

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. 1668CR00176

ARRAIGNMENT
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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Clinton, Massachusetts
February 11, 2016

1 (Case called.)

2 (11:13 a.m.)

3 THE CLERK: Commonwealth vs. Jorge Zambrano.

4 Sir, it is alleged by the Massachusetts State Police
5 that on February 10, 2016 Count 1, you did assault and beat
6 Heather Philip, a family or household member as defined in
7 Chapter 265, Section 13(m). Count 2, that you did trespass
8 on state or county property. Count 3, to resist arrest.
9 Count 4, that you were a disorderly person.

10 THE COURT: Mr. Scola, you're filing an appearance for
11 this gentleman?

12 MR. SCOLA: I have, Your Honor. Yes.

13 THE COURT: Okay. The issue is bail and I do have a
14 motion filed by the Commonwealth to revoke bail in docket
15 no. 1662-537. Let me see if I can find that somewhere on
16 here.

17 Presently, Mr. Zambrano has a case in Worcester, docket
18 no. 537 A and B on a PO, resisting arrest. I'll hear the
19 Commonwealth and then I'll hear from Mr. Scola on the issue
20 of bail, and revocation of bail.

21 THE PROSECUTOR: Thank you, Your Honor.

22 Mr. Zambrano appears to have been arraigned on the
23 Worcester matter on January 25th of 2016. Presumably on
24 that date he was given the bail warning when he was
25 arraigned. He was charged with assault and battery on a

1 police officer and resisting arrest.

2 In addition, he had some open matters at that time out
3 of Worcester District Court. The new date of offense is
4 February 10th.

5 The allegations -- again, the police were notified --
6 they were called by an individual, a civilian that stated
7 they observed Mr. Zambrano strike the female operator of a
8 vehicle at 495.

9 They responded to the location. They saw him walking
10 in the area. They talked to him.

11 When they went to place him under arrest, they did feel
12 a hard object in his pocket. He began not complying with the
13 officers. He was pulling his arm away from the officer,
14 indicating he was not going back.

15 An off duty Hudson police officer was driving by,
16 stopped, asked if the trooper needed assistance. The
17 trooper did request assistance. They continued to try to
18 place him under arrest and he refused those efforts.
19 Essentially, that off duty officer had visible injuries to
20 his right hand. He had at least two lacerations, according
21 to the state trooper, on his middle and ring finger. His
22 hand was bandaged up and he would follow up with his own
23 medical care.

24 Another trooper who had arrived came back and had a
25 scratch on her nose that appeared to be fresh as well, due

1 to the resisting arrest.

2 When he was -- during the ride back to the barracks,
3 Mr. Zambrano was screaming. He was kicking his legs. He
4 was flaying his arms and he was crying. He stated several
5 times how he could take all of the officers on.

6 I can tell Your Honor that the complaining witness as
7 to Count 1 is here today. She denies the allegations as to
8 Count 1. Indicates that she was never struck by Mr.
9 Zambrano, which there's a conflicting statement, obviously,
10 from the caller. And I was intending to listen to a 911
11 tape to see exactly what the caller stated on the next date.

12 But more troubling is the resisting arrest charge
13 leading to at least some injuries to the troopers.

14 If you look at Mr. Zambrano's record, the open matter
15 is an assault and battery on a police officer. Throughout
16 his record, on almost all of his charges, there's a
17 resisting arrest or assault and battery on a police officer
18 charge. And based on those reasons, Your Honor, I am moving
19 to revoke his bail on the open Worcester matter.

20 On the new matter, based on his 11 page history, his
21 lengthy history of incarceration as well. I'd ask for \$2,500
22 cash bail.

23 THE COURT: Mr. Scola, just give me a second.

24 MR. SCOLA: Yes, Your Honor.

25 (Pause.)

1 THE COURT: Well, this gentleman now has two open cases
2 in Worcester.

3 I'll hear you.

4 MR. SCOLA: Thank you, Your Honor.

5 Mr. Zambrano, is 31 years old, Judge. He's single with
6 one child. He is employed, Judge, by a company called
7 Renovations out of Marlborough. On this date, Judge, he was
8 working in Acton.

9 Ms. Philips, the alleged victim in this case, Judge,
10 had driven him out there in the morning. Had come to pick
11 him up in the afternoon. She owns a 2011 Hyundai, Judge,
12 Sonata.

13 She says that when they were driving down 495 all the
14 electrics in the car just shut down right by the exit 26,
15 Judge. Ms. -- they were on their way back to Worcester,
16 Judge, to pick up her child, who was going to be dropped
17 off. He goes to the Kelly Abbott School, Judge, in
18 Worcester.

19 She was saying that last month the child was dropped
20 off unattended and they were struck by a vehicle, Judge. The
21 policy was now that a parent had to be there.

22 They were on the phone, Judge, back and forth trying to
23 get someone to pick up the child or be there when the child
24 was off the bus, Judge.

25 She would indicate, Judge, that this -- there was no

1 argument. That she was just upset, Judge, trying to find
2 someone to pick her child up.

3 Mr. Zambrano was going to the gas station on that exit,
4 Judge, and he was actually cutting across the interchange,
5 Judge, to get to the gas station to see if they could get
6 some help.

