

COURT DOCUMENTS:

These are the various court documents, both signed and unsigned originals. They are everything used in the effort for David's release from prison.

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT

DOCKET No. 86-3252-55

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF REQUEST FOR TRANSCRIPTS

The defendant, David Robitaille, pro se, in the above-entitled matter states the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge.
3. I am in need of the transcripts as stated in my request in order to clarify the statements made in my Habeas Corpus petition which is before the Court.
4. A copy of the requested transcript should be mailed to the defendant at the address provided.

Dated: 3/31/93

Respectfully submitted,



David Robitaille pro se
Defendant
Northeastern Correctional Ctr.
P.O. Box 1069
West Concord, MA. 01742

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No. 86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS MOTION
TO DISMISS INDICTMENTS PURSUANT TO MASS. R. CRIM. P.,
RULE 13(1)(2)

I, David Robitaille, pro se defendant, in the above-entitled matter hereby deposes and states the following under the pains and penalties of perjury:

1. I am the above-named defendant.
2. I make this affidavit to the best of my ability and in truth.
3. The defendant contends the following:

SECTION I. Concerning Indictments 86-3254 & 86-3255

A. The defendant contends that in early April of 1986, he was kicked out of his mother's house on Stonina Drive in Chicopee, MA., and moved to his sister's house in Springfield, MA.

The only time that the defendant returned to Chicopee was on the 20th of May 1986, to deliver a BMX bike to Richard J. Ventura for his birth day.

B. The defendant further states that from the time he was kicked out of his mother's home until the day he was arrested, he worked at the Dunk'n Doughnuts at the "X" in Springfield. The two days he worked were Thursday and Friday nights. During the afternoons prior to his working the night shift, the defendant would sleep-in so he would be rested up for work. The two days which the indictments (above) state the defendant violated C. 265 ss. 22A, in Chicopee, at his mother's Stonina Drive address were May 2nd and May 8th, both are days the defendant worked (was resting up for work).

C. During the early months of 1986, the Robitaille family and many members of the community, were involved in a local chapter of Sponsors League Against Molestation (S L A M), a non profit organization which was established to inform the public about issues relating to Child Sexual Abuse.

The members would meet once a week at the chapter headquarters, located at the defendant's mother's home at the Stonina Drive address which the alleged victim claims the violation of C. 265 ss. 22A happened.

This chapter headquarters was set up with an office desk, and two 24hr "hotline" phones which were manned every day, morning, noon,

ROBITAILLE AFFIDAVIT Cont...

and night by one of the members who were assigned to answer them. Also, this charter headquarters was open to anyone who wished to stop in to speak with one of the people who worked there.

Given the above stated information, and the fact that the defendant was not even in Chicoree on the dates set forth in the grand jury indictments, the indictments as set forth above should be dismissed, as there could be no violation of said C. 265 ss. 22A.

SECTION II. Concerning Indictments 86-3252 & 86-3253

A. The grand jury indictments which are shown above, alleging that the defendant violated C 265 ss. 22A, should be dismissed for failing to provide him with information sufficient to enable him to prepare a defense. 392 N.E.2d 865

Both indictments are identical, which can only mean one of two things:

Either the violation is alleged to have occurred twice during the same day i.e. July 1, 1986 (which would not concur with the alleged victim's grand jury statements);

Or two separate acts under C. 265 ss. 22A were alleged to have been committed during the exact same period of time (which would not concur with the alleged victim's grand jury statements).

If either of the above were to be considered as fact, then the indictments must be dismissed as they are fatally defective in that they state no specific act or acts alleged. 260 N.E.2d 653

E. Under C. 265 ss. 22A, there is no description of any specific act or acts which the defendant was alleged to have committed.

In the grand jury minutes, the alleged victim said that the defendant committed an act of sodomy, however, sodomy as set forth under C. 272 ss. 34 does not appear anywhere in the indictments, nor was the defendant charged with any crime under that chapter. The term "unnatural sexual intercourse" is therein, however, this term could mean oral copulation, or sodomy.

A charge involving the act of sodomy could be defended against in a few different ways i.e. blood testing of the defendant to determine the possible origin of semen, or DNA testing of the defendant to determine the possible origin of skin tissue or pubic hair.

A charge involving oral copulation could be defended against by DNA testing of the defendant to determine the possible origin of saliva.

Because the indictments fail to provide the defendant with information sufficient to enable him to prepare a defense, they must be dismissed.

Any and all indictments filed by the court as "not guilty" in connection with the above stated indictments (all indictments set forth in this affidavit) are made void as they were presented as interlinked charges with those indictments set forth herein.

This Honorable Court should dismiss all indictments set forth in

ROBITAILLE AFFIDAVIT Cont...

this affidavit in the interests of justice.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S
MOTION FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P.,
RULE 8 (e)

I, David Robitaille, Pro Se, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit in truth and to the best of my knowledge.
3. The defendant contends in this motion that he ~~should be~~ allowed to proceed pro se in the case of his criminal defense with the docket No. 86-3252.
4. The defendant has been in the care and custody of the Massachusetts Department of Correction for the past seven years while serving his sentence of 30 years for the crime of Rape of a Child By Force..
5. While serving this sentence, the defendant has become learned in both criminal as well as ~~civil~~ law. He is presently involved in several civil action suits in both the Hampden and Middlesex Superior Courts.
6. The defendant is able to properly, with respect to this Honorable Court, defend himself, and do so within the scope of of the "knowingly" and "voluntarily" provisions a set forth in Rule 8 (e). (see also- Johnson v. Zeberst (1938))
7. Rule 8 (e) clearly sets forth that the defendant may, upon a written waiver of counsel and a certificate of the judge or special magistrate, waive his right to counsel.
8. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as *** the English and colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed *** shall be an aid to ~~the~~ willing defendant-not

ROBITAILLE AFFIDAVIT Cont...

an organ of the State and the defendant and his right to defend himself.

9. The defendant feels that he has the right to self defense.

10. The defendant feels that he has the right to represent himself.

at which he was present and the defendant was of sound mind.

11. The defendant feels that he was not in a state of mind to plead guilty and that he was entered into the plea under the influence of a drug (or that if the Court feels he was not in a state of mind to plead, he was not in a state of mind to plead a plea in accordance with the provisions of Rule 12 (a)(2), as he was in a suicidal state of mind if allowed a new trial, the victim lied-as did the police in their version of the defendant's statement.

12. The defendant feels that making him wait for a lawyer from the C.P.C.S., when he can prove that he committed not the crime he was charged with, would constitute Cruel and Unusual Punishment. If this Honorable Court will allow the defendant's motion, given the facts herein, he is sure that he can prove all of the facts set forth in his amended motion and Bill of Particulars. Defendant needs no counsel other than himself.

Dated:

Respectfully submitted

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1215
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No., 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

HAMPDEN, ss.

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COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that brings which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
CRIMINAL DIVISION
DEPT. OF CORRECTIONS
100 STATE STREET
BOSTON, MASS. 02109
TEL: 617-552-3000

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged. The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that things which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS
HAMPDEN COUNTY
SUPERIOR COURT

SUPERIOR COURT
DOCKET NO.
86 3252

FILED

NOV 25 1992

COMMONWEALTH

William J. Martin Jr.

v.

CLERK/MAGISTRATE

DAVID ROBITAILLE

MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, David Robitaille, pro se, in the above-entitled action and moves this Honorable Court to appoint counsel to aid him in his pro se motion. Let the court understand that the defendant will be proceeding with the Motion for Release from Unlawful Restraint pro se with counsel. The defendant is a "jailhouse attorney."

1. The defendant is an inmate in a Massachusetts penal institution and cannot afford an attorney to represent him in this action.

Dated: 11/20/92

Respectfully submitted,

David Robitaille
David Robitaille pro se

Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

✓1993 June 2

Allowed. Refer to C.P.C.S. for designation of counsel.* No further action until appearance is filed by counsel along with any supplemental pleadings and a request for hearing by counsel. (Sweeney, J.)

Attest:

Suzanne S. Seguin
Deputy Assistant Clerk

The court insists I have counsel ↗

CHARLES K. STEPHENSON

ATTORNEY AT LAW

P. O. BOX 106

SOUTH HADLEY, MASSACHUSETTS 01075

413 497-7107

July 27, 1994

Mr. David Robitaille
Old Colony Correctional Center
One Administration Road
Bridgewater, Massachusetts 02324

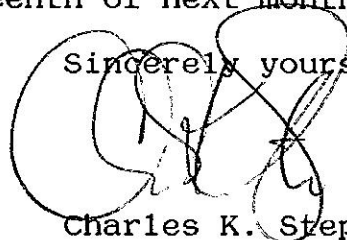
Dear David:

Enclosed is a bound copy of the complete motion. Although you made comments on a variety of other issues in your most recent letter, you offered no suggestions about the motion, so I have filed it in the same form as it appeared when I sent it for your approval.

I continue to press the District Attorney for an agreement. To date, there has been no positive response, in large part because of reservations based on your most recent parole hearings (denial of responsibility, failure to participate in programs.) In my latest reply, I pointed out that those recent developments are as a direct product of your pending motions for new trial--in turn provoked by your unfairly extended incarceration. I will let you know their response.

Until I see you on the eighteenth of next month, take care.

Sincerely yours,



Charles K. Stephenson

CKS/rm

encl.

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of JULY in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any. . . . is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield . . . in the County of Hampden aforesaid,

did compel ~~_____~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~_____~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronald Nyantakyi*

Foreman.

Mary h. Han
ASST. District Attorney for the Western District

A true copy.

Attest: *Thomas P. Moriarty*

Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in the criminal business, on the First day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any, . . . is to the Jurors aforesaid known of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronelle P. . . .*

Foreman.

Mary H. . . .
ASSC. District Attorney for the Western District

A true copy.

Attest: *Thomas P. . . .*
Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any, . . . is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid, on the second day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee . . . in the County of Hampden aforesaid,

did compel ~~████████████████████~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~██████~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

The Bill for said Responsibility

Foreman.

[Signature]

District Attorney for the Western District

[Signature]

Commonwealth of Massachusetts

86-3255

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in its jurisdiction of criminal business, on the First Mon day of May in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present: THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid Defendant of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the eighth day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: Ronald Ryankiewicz

Foreman.

Mary H. Harris Asst. District Attorney for the Western District

A true copy.

Attest: Thomas P. Moriarty

at Clerk

Commonwealth of Massachusetts

(L S.)

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of David John Robitaille

of Springfield, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 20 years from and after this 12th day of June

in the year of our Lord one thousand nine hundred and eighty-seven. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days of said sentence prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 20 years or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

2084

To the Superintendent of the receiving Correctional Institution you are hereby commanded to withdraw from David John Robinson inmate savings or personal accounts, as a court-imposed amount the first ~~XXXXXX~~ twenty-five dollars deposited to those accounts. A sum to be paid to this court for deposit in the Victim/Witness Fund pursuant to G.L. c. 258B, as added by c. 694 sec. 1 of Acts of 1987.

By the Court

Hon. Constance M. [Name]

8-21-90 (Name) to [Name]
 7-6-91 [Name] to [Name]

15071

E-529999

8-20-87

No 86-3252
 (MT)
 Year 11/8
 2-25-88

CONCORD/MIDDLESEX

DAVID JOHN ROBINSON

WARRANT

MASSACHUSETTS CORRECTIONAL INSTITUTION, CONCORD

Twenty Years

June 12, 1987

8-13-87 T. [Name] NECI [Name]
 8-14-87 [Name] to MCI Concord

12-10-87 [Name] to [Name]
 MOC - Greenfield

6-22-88 [Name] to [Name]
 To Concord

10-24-88 [Name] to [Name]

Justice of the Peace

Then personally appeared the said [Name] and made oath that the expenses above mentioned were necessarily incurred and the charges reasonable.

Service
 Travel
 Copy
 R. R. Fare

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

William [Name]
 Sheriff

1-1990 letter to MCI
 5-29-90 from to MCI
 6-21-90 Ref'd to MCI

Hampden, to wit:

Commonwealth of Massachusetts

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of **DAVID JOHN ROBITAILLE**

of **Springfield**, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of **Rape of child: Force. (265-22A)**

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **20** years ~~and~~ from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3252. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **20** years ~~and~~ or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~State~~

~~Service .50~~
~~Travel~~
~~Copy .25~~
~~R. R. Fare~~

Paul R. Fisher
Special State Police Officer

~~I had personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable.~~

~~Justice of the Peace~~

No. 86-3253

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Commonwealth of Massachusetts

MASSACHUSETTS

The Superior Court of the Commonwealth of Massachusetts, in and for the County of Hampden, do hereby certify that the within and foregoing is a true and correct copy of the original of the same as the same appears from the records of the said Court.

IN WITNESS WHEREOF, we have hereunto set our hand and the seal of the said Court at Springfield, this 10th day of June, 1953.

of Springfield
before the Justices of the Superior Court for the County of Hampden, in and for the County of Hampden, of the crime of Rape of child: Force. 1953

For which crime the said David John Robitaille was committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, to be kept and governed, according to the rules of the same, for the term of 10 years from and after this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven. Said sentence to take effect on and after sentence in 86-3253.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby authorized to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the Clerk of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS this twelfth day of June one thousand nine hundred and eighty-seven.

Chief Justice of said Court, and the seal of said Court in Springfield, in the year of our Lord

Thomas P. Moriarty Assistant Clerk.

A true copy.

