can I have
15 yours?

16 THE COURT: Yeah. You know, sir,
17 actually you're not supposed to ask the other
18 lawyer to do those things for you. You're
19 supposed to just ask permission of the court to
20 approach the witness and show him the damage
21 report. You don't just say, Prosecutor, would
22 you go show him. That's just now the way we do
23 things; okay?

24 MR. WOLFE: Okay. All right.

1 MR. WOLFE: Okay. I'm sorry, your
2 Honor.

3 THE COURT: You're wasting an awful
4 lot of time here. This trial has gone on far
5 too long, I think, given the amount of evidence
6 that we have and the nature of the case. It
7 really should be tried very quickly, but we're
8 really going on a little bit long here, so I
9 want you to try to speed things along a little
10 bit.

11 MR. WOLFE: Well, I was hoping to
12 each (indiscernible at 4:10:41) of damage
13 because -- all right. Let's see.

14 BY MR. WOLFE:

15 Q. Did you have a copy of the damage assessment
16 report?

17 A. Pardon me?

18 Q. Do you have a copy of the damage assessment
19 report? Do you have a copy of the damage --

20 A. I have -- the damage from her, her vehicle?

21 Q. Yes. The damage assessment report from her?

22 A. No, I don't.

23 MR. WOLFE: May I ask someone to
24 provide Mr. Tibor with a copy of that report?

1 THE COURT: What are you going to --
2 sir, that's --

3 MR. WOLFE: Well --

4 THE COURT: That was prepared by
5 someone else. He has no personal knowledge of
6 the damage assessment, and it's nothing -- he
7 can't answer questions about it because he
8 didn't --

9 MR. WOLFE: Well, no.

10 THE COURT: He didn't assess the
11 damage. He didn't -- he didn't write up an
12 estimate. He didn't --

13 MR. WOLFE: But -- but I want to ask
14 him how his police report matches that damage
15 assessment report. In other words, the damage
16 assessment report is, what, 57 items and his
17 police report only mentions one.

18 THE COURT: Okay. And you don't need
19 to ask him questions. The damage report is in
20 evidence. I can look at it. You can ask him
21 questions about what he saw. I can do the rest.
22 Okay. You don't need to ask him about the
23 damage assessment report because he didn't do
24 it. He knows nothing about it.

1 MR. WOLFE: Can I place the police
2 report as part of the evidence?

3 THE COURT: No, sir. He's
4 testifying. The police report is hearsay. You
5 have to ask him questions. His testimony is
6 what is evidence.

7 MR. WOLFE: But I can't put the
8 police report in as part of evidence?

9 THE COURT: That's correct. I assume
10 the prosecutor's objecting to that, so --

11 MS. HOGAN: That's correct.

12 THE COURT: And she is and she has
13 grounds for the objection. It is hearsay so no.
14 The police report is not coming into evidence.

15 MR. WOLFE: I'm confused as to why
16 it's hearsay.

17 THE COURT: It's hearsay. It's an
18 out-of-court statement, sir, being offered to
19 prove the truth, so we don't need to put in an
20 out-of-court statement. We have the officer
21 testifying here. It's hearsay, plain and
22 simple; okay? Go ahead, sir. Next question.

23 MR. WOLFE: Okay.

24 BY MR. WOLFE:

1 Q. You stated that -- can you give me an exact
2 description of the damage that you observed?

3 A. Pardon me?

4 Q. Can you give me an exact sort of a -- how much
5 damage, what did you see on the car? You
6 mentioned just a minute amount of damage.

7 A. What I would consider a minor amount of damage.
8 Someone else might not. As I said, I observed
9 what appeared to be a foot impression from a
10 sole. It was really light, light into the
11 paint. There was a small dimple and it looks
12 like there was a small scratch that the paint
13 was gone and you could see the base color --

14 Q. Now --

15 A. -- and that was all concentrated around the door
16 lock where the victim described.

17 Q. And do you have any evidence whatsoever that
18 this particular damage that you observed was
19 made during this incident?

20 A. Do I have any what?

21 Q. Do you have any evidence that states that this
22 damage was caused on the day of the incident,
23 the damage that you observed?

24 A. I was using the statements from the owner of the

1 the day. We have to pick things up here.