7 The incident also -- the report states, Judge, that the
8 officer didn't want to hear his statement and it even says
9 that, Judge. My client just kept telling him that he's got
10 to take this call. That he had called the school. That
11 someone was calling him back. He wanted to answer it and he
12 was cuffed at that time, Judge, on one hand. He then
13 stiffened.

14 He was then pepper sprayed, Judge, and that's when the
15 other officer came and subdued him. He said that -- and
16 again in the report, Judge, he said when he got to the
17 police station he was allowed to wash his eyes out and dress
18 himself. That's why he was in so much distress on the way
19 back to the police station, Judge.

20 THE COURT: Unfortunately, sometimes people's history
21 follows them.

22 MR. SCOLA: If you do look at his record, Judge, he
23 hasn't had a default since 2006.

24 THE COURT: It's not the defaults that trouble me.

25 MR. SCOLA: Judge, I don't even know -- we were in

1 court on Monday, Judge, or at least I was. Because of the
2 snow storm, Mr. Zambrano was going to be late. We were just
3 going to get another date.

4 I'm not even sure if he was arraigned yet on that other
5 assault and battery, Judge. And they put the case over to
6 March 4th for disposition.

7 The alleged victim on the -- leaving the scene,
8 Judge, was supposed to be there. She couldn't be there as
9 well and so we continued the case, actually without my
10 client even being there, given the weather.

11 THE COURT: Well, look. If there's some question about
12 whether a Judge gave him his bail warnings, that's fine, but
13 he must have signed a recog slip and, you know, Mr.
14 Zambrano's been around the block. He knows if he gets
15 arrested again, his bail could be revoked. I don't have any
16 doubt about that.

17 MR. SCOLA: We could post some bail, Judge. I would
18 suggest \$500.

19 THE COURT: But he -- this is troubling. Authority
20 means nothing to him. In fact, it's exactly the opposite.

21 MR. SCOLA: Judge, I've been doing this 33 years and I
22 know you've been on both sides of this, Judge --

23 THE COURT: Yes.

24 MR. SCOLA: -- and I don't think we stand in the same
25 shoes as Mr. Zambrano, Judge. Just as people's records

1 follow them, Judge, I think there are other issues as well
2 that can be pointed the other way.

3 THE COURT: Well, I mean, it was a while ago, but he
4 got two and a half years in jail for assault and battery on
5 a police officer, along with another more significant
6 sentence.

7 I mean, how many times is it going to take here? He
8 may not like what a police officer says, but he's got to,
9 you know, listen and obey them.

10 MR. SCOLA: Judge, I can honestly say he's a very
11 engaging and a nice guy and even his girlfriend would say
12 that, Judge --

13 THE COURT: Well, he may be.

14 MR. SCOLA: And he does have, I would say, a mistrust
15 for the police, Judge, and that's putting it mildly, I
16 think.

17 THE COURT: Well, look. That's too bad, but --

18 MR. SCOLA: I agree.

19 THE COURT: I mean, in 1998 he had one, failure to obey
20 a police officer. 2002 he had one. Just not, you know, I
21 don't know why the police ought to have to worry about him.

22 (Pause.)

23 THE COURT: All right. The bail on this case will be
24 \$5,000 with surety of \$500 cash.

25 Mr. Zambrano -- Mr. Zambrano, listen to me.

1 THE DEFENDANT: I apologize. I apologize, Your Honor.

2 THE COURT: \$5,000 with surety. \$500 cash. You do
3 have a right to a bail review. I'm not going to revoke your
4 bail on the other cases, but you never know where I'm going
5 to turn up. If I see you again, just figure the next stop
6 is West Boylston. Understood?

7 THE DEFENDANT: Thank you, Your Honor. Sorry about
8 that.

9 THE COURT: You have a right to a bail review.

10 I do want to tell you if at any point during the
11 course of these proceedings or any other proceedings that
12 you are now engaged in, you get arrested or another criminal
13 offense is issued against you, a criminal complaint is
14 issued against you, there'll be a hearing after which your
15 bail could be revoked. You could be held without bail up
16 until trial.

17 There's no excuse for this. Don't let it happen again.
18 If a police officer wants to talk to you, you'd better talk
19 to him and behave.

20 The 56(a) form I will sign based on the representations
21 of the district attorney. What date?

22 THE PROSECUTOR: Any time after the first week of
23 March.

24 THE CLERK: No Wednesday's so the 15th or 18th.

25 THE PROSECUTOR: The 15th is good.

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THE CLERK: That 's a Tuesday. March 15. \$500 cash.

MR. SCOLA: Thank you, Your Honor.

(Proceedings concluded at 11:27 a.m.)

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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Proceedings recorded by digital recording system, transcript produced by transcription service.

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**The Commonwealth of Massachusetts
OFFICE OF COURT MANAGEMENT, Transcription Services**

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TODAY'S DATE: May 25, 2016

TRANSCRIBER NAME: Christine Fiore

CASE NAME: Comm v Zambrano

DOCKET NO: 1668CR000176

RECORDING DATE: April 11, 2016

TRANSCRIPT VOLUME: 1 of 1

(circle one) **TYPE:** CD TAPE **QUALITY:** EXCELLENT GOOD FAIR POOR

(circle all that apply) **ISSUES** *(include time stamp):*

background noise

time stamp:

low audio

low audio at sidebar

simultaneous speech

speaking away of microphone

other: unintelligible speech

time stamp:

microphone malfunction

COMMENTS: