

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

WEST ROXBURY DISTRICT COURT
DOCKET NO. 2206CR000682

COMMONWEALTH

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v.

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RODERICK WEBBER,

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Defendant

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RULE 17 REQUEST FOR RECORDS

Now comes the Defendant in the above-captioned matter and respectfully moves this Honorable Court, pursuant to Mass. R. Crim. P. 17(a)(2) to order the production of the following material and relevant documentary evidence and data on or before December 21, 2022, together with a certificate from the keeper of the records authenticating the same.

Keeper of Records:

Boston Police Department
Bureau of Professional Standards
1 Schroeder Plaza, Boston, MA 02120

Records Requested:

A complete copy of any and all statements, evidence, records and reports contained in the personnel, internal affairs and anti-corruption files relative to Captain John Hughes.

As reasons for this request, the Defendant refers this Honorable Court to the Affidavit of Attorney Murat Erkan and Commonwealth v. Adams, 416 Mass. 558 (1993).

Wherefore, the Defendant respectfully requests that this Honorable Court allow this motion.

Respectfully submitted,
Roderick Webber,
By his Attorney:
/s/ Murat Erkan
Murat Erkan, BBO: 637507
300 High Street
Andover, MA 01810

Date: October 13, 2022

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AFFIDAVIT IN SUPPORT OF RULE 17 MOTION

I, Attorney Murat Erkan, under oath, state the following is true to the best of my knowledge, information, and belief:

1. My name is Murat Erkan. I represent Mr. Roderick Webber in above-captioned case.
2. Mr. Webber is charged with allegedly assaulting BPD Captain John Hughes.
3. Mr. Webber was at the West Roxbury District Courthouse on the day of the incident to document and advocate against NSC-131, a Nazi hate group which has increased its presence in Boston. The leader of that organization was to be arraigned on criminal charges connected with its anti-LGBTQ activities in Boston over the weekend.
4. WBZ1030 footage and Mr. Webber's personal cellphone camera captured the events which occurred at the courthouse.
5. Footage shows that Mr. Webber was assaulted by the NSC-131 group as they walked to the entrance of West Roxbury District Court.
6. After getting back to his feet, Mr. Webber followed his assailant and repeatedly shouted to police nearby that he had been assaulted and pointed to the perpetrator.
7. As Mr. Webber approached the front door to the courthouse, the footage shows that Captain Hughes blocked his path and pushed Mr. Webber backwards down the courthouse stairs.

8. Mr. Webber got up and walked back toward the entrance where he told officers that Captain Hughes had pushed him down the stairs.
9. Captain Hughes heard the threat, he pushed past the other officers and falsely arrested Mr. Webber for assaulting him.
10. Captain Hughes was previously found to have used excessive force and enjoined by the court from further misconduct.
11. The facts of the incident are memorialized in Commonwealth v. Adams, 416 Mass. 558 (1993), where the SJC upheld the injunction against Hughes and other officers.
12. During the May 12, 1988, arrest of John Smith, Jr., Hughes and other officers became frustrated when Smith failed to stop his vehicle.
13. The trial judge found that Hughes and the other defendants "had developed not only a high degree of frustration and emotional excitement concerning Smith's refusal to stop, but also strong feelings of anger and personal animosity toward the as-yet unidentified driver of the vehicle they had been vainly trying to halt, who had repeatedly swerved so as to threaten one or another police cruiser." Id. at 560.
14. After a pursuit, excessive force was used despite Smith not resisting.
15. Though some officers were admonished and enjoined for passive observation, Hughes was one of the officers specifically found to have dragged Smith out through the broken window of his vehicle, thrown him to the street, hurled himself on top of Smith solely to "punish him for leading the police in the chase," and leaving Smith handcuffed with his hands behind his back face-down on the pavement for 5 to 10 minutes "[a]lthough there was no valid police reason to do so." Id. at 561.
16. The Anti-Corruption Division of the Boston Police Department "investigates instances in which a City employee

is reported or suspected of involvement in criminal activity involving abuse of position[.]"¹

17. The Internal Affairs Division of the Boston Police Department "investigates incidents of alleged police misconduct[.]"²
18. Any records possessed by the Anti-Corruption Division and Internal Affairs Division of the assault on Mr. Smith and similar misconduct by Captain Hughes are evidentiary and relevant. The records would contain statements by Captain Hughes and additional facts and circumstances of the assault, which can be used to show a pattern of conduct that Captain Hughes retaliates in the line of duty when frustrated. It also goes to the Defendant's claim that he was arrested not because he assaulted Captain Hughes but because he accused Captain Hughes of assaulting him.
19. Aside from a court order, Mr. Webber has no other means to obtain the records.
20. The records are necessary for efficient trial preparation and this application is made in good faith.
21. The Commonwealth represents that it does not have custody or control of the records.

Signed under the pains and penalties of perjury on October 13th, 2022.

/s/Murat Erkan

Murat Erkan, BBO# 637507

¹ Bureau of Professional Standards, Official Website of the Boston Police Department, BPDNews.com/bps

² Bureau of Professional Standards, Official Website of the Boston Police Department, BPDNews.com/bps

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RODERICK WEBBER,

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Defendant

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AFFIDAVIT IN SUPPORT OF RULE 17 MOTION

IT IS HEREBY ORDERED, pursuant to Mass. R. Crim. P. 17(a)(2), that the Bureau of Professional Standards of the Boston Police Department provide to the Clerk's Office of West Roxbury District Court before December 21, 2022:

1. A complete copy of any and all statements, evidence, records and reports contained in the personnel, internal affairs and anti-corruption files relative to Captain John Hughes.
2. a certificate from the keeper of the records authenticating the same.

SO ORDERED.

Justice, West Roxbury District Court

Dated: