

COMMONWEALTH OF MASSACHUSETTS
WORCESTER, SS. DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS
v.
JORGE ZAMBRANO,
Defendant.
* * * * *

Docket No. 1662CR001297

PRETRIAL HEARING
BEFORE THE HONORABLE ANDREW L. MANDELL

APPEARANCES:

For the Defendant:
Massachusetts Bar
44 Reservoir Street
Holden, MA 01520
By: Anthony Joseph Scola, Esq.

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Worcester, Massachusetts
March 31, 2016

1 (Case called.)

2 (12:15 p.m.)

3 THE CLERK: Attorney Scola, who do you have?

4 MR. SCOLA: Jorge Zambrano.

5 THE CLERK: What's the last name?

6 MR. SCOLA: Zambrano.

7 THE CLERK: Jorge Zambrano. Judge, two matters, 2015-
8 5754, a tender, 2016-537, a tender, and -- I said two
9 matters. Three matters. And 2016-1297, a tender. Your
10 Honor, I'll call it to be agreed upon and please raise your
11 right hand, sir.

12 (The defendant is sworn.)

13 THE DEFENDANT: I do.

14 THE CLERK: Thank you, sir.

15 THE COURT: Mr. Zambrano, I have three tenders of plea
16 form here. It looks like you signed each of them. Did you?

17 THE DEFENDANT: Yes.

18 THE COURT: And you read them over. You've gone over
19 them with your lawyer. You understand what's on them?

20 THE DEFENDANT: Yes.

21 THE COURT: How old are you, sir?

22 THE DEFENDANT: 35.

23 THE COURT: How far have you gone in school?

24 THE DEFENDANT: College credits.

25 THE COURT: Have you taken any medication --

1 THE DEFENDANT: No.

2 THE COURT: -- drugs or alcohol in the last 24 hours?

3 THE DEFENDANT: No.

4 THE COURT: Are you aware of any mental health issues
5 that you have or that you may be suffering from, or that you
6 are in counseling for?

7 THE DEFENDANT: None.

8 THE COURT: Do you understand that when you make these
9 decisions to plead guilty or make these admissions you're
10 telling me you're giving up your rights to have a trial
11 before a judge or a jury. A jury would consist of six
12 people. They come from all over Worcester County and they'd
13 all have to be convinced beyond a reasonable doubt that you
14 were guilty before you could be found guilty.

15 THE DEFENDANT: Yes.

16 THE COURT: You're also giving up your right to be
17 presumed innocent, the right to have your lawyer cross
18 examine witnesses against you, present evidence on your own
19 behalf and you're giving up your right to remain silent,
20 because when you make these admissions you're saying you
21 committed the offenses with which you are charged, leaving
22 the scene of a property damage accident, negligent operation
23 of a motor vehicle, failure to stop for the police,
24 operating after suspension, assault and battery on a police
25 officer, resisting arrest and operating after suspension

1 again on a different date.

2 You don't have to say anything against yourself or make
3 any admissions, but that's what you're doing here. Do you
4 understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Can I hear the facts, please?

7 THE PROSECUTOR: Thank you, Your Honor.

8 Docket 1662 CR-005754. On May 14th, 2015 officers of
9 the vice squad in the City of Worcester were doing some
10 surveillance in the City when they saw a black Chevrolet
11 bearing the registration plate 5XGM80 on Providence Street.
12 They saw the operator of the vehicle, recognized the
13 defendant immediately.

14 They knew from previous dealings that he did not have a
15 license and has not had a license for some years. They
16 attempted to initiate a stop on that vehicle.

17 It was at this point that Mr. Zambrano drove through a
18 parking lot a of a Cumberland Farms where he and struck
19 another vehicle, a Mercedes Benz, and the drive officers did
20 eventually make a stop and placed him under arrest.

21 Docket 1662CR000537, on January 24th, 2016, an officer
22 was dispatched to Lincoln Street for report of an accident
23 of some injury. The sole vehicle had the driver slumped
24 over the wheel. That operator was later identified as the
25 defendant in this matter.

1 As the officer opened the car to check on him the man
2 mumbled. He then grabbed the officer by the front of his
3 shirt, pulling him into the car. A brief struggle ensued.
4 The officer later did place him under arrest.

5 Docket 1662CR0001297. On January 19th, 2016, Worcester
6 Police officers did make a stop of a motor vehicle operated
7 by the defendant, Jorge Zambrano. It was later discovered
8 that he did not have a license to operate that vehicle.
9 Those are the facts in all three matters, Your Honor.

10 THE COURT: Well, he didn't have a license or his
11 license was suspended.

12 THE PROSECUTOR: His license was suspended.

13 THE COURT: Is that what happened in each of these
14 cases, sir?

15 THE DEFENDANT: Yes.

16 THE COURT: You've had enough time to talk to your
17 lawyer about all of this, right?

18 THE DEFENDANT: Yes.

19 THE COURT: You've gone over the evidence that would be
20 presented if the cases went to trial, right?

21 THE DEFENDANT: Correct.

22 THE COURT: And what the law is. What the government
23 would have to prove beyond a reasonable doubt before you
24 could be found guilty.