Form 179

Attest: Thomas P. Moriarty Assistant Clerk

SS/nm

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~R. R. Fare~~

And C. Field
Special State Police Officer

~~Then personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable~~

~~Justices of the Peace~~

No. 86-3254

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

Commonwealth of Massachusetts

(S)

IN SENATE, January 10, 1966.

of Springfield before the Justices of the Superior Court for the rape of child; Force. (265-22A) Hampden, of the crime of

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the term of twelfth day of June 10 years and after this from and after this in the year of our Lord one thousand nine hundred and take effect concurrently with sentence in 86-3254.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said years and XX 10 or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS

Chief Justice of said Court and the seal of said Court in Springfield, twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk

A true copy.

Form 179

Attest

Thomas P. Moriarty

Assistant Clerk

SS/nm

HAMPDEN, to wit:

7-2-87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~A. R. [unclear]~~
~~then personally appeared the said~~
~~and made oath that the charges above~~
~~mentioned were lawfully levied and~~
~~the charges reasonable.~~

[Signature]
Special State Police Officer

~~Return on Warrant~~

No. 86-3255

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

WILLIAM J. MARTIN JR.



FIRST ASSISTANT CLERK MAGISTRATE

CHRISTOPHER D. REAVEY

ASSISTANT CLERKS

WILLIAM L. EASON
ELIZABETH R. JANGROW
MARIE G. MAZZA
KATHLEEN M. MCGREAL

ADDRESS ALL CORRESPONDENCE TO:
CLERK OF SUPERIOR COURT
DEPARTMENT OF THE CLERK OF COURTS
200 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01103

County of Hampden
In The
Commonwealth of Massachusetts
Office of Clerk of Courts

Telephone 413-781-8100
FAX 413-737-1611

November 4, 1993

Mr. David Robitaille
P.O. Box 1218
Sudley, MA 01464

Dear Mr. Robitaille:

In reference to your request for this office to notify you of receipt of your Motion for discovery and Affidavit in support, please be advised that they were received on October 26, 1993 and the Judge and the District Attorney were notified.

Very truly yours,

A handwritten signature in cursive script that reads "Suzanne T. Seguin".

Suzanne T. Seguin
Deputy Assistant Clerk

/sts

Commonwealth of Massachusetts

HAMPDEN, ss

Office of the Clerk/Magistrate
Springfield,

April 1, 1993

Mr. David Robitaille
c/o Northeastern Correctional Center
P.O. Box 1069
W. Concord, MA 01742

Dear Sir:

In the case of Commonwealth vs. David John Robitaille
 Hampden County Superior Court cases numbered 86-3252
 through 86-3255

1993 April 1

Endorsement on Motion for interlocutory injunction--Denied. (Sweeney,
Justice)

Endorsement on Request for transcripts--Allowed. (Sweeney, Justice)

Please be advised that the transcript of the proceedings before Judge Sweeney
on June 11, 1986 and June 12, 1986 have been ordered from August Beucke,
Official Court Reporter. As soon as these transcripts are delivered to
this office, they will be forwarded to you.

William J. Martin Jr.

CLERK/MAGISTRATE

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT

86-3252-55

DAVID ROBITAILLE

AFFIDAVIT OF INDIGENCY AND REQUEST FOR
WAIVER, SUBSTITUTION OR STATE PAYMENT
OF FEES AND COSTS

Pursuant to General Laws c.261, ss27A-G, the applicant,
David Robitaille swears (or affirms) as follows:

[check 1. Applicant is indigent in that he/she is a person:
only
one]

- _____ (a) who receives public assistance under the
Massachusetts Aid to Families with
Dependent Children, General Relief or
Veteran's Benefits programs or receives
assistance under Title XVI of the Social
Security Act, or the Medicaid Program, 42
U.S.C. 1396, et seq., or
- _____ (b) whose income after taxes is 125%, or less
of the current poverty threshold annually
established by the Community Services
Administration pursuant to s625 of Economic
Opportunity Act, as amended, 1/ or
- X (c) who is unable to pay the fee and costs of
the proceeding in which he is involved, or
is unable to do so without depriving
himself or his dependents of the
necessities of life, including food,
shelter and clothing.

Note: If the applicant checks (c), he/she should fill in the
information called for in the "Supplement to the Affidavit of
Indigency."

2. Applicant requests that the following normal fees
and costs (e.g., filing fee, services of process costs, etc.)
either waived substituted or paid by the state.

1/ This is substantially the same poverty standard used by
legal services programs funded by the Federal Legal Services
Corporation, 42 U.S.C. s2996f(2) (A) & (B).

The citation to s625 of the Economic Opportunity Act
appears in G.L. c. 261, s27A, as amended by St. 1980, c. 539,
s5. The section has become s624. Pub. L. 88-452, title 6,
s624. [42 U.S.C. s2971(d).]

Note: In filling in blanks in this paragraph and paragraph 3 be as specific as possible as to fees and costs known at time of filing this request. A supplementary request may be filed at a later time, if necessary.

3. Applicant requests that the following extra fees and costs (e.g., cost of transcribing a deposition, expert assistance, etc.) either be waived, substituted or paid by the state:

Request Transcript of Plea Hearings
of June 11, 1986 and June 12, 1986

Signed under penalties of perjury:

Signature of applicant: David Robitaille

Typed/printed name of applicant: David Robitaille

Address of applicant: P.O. Box 1069
West Concord, MA 01742

Date: 3/31/93

ALL INFORMATION CONTAINED HEREIN IS CONFIDENTIAL. IT SHALL NOT BE DISCLOSED TO ANY PARTY OTHER THAN AUTHORIZED COURT PERSONNEL OR OTHER PARTIES TO THIS LITIGATION.

(This form prescribed by the Chief Justice of the Supreme Judicial Court pursuant to G.L. c. 261 s27B, as amended by St.1980, c.539, s6. Promulgated: March 2, 1981.)

COMMONWEALTH

V.

DAVID ROBITAILLE
DefendantMOTION FOR INTERLOCUTORY
INJUNCTION

The defendant, pro se, in the above-entitled matter moves this Honorable Court to issue an Interlocutory Injunction, allowing him to remain in the care and custody of the Massachusetts Department of Corrections, i.e. Northeastern Correctional Center, while awaiting arraignment and trial.

This motion should be allowed for the following reasons:

1. The defendant is not at risk of escape.

A. The defendant entered his motion for release from unlawful restraint with the advanced knowledge of all possible outcomes, including that of a new trial. He has every intention of seeing this criminal matter through until the end. The defendant has had no escapes on his prison record to date.

2. The defendant should have proper access to legal material as is found in the law library at Northeastern Correctional Center.

A. Because the defendant is acting pro se with counsel in this matter, he should be allowed access to legal material which will best enable him to launch a proper defense in his criminal case. The law library at Northeastern Correctional Center has the proper legal material. The defendant is familiar with the material in that law library.

3. There would be a conflict of interest if the defendant were to be held at the Hampden County Jail and House of Corrections.

A. The defendant is the plaintiff in a Civil Action pending in Hampden Superior Court against a member of the H.C.J.H.C. staff. There would arise a direct conflict of interest if he were placed in the custody of the aforementioned Jail and House of Corrections.

Dated: 3/31/93

Respectfully submitted,



David Robitaille pro se
Defendant
Northeastern Correctional
Center
Post Office Box 1069
West Concord, MA. 01742

CC: Personal files,
District Attorney's Office,
Attorney General's Office.

Official Court Reporter: August Bencke
Hall of Justice
50 State Street
P.O. Box 559
Springfield, MA. 01102-0559

Date: 1-14-93
RE: REQUEST FOR COURT TRANSCRIPTS.

Dear Sir,

I am in need of the court transcripts from my plea bargain of June 12, 1987. Also, I would like to have the transcripts from the failed pleas of June 11th.

I understand that it will take some extra effort on your part to obtain the needed material for my request, but it is rather important that I have this information. I thank you in advance for your time and consideration.

Respectfully submitted,

David Robitaille
Defendant Docket No. 86-3252
Northeastern Correctional Ctr.
P.O. Box 1069
West Concord, MA. 01742

Commonwealth of Massachusetts

HAMPDEN, ss

Office of the Clerk/Magistrate

Springfield,

April 2, 1993

Mr. David Robitaille
c/o Northeastern Correctional Center
P.O. Box 1069
W. Concord, MA 01742

Dear Sir:

In the case of Commonwealth vs. David John Robitaille
Hampden County Superior Court cases numbered 86-3252
through 86-3255

Enclosed please find the transcript of hearings held on June 11 and
12, 1987 before the Hon. Constance M. Sweeney, as per your allowed motion
for transcript.

I have enclosed a receipt for said transcript, please sign and return
to this office in the self addressed stamped envelope, that I have also
enclosed.

William J. Martin Jr.

CLERK/MAGISTRATE

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
DOCKET No.

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF REQUEST FOR TRANSCRIPTS

The defendant, David Robitaille, pro se, in the above-entitled matter states the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge.
3. I am in need of the transcripts as stated in my request in order to clarify the statements made in my Habeas Corpus petition which is before the Court.
4. A copy of the requested transcript should be mailed to the defendant at the address provided.

Dated: _____

Respectfully submitted,

David Robitaille pro se
Defendant
Northeastern Correctional Ctr.
P.O. Box 1069
West Concord, MA. 01742

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS

SUPERIOR COURT
DOCKET NO.
86 3252

COMMONWEALTH

V.

DAVID ROBITAILLE

MOTION FOR RELEASE FROM UNLAWFUL RESTRAINT
PURSUANT TO MASS. R. CRIM. P., RULE 30(a)
AMENDED

Now comes the defendant, David Robitaille, pro se, in the above-entitled action, pursuant to Mass. R. Crim. P., Rule 30(a) and moves this Honorable Court to immediately release him from his unlawful restraint.

As the attached affidavit clearly shows, the defendant has been unlawfully incarcerated for the past six years and two months as a result of guilty entered by the court in direct violation of Mass. R. Crim. P., Rule 12(a)(2) and (5)(A).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No. 86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS MOTION
TO DISMISS INDICTMENTS PURSUANT TO MASS. R. CRIM. P.,
RULE 13(1)(2)

I, David Robitaille, pro se defendant, in the above-entitled matter hereby deposes and states the following under the pains and penalties of perjury:

1. I am the above-named defendant.
2. I make this affidavit to the best of my ability and in truth.
3. The defendant contends the following:

SECTION I. Concerning Indictments 86-3254 & 86-3255

A. The defendant contends that in early April of 1986, he was kicked out of his mother's house on Stonina Drive in Chicopee, MA., and moved to his sister's house in Springfield, MA.

The only time that the defendant returned to Chicopee was on the 20th of May 1986, to deliver a BMX bike to Richard J. Ventura for his birth day.

B. The defendant further states that from the time he was kicked out of his mother's home until the day he was arrested, he worked at the Dunk'n Doughnuts at the "X" in Springfield. The two days he worked were Thursday and Friday nights. During the afternoons prior to his working the night shift, the defendant would sleep-in so he would be rested up for work. The two days which the indictments (above) state the defendant violated C. 265 ss. 22A, in Chicopee, at his mother's Stonina Drive address were May 2nd and May 8th, both are days the defendant worked (was resting up for work).

C. During the early months of 1986, the Robitaille family and many members of the community, were involved in a local chapter of Sponsors League Against Molestation (S L A M), a non profit organization which was established to inform the public about issues relating to Child Sexual Abuse.

The members would meet once a week at the chapter headquarters, located at the defendant's mother's home at the Stonina Drive address which the alleged victim claims the violation of C. 265 ss. 22A happened.

This chapter headquarters was set up with an office desk, and two 24hr "hotline" phones which were manned every day, morning, noon,

ROBITAILLE AFFIDAVIT Cont...

and night by one of the members who were assigned to answer them. Also, this chapter headquarters was open to anyone who wished to stop in to speak with one of the people who worked there.

Given the above stated information, and the fact that the defendant was not even in Chicoree on the dates set forth in the grand jury indictments, the indictments as set forth above should be dismissed, as there could be no violation of said C. 265 ss. 22A.

SECTION II. Concerning Indictments 86-3252 & 86-3253

A. The grand jury indictments which are shown above, alleging that the defendant violated C 265 ss. 22A, should be dismissed for failing to provide him with information sufficient to enable him to prepare a defense. 392 N.E.2d 865

Both indictments are identical, which can only mean one of two things:

Either the violation is alleged to have occurred twice during the same day i.e. July 1, 1986 (which would not concur with the alleged victim's grand jury statements);

Or two separate acts under C. 265 ss. 22A were alleged to have been committed during the exact same period of time (which would not concur with the alleged victim's grand jury statements).

If either of the above were to be considered as fact, then the indictments must be dismissed as they are fatally defective in that they state no specific act or acts alleged. 260 N.E.2d 653

E. Under C. 265 ss. 22A, there is no description of any specific act or acts which the defendant was alleged to have committed.

In the grand jury minutes, the alleged victim said that the defendant committed an act of sodomy, however, sodomy as set forth under C. 272 ss. 34 does not appear anywhere in the indictments, nor was the defendant charged with any crime under that chapter. The term "unnatural sexual intercourse" is therein, however, this term could mean oral copulation, or sodomy.

A charge involving the act of sodomy could be defended against in a few different ways i.e. blood testing of the defendant to determine the possible origin of semen, or DNA testing of the defendant to determine the possible origin of skin tissue or pubic hair.

A charge involving oral copulation could be defended against by DNA testing of the defendant to determine the possible origin of saliva.