2 BY MR. WOLFE:

3 Q. You stated emphatically in the police report
4 that the plaintiff's vehicle suffered minor
5 scuff, imprint damage of paint under driver's
6 side door lock. Damage appears to be under
7 \$250.

8 And you said that as the first person
9 as a police officer?

10 A. I did. Right.

11 Q. Okay.

12 THE COURT: That's consistent with
13 his testimony here today.

14 MR. WOLFE: But, in fact, he was not
15 there during the incident, so --

16 THE COURT: Sir --

17 MR. WOLFE: -- he cannot make it.

18 THE COURT: Move on. Next question.
19 Next question.

20 MR. WOLFE: I don't have a chance
21 here.

22 THE COURT: I'm just trying to speed
23 things along, sir. We're wasting tremendous
24 amounts of time here with a lot of irrelevant,

1 marginally relevant information.

2 Q. Did you have any doubts about her statements
3 about me kicking her door?

4 A. Pardon me?

5 Q. Did you have any doubts, any doubts about her
6 statements about me kicking her door?

7 A. She didn't say you kicked it. She described a
8 male. She didn't -- she was unable to give me
9 your name. She just -- she described the
10 events --

11 Q. But we discovered since --

12 A. -- and my observations was consistent with the
13 damage. She provided a license plate that came
14 back to you.

15 Q. Okay.

16 A. And that's why I reached out to try to contact
17 you to resolve the matter.

18 Q. Yes. Therefore, you had some skepticism about
19 her statements?

20 A. No, I didn't.

21 Q. Why would you try to resolve -- why would you
22 try to --

23 A. To keep this -- to -- as a courtesy for
24 something, a minor -- a minor incident that we

1 could probably keep out of the system if two
2 parties agree to it, and you did not agree to
3 that.

4 Q. Well, basically I didn't agree --

5 THE COURT: All right, sir. Again,
6 no commentary. Just ask a question.

7 MR. WOLFE: All right.

8 BY MR. WOLFE:

9 Q. So you only saw one point of damage on the
10 driver's side door and there was no other
11 damage --

12 THE COURT: He has described the
13 damage several times over now. I get -- I get
14 his testimony about the damage.

15 MR. WOLFE: All right.

16 THE COURT: I'm trying to be helpful,
17 sir. I hope you understand that.

18 BY MR. WOLFE:

19 Q. She didn't describe any kicks?

20 A. Pardon me?

21 Q. She did not describe any kicks. She just said
22 I kicked -- that I kicked her car; right?

23 A. She stated a male kicked her car, yes, sir.

24 Q. She didn't -- she didn't attempt to describe how

1 or where?

2 A. The driver's door. She pointed where -- where
3 she believed it was struck.

4 Q. All right. How high off the ground was that
5 damage point?

6 A. How high off the ground?

7 Q. Yeah. In other words, it was around the door
8 lock. How high off the ground is that?

9 A. I didn't measure it, but with that wheelbase, I
10 would say maybe about 40 -- between 40 and 48
11 inches. It may be a little off. Right around
12 that area.

13 MR. WOLFE: Now, this is why I wanted
14 a show of how the kick was done.

15 THE COURT: Next question, please.

16 MR. WOLFE: Okay.

17 BY MR. WOLFE:

18 Q. What was the purpose of you and Baker driving to
19 my house?

20 A. What was the purpose?

21 Q. Of you and Sergeant Baker, I believe?

22 A. He wanted to find out what I was doing with my
23 investigation and stood by while I took pictures
24 on the street.

1 Q. Okay. Did you by any chance run a CORI check on
2 her before you filed a complaint against me?

3 MS. HOGAN: Objection.

4 THE COURT: That is sustained. That
5 is irrelevant.

6 MR. WOLFE: Say again?

7 THE COURT: That's sustained. It's
8 irrelevant. Next question.

9 MR. WOLFE: Okay.

10 BY MR. WOLFE:

11 Q. Now, why did it take 18 days for you to
12 determine that a criminal charge would be filed
13 against me?

14 MS. HOGAN: Objection.

15 BY MR. WOLFE:

16 Q. It seems like an awful long time.

17 THE COURT: I'll let him answer the
18 question.

19 BY MR. WOLFE:

20 A. What do you mean 18 days?

21 Q. The incident occurred on August 22nd and the
22 charge was filed on -- let's see -- 9/9,
23 September 9th?

24 A. Well, I know there was one or two days -- I

1 forget. I'd have to look. I know one or two
2 days we were talking between the -- Sergeant
3 Montuori, the prosecutor and the District
4 Attorney whether any additional charges on this
5 would be, and then by the time they get back to
6 me and I get my e-mails, I typed up the
7 complaint and I just submit it into the records'
8 room and whenever they can get it out to the
9 courthouse, I don't know, sir.

10 THE COURT: Next question, sir.

11 BY MR. WOLFE:

12 Q. Do you know how many people reviewed your report
13 before charges were filed against me?

14 A. No, I don't.

15 Q. You don't. Okay. But you did -- apparently you
16 had discussed this case with the Middlesex
17 D.A.'s office?

18 A. The prosecutor, I believe, did.

19 Q. The prosecutor?

20 A. Sergeant Montuori.

21 Q. Well, that's -- that's not the D.A.'s office,
22 though. You mentioned Montuori and a D.A.?

23 A. Right. He's works for the D.A.'s. He'll read
24 the report and --

1 Q. Montuori does?

2 A. I would assume so.

3 Q. I thought Montuori worked for Framingham Police
4 Department?

5 A. He does, but he also consults with the District
6 Attorney's office.

7 Q. Does he work for your office?

8 A. He's not employed --

9 THE COURT: You don't -- we don't
10 have to --

11 BY MR. WOLFE:

12 A. He's a liaison officer.

13 THE COURT: Hold on a second. We
14 don't ask questions of the prosecutor asking
15 questions of your witness, sir. You don't turn
16 and ask questions of the prosecutor.

17 MR. WOLFE: I'm trying to find
18 someone who has a correct answer. That's all.
19 That's all. It's not like I'm trying to make
20 your life miserable.

21 THE COURT: Sir, I'm trying to help
22 you out. Move -- move this along, please.

23 BY MR. WOLFE:

24 Q. Did she at any time request an assault charge be

1 filed against me? No. Okay.

2 Now, the police report was signed off
3 by Sergeant Michael Siaba. Did he know -- did
4 he know who I was?

5 MS. HOGAN: Objection.

6 THE COURT: He can't testify as to
7 what another officer knows, sir. He can't.
8 Next question.

9 MR. WOLFE: He can't?

10 THE COURT: He can't.

11 BY MR. WOLFE:

12 Q. But what evidence did you present to Sergeant
13 Siaba to convince him -- convince him that you
14 were harassing me to writing this police report?

15 MS. HOGAN: Objection.

16 THE COURT: Sustained. Next
17 question, please.

18 BY MR. WOLFE:

19 Q. How did the -- according to the police report,
20 the plaintiff's vehicle suffered minor scuff
21 imprint damage. The damage appears to be under
22 250 at this time. How did it turn into a
23 felony?

24 MS. HOGAN: Objection.

1 THE COURT: Sustained.

2 BY MR. WOLFE: That means I can't get
3 an answer to that? It just turned into a felony
4 for --

5 THE COURT: Sustained.

6 BY MR. WOLFE:

7 Q. Okay. So according to what I read in the police
8 report because I failed to communicate with you
9 and you filed these charges against me just to
10 get me into court. Okay.

11 THE COURT: Sir, please avoid the
12 commentary. Just ask a question.

13 MR. WOLFE: I didn't realize that was
14 a commentary.

15 THE COURT: Go ahead, sir. Ask a
16 question.

17 MR. WOLFE: Okay. Let's see. You'll
18 take this as a commentary so I'm not going to
19 even bother.

20 BY MR. WOLFE:

21 Q. All right. So when you -- when you called me at
22 my home, what did you want to discuss?

23 THE COURT: Sir, it's quite obvious.

24 He wanted to discuss this case. What's your

1 next question, sir?

2 MR. WOLFE: Well, yeah, but I'm
3 curious to --

4 THE COURT: He didn't want to talk --
5 sir, it's clear. He didn't call you to talk
6 about the weather. He called you to talk about
7 this case. I want to -- I want you to focus on
8 what's important.