25 THE DEFENDANT: Correct.

1 THE COURT: And you do agree that on January 19th of
2 this year you were operating a motor vehicle on a public
3 way, your license was suspended and you knew it was, right?

4 THE DEFENDANT: Yes.

5 THE COURT: And on January 24th, five days later, you
6 were involved in the incident that was described to me. You
7 were in the car. You struck or put your hands on a police
8 officer without any legal justification, intentionally and
9 you resisted arrest. You tried to get away from him and in
10 the process you may have put him in some jeopardy of injury,
11 right?

12 THE DEFENDANT: Yes.

13 THE COURT: And finally you do agree that on May 14th,
14 2015 you were involved in a motor vehicle collision on a
15 public way or a way to which the public has a right of
16 access as invitees or licensees, that is the parking lot.
17 You knew you had a collision. You left the scene without
18 making yourself known. You operated negligently, that is in
19 a way that an ordinarily prudent person would not.

20 And as a result of that operation, the lives and safety
21 of the public might have been in danger and in addition, you
22 failed to stop for the police after they signaled you to
23 stop and you knew you should have, right?

24 THE DEFENDANT: Correct.

25 THE COURT: So you're pleading guilty to all of these

1 things because you are guilty, for no other reason. No
2 one's forcing you or making you do it.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You also understand that if you are not a
5 citizen of the United States, a guilty plea or finding or
6 admission could result in your deportation exclusion from
7 this country, or denial of naturalization.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And in addition, if the offenses to which
10 you are pleading guilty or making these admissions are under
11 federal law ones that are presumptively mandate removal and
12 federal officials seek removal, it is practically inevitable
13 that you would be deported, excluded from this country or
14 denied naturalization.

15 THE DEFENDANT: Yes.

16 THE COURT: Do we know what the restitution is?

17 THE PROSECUTOR: Yes, we do, Your Honor. It's \$1,000
18 in restitution. \$1,000 in damage was covered by insurance.
19 I spoke with the victim last night. He's still out \$500.

20 THE COURT: Are there any other witnesses or victim
21 impact statements that the Commonwealth wants to present?

22 THE PROSECUTOR: Your Honor, I spoke with the officer
23 involved in the lead docket -- I'm sorry -- in the second
24 incident.

25 He explained to me that the situation was tense but

1 that he recognizes that the defendant probably needs more
2 help than he does in jail time. Those are his words to me.

3 THE COURT: When was the last time you had a driver's
4 license?

5 THE DEFENDANT: I never had one in my life. Horrible
6 choice.

7 THE COURT: Not one of these cases would have happened
8 if you weren't driving, right? Not one.

9 THE DEFENDANT: My first lawyer was a court appointed.
10 That's what screwed me. Excuse me.

11 THE COURT: Well, putting that aside, you knew -- you
12 know you're not supposed to be driving and you're doing it.
13 So I mean, you're doing this to yourself.

14 THE DEFENDANT: No, I know.

15 THE COURT: All right. This is agreed upon. I'll do it.

16 You understand that you're going to be on probation now
17 for a year and if you violate the terms of your probation,
18 you could go to jail for up to two and a half years for
19 this. You know that, right?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. Count -- excuse me. On Docket no.
22 15-5754, Counts 1, 2, 3 and 4 will be continued without a
23 finding for one year. There's \$500 in restitution.

24 Mr. Zambrano will be required to pay a \$50 victim
25 witness fee. There'll be no probation and fee in view of

1 the fact that he is paying restitution, will undergo a
2 mental health evaluation and you'll have to go to treatment
3 if it's recommended. You're going to remain drug and
4 alcohol free, right? So there's random testing involved.

5 On Docket no. 537, both of those counts will be
6 continued without a finding under the same terms and
7 conditions. There's a \$50 victim witness fee. There'll be
8 no probation fee in view of the fact that he is paying
9 restitution.

10 And on Docket no. 1297, also continued without a
11 finding for one year. There's be no -- everything's
12 concurrent. There'll be no specific terms on that.

13 Mr. Zambrano, please be careful.

14 THE DEFENDANT: I'm trying.

15 THE PROBATION CLERK: Your Honor, for the record,
16 defendant is not a probation candidate.

17 THE DEFENDANT: Thank you.

18 THE CLERK: Commonwealth, did you pass in the
19 restitution sheet?

20 THE PROSECUTOR: I did.

21 THE COURT: Yes, it's here. I have it and I am signing
22 it.

23 THE CLERK: Thank you.

24 THE COURT: Report to probation, please, sir, and
25 follow their instructions.

1 THE CLERK: One year date is March 28th --

2 THE COURT: Oh, I'm sorry.

3 THE CLERK: -- 2017, Your Honor.

4 THE COURT: How long is it going to take you pay the
5 \$500?

6 MR. SCOLA: Judge, he'd need at least six months.

7 THE COURT: Okay. Six months it is. Thank you.

8 THE CLERK: And you can work out a payment plan with
9 the Probation Department.

10 MR. SCOLA: Thank you.

11 (Proceedings concluded at 12:25 p.m.)

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CERTIFICATION

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I, CHRISTINE FIORE, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, CHRISTINE FIORE, further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of this action.

Christine Fiore

CHRISTINE FIORE, CERT

May 25, 2016

Fiore Transcription Service, Inc.

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