Because the indictments fail to provide the defendant with information sufficient to enable him to prepare a defense, they must be dismissed.

Any and all indictments filed by the court as "not guilty" in connection with the above stated indictments (all indictments set forth in this affidavit) are made void as they were presented as interlinked charges with those indictments set forth herein.

This Honorable Court should dismiss all indictments set forth in

ROBITAILLE AFFIDAVIT Cont...

this affidavit in the interests of justice.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S
MOTION FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P.,
RULE 8 (e)

I, David Robitaille, Pro Se, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit in truth and to the best of my knowledge.
3. The defendant contends in this motion that he ~~should be~~ allowed to proceed pro se in the case of his criminal defense with the docket No. 86-3252.
4. The defendant has been in the care and custody of the Massachusetts Department of Correction for the past seven years while serving his sentence of 30 years for the crime of Rape of a Child By Force..
5. While serving this sentence, the defendant has become learned in both criminal as well as ~~civil~~ civil law. He is presently involved in several civil action suits in both the Hampden and Middlesex Superior Courts.
6. The defendant is able to properly, with respect to this Honorable Court, defend himself, and do so within the scope of of the "knowingly" and "voluntarily" provisions a set forth in Rule 8 (e). (see also- Johnson v. Zeberst (1938))
7. Rule 8 (e) clearly sets forth that the defendant may, upon a written waiver of counsel and a certificate of the judge or special magistrate, waive his right to counsel.
8. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as *** the English and colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed *** shall be an aid to ~~the~~ willing defendant-not

ROBITAILLE AFFIDAVIT Cont...

an organ of the State... defendant and his right to date...

9. The defendant... have the right to self...

10. The defendant... represent...

at which he... of which...

11. The defendant... stating that...

was entered... drug (or that...

enough to plea, he was not in a state of mind...

a plea in accordance with the provisions of Rule 12 (a)(2), as he was in a suicidal state...

if allowed a new trial, the victim lied-as did the police... version of the defendant's statement.

12. The defendant feels that making him wait for a lawyer from the C.P.C.S., when he can prove that he committed not the crime...

he was charged with, would constitute Cruel and Unusual Punishment. If this Honorable Court will allow the defendant's motion, given...

the facts herein, he is sure that he can prove all of the facts set forth in his amended motion and Bill of Particulars. Defendant needs no counsel other than himself.

Dated:

Respectfully submitted

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1215
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No., 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

HAMPDEN, ss.

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COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that brings which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
CRIMINAL DIVISION
DEPT. OF CORRECTIONS
100 STATE STREET
BOSTON, MASS. 02109
TEL: 617-552-3000

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged. The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that things which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS
HAMPDEN COUNTY
SUPERIOR COURT

SUPERIOR COURT
DOCKET NO.
86 3252

FILED

NOV 25 1992

COMMONWEALTH

v.

William J. Martin Jr.

CLERK/MAGISTRATE

DAVID ROBITAILLE

MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, David Robitaille, pro se, in the above-entitled action and moves this Honorable Court to appoint counsel to aid him in his pro se motion. Let the court understand that the defendant will be proceeding with the Motion for Release from Unlawful Restraint pro se with counsel. The defendant is a "jailhouse attorney."

1. The defendant is an inmate in a Massachusetts penal institution and cannot afford an attorney to represent him in this action.

Dated: 11/20/92

Respectfully submitted,

David Robitaille
David Robitaille pro se

Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

✓1993 June 2

Allowed. Refer to C.P.C.S. for designation of counsel.* No further action until appearance is filed by counsel along with any supplemental pleadings and a request for hearing by counsel. (Sweeney, J.)

Attest:

Suzanne S. Seguin
Deputy Assistant Clerk

The court insists I have counsel ↗

CHARLES K. STEPHENSON

ATTORNEY AT LAW

P. O. BOX 106

SOUTH HADLEY, MASSACHUSETTS 01075

413 467-7107

July 27, 1994

Mr. David Robitaille
Old Colony Correctional Center
One Administration Road
Bridgewater, Massachusetts 02324

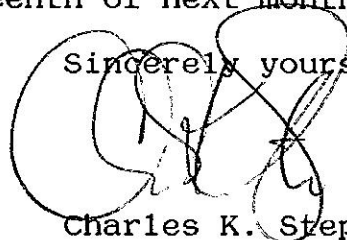
Dear David:

Enclosed is a bound copy of the complete motion. Although you made comments on a variety of other issues in your most recent letter, you offered no suggestions about the motion, so I have filed it in the same form as it appeared when I sent it for your approval.

I continue to press the District Attorney for an agreement. To date, there has been no positive response, in large part because of reservations based on your most recent parole hearings (denial of responsibility, failure to participate in programs.) In my latest reply, I pointed out that those recent developments are as a direct product of your pending motions for new trial--in turn provoked by your unfairly extended incarceration. I will let you know their response.

Until I see you on the eighteenth of next month, take care.

Sincerely yours,



Charles K. Stephenson

CKS/rm

encl.

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of JULY in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . if any. is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield . in the County of Hampden aforesaid,

did compel ~~_____~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~_____~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronald Nyantakyi*

Foreman.

Mary h. Han
ASST. District Attorney for the Western District

A true copy.

Attest: *Thomas P. Moriarty*

Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in the criminal business, on the First day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid known of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronelle P. [redacted]*

Foreman.

Mary H. [redacted]
ASSC. District Attorney for the Western District

A true copy.

Attest: *Thomas P. [redacted]*
Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid, on the second day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid,

did compel ~~████████████████████~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~██████~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

The Bill for the Foreman's Report

Foreman.

[Signature]

District Attorney for the Western District

[Signature]

Commonwealth of Massachusetts

86-3255

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in its jurisdiction of criminal business, on the First Mon day of May in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present: THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid Defendant of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the eighth day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: Ronald Ryankiewicz

Foreman.

Mary H. Harris Asst. District Attorney for the Western District

A true copy.

Attest: Thomas P. Moriarty

at Clerk

Commonwealth of Massachusetts

(L S.)

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of David John Robitaille

of Springfield, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 20 years from and after this 12th day of June in the year of our Lord one thousand nine hundred and eighty-seven.

The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days of said sentence prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 20 years or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

2084

To the Superintendent of the receiving Correctional Institution you are hereby commanded to withdraw from David John Robinson inmate savings or personal accounts, as a court-imposed amount the first ~~XXXXXX~~ twenty-five dollars deposited to those accounts. A sum to be paid to this court for deposit in the Victim/Witness Fund pursuant to G.L. c. 258B, as added by c. 694 sec. 1 of Acts of 1987.

By the Court

Hon. Constance M. [Name]

8-21-90 (Mans. to Rec. 6-11-90 to PAPER)

15071

E-529999

8-20-87

No 86-3252 (MT) Year 11/2 2-25-88

CONCORD/MIDDLE

DAVID JOHN ROBINSON

WARRANT

MANAQUIN'S CORRECTIONAL INSTITUTION, CONCORD

Twenty Years

June 12, 1987

8-13-87 T. James NECI Hudson
8-14-87 ~~to~~ MCI Concord

12-10-87 FRANKS to FRANKLIN
MOC - GREENFIELD

6-22-88 [Name] to [Name]

10-24-88 FRANKS to FRANKLIN

Justice of the Peace

Then personally appeared the said [Name] and made oath that the expenses mentioned were necessarily incurred and the charges reasonable.

Service
Travel
Copy
R. R. Fare

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

William [Name]
Sheriff

1-1990 letter to MCI
529.90 FROST to MCI
6-21-90 Ref'd to MCI-C

HAMPDEN, to wit:

Commonwealth of Massachusetts

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of **DAVID JOHN ROBITAILLE**

of **Springfield**, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of **Rape of child: Force. (265-22A)**

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **20** years ~~and~~ from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3252. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **20** years ~~and~~ or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~State~~

~~Service .50~~
~~Travel~~
~~Copy .25~~
~~R. R. Fare~~

Paul R. Fisher
Special State Police Officer

~~I had personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable.~~

~~Justice of the Peace~~

No. 86-3253

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Commonwealth of Massachusetts

HAMPDEN

To the Justices of the Superior Court of Hampden, his Deputy, the Clerk of said Court, the Sheriff, the Warden, and the Superintendent of the Massachusetts Correctional Institution, Concord, in said County of Hampden, and the Sheriff of said County of Hampden.

We command you, and each of you, forthwith to arrest and to bring before me, or the Superintendent of the Massachusetts Correctional Institution, Concord, the said David John Robitaille

of Springfield, in said County of Hampden, who stands indicted and has been before the Justices of the Superior Court for the County of Hampden, in the County of Hampden, of the crime of Rape of child: Force. 186-188

For which crime the said David John Robitaille is sentenced to be committed to the said Massachusetts Correctional Institution, Concord in said County of Hampden, there to be kept and governed, according to the rules of the same, for the term of 10 months from and after this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven. Said sentence to take effect on and after sentence in 86-3253.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS [redacted] Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~R. R. Fare~~

And C. Field
Special State Police Officer

~~Then personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable~~

~~Justices of the Peace~~

No. 86-3254

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

Commonwealth of Massachusetts

(S)

IN SENATE, January 10, 1966.

of Springfield before the Justices of the Superior Court for the rape of child; Force. (265-22A) Hampden, of the crime of

For which crime the said David John Robitaille is sentenced by said Court

to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the term of twelfth day of June 10 years and from and after this day of twelfth day of June 10 years and

AND you the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said years and 10 months and discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS

Chief Justice of said Court and the seal of said Court in Springfield, this twelfth day of June 10 years and eighty-seven.

Thomas P. Moriarty Assistant Clerk

A true copy.

Form 179

Attest

Thomas P. Moriarty

Assistant Clerk

SS/nm

HAMPDEN, to wit:

7-2-87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~A. R. Jan~~
~~then personally appeared the said~~
~~and made oath that the charges above~~
~~mentioned were lawfully levied and~~
~~the charges reasonable.~~

[Signature]
Special State Police Officer

~~Return on Warrant~~

No. 86-3255

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

WILLIAM J. MARTIN JR.



FIRST ASSISTANT CLERK MAGISTRATE

CHRISTOPHER D. REAVEY

ASSISTANT CLERKS

WILLIAM L. EASON
ELIZABETH R. JANGROW
MARIE G. MAZZA
KATHLEEN M. MCGREAL

ADDRESS ALL CORRESPONDENCE TO:
CLERK SUPERIOR COURT
DEPARTMENT OF THE CLERK
200 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01103

County of Hampden
In The
Commonwealth of Massachusetts
Office of Clerk of Courts

Telephone 413-781-8100
FAX 413-737-1611

November 4, 1993

Mr. David Robitaille
P.O. Box 1218
Sudley, MA 01464

Dear Mr. Robitaille:

In reference to your request for this office to notify you of receipt of your Motion for discovery and Affidavit in support, please be advised that they were received on October 26, 1993 and the Judge and the District Attorney were notified.

Very truly yours,

A handwritten signature in cursive script that reads "Suzanne T. Seguin".

Suzanne T. Seguin
Deputy Assistant Clerk

/sts

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No. 86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS MOTION
TO DISMISS INDICTMENTS PURSUANT TO MASS. R. CRIM. P.,
RULE 13(1)(2)

I, David Robitaille, pro se defendant, in the above-entitled matter hereby deposes and states the following under the pains and penalties of perjury:

1. I am the above-named defendant.
2. I make this affidavit to the best of my ability and in truth.
3. The defendant contends the following:

SECTION I. Concerning Indictments 86-3254 & 86-3255

A. The defendant contends that in early April of 1986, he was kicked out of his mother's house on Stonina Drive in Chicopee, MA., and moved to his sister's house in Springfield, MA.

The only time that the defendant returned to Chicopee was on the 20th of May 1986, to deliver a BMX bike to Richard J. Ventura for his birth day.

B. The defendant further states that from the time he was kicked out of his mother's home until the day he was arrested, he worked at the Dunk'n Doughnuts at the "X" in Springfield. The two days he worked were Thursday and Friday nights. During the afternoons prior to his working the night shift, the defendant would sleep-in so he would be rested up for work. The two days which the indictments (above) state the defendant violated C. 265 ss. 22A, in Chicopee, at his mother's Stonina Drive address were May 2nd and May 8th, both are days the defendant worked (was resting up for work).

C. During the early months of 1986, the Robitaille family and many members of the community, were involved in a local chapter of Sponsors League Against Molestation (S L A M), a non profit organization which was established to inform the public about issues relating to Child Sexual Abuse.

The members would meet once a week at the chapter headquarters, located at the defendant's mother's home at the Stonina Drive address which the alleged victim claims the violation of C. 265 ss. 22A happened.

This chapter headquarters was set up with an office desk, and two 24hr "hotline" phones which were manned every day, morning, noon,

ROBITAILLE AFFIDAVIT Cont...

and night by one of the members who were assigned to answer them. Also, this charter headquarters was open to anyone who wished to stop in to speak with one of the people who worked there.

Given the above stated information, and the fact that the defendant was not even in Chicoree on the dates set forth in the grand jury indictments, the indictments as set forth above should be dismissed, as there could be no violation of said C. 265 ss. 22A.