9 MR. WOLFE: Okay.

10 THE COURT: You have to narrow your
11 questions down. This has to -- sir, we are
12 running out of time. We're going to finish this
13 case today no matter what, but I want you to
14 speed things up. There's a lot of irrelevancies
15 you're asking him, sir.

16 MR. WOLFE: I'm ready to end now. I
17 mean, obviously no one wants to answer my
18 questions, but not much I can do. I'm just
19 disappointed. I'm at an end.

20 THE COURT: Any questions?

21 MS. HOGAN: I have no questions.

22 THE COURT: Thank you, Officer Tibor.

23 THE WITNESS: Thank you for your
24 time.

1 THE COURT: You can step down.

2 (Witness excused.)

3 THE COURT: Any further witnesses for
4 you, sir?

5 MR. WOLFE: Oh, I am curious to know
6 because there's been four -- four D.A.'s, how
7 the continuity of --

8 THE COURT: Sir, you're asking
9 questions. There's no -- there are no witnesses
10 here on the stand. I don't know who you're
11 asking questions of.

12 MR. WOLFE: I believe anybody who can
13 answer.

14 THE COURT: Sir --

15 MR. WOLFE: I can't ask her any
16 questions; right?

17 THE COURT: Sir, now I want you to
18 understand. The burden of proof rests
19 exclusively with the Commonwealth to prove that
20 you are guilty beyond a reasonable doubt. You
21 do not have any obligation whatsoever to present
22 evidence in this case. Only the Commonwealth
23 has the burden of proving you guilty. Only the
24 Commonwealth has the burden of producing

1 evidence. The burden of proof is a strict and
2 heavy burden. The burden of proof is proof
3 beyond a reasonable doubt.

4 Now, sir, do you have any further
5 evidence? You have no -- absolutely no
6 obligation whatsoever to testify in this case.
7 The burden rests exclusively with the
8 Commonwealth. Do you have any further evidence?
9 Do you wish to testify yourself or do you have
10 any further witnesses?

11 MR. WOLFE: No.

12 THE COURT: Okay.

13 MR. WOLFE: I'm finished.

14 THE COURT: All right. Closing
15 statements. Do you want to say something in
16 closing, sir?

17 THE COURT OFFICER: Please stand.

18 CLOSING ARGUMENT FOR THE DEFENDANT WOLFE

19 MR. WOLFE: Well, I'm sorry, your
20 Honor. I guess I'm very disappointed with the
21 way this went. I was really hoping for some
22 more honest answers from people, but it's --
23 when it comes down to this case, it's really a
24 case of, you know, my word against her word.

1 And she certainly used certainly more flowery
2 language, but the one thing I deeply regret not
3 doing during this incident is recording her.
4 That's the one thing I deeply regret not doing.

5 THE COURT: Okay. Attorney Hogan,
6 what would you like to say in closing?

7 MS. HOGAN: Very briefly, your Honor.

8 CLOSING ARGUMENT FOR THE COMMONWEALTH

9 MS. HOGAN: I think it's quite
10 obvious through the testimony that the
11 complaining witness testified herself that she
12 came out of work. She was in her car minding
13 her own business on the cell phone when this
14 defendant, who was unknown to her, approached
15 the car. He was screaming. He was attacking
16 the car in her words. Screaming vulgarities,
17 banging on the windows.

18 She stated that she was in fear. She
19 was afraid. She thought that he was going to
20 break the window and get into the car as she
21 stated that she owned that car. She was able to
22 identify the defendant today. She was also able
23 to identify the clothing that he was wearing
24 that day. As she stated that she owns that car.

1 There was no damage to the car beforehand. Your
2 Honor saw that car yourself and you also heard
3 from Officer Tibor describe the damages that he
4 saw to that car that day.

5 The Commonwealth does believe that
6 they've proven beyond a reasonable doubt that
7 the defendant did cause an assault, placing the
8 complaining witness in fear of imminent bodily
9 damage and as well as vandalizing the property
10 which is her car.

11 THE VERDICT

12 THE COURT: Okay. All right. Thank
13 you. After all the credible evidence, I find
14 the defendant guilty on both charges. The
15 Commonwealth has proven sufficient facts for
16 guilty findings. He'll be found guilty.