SECTION II. Concerning Indictments 86-3252 & 86-3253

A. The grand jury indictments which are shown above, alleging that the defendant violated C 265 ss. 22A, should be dismissed for failing to provide him with information sufficient to enable him to prepare a defense. 392 N.E.2d 865

Both indictments are identical, which can only mean one of two things:

Either the violation is alleged to have occurred twice during the same day i.e. July 1, 1986 (which would not concur with the alleged victim's grand jury statements);

Or two separate acts under C. 265 ss. 22A were alleged to have been committed during the exact same period of time (which would not concur with the alleged victim's grand jury statements).

If either of the above were to be considered as fact, then the indictments must be dismissed as they are fatally defective in that they state no specific act or acts alleged. 260 N.E.2d 653

E. Under C. 265 ss. 22A, there is no description of any specific act or acts which the defendant was alleged to have committed.

In the grand jury minutes, the alleged victim said that the defendant committed an act of sodomy, however, sodomy as set forth under C. 272 ss. 34 does not appear anywhere in the indictments, nor was the defendant charged with any crime under that chapter. The term "unnatural sexual intercourse" is therein, however, this term could mean oral copulation, or sodomy.

A charge involving the act of sodomy could be defended against in a few different ways i.e. blood testing of the defendant to determine the possible origin of semen, or DNA testing of the defendant to determine the possible origin of skin tissue or pubic hair.

A charge involving oral copulation could be defended against by DNA testing of the defendant to determine the possible origin of saliva.

Because the indictments fail to provide the defendant with information sufficient to enable him to prepare a defense, they must be dismissed.

Any and all indictments filed by the court as "not guilty" in connection with the above stated indictments (all indictments set forth in this affidavit) are made void as they were presented as interlinked charges with those indictments set forth herein.

This Honorable Court should dismiss all indictments set forth in

ROBITAILLE AFFIDAVIT Cont...

this affidavit in the interests of justice.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S
MOTION FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P.,
RULE 8 (e)

I, David Robitaille, Pro Se, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit in truth and to the best of my knowledge.
3. The defendant contends in this motion that he ~~should be~~ allowed to proceed pro se in the case of his criminal defense with the docket No. 86-3252.
4. The defendant has been in the care and custody of the Massachusetts Department of Correction for the past seven years while serving his sentence of 30 years for the crime of Rape of a Child By Force..
5. While serving this sentence, the defendant has become learned in both criminal as well as ~~civil~~ law. He is presently involved in several civil action suits in both the Hampden and Middlesex Superior Courts.
6. The defendant is able to properly, with respect to this Honorable Court, defend himself, and do so within the scope of of the "knowingly" and "voluntarily" provisions a set forth in Rule 8 (e). (see also- Johnson v. Zeberst (1938))
7. Rule 8 (e) clearly sets forth that the defendant may, upon a written waiver of counsel and a certificate of the judge or special magistrate, waive his right to counsel.
8. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as *** the English and colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed *** shall be an aid to ~~the~~ willing defendant-not

ROBITAILLE AFFIDAVIT Cont...

an organ of the State... defendant and his right to date...

9. The defendant... have the right to self...

10. The defendant... represent...

at which he... of which...

11. The defendant... stating that...

was entered... drug (or that if the Court feels he was...

enough to plea, he was not in a state of mind... a plea in accordance with the provisions of...

Rule 12 (a)(2), as he was in a suicidal state... if allowed a new trial, the victim lied-as did the police...

version of the defendant's statement.

12. The defendant feels that making him wait for a lawyer from the C.P.C.S., when he can prove that he committed not the crime...

he was charged with, would constitute Cruel and Unusual Punishment. If this Honorable Court will allow the defendant's motion, given...

the facts herein, he is sure that he can prove all of the facts set forth in his amended motion and Bill of Particulars. Defendant needs no counsel other than himself.

Dated:

Respectfully submitted

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1215
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No., 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

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COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that brings which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
CRIMINAL DIVISION
DEPARTMENT OF CORRECTIONS
100 STATE STREET
BOSTON, MASSACHUSETTS
02109

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
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8. The defendant is aware that things which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS
HAMPDEN COUNTY
SUPERIOR COURT

SUPERIOR COURT
DOCKET NO.
86 3252

FILED

NOV 25 1992

COMMONWEALTH

William J. Martin Jr.

v.

CLERK/MAGISTRATE

DAVID ROBITAILLE

MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, David Robitaille, pro se, in the above-entitled action and moves this Honorable Court to appoint counsel to aid him in his pro se motion. Let the court understand that the defendant will be proceeding with the Motion for Release from Unlawful Restraint pro se with counsel. The defendant is a "jailhouse attorney."

1. The defendant is an inmate in a Massachusetts penal institution and cannot afford an attorney to represent him in this action.

Dated: 11/20/92

Respectfully submitted,

David Robitaille
David Robitaille pro se

Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

✓ 1993 June 2

Allowed. Refer to C.P.C.S. for designation of counsel. *No further action until appearance is filed by counsel along with any supplemental pleadings and a request for hearing by counsel. (Sweeney, J.)

Attest:

Suzanne S. Seguin
Deputy Assistant Clerk

The court insists I have counsel ↗

CHARLES K. STEPHENSON

ATTORNEY AT LAW

P. O. BOX 106

SOUTH HADLEY, MASSACHUSETTS 01075

413 467-7107

July 27, 1994

Mr. David Robitaille
Old Colony Correctional Center
One Administration Road
Bridgewater, Massachusetts 02324

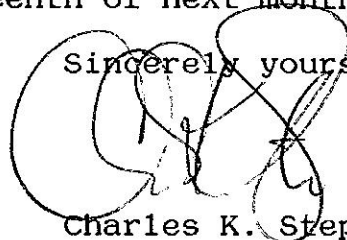
Dear David:

Enclosed is a bound copy of the complete motion. Although you made comments on a variety of other issues in your most recent letter, you offered no suggestions about the motion, so I have filed it in the same form as it appeared when I sent it for your approval.

I continue to press the District Attorney for an agreement. To date, there has been no positive response, in large part because of reservations based on your most recent parole hearings (denial of responsibility, failure to participate in programs.) In my latest reply, I pointed out that those recent developments are as a direct product of your pending motions for new trial--in turn provoked by your unfairly extended incarceration. I will let you know their response.

Until I see you on the eighteenth of next month, take care.

Sincerely yours,



Charles K. Stephenson

CKS/rm

encl.

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of JULY in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any. . . . is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield . . . in the County of Hampden aforesaid,

did compel ~~_____~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~_____~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronald Nyantakyi*

Foreman.

Mary h. Han
ASST. District Attorney for the Western District

A true copy.

Attest: *Thomas P. Moriarty*

Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in the criminal business, on the First day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any, . . . is to the Jurors aforesaid known of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronelle P. . . .*

Foreman.

Mary H. . . .
ASSC. District Attorney for the Western District

A true copy.

Attest: *Thomas P. . . .*
Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First Mon day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid, on the second day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid,

did compel ~~████████████████████~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~██████~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

The Bill for the Foreman's Report

Foreman.

[Signature]

District Attorney for the Western District

[Signature]

Commonwealth of Massachusetts

86-3255

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in its jurisdiction of criminal business, on the First Mon day of May in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present: THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid Defendant of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the eighth day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: Ronald Zyankiewicz

Foreman.

Mary H. Harris Asst. District Attorney for the Western District

A true copy.

Attest: Thomas P. Moriarty

at Clerk

Commonwealth of Massachusetts

(L S.)

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of David John Robitaille

of Springfield, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 20 years from and after this 12th day of June in the year of our Lord one thousand nine hundred and eighty-seven.

The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days of said sentence prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 20 years or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

2084

To the Superintendent of the receiving Correctional Institution you are hereby commanded to withdraw from David John Robinson inmate savings or personal accounts, as a court-imposed amount the first ~~XXXXXX~~ twenty-five dollars deposited to those accounts. A sum to be paid to this court for deposit in the Victim/Witness Fund pursuant to G.L. c. 258B, as added by c. 694 sec. 1 of Acts of 1987.

By the Court

Hon. Constance M. [Name]

8-21-90 (Mans. to Rec. 6-11-90 to PAPER)

15071 E-529999 8-21-87

No 86-3252 (MT) Year 11/2 2-25-88

DAVID JOHN ROBINSON
 WARRANT
 MASSACHUSETTS CORRECTIONAL INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Justice of the Peace

Then personally appeared the said [Name] and made oath that the expenses mentioned were necessarily incurred and the charges reasonable.

Service
 Travel
 Copy
 R. R. Fare

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

William [Name] Sheriff

Sheriff

*8-13-87 T. [Name] NECI Hudson
 8-14-87 [Name] to MCI Concord
 12-10-87 Evans to Frankin
 FOC Greenfield
 6-22-88 [Name] to [Name]*

10-24-88 Evans to [Name]

*1-1990 letter to MCI
 529.90 fees to MCI
 6-21-90 Ref'd to MCI-C*

Commonwealth of Massachusetts

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of **DAVID JOHN ROBITAILLE**

of **Springfield**, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of **Rape of child: Force. (265-22A)**

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **20** years ~~and~~ from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3252. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **20** years ~~and~~ or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~State~~

~~Service .50~~
~~Travel~~
~~Copy .25~~
~~R. R. Fare~~

Paul R. Fisher
Special State Police Officer

~~I had personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable.~~

~~Justice of the Peace~~

No. 86-3253

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Commonwealth of Massachusetts

HAMPDEN

To the Justices of the Superior Court of Hampden, his Deputy, the Clerk of said Court, the Sheriff, the Marshal, and the Jailers of the Massachusetts Correctional Institution, Concord, in said County of Hampden, in the Commonwealth of Massachusetts.

We command you, and each of you, forthwith to arrest and bring before us, or the Superintendent of the Massachusetts Correctional Institution, Concord, the said David John Robitaille

of Springfield, in said County of Hampden, who stands indicted and tried before the Justices of the Superior Court for the County of Hampden, in the County of Hampden, of the crime of Rape of child: Force. 186-188

For which crime the said David John Robitaille is sentenced to be committed to the said Massachusetts Correctional Institution, Concord in said County of Hampden, to be kept and governed, according to the rules of the same, for the term of 10 months from and after this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven. Said sentence to take effect on and after sentence in 86-3253.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest: Thomas P. Moriarty Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~R. R. Fare~~

And C. Field
Special State Police Officer

~~Then personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable~~

~~Justices of the Peace~~

No. 86-3254

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

Commonwealth of Massachusetts

(S)

IN SENATE, this 10th day of June, 1966.

of Springfield before the Justices of the Superior Court for the punishment of David John Robitaille, of the crime of Rape of Child, (265-22A) in the County of Hampden, of the crime of Rape of Child, (265-22A).

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 10 years and 10 months and 10 days from and after this 10 day of June, 1966. Said sentence to take effect concurrently with sentence in 86-3254.

AND you the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said years and months and days or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS

Chief Justice of said Court and the seal of said Court in Springfield, this 10 day of June, 1966, one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk

A true copy.

Form 179

Attest

[Signature]

Assistant Clerk

SS/nm

HAMPDEN, to wit:

7-2-87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~A. R. Jan~~
~~then personally appeared the said~~
~~and made oath that the charges above~~
~~mentioned were lawfully levied and~~
~~the charges reasonable.~~

[Signature]
Special State Police Officer

~~Return on Warrant~~

No. 86-3255

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

WILLIAM J. MARTIN JR.

CLERK OF SUPERIOR COURT

ADDRESS ALL CORRESPONDENCE TO:
CLERK SUPERIOR COURT
DEPARTMENT OF SUPERIOR COURT
HALL OF JUSTICE
200 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01103



County of Hampden
In The
Commonwealth of Massachusetts
Office of Clerk of Courts

Telephone 413-781-8100
FAX 413-737-1611

FIRST ASSISTANT CLERK MAGISTRATE

CHRISTOPHER D. REAVEY

ASSISTANT CLERKS

WILLIAM L. EASON
ELIZABETH R. JANGROW
MARIE G. MAZZA
KATHLEEN M. MCGREAL

November 4, 1993

Mr. David Robitaille
P.O. Box 1218
Sudley, MA 01464

Dear Mr. Robitaille:

In reference to your request for this office to notify you of receipt of your Motion for discovery and Affidavit in support, please be advised that they were received on October 26, 1993 and the Judge and the District Attorney were notified.

Very truly yours,

A handwritten signature in cursive script that reads "Suzanne T. Seguin".

Suzanne T. Seguin
Deputy Assistant Clerk

/sts

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No. 86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS MOTION
TO DISMISS INDICTMENTS PURSUANT TO MASS. R. CRIM. P.,
RULE 13(1)(2)

I, David Robitaille, pro se defendant, in the above-entitled matter hereby deposes and states the following under the pains and penalties of perjury:

1. I am the above-named defendant.
2. I make this affidavit to the best of my ability and in truth.
3. The defendant contends the following:

SECTION I. Concerning Indictments 86-3254 & 86-3255

A. The defendant contends that in early April of 1986, he was kicked out of his mother's house on Stonina Drive in Chicopee, MA., and moved to his sister's house in Springfield, MA.

The only time that the defendant returned to Chicopee was on the 20th of May 1986, to deliver a BMX bike to Richard J. Ventura for his birth day.

B. The defendant further states that from the time he was kicked out of his mother's home until the day he was arrested, he worked at the Dunk'n Doughnuts at the "X" in Springfield. The two days he worked were Thursday and Friday nights. During the afternoons prior to his working the night shift, the defendant would sleep-in so he would be rested up for work. The two days which the indictments (above) state the defendant violated C. 265 ss. 22A, in Chicopee, at his mother's Stonina Drive address were May 2nd and May 8th, both are days the defendant worked (was resting up for work).

C. During the early months of 1986, the Robitaille family and many members of the community, were involved in a local chapter of Sponsors League Against Molestation (S L A M), a non profit organization which was established to inform the public about issues relating to Child Sexual Abuse.

The members would meet once a week at the chapter headquarters, located at the defendant's mother's home at the Stonina Drive address which the alleged victim claims the violation of C. 265 ss. 22A happened.

This chapter headquarters was set up with an office desk, and two 24hr "hotline" phones which were manned every day, morning, noon,

ROBITAILLE AFFIDAVIT Cont...

and night by one of the members who were assigned to answer them. Also, this charter headquarters was open to anyone who wished to stop in to speak with one of the people who worked there.

Given the above stated information, and the fact that the defendant was not even in Chicoree on the dates set forth in the grand jury indictments, the indictments as set forth above should be dismissed, as there could be no violation of said C. 265 ss. 22A.

SECTION II. Concerning Indictments 86-3252 & 86-3253

A. The grand jury indictments which are shown above, alleging that the defendant violated C 265 ss. 22A, should be dismissed for failing to provide him with information sufficient to enable him to prepare a defense. 392 N.E.2d 865

Both indictments are identical, which can only mean one of two things:

Either the violation is alleged to have occurred twice during the same day i.e. July 1, 1986 (which would not concur with the alleged victim's grand jury statements);

Or two separate acts under C. 265 ss. 22A were alleged to have been committed during the exact same period of time (which would not concur with the alleged victim's grand jury statements).

If either of the above were to be considered as fact, then the indictments must be dismissed as they are fatally defective in that they state no specific act or acts alleged. 260 N.E.2d 653

E. Under C. 265 ss. 22A, there is no description of any specific act or acts which the defendant was alleged to have committed.

In the grand jury minutes, the alleged victim said that the defendant committed an act of sodomy, however, sodomy as set forth under C. 272 ss. 34 does not appear anywhere in the indictments, nor was the defendant charged with any crime under that chapter. The term "unnatural sexual intercourse" is therein, however, this term could mean oral copulation, or sodomy.

A charge involving the act of sodomy could be defended against in a few different ways i.e. blood testing of the defendant to determine the possible origin of semen, or DNA testing of the defendant to determine the possible origin of skin tissue or pubic hair.

A charge involving oral copulation could be defended against by DNA testing of the defendant to determine the possible origin of saliva.

Because the indictments fail to provide the defendant with information sufficient to enable him to prepare a defense, they must be dismissed.

Any and all indictments filed by the court as "not guilty" in connection with the above stated indictments (all indictments set forth in this affidavit) are made void as they were presented as interlinked charges with those indictments set forth herein.

This Honorable Court should dismiss all indictments set forth in

ROBITAILLE AFFIDAVIT Cont...

this affidavit in the interests of justice.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S
MOTION FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P.,
RULE 8 (e)

I, David Robitaille, Pro Se, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit in truth and to the best of my knowledge.
3. The defendant contends in this motion that he ~~should be~~ allowed to proceed pro se in the case of his criminal defense with the docket No. 86-3252.
4. The defendant has been in the care and custody of the Massachusetts Department of Correction for the past seven years while serving his sentence of 30 years for the crime of Rape of a Child By Force..
5. While serving this sentence, the defendant has become learned in both criminal as well as ~~civil~~ law. He is presently involved in several civil action suits in both the Hampden and Middlesex Superior Courts.
6. The defendant is able to properly, with respect to this Honorable Court, defend himself, and do so within the scope of of the "knowingly" and "voluntarily" provisions a set forth in Rule 8 (e). (see also- Johnson v. Zeberst (1938))
7. Rule 8 (e) clearly sets forth that the defendant may, upon a written waiver of counsel and a certificate of the judge or special magistrate, waive his right to counsel.
8. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as *** the English and colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed *** shall be an aid to ~~the~~ willing defendant-not

ROBITAILLE AFFIDAVIT Cont...

an organ of the State... defendant and his right to date...

9. The defendant... have the right to self...

10. The defendant... represent...

at which he... of which...

11. The defendant... stating that...

was entered... drug (or that if the Court feels he was...

enough to plea, he was not in a state of mind... a plea in accordance with the provisions of...

Rule 12 (a)(2), as he was in a suicidal state... if allowed a new trial, the victim lied-as all the police...

version of the defendant's statement.

12. The defendant feels that making him wait for a lawyer from the C.P.C.S., when he can prove that he committed not the crime...

he was charged with, would constitute Cruel and Unusual Punishment. If this Honorable Court will allow the defendant's motion, given...

the facts herein, he is sure that he can prove all of the facts set forth in his amended motion and Bill of Particulars. Defendant needs no counsel other than himself.

Dated:

Respectfully submitted

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1215
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No., 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

HAMPDEN, ss.

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COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that brings which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
CRIMINAL DIVISION
DEPT. OF CORRECTIONS
100 STATE STREET
BOSTON, MASS. 02109
TEL: 617-552-3000

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

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8. The defendant is aware that things which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS
HAMPDEN COUNTY
SUPERIOR COURT

SUPERIOR COURT
DOCKET NO.
86 3252

FILED

NOV 25 1992

COMMONWEALTH

v.

William J. Martin Jr.

CLERK/MAGISTRATE

DAVID ROBITAILLE

MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, David Robitaille, pro se, in the above-entitled action and moves this Honorable Court to appoint counsel to aid him in his pro se motion. Let the court understand that the defendant will be proceeding with the Motion for Release from Unlawful Restraint pro se with counsel. The defendant is a "jailhouse attorney."

1. The defendant is an inmate in a Massachusetts penal institution and cannot afford an attorney to represent him in this action.

Dated: 11/20/92

Respectfully submitted,

David Robitaille
David Robitaille pro se

Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

✓1993 June 2

Allowed. Refer to C.P.C.S. for designation of counsel.* No further action until appearance is filed by counsel along with any supplemental pleadings and a request for hearing by counsel. (Sweeney, J.)

Attest:

Suzanne S. Seguin
Deputy Assistant Clerk

The court insists I have counsel ↗

CHARLES K. STEPHENSON

ATTORNEY AT LAW

P. O. BOX 106

SOUTH HADLEY, MASSACHUSETTS 01075

413 467-7107

July 27, 1994

Mr. David Robitaille
Old Colony Correctional Center
One Administration Road
Bridgewater, Massachusetts 02324

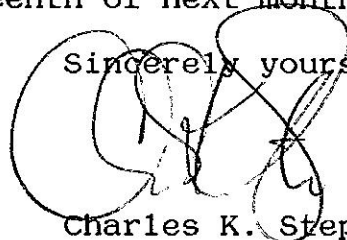
Dear David:

Enclosed is a bound copy of the complete motion. Although you made comments on a variety of other issues in your most recent letter, you offered no suggestions about the motion, so I have filed it in the same form as it appeared when I sent it for your approval.

I continue to press the District Attorney for an agreement. To date, there has been no positive response, in large part because of reservations based on your most recent parole hearings (denial of responsibility, failure to participate in programs.) In my latest reply, I pointed out that those recent developments are as a direct product of your pending motions for new trial--in turn provoked by your unfairly extended incarceration. I will let you know their response.

Until I see you on the eighteenth of next month, take care.

Sincerely yours,



Charles K. Stephenson

CKS/rm

encl.

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of JULY in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any . . . is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield . . . in the County of Hampden aforesaid,

did compel ~~_____~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~_____~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronald Nyantakyi*

Foreman.

Mary h. Han
ASST. District Attorney for the Western District

A true copy.

Attest: *Thomas P. Moriarty*

Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in the criminal business, on the First day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid known of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield, in the County of Hampden aforesaid,

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronelle P. [redacted]*

Foreman.

Mary H. [redacted]
ASSC. District Attorney for the Western District

A true copy.

Attest: *Thomas P. [redacted]*
Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid, on the second day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid,

did compel ~~████████████████████~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~██████~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

The Bill for the Foreman's Report

Foreman.

[Signature]

District Attorney for the Western District

[Signature]

Commonwealth of Massachusetts

86-3255

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in its jurisdiction of criminal business, on the First Mon day of May in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present: THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid Defendant of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the eighth day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: Ronald Ryankiewicz

Foreman.

Mary H. Harris Asst. District Attorney for the Western District

A true copy.

Attest: Thomas P. Moriarty

at Clerk

Commonwealth of Massachusetts

(L S.)

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of David John Robitaille

of Springfield, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 20 years from and after this 12th day of June in the year of our Lord one thousand nine hundred and eighty-seven.

The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days of said sentence prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 20 years or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

2084

To the Superintendent of the receiving Correctional Institution you are hereby commanded to withdraw from David John Robinson inmate savings or personal accounts, as a court-imposed penalty the first ~~XXXXXX~~ twenty-five dollars deposited to those accounts. A sum to be paid to this court for deposit in the Victim/Witness Fund pursuant to G.L. c. 258B, as added by c. 694 sec. 1 of Acts of 1987.

By the Court

Hon. Constance M. [Name]

8-21-90 (Mans. to Rec. 6-11-90 to PAPER)

15071 E-529999 8-21-87

No 86-3252 (MT) Year 11/87 2-25-88

DAVID JOHN ROBINSON
WARRANT
MANSFIELD CORRECTIONAL INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Justice of the Peace

Then personally appeared the said [Name] and made oath that the expenses mentioned were necessarily incurred and the charges reasonable.

Service
Travel
Copy
R. R. Fare

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

William [Name] Sheriff

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

1-1990 letter to MCI
529.90 fees to MCI
6-21-90 Ref'd to MCI-C

10-24-88 TRANSFER TO [Name]

8-13-87 Trans. NECI Hudson
8-14-87 ~~Trans.~~ to MCI Concord
12-10-87 Trans. to Frankin
6-22-88 ~~Trans.~~ from Frankin to [Name]

Commonwealth of Massachusetts

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of **DAVID JOHN ROBITAILLE**

of **Springfield**, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of **Rape of child: Force. (265-22A)**

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **20** years ~~and~~ from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3252. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **20** years ~~and~~ or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~State~~

~~Service .50~~
~~Travel~~
~~Copy .25~~
~~R. R. Fare~~

Paul R. Fisher
Special State Police Officer

~~I had personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable.~~

~~Justice of the Peace~~

No. 86-3253

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Commonwealth of Massachusetts

HAMPDEN COUNTY

To the Justices of the Superior Court of Hampden, his Deputy, his Clerk, or any other person authorized by the Justices of the Massachusetts Correctional Institution, to wit: David John Robitaille, the Commissioner

We command you, and each of you, forthwith to arrest and bring before me, or the Superintendent of the Massachusetts Correctional Institution, Concord, the said **David John Robitaille**

of **Springfield** in the County of Hampden, who has been committed to the custody of the Justices of the Superior Court for the County of Hampden, for the crime of **Rape of child: Force. 186-188**

For which crime the said **David John Robitaille** is sentenced to be committed to the said Massachusetts Correctional Institution, Concord in said County of Hampden, to be kept and governed, according to the rules of the same, for the term of **10** months from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect on and after sentence in 86-3253.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **10** years ~~and~~ he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[Redacted]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~R. R. Fare~~

And C. Field
Special State Police Officer

~~Then personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable~~

~~Justices of the Peace~~

No. 86-3254

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

Commonwealth of Massachusetts

L S)

HAMPDEN

To the Sheriff of the County of Hampden, in the County of Middlesex, in the State of Massachusetts, I, the Clerk of the Superior Court for the County of Middlesex, do hereby certify that the following is a true and correct copy of the original of the same as the same is on file in the office of the Clerk of the Superior Court for the County of Middlesex, in the State of Massachusetts.

We do hereby certify that the following is a true and correct copy of the original of the same as the same is on file in the office of the Clerk of the Superior Court for the County of Middlesex, in the State of Massachusetts.

of **Springfield** in the County of Hampden, in the State of Massachusetts, before the Justices of the Superior Court for the County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **10** years **XX** from and after this **twelfth** day of **June** **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3254.

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **10** years **XX** from and after this **twelfth** day of **June** **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3254.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **10** years **XX** or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield. this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk

A true copy.

SS/nm

Form 179

Attest

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

7-2-87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~A. R. Jan~~
~~then personally appeared the said~~
~~and made oath that the charges above~~
~~mentioned were lawfully levied and~~
~~the charges reasonable.~~

[Signature]
Special State Police Officer

~~Return on Warrant~~

No. 86-3255

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

WILLIAM J. MARTIN JR.



FIRST ASSISTANT CLERK MAGISTRATE

CHRISTOPHER D. REAVEY

ASSISTANT CLERKS

WILLIAM L. EASON
ELIZABETH R. JANGROW
MARIE G. MAZZA
KATHLEEN M. MCGREAL

ADDRESS ALL CORRESPONDENCE TO:
CLERK SUPERIOR COURT
DEPARTMENT OF THE CLERK
200 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01103

County of Hampden
In The
Commonwealth of Massachusetts
Office of Clerk of Courts

Telephone 413-781-8100
FAX 413-737-1611

November 4, 1993

Mr. David Robitaille
P.O. Box 1218
Sudley, MA 01464

Dear Mr. Robitaille:

In reference to your request for this office to notify you of receipt of your Motion for discovery and Affidavit in support, please be advised that they were received on October 26, 1993 and the Judge and the District Attorney were notified.