17 Commonwealth wish to be heard in
18 sentencing?

19 MS. HOGAN: Your Honor, the
20 Commonwealth would be looking for a guilty two
21 years probation on both counts. If you look at
22 the defendant's Board of Probation record, back
23 in 2008 he did one year on probation. We'd also
24 be looking for a stay away, no contact with the

1 complaining witness as well as a mental health
2 evaluation.

3 Additionally, we would be seeking
4 restitution. I believe the documents already
5 went into evidence. The restitution would be in
6 the form of the deductible as did come into
7 evidence she does have insurance, so we would be
8 looking for a \$500 restitution amount.

9 THE COURT: Okay. Sir, do you wish
10 to be heard in sentencing?

11 MR. WOLFE: Say again?

12 THE COURT: Do you wish to be heard
13 at all in sentencing?

14 MR. WOLFE: At best, I'm afraid that
15 I'm going to say something that you would object
16 to.

17 THE COURT: No. This is your
18 opportunity to tell me what you -- what you
19 believe the sentence should be after you've been
20 found guilty.

21 MR. WOLFE: What my sentence should
22 be?

23 THE COURT: Yeah. The Commonwealth
24 is looking for two years' probation.

1 MR. WOLFE: The fact that I'd been
2 found guilty is absolutely astonishing to me.
3 Just absolutely astonishing to me. I'm a little
4 lost at this point.

5 THE COURT: Okay.

6 MR. WOLFE: There's no -- there's no
7 damage evidence. It's basically her word
8 against mine, and apparently she prevailed in
9 your mind.

10 THE COURT: Anything else?

11 MR. WOLFE: No. I'm fine. Nothing I
12 can do about it.

13 THE COURT: All right. Let me take a
14 look at your record here. Probation wish to be
15 heard at all given his record?

16 THE PROBATION OFFICER: No. Judge,
17 I'm not (inaudible at 4:28:27 - away from the
18 microphone).

19 MS. HOGAN: And, your Honor, I have
20 been informed that the complaining witness does
21 want to make a statement to the court.

22 THE COURT: Oh, she does. Okay.
23 Have her come in.

24 MS. HOGAN: I apologize. I was just

1 informed.

2 THE COURT: She can come right on in
3 if she wishes to make a statement.

4 MS. HOGAN: Is she out there? She's
5 coming right now.

6 THE PROBATION OFFICER: I'm not aware
7 of this defendant so I just stepped in now, but
8 certainly it sounds like an evaluation might be
9 in order. Certainly no contact with the
10 defendant.

11 THE COURT: Now, ma'am, do you wish
12 to make a statement?

13 MS. HARRIS: Yes.

14 THE COURT: Okay. What would you
15 like to say? Just state about how this incident
16 affected you and any thoughts on sentencing.

17 MS. HARRIS: I still have, like, a
18 lot of fear around going to my job especially
19 because he's, you know, just looking at some of
20 those pictures that he has, some of those
21 pictures are my car backed in at Wal-Mart where
22 I work and I work at Wal-Mart at 5 a.m. in the
23 morning and going in there, me being a single --
24 a woman by myself sometimes and I have to carry

1 a radio to go to work now and I'm always looking
2 over my shoulders because I am scared -- I am
3 very scared of this guy knowing that he knows
4 where I work at.

5 And next week I'm going to resign
6 because I'm not comfortable working there any
7 more because of this situation and I'm very,
8 very scared and I just hope and wish that one
9 day or if you guys can -- he doesn't deserve to
10 be locked up. I think he deserves to go get
11 some mental health for himself to straighten out
12 his problems that he has with this -- with
13 people parking and other sorts of things like
14 that.

15 Sometimes jail is not the -- jail is
16 not the way out for him, and if he can get some
17 help that way and I just want to let him know
18 that I'm very -- I am very scared, very scared
19 because nothing like that ever happened to me
20 and to go to a job and always looking over your
21 shoulders throughout the store and when I leave
22 the store knowing that you know my car and you
23 know where I work and I know you know where I
24 live and I'm very scared, so that's all I have

1 to say.