Very truly yours,

A handwritten signature in cursive script that reads "Suzanne T. Seguin".

Suzanne T. Seguin
Deputy Assistant Clerk

/sts

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No. 86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS MOTION
TO DISMISS INDICTMENTS PURSUANT TO MASS. R. CRIM. P.,
RULE 13(1)(2)

I, David Robitaille, pro se defendant, in the above-entitled matter hereby deposes and states the following under the pains and penalties of perjury:

1. I am the above-named defendant.
2. I make this affidavit to the best of my ability and in truth.
3. The defendant contends the following:

SECTION I. Concerning Indictments 86-3254 & 86-3255

A. The defendant contends that in early April of 1986, he was kicked out of his mother's house on Stonina Drive in Chicopee, MA., and moved to his sister's house in Springfield, MA.

The only time that the defendant returned to Chicopee was on the 20th of May 1986, to deliver a BMX bike to Richard J. Ventura for his birth day.

B. The defendant further states that from the time he was kicked out of his mother's home until the day he was arrested, he worked at the Dunk'n Doughnuts at the "X" in Springfield. The two days he worked were Thursday and Friday nights. During the afternoons prior to his working the night shift, the defendant would sleep-in so he would be rested up for work. The two days which the indictments (above) state the defendant violated C. 265 ss. 22A, in Chicopee, at his mother's Stonina Drive address were May 2nd and May 8th, both are days the defendant worked (was resting up for work).

C. During the early months of 1986, the Robitaille family and many members of the community, were involved in a local chapter of Sponsors League Against Molestation (S L A M), a non profit organization which was established to inform the public about issues relating to Child Sexual Abuse.

The members would meet once a week at the chapter headquarters, located at the defendant's mother's home at the Stonina Drive address which the alleged victim claims the violation of C. 265 ss. 22A happened.

This chapter headquarters was set up with an office desk, and two 24hr "hotline" phones which were manned every day, morning, noon,

ROBITAILLE AFFIDAVIT Cont...

and night by one of the members who were assigned to answer them. Also, this charter headquarters was open to anyone who wished to stop in to speak with one of the people who worked there.

Given the above stated information, and the fact that the defendant was not even in Chicoree on the dates set forth in the grand jury indictments, the indictments as set forth above should be dismissed, as there could be no violation of said C. 265 ss. 22A.

SECTION II. Concerning Indictments 86-3252 & 86-3253

A. The grand jury indictments which are shown above, alleging that the defendant violated C 265 ss. 22A, should be dismissed for failing to provide him with information sufficient to enable him to prepare a defense. 392 N.E.2d 865

Both indictments are identical, which can only mean one of two things:

Either the violation is alleged to have occurred twice during the same day i.e. July 1, 1986 (which would not concur with the alleged victim's grand jury statements);

Or two separate acts under C. 265 ss. 22A were alleged to have been committed during the exact same period of time (which would not concur with the alleged victim's grand jury statements).

If either of the above were to be considered as fact, then the indictments must be dismissed as they are fatally defective in that they state no specific act or acts alleged. 260 N.E.2d 653

E. Under C. 265 ss. 22A, there is no description of any specific act or acts which the defendant was alleged to have committed.

In the grand jury minutes, the alleged victim said that the defendant committed an act of sodomy, however, sodomy as set forth under C. 272 ss. 34 does not appear anywhere in the indictments, nor was the defendant charged with any crime under that chapter. The term "unnatural sexual intercourse" is therein, however, this term could mean oral copulation, or sodomy.

A charge involving the act of sodomy could be defended against in a few different ways i.e. blood testing of the defendant to determine the possible origin of semen, or DNA testing of the defendant to determine the possible origin of skin tissue or pubic hair.

A charge involving oral copulation could be defended against by DNA testing of the defendant to determine the possible origin of saliva.

Because the indictments fail to provide the defendant with information sufficient to enable him to prepare a defense, they must be dismissed.

Any and all indictments filed by the court as "not guilty" in connection with the above stated indictments (all indictments set forth in this affidavit) are made void as they were presented as interlinked charges with those indictments set forth herein.

This Honorable Court should dismiss all indictments set forth in

ROBITAILLE AFFIDAVIT Cont...

this affidavit in the interests of justice.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S
MOTION FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P.,
RULE 8 (e)

I, David Robitaille, Pro Se, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit in truth and to the best of my knowledge.
3. The defendant contends in this motion that he ~~should be~~ allowed to proceed pro se in the case of his criminal defense with the docket No. 86-3252.
4. The defendant has been in the care and custody of the Massachusetts Department of Correction for the past seven years while serving his sentence of 30 years for the crime of Rape of a Child By Force..
5. While serving this sentence, the defendant has become learned in both criminal as well as ~~civil~~ civil law. He is presently involved in several civil action suits in both the Hampden and Middlesex Superior Courts.
6. The defendant is able to properly, with respect to this Honorable Court, defend himself, and do so within the scope of of the "knowingly" and "voluntarily" provisions a set forth in Rule 8 (e). (see also- Johnson v. Zeberst (1938))
7. Rule 8 (e) clearly sets forth that the defendant may, upon a written waiver of counsel and a certificate of the judge or special magistrate, waive his right to counsel.
8. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as *** the English and colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed *** shall be an aid to ~~the~~ willing defendant-not

ROBITAILLE AFFIDAVIT Cont...

an organ of the State... defendant and his right to date...

9. The defendant... have the right to self...

10. The defendant... represent...

at which he... of which...

11. The defendant... stating that...

was entered... drug (or that if the Court feels he was...

enough to plea, he was not in a state of mind... a plea in accordance with the provisions of...

Rule 12 (a)(2), as he was in a suicidal state... if allowed a new trial, the victim lied-as all the police...

version of the defendant's statement.

12. The defendant feels that making him wait for a lawyer from the C.P.C.S., when he can prove that he committed not the crime...

he was charged with, would constitute Cruel and Unusual Punishment. If this Honorable Court will allow the defendant's motion, given...

the facts herein, he is sure that he can prove all of the facts set forth in his amended motion and Bill of Particulars. Defendant needs no counsel other than himself.

Dated:

Respectfully submitted

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1215
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No., 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

HAMPDEN, ss.

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COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that brings which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
CRIMINAL DIVISION
DEPT. OF CORRECTIONS
100 STATE STREET
BOSTON, MASS. 02109
TEL: 617-552-3000

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trial.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
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8. The defendant is aware that things which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS
HAMPDEN COUNTY
SUPERIOR COURT

SUPERIOR COURT
DOCKET NO.
86 3252

FILED

NOV 25 1992

COMMONWEALTH

William J. Martin Jr.

v.

CLERK/MAGISTRATE

DAVID ROBITAILLE

MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, David Robitaille, pro se, in the above-entitled action and moves this Honorable Court to appoint counsel to aid him in his pro se motion. Let the court understand that the defendant will be proceeding with the Motion for Release from Unlawful Restraint pro se with counsel. The defendant is a "jailhouse attorney."

1. The defendant is an inmate in a Massachusetts penal institution and cannot afford an attorney to represent him in this action.

Dated: 11/20/92

Respectfully submitted,

David Robitaille
David Robitaille pro se

Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

✓1993 June 2

Allowed. Refer to C.P.C.S. for designation of counsel.* No further action until appearance is filed by counsel along with any supplemental pleadings and a request for hearing by counsel. (Sweeney, J.)

Attest:

Suzanne S. Seguin
Deputy Assistant Clerk

The court insists I have counsel ↗

CHARLES K. STEPHENSON

ATTORNEY AT LAW

P. O. BOX 106

SOUTH HADLEY, MASSACHUSETTS 01075

413 467-7107

July 27, 1994

Mr. David Robitaille
Old Colony Correctional Center
One Administration Road
Bridgewater, Massachusetts 02324

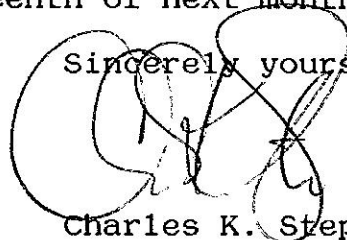
Dear David:

Enclosed is a bound copy of the complete motion. Although you made comments on a variety of other issues in your most recent letter, you offered no suggestions about the motion, so I have filed it in the same form as it appeared when I sent it for your approval.

I continue to press the District Attorney for an agreement. To date, there has been no positive response, in large part because of reservations based on your most recent parole hearings (denial of responsibility, failure to participate in programs.) In my latest reply, I pointed out that those recent developments are as a direct product of your pending motions for new trial--in turn provoked by your unfairly extended incarceration. I will let you know their response.

Until I see you on the eighteenth of next month, take care.

Sincerely yours,



Charles K. Stephenson

CKS/rm

encl.

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of JULY in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any. . . . is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield . . . in the County of Hampden aforesaid,

did compel ~~_____~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~_____~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronald Nyantakyi*

Foreman.

Mary h. Han
ASST. District Attorney for the Western District

A true copy.

Attest: *Thomas P. Moriarty*

Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in the said County of
criminal business, on the First MON day of July
in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any, . . . is to the Jurors aforesaid known
of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid
on the first day of July
in the year of our Lord one thousand nine hundred and eighty-six
at Springfield . . . in the County of Hampden aforesaid.

did compel [REDACTED]
a child under sixteen years of age, to submit by force or by
threat of bodily injury and against [REDACTED] will to have sexual
intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred
sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronelle P. . . .*

Foreman.

Mary H. . . .
ASSC. District Attorney for the Western District

A true copy.

Attest:
Thomas P. . . .
Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First Mon day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid, on the second day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid,

did compel ~~████████████████████~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~██████~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

The Bill for the Foreman's Report

Foreman.

[Signature]

District Attorney for the Western District

[Signature]

Commonwealth of Massachusetts

86-3255

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in its jurisdiction of criminal business, on the First Mon day of May in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present: THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid Defendant of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the eighth day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: Ronald Zyankiewicz

Foreman.

May H. Harris Asst. District Attorney for the Western District

A true copy.

Attest: Thomas P. Moriarty

at Clerk

Commonwealth of Massachusetts

(L S.)

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of David John Robitaille

of Springfield, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 20 years

from and after this 12th day of June in the year of our Lord one thousand nine hundred and eighty-seven. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days of said sentence prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 20 years or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest: Thomas P. Moriarty

2084

Assistant Clerk

To the Superintendent of the receiving Correctional Institution you are hereby commanded to withdraw from David John Robinson inmate savings or personal accounts, as a court-imposed amount the first ~~XXXXXX~~ twenty-five dollars deposited to those accounts. A sum to be paid to this court for deposit in the Victim/Witness Fund pursuant to G.L. c. 258B, as added by c. 694 sec. 1 of Acts of 1987.

By the Court

Hon. Constance M. [Name]

8-21-90 (Mans. to Rec. 6-11-90 to PAPER)

15071 E-529999 8-21-87

No 86-3252 (MT) Year 11/2 2-25-88

DAVID JOHN ROBINSON
 WARRANT
 MASSACHUSETTS CORRECTIONAL INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Justice of the Peace

Then personally appeared the said [Name] and made oath that the expenses mentioned were necessarily incurred and the charges reasonable.

Service
 Travel
 Copy
 R. R. Fare

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

William [Name] Sheriff

Sherrif

*8-13-87 T. [Name] NECI Hudson
 8-14-87 [Name] to MCI Concord
 12-10-87 Evans to Frankin
 FOC Greenfield
 6-22-88 [Name] to [Name]*

10-24-88 Evans to [Name]

*1-1990 letter to MCI
 529.90 fees to MCI
 6-21-90 Ref'd to MCI-C*

Commonwealth of Massachusetts

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of **DAVID JOHN ROBITAILLE**

of **Springfield**, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of **Rape of child: Force. (265-22A)**

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **20** years ~~and~~ from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3252. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **20** years ~~and~~ or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~State~~

~~Service .50~~
~~Travel~~
~~Copy .25~~
~~R. R. Fare~~

Paul R. Fisher
Special State Police Officer

~~I had personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable.~~

~~Justice of the Peace~~

No. 86-3253

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Commonwealth of Massachusetts

HAMPDEN

To the Justices of the Superior Court of Hampden, his Deputy, the Clerk of said Court, the Sheriff, the Warden, and the Jailers of the Massachusetts Correctional Institution, Concord, in said County of Hampden, in the Commonwealth of Massachusetts.

We do hereby command you, and each of you, forthwith to arrest and bring before me, or the Superintendent of the Massachusetts Correctional Institution, Concord, the said David John Robitaille

of Springfield, in said County of Hampden, who stands indicted and arraigned before the Justices of the Superior Court for the County of Hampden, in the County of Hampden, of the crime of Rape of child: Force. 186-188

For which crime the said David John Robitaille is sentenced to be committed to the said Massachusetts Correctional Institution, Concord, in said County of Hampden, to be kept and governed, according to the rules of the same, for the term of 10 months from and after this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven. Said sentence to take effect on and after sentence in 86-3253.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS [redacted] Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest: Thomas P. Moriarty Assistant Clerk

HAMPDEN, to wit:

9-2-19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~R. R. Fare~~

And C. Field
Special State Police Officer

~~Then personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable~~

~~Justices of the Peace~~

No. 86-3254

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

Commonwealth of Massachusetts

L S)

HAMPDEN

To the Sheriff of the County of Hampden, in the County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of

We do hereby certify that the said David John Robitaille is the person named in the Massachusetts Correctional Institution, Concord, in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of

of Springfield in the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 10 years and twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven. Said sentence to take effect concurrently with sentence in 86-3254.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk

A true copy.

SS/nm

Form 179

Attest Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

7-2-87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~A. R. Jan~~
~~then personally appeared the said~~
~~and made oath that the charges above~~
~~mentioned were lawfully levied and~~
~~the charges reasonable.~~

[Signature]
Special State Police Officer

No. 86-3255

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

WILLIAM J. MARTIN JR.

CLERK OF SUPERIOR COURT

ADDRESS ALL CORRESPONDENCE TO:
CLERK SUPERIOR COURT
DEPARTMENT OF JUSTICE
HALL OF JUSTICE
SPRINGFIELD, MASSACHUSETTS 01103



County of Hampden
In The
Commonwealth of Massachusetts
Office of Clerk of Courts

Telephone 413-781-8100
FAX 413-737-1611

FIRST ASSISTANT CLERK MAGISTRATE

CHRISTOPHER D. REAVEY

ASSISTANT CLERKS

WILLIAM L. EASON
ELIZABETH R. JANGROW
MARIE G. MAZZA
KATHLEEN M. MCGREAL

November 4, 1993

Mr. David Robitaille
P.O. Box 1218
Sudley, MA 01464

Dear Mr. Robitaille:

In reference to your request for this office to notify you of receipt of your Motion for discovery and Affidavit in support, please be advised that they were received on October 26, 1993 and the Judge and the District Attorney were notified.

Very truly yours,

A handwritten signature in cursive script that reads "Suzanne T. Seguin".

Suzanne T. Seguin
Deputy Assistant Clerk

/sts

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR SUMMONS FOR WITNESSES PURSUANT
TO MASS. R. CRIM. P., RULE
17

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to make an order to the clerk of the court to issue a Summons, pursuant to Mass. R. Crim. P., Rule 17, to the witnesses who shall testify at the defendant's plea withdrawal hearing on a date as set forth by this Court.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss,

SUPERIOR COURT
Docket No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMONS FOR WITNESSES PURSUANT TO MASS.
R. CRIM. P., RULE 17

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court summon the following witnesses to testify on his behalf at his plea withdrawal hearing at a time and place so ordered by this Court.
4. The witnesses are as follows:
 - A. Jeffrey J. Vander Yacht. Mr. Vander Yacht is a Principal Psychologist at MCI Concord.
Mr. Vander Yacht will testify to the fact that the defendant does suffer from Post Traumatic Stress Disorder (PTSD), and that said mental illness does cause the defendant to have anxiety attacks, flashbacks, and the loss of his ability to control his behavior. Too, Mr. Vander Yacht shall testify to the fact the when the defendant has an anxiety attack, he is not in his right state of mind as he may have suicidal idation.
 - B. Jane Doherty. Mrs. Doherty is the Administrator of Mental Health at MCI Concord (Complex).
Mrs. Doherty will testify to the fact that the defendant does suffer from PTSD, and that he does have mental health issues which cause the abovestated, and that during these times the defendant cannot make prudent decisions.
5. This Honorable Court should summon these witnesses as they will verify what the defendant has stated in his motion for the withdrawal of his plea.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
Docket No. 86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

DEFENDANT'S AFFIDAVIT IN SUPPORT OF HIS MOTION
TO DISMISS INDICTMENTS PURSUANT TO MASS. R. CRIM. P.,
RULE 13(1)(2)

I, David Robitaille, pro se defendant, in the above-entitled matter hereby deposes and states the following under the pains and penalties of perjury:

1. I am the above-named defendant.
2. I make this affidavit to the best of my ability and in truth.
3. The defendant contends the following:

SECTION I. Concerning Indictments 86-3254 & 86-3255

A. The defendant contends that in early April of 1986, he was kicked out of his mother's house on Stonina Drive in Chicopee, MA., and moved to his sister's house in Springfield, MA.

The only time that the defendant returned to Chicopee was on the 20th of May 1986, to deliver a BMX bike to Richard J. Ventura for his birth day.

B. The defendant further states that from the time he was kicked out of his mother's home until the day he was arrested, he worked at the Dunk'n Doughnuts at the "X" in Springfield. The two days he worked were Thursday and Friday nights. During the afternoons prior to his working the night shift, the defendant would sleep-in so he would be rested up for work. The two days which the indictments (above) state the defendant violated C. 265 ss. 22A, in Chicopee, at his mother's Stonina Drive address were May 2nd and May 8th, both are days the defendant worked (was resting up for work).

C. During the early months of 1986, the Robitaille family and many members of the community, were involved in a local chapter of Sponsors League Against Molestation (S L A M), a non profit organization which was established to inform the public about issues relating to Child Sexual Abuse.

The members would meet once a week at the chapter headquarters, located at the defendant's mother's home at the Stonina Drive address which the alleged victim claims the violation of C. 265 ss. 22A happened.

This chapter headquarters was set up with an office desk, and two 24hr "hotline" phones which were manned every day, morning, noon,

ROBITAILLE AFFIDAVIT Cont...

and night by one of the members who were assigned to answer them. Also, this charter headquarters was open to anyone who wished to stop in to speak with one of the people who worked there.

Given the above stated information, and the fact that the defendant was not even in Chicoree on the dates set forth in the grand jury indictments, the indictments as set forth above should be dismissed, as there could be no violation of said C. 265 ss. 22A.

SECTION II. Concerning Indictments 86-3252 & 86-3253

A. The grand jury indictments which are shown above, alleging that the defendant violated C 265 ss. 22A, should be dismissed for failing to provide him with information sufficient to enable him to prepare a defense. 392 N.E.2d 865

Both indictments are identical, which can only mean one of two things:

Either the violation is alleged to have occurred twice during the same day i.e. July 1, 1986 (which would not concur with the alleged victim's grand jury statements);

Or two separate acts under C. 265 ss. 22A were alleged to have been committed during the exact same period of time (which would not concur with the alleged victim's grand jury statements).

If either of the above were to be considered as fact, then the indictments must be dismissed as they are fatally defective in that they state no specific act or acts alleged. 260 N.E.2d 653

E. Under C. 265 ss. 22A, there is no description of any specific act or acts which the defendant was alleged to have committed.

In the grand jury minutes, the alleged victim said that the defendant committed an act of sodomy, however, sodomy as set forth under C. 272 ss. 34 does not appear anywhere in the indictments, nor was the defendant charged with any crime under that chapter. The term "unnatural sexual intercourse" is therein, however, this term could mean oral copulation, or sodomy.

A charge involving the act of sodomy could be defended against in a few different ways i.e. blood testing of the defendant to determine the possible origin of semen, or DNA testing of the defendant to determine the possible origin of skin tissue or pubic hair.

A charge involving oral copulation could be defended against by DNA testing of the defendant to determine the possible origin of saliva.

Because the indictments fail to provide the defendant with information sufficient to enable him to prepare a defense, they must be dismissed.

Any and all indictments filed by the court as "not guilty" in connection with the above stated indictments (all indictments set forth in this affidavit) are made void as they were presented as interlinked charges with those indictments set forth herein.

This Honorable Court should dismiss all indictments set forth in

ROBITAILLE AFFIDAVIT Cont...

this affidavit in the interests of justice.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No.
86-3252
86-3253
86-3254
86-3255

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION TO DISMISS INDICTMENTS
PURSUANT TO MASS. R. CRIM. P., RULE 13(1)(2)

Now comes the defendant, David Robitaille, prose, in the above-entitled matter, and moves this Honorable Court, pursuant to Mass. R. Crim. P., Rule 13(1)(2), to dismiss the Grand Jury Indictments No. 86-3252, 86-3253, 86-3254, & 86-3255 respectively, and all Indictments filed Not Guilty by the court during plea hearing.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S
MOTION FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P.,
RULE 8 (e)

I, David Robitaille, Pro Se, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit in truth and to the best of my knowledge.
3. The defendant contends in this motion that he ~~should be~~ allowed to proceed pro se in the case of his criminal defense with the docket No. 86-3252.
4. The defendant has been in the care and custody of the Massachusetts Department of Correction for the past seven years while serving his sentence of 30 years for the crime of Rape of a Child By Force..
5. While serving this sentence, the defendant has become learned in both criminal as well as ~~civil~~ law. He is presently involved in several civil action suits in both the Hampden and Middlesex Superior Courts.
6. The defendant is able to properly, with respect to this Honorable Court, defend himself, and do so within the scope of of the "knowingly" and "voluntarily" provisions a set forth in Rule 8 (e). (see also- Johnson v. Zeberst (1938))
7. Rule 8 (e) clearly sets forth that the defendant may, upon a written waiver of counsel and a certificate of the judge or special magistrate, waive his right to counsel.
8. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as *** the English and colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed *** shall be an aid to ~~the~~ willing defendant-not

ROBITAILLE AFFIDAVIT Cont...

an organ of the State... defendant and his right to date...

9. The defendant... have the right to self...

10. The defendant... represent...

at which he... of which...

11. The defendant... stating that...

was entered... drug (or that if the Court feels he was...

enough to plea, he was not in a state of mind... a plea in accordance with the provisions of...

Rule 12 (a)(2), as he was in a suicidal state... if allowed a new trial, the victim lied-as did the police...

version of the defendant's statement.

12. The defendant feels that making him wait for a lawyer from the C.P.C.S., when he can prove that he committed not the crime...

he was charged with, would constitute Cruel and Unusual Punishment. If this Honorable Court will allow the defendant's motion, given...

the facts herein, he is sure that he can prove all of the facts set forth in his amended motion and Bill of Particulars. Defendant needs no counsel other than himself.

Dated:

Respectfully submitted

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1215
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No., 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

HAMPDEN, ss.

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COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged." The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied" by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that brings which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

MOTION FOR WAIVER OF COUNSEL PURSUANT TO
MASS. R. CRIM. P., RULE 8 (e)

Now comes the defendant, David Robitaille, pro se, in the above-entitled matter, and moves this Honorable Court to allow him to proceed in this matter pro se pursuant to Mass. R. Crim. P., Rule 8(e).

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Sherley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
CRIMINAL DIVISION
DEPT. OF CORRECTIONS
100 STATE STREET
BOSTON, MASS. 02109
TEL: 617-552-3000

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION
FOR WAIVER OF COUNSEL PURSUANT TO MASS. R. CRIM. P. RULE
8 (e)

I, David Robitaille, pro se, Defendant, in the above-entitled matter, hereby depose and state the following under the pains and penalties of perjury:

1. I am the above-named defendant in this matter.
2. I make this affidavit to the best of my knowledge and in truth.
3. The defendant is requesting that this Honorable Court allow him to represent him self at the hearing to be held for his withdrawal of plea of guilty and for new trail.
4. In support of his request, the defendant states that he is able to properly present the facts and witnesses on his behalf for the above hearing, as he is well versed in the law in both civil and criminal matters.
5. The defendant further states that if counsel represents him at this hearing, he (defendant) will be acting pro se with standby counsel and would be the one presenting the facts and witnesses, pursuant to Mass. R. Crim. P. Rule 8(f).
6. Under the above Rule 8(e), as shown in the caption, the defendant does have the right to self representation.
7. Faretta v. Cal. (1975) held that the Sixth Amendment also guarantees to the defendant the right to proceed pro se. Faretta relied upon the "structure of the Sixth Amendment, as well as * * * the English and Colonial jurisprudence from which the Amendment emerged. The Court noted that, while the Sixth Amendment does not specifically refer to the right of self-representation, that right is "necessarily implied by the Amendment's references to the accused's presentation of his defense. The Sixth Amendment, it noted, refers to the rights of confrontation, compulsory process, and notice as rights of "the accused." Similarly, the counsel provision speaks only of the "assistance" of counsel, and suggests thereby that "counsel, like the other defense tools guaranteed * * * shall be an aid to a willing defendant-not an organ of the State interposed between an unwilling defendant and his right to defend himself personally."
8. The defendant is aware that things which he has set forth in his

motion for withdrawal of plea and for new trial may be viewed by this Court as incriminating, but he had set out to show that the plea was accepted without his full understanding and while he was not in his right state of mind.

Nothing in his motion or amended motion was so incriminating that it could cause the defendant to suffer an unfavorable ruling at a plea withdrawal hearing, or new trial for that matter.

The defendant does understand that it may be this Honorable Court's intent to protect the defendant from any misrepresentation during the plea withdrawal hearing, but when he intends to make a showing, through text and witnesses, that his plea was clearly taken while he was not in his right state of mind (supported by transcript-filed with the court), it would be impossible for him to misrepresent himself. The fact that he was not in his right state of mind is well documented.

9. The CPCS has not yet contacted the defendant, despite his writing them, and to force him to wait until they decide to contact him would be meaningless as the defendant can show that his plea was entered as stated above.

WHEREFORE, the defendant requests that this Honorable Court (Hon judge Sweeney) allow him to represent himself at his plea withdrawal hearing, and that the court issue Subpoenas to his witnesses who will be speaking on his behalf to verify his mental health issues set forth in his plea withdrawal motions.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
MCI Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DOCKET No. 86-3252

COMMONWEALTH

vs.

DAVID ROBITAILLE
Defendant

NOTICE OF WAIVER OF COUNSEL

Now comes the defendant, David Robitaille, Pro Se, in the above-entitled matter, and, with respect of this Honorable Court, hereby WAIVES HIS RIGHT TO COUNSEL pursuant to Mass. R. Crim. P., Rule 8(e).