2 THE COURT: Thank you very much.

3 MS. HARRIS: You're welcome.

4 THE COURT: All right. Well, it's a
5 -- it's a difficult case. I was thinking a jail
6 sentence might be appropriate in this case given
7 the -- given the circumstances of the case. I
8 think what I'm going to do is it will be
9 60 days -- 60 days in the House of Correction.

10 MR. WOLFE: Please, your Honor.

11 THE COURT: Sir.

12 MR. WOLFE: Please. This is -- this
13 (inaudible at 4:31:17 - away from the
14 microphone) is so, so --

15 THE COURT: Sixty days in the House
16 of Correction, 30 days to serve. The balance
17 suspended for one year. There will be a mental
18 health evaluation as a condition of your
19 probation with follow-up -- any recommended
20 follow-up. I do think a short jail sentence is
21 appropriate given the nature of the case and the
22 fear which you put this -- this -- Ms. Harris
23 under.

24 I thought it was completely uncalled

1 for conduct. It is unimaginable to me how any
2 citizen could -- could approach another person
3 like that completely unknown to them and start
4 banging on their car and screaming obscenities,
5 racial obscenities, racial slurs and comments
6 like that I find that completely -- it's
7 completely unacceptable in a civilized culture
8 of ours and I think a short jail sentence is
9 appropriate.

10 Sixty days in the House, 30 to serve,
11 balance suspended for one year. You will have
12 to complete a mental health evaluation. It will
13 be supervised probation. I'm not going to order
14 any type of restitution at this point. I
15 don't -- again, I think that as the officer
16 pointed out, the damage did not appear to be
17 significant, so we'll leave it at that. She
18 always has the civil option if she wishes to go
19 after.

20 THE CLERK: Okay. Then for the
21 record, your Honor, on 1149-CR-2236, Harold
22 Wolfe, after a jury waived bench trial on Count
23 I, vandalizing property, that will be guilty,
24 60 days House of Correction, Billerica, 30 days

1 to serve, balance suspended one year to the date
2 of October 4th of the year 2013. A mental
3 health evaluation, what are the other things,
4 Judge?

5 THE COURT: It will be supervised
6 probation. There will be a \$90 victim/witness
7 fee.

8 MS. HOGAN: Your Honor, if we could
9 have a stay away, no contact.

10 THE COURT: Stay away, no contact
11 with the victim.

12 THE CLERK: Ninety dollar victim/
13 witness fee. How much time do you need to pay
14 \$90?

15 THE COURT: He can have to the end of
16 the probation.

17 THE CLERK: Okay. We'll suspend it
18 until the -- to -- 10/4/13 date. On Count II,
19 your Honor, assault. Defendant having been
20 found guilty --

21 THE COURT: Concurrent. Concurrent.

22 THE CLERK: -- run concurrent with
23 Count I.

24 MR. WOLFE: Can I talk to Mr. Rizoli?

1 THE COURT: Do you have something you
2 want to say to someone, to Mr. Rizoli?

3 MR. RIZOLI: Well, I need the keys
4 for his car. I'm going to take it.

5 THE COURT: Are you together? Oh,
6 all right. You can make arrangements with your
7 car. Sure.

8 THE COURT OFFICER: Do you want to
9 take his property? Do you want him to take your
10 property?

11 MR. WOLFE: My car keys.

12 THE CLERK: That is a \$65 a month
13 probation fee, Judge?

14 THE COURT: That's right.

15 (Trial adjourned at 4:33 p.m.)
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24

1 COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, SS. DISTRICT COURT
2 NO. 1149-CR-2236

3 -----
COMMONWEALTH OF MASSACHUSETTS,)
Plaintiff,)
4)
vs.)
5)
HAROLD WOLFE,)
6 Defendant.)

7
8 AFFIDAVIT OF TRANSCRIBER

9 I, Linda Dunlop, an approved court
10 transcriber, do hereby certify that the foregoing
11 is a true and accurate transcript from the audio
12 recording provided to me by Harold Wolfe of the
13 proceedings in the above-entitled matter.

14 I, Linda Dunlop, further certify that I
15 neither am counsel for, related to, nor employed
16 by any of the parties to the action in which this
17 hearing was taken, and further that I am not
18 financially nor otherwise interested in the
19 outcome of the action.

20
21 DATED: _____
Linda Dunlop, CSR

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