WHEREFORE the defendant requests that this WAIVER be filed by that Clerk of the court, and that it be brought before the Honorable judge Constance Sweeney in the Hampden Superior Court for review.

The defendant shall proceed from this point on in the pro se capacity, and so chooses to do so of his own free will, in his right mind, knowingly and voluntarily.

Dated:

Respectfully submitted,

David Robitaille pro se
Defendant
M.C.I. Shirley Medium
Post Office Box 1218
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS
HAMPDEN COUNTY
SUPERIOR COURT

SUPERIOR COURT
DOCKET NO.
86 3252

FILED

NOV 25 1992

COMMONWEALTH

v.

William J. Martin Jr.

CLERK/MAGISTRATE

DAVID ROBITAILLE

MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, David Robitaille, pro se, in the above-entitled action and moves this Honorable Court to appoint counsel to aid him in his pro se motion. Let the court understand that the defendant will be proceeding with the Motion for Release from Unlawful Restraint pro se with counsel. The defendant is a "jailhouse attorney."

1. The defendant is an inmate in a Massachusetts penal institution and cannot afford an attorney to represent him in this action.

Dated: 11/20/92

Respectfully submitted,

David Robitaille
David Robitaille pro se

Defendant
Northeastern
Correctional Center
Post office box 1069
West Concord, Ma. 01742

✓1993 June 2

Allowed. Refer to C.P.C.S. for designation of counsel.* No further action until appearance is filed by counsel along with any supplemental pleadings and a request for hearing by counsel. (Sweeney, J.)

Attest:

Suzanne S. Seguin
Deputy Assistant Clerk

The court insists I have counsel ↗

CHARLES K. STEPHENSON

ATTORNEY AT LAW

P. O. BOX 106

SOUTH HADLEY, MASSACHUSETTS 01075

413 467-7107

July 27, 1994

Mr. David Robitaille
Old Colony Correctional Center
One Administration Road
Bridgewater, Massachusetts 02324

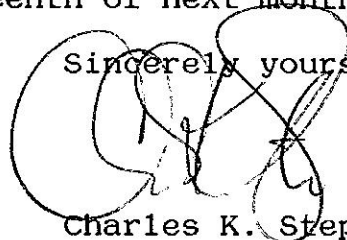
Dear David:

Enclosed is a bound copy of the complete motion. Although you made comments on a variety of other issues in your most recent letter, you offered no suggestions about the motion, so I have filed it in the same form as it appeared when I sent it for your approval.

I continue to press the District Attorney for an agreement. To date, there has been no positive response, in large part because of reservations based on your most recent parole hearings (denial of responsibility, failure to participate in programs.) In my latest reply, I pointed out that those recent developments are as a direct product of your pending motions for new trial--in turn provoked by your unfairly extended incarceration. I will let you know their response.

Until I see you on the eighteenth of next month, take care.

Sincerely yours,



Charles K. Stephenson

CKS/rm

encl.

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of JULY in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any. . . . is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid, on the first day of July in the year of our Lord one thousand nine hundred and eighty-six at Springfield . . . in the County of Hampden aforesaid,

did compel ~~_____~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~_____~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronald Nyantakyi*

Foreman.

Mary h. Han
ASST. District Attorney for the Western District

A true copy.

Attest: *Thomas P. Moriarty*

Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in the said County of
criminal business, on the First MON day of July
in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name . . . if any, . . . is to the Jurors aforesaid known
of 44 Biltmore Street, Springfield . . . in the County of Hampden aforesaid
on the first day of July
in the year of our Lord one thousand nine hundred and eighty-six
at Springfield . . . in the County of Hampden aforesaid.

did compel [REDACTED]
a child under sixteen years of age, to submit by force or by
threat of bodily injury and against [REDACTED] will to have sexual
intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred
sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: *Ronelle P. . . .*

Foreman.

Mary H. . . .
ASSC. District Attorney for the Western District

A true copy.

Attest:
Thomas P. . . .
Assistant Clerk

Commonwealth of Massachusetts

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, for the transaction of criminal business, on the First MON day of July in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid unknown, of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid, on the second day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid,

did compel ~~████████████████████~~ a child under sixteen years of age, to submit by force or by threat of bodily injury and against ~~██████~~ will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

The Bill for the Foreman's Report

Foreman.

[Signature]

District Attorney for the Western District

[Signature]

Commonwealth of Massachusetts

86-3255

HAMPDEN, to wit:

At the Superior Court begun and Holden at Springfield, within and for the County of Hampden, in its jurisdiction of criminal business, on the First Mon day of May in the year of our Lord one thousand nine hundred and eighty-six

The Jurors of said Commonwealth, on their Oath, present: THAT

DAVID JOHN ROBITAILLE

whose other or true name, if any, is to the Jurors aforesaid Defendant of 44 Biltmore Street, Springfield, in the County of Hampden aforesaid on the eighth day of May in the year of our Lord one thousand nine hundred and eighty-six at Chicopee, in the County of Hampden aforesaid.

did compel [redacted] a child under sixteen years of age, to submit by force or by threat of bodily injury and against [redacted] will to have sexual intercourse or unnatural sexual intercourse with the said

DAVID JOHN ROBITAILLE

in violation of section twenty-two A of Chapter two hundred sixty-five of the General Laws of Massachusetts, as amended.

A True Bill: Ronald Ryankiewicz

Foreman.

Mary H. Harris Asst. District Attorney for the Western District

A true copy.

Attest: Thomas P. Moriarty

at Clerk

Commonwealth of Massachusetts

(L S.)

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of David John Robitaille

of Springfield, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 20 years from and after this 12th day of June in the year of our Lord one thousand nine hundred and eighty-seven.

The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days of said sentence prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 20 years or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS Chief Justice of said Court, and the seal of said Court in Springfield, this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

2084

To the Superintendent of the receiving Correctional Institution you are hereby commanded to withdraw from David John Robinson inmate savings or personal accounts, as a court-imposed amount the first ~~XXXXXX~~ twenty-five dollars deposited to those accounts. A sum to be paid to this court for deposit in the Victim/Witness Fund pursuant to G.L. c. 258B, as added by c. 694 sec. 1 of Acts of 1987.

By the Court

Hon. Constance M. [Name]

8-21-90 (Hans) to Rec. 7-6-91 [Name] to PAPER.

15071

E-529999

8-20-87

No 86-3252
(MT)
Year 11/12
2-25-88

DAVID JOHN ROBINSON

WARRANT

MANAHOESSETTS CORRECTIONAL INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Justice of the Peace

Then personally appeared the said [Name] and made oath that the expenses mentioned were necessarily incurred in the charges reasonable.

Service
Travel
Copy
R. R. Fare

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attached copy of this warrant and to return thereon.

William [Name] Sheriff

Sheriff

*8-13-87 T. [Name] NECI [Name]
8-14-87 [Name] to MCI Concord
12-10-87 [Name] to [Name]
FAC - Greenfield
6-22-88 [Name] to [Name]*

10-24-88 [Name] to [Name]

*1-1990 letter to MCI
5-29-90 [Name] to MCI
6-21-90 [Name] to MCI*

Commonwealth of Massachusetts

HAMPDEN, to wit:

To the Sheriff of said County of Hampden, his Deputies, the Officers of the Court hereinafter named, and the Superintendent of the Massachusetts Correctional Institution, Concord in the County of Middlesex, in said Commonwealth,

WE COMMAND YOU, and each of you forthwith to convey and deliver into the custody of the Superintendent of the Massachusetts Correctional Institution, Concord, the body of **DAVID JOHN ROBITAILLE**

of **Springfield**, in said County of Hampden, who stands convicted before the Justices of the Superior Court for the transaction of Criminal Business, within and for the County of Hampden, of the crime of **Rape of child: Force. (265-22A)**

For which crime the said **David John Robitaille** is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of **20** years ~~and~~ from and after this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**. Said sentence to take effect concurrently with sentence in 86-3252. The Court upon imposing sentence ordered that said defendant be deemed to have served 345 days prior to trial or awaiting disposition.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said **David John Robitaille** into your custody in said Correctional Institution, and him there safely keep until the expiration of said **20** years ~~and~~ or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS **[REDACTED]** Chief Justice of said Court, and the seal of said Court in Springfield, this **twelfth** day of **June** in the year of our Lord one thousand nine hundred and **eighty-seven**.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~State~~

~~Service .50~~
~~Travel~~
~~Copy .25~~
~~R. R. Fare~~

Paul R. Fisher
Special State Police Officer

~~I had personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable.~~

~~Justice of the Peace~~

No. 86-3253

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Twenty Years

June 12, 1987

Commonwealth of Massachusetts

HAMPDEN

To the Justices of the Superior Court of the County of Hampden, for the Department of the Superior Court, in and for the County of Hampden, in the Commonwealth of Massachusetts.

We do hereby warrant and cause to be served on you, the said David John Robitaille, Superintendent of the Massachusetts Correctional Institution, Concord, in said County of Hampden, to receive the said David John Robitaille

of Springfield, in said County of Hampden, who has been committed to the custody of the Justices of the Superior Court for the County of Hampden, in and for the County of Hampden, of the crime of Rape of child: Force. 186-188

For which crime the said David John Robitaille is sentenced to be committed to the said Massachusetts Correctional Institution, Concord, in said County of Hampden, to be kept and governed, according to the rules of the same, for the term of 10 months from and after this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven. Said sentence to take effect on and after sentence in 86-3253.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS this twelfth day of June in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk.

A true copy.

SS/nm

Form 179

Attest:

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

9-2- 19 87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~R. R. Fare~~

And C. Field
Special State Police Officer

~~Then personally appeared the said~~
~~and made oath that the expenses above~~
~~mentioned were necessarily incurred and~~
~~the charges reasonable~~

~~Witness my hand~~

No. 86-3254

COMMONWEALTH

vs.

DAVID JOHN ROBITAILLE

WARRANT

MASSACHUSETTS CORRECTIONAL
INSTITUTION, CONCORD

Ten Years

June 12, 1987

Commonwealth of Massachusetts

L S)

HAMPDEN

To the Sheriff of the County of Hampden, in the County of Middlesex, in the State of Massachusetts, I, the Clerk of said Court, do hereby certify that the following is a true and correct copy of the original of the within and foregoing writ of Habeas Corpus, as the same appears from the records of said Court.

We do hereby certify that the within and foregoing writ of Habeas Corpus was issued by the Honorable the Justices of the Supreme Court of the Commonwealth of the Massachusetts, in and for the County of Middlesex, in the State of Massachusetts, on the 10th day of June, 1987, in the case of David John Robitaille

of Springfield, in the County of Hampden, who was brought before the Justices of the Superior Court for the correction of Criminal Justice, in and for the County of Hampden, of the crime of Rape of child: Force. (265-22A)

For which crime the said David John Robitaille is sentenced by said Court to be committed to the said Massachusetts Correctional Institution, Concord in said County of Middlesex, there to be kept and governed, according to the rules of the same, for the term of 10 years and XX from and after this twelfth day of June, 1987. Said sentence to take effect concurrently with sentence in 86-3254.

AND YOU the said Superintendent, in the name of the Commonwealth aforesaid, are hereby commanded to receive the said David John Robitaille into your custody in said Correctional Institution, and him there safely keep until the expiration of said 10 years and XX or until he be discharged in due course of law.

Hereof fail not at your peril, and make return of this warrant, with your doings thereon, to the office of the Clerk of said Superior Court, as soon as may be.

THOMAS R. MORSE, JR., ESQUIRE

WITNESS this twelfth day of June, 1987, in the year of our Lord one thousand nine hundred and eighty-seven.

Thomas P. Moriarty Assistant Clerk

A true copy.

SS/nm

Form 179

Attest

Thomas P. Moriarty

Assistant Clerk

HAMPDEN, to wit:

7-2-87

In obedience to the within warrant, I have conveyed the within-named defendant to the Massachusetts Correctional Institution, Concord, in the County of Middlesex, and delivered him to the Superintendent thereof, with an attested copy of this warrant, and my return thereon.

~~Service 30~~
~~Travel~~
~~Copy 25~~
~~A. R. Jan~~
~~then personally appeared the said~~
~~and made oath that the charges above~~
~~mentioned were lawfully levied and~~
~~the charges reasonable.~~

[Signature]
Special State Police Officer

~~Return on Warrant~~

No. 86-3255

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June 12, 1987

WILLIAM J. MARTIN JR.



FIRST ASSISTANT CLERK MAGISTRATE

CHRISTOPHER D. REAVEY

ASSISTANT CLERKS

WILLIAM L. EASON
ELIZABETH R. JANGROW
MARIE G. MAZZA
KATHLEEN M. MCGREAL

ADDRESS ALL CORRESPONDENCE TO:
CLERK SUPERIOR COURT
DEPARTMENT OF COURTS AND CLERKS
200 STATE STREET
SPRINGFIELD, MASSACHUSETTS 01103

County of Hampden
In The
Commonwealth of Massachusetts
Office of Clerk of Courts

Telephone 413-781-8100
FAX 413-737-1611

November 4, 1993

Mr. David Robitaille
P.O. Box 1218
Sudley, MA 01464

Dear Mr. Robitaille:

In reference to your request for this office to notify you of receipt of your Motion for discovery and Affidavit in support, please be advised that they were received on October 26, 1993 and the Judge and the District Attorney were notified.

Very truly yours,

A handwritten signature in cursive script that reads "Suzanne T. Seguin".

Suzanne T. Seguin
Deputy Assistant Clerk

/sts