

# MBTA bus driver held after violent confrontation

Man hospitalized after encounter



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ARAM BOGHOSIAN FOR THE BOSTON GLOBE

**Smith, a T driver, appeared in Lynn District Court for arraignment on a charge of assault and battery with a dangerous weapon. He was held pending a hearing next week.**

**Crimaldi** | GLOBE STAFF MARCH 04, 2015

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On his way home at 10:45 p.m. Tuesday, Matthew Theisz missed his stop and got off in Lynn's Central Square, where he said he needed help finding a bus to

reach MBTA bus driver Derek Smith. The encounter turned violent, though the two gave differing accounts of how they came to blows, a prosecutor said.

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40-year-old Smith is being held without bail pending a dangerousness hearing. The court charged him with assault and battery with a dangerous weapon.

The man for the T said Smith, hired by the transit agency four years ago, has been laid off without pay.

"The TA regrets the pain caused by this behavior," said Joe Pesaturo, spokesman for the Massachusetts Bay Transportation Authority. "No one should have to endure an assault like this."

Theis, 33, was admitted to Massachusetts General Hospital, where he was being treated Wednesday for a hemorrhage between the brain and the skull, according to a court report filed in Lynn District Court.

"He stomped on me and kicked me in the head," Theisz said in a phone interview. "He threw the crap out of me and left me there."

Theis appeared Wednesday before Judge Cathleen Campbell, where he listened as a prosecutor described Theisz's injuries, including cuts on his nose and left temple and a bruise on the side of his head.

Boyd, an Essex assistant district attorney, said that Theisz was looking for help to find another bus when he approached Smith.

tates that when he was speaking with the driver of that bus, the driver became it, verbally aggressive, and then charged off the bus and physically attacked rd said.

Police met with Theisz at NSMC Union Hospital in Lynn, before he was transported to Mass. General. An officer said there was a “strong odor” of alcohol on Theisz’s breath, but his speech was not slurred and he “appeared alert and coherent,” the report said. Theisz said he “had a beer at five o’clock,” according to the report.

Smith was interviewed by MBTA Transit Police officers about 2:35 a.m. Wednesday, the police report said.

He told officers that a man approached his bus and started banging on the window, telling him to stop, Boyd said. Smith said he told the man he could stop only at designated bus stops, Boyd said.

“He states at that time, the individual made a snowball and threw it at him inside the bus,” Boyd said. At that point, Smith “lost it,” according to the police report.

Transit Police described Smith’s account of what happened next as “vague and inconsistent.”

“At first he states that when he confronted this individual, he turned around to leave and was struck in the back of the head by the individual,” Boyd said. “The next statement . . . is that this defendant admits to striking the victim first with a closed fist.”

Theisz said he has no memory of throwing a snowball.

Roarke Phinney, who witnessed the attack, said it unfolded quickly, and Smith stomped on Theisz’s head. Phinney yelled repeatedly to intervene, but Smith drove away, the police report said. Phinney called 911.

“It was pretty brutal,” he said in a telephone interview.

Smith is scheduled back in court Monday when a judge plans to conduct a dangerousness hearing and decide whether to revoke his bail on an unrelated case out of the East Boston division of Boston Municipal Court. Defense attorney Chris Mangos agreed to let Smith be held and said he was gathering information about the new case.

The East Boston charges stem from a Feb. 6, 2014, incident in which Smith was accused of refusing to provide police with a license or registration and resisting arrest, said Jake Wark, spokesman for Suffolk District Attorney Daniel F. Conley. Pesaturo, the T spokesman, said the T investigated the 2014 episode and “found no evidence that the bus operator acted inappropriately.”

Betty Smith, who has a child with the bus driver, said he is not violent. The pair have the same last name but are not married, she said.

She said the bus driver had been attacked on the job before and injured his hand. “If you got attacked at one time, and then the second time, you’re going to have to defend yourself,” Betty Smith said.

Pesaturo said Doug Bergeron of Medford was found guilty in Chelsea District Court on Nov. 17, 2014, for assault and battery on a public employee in an attack on Derek Smith.

Theisz, who teaches math and physics at Benjamin Franklin Institute of Technology in Boston, said he is worried about the future of his academic career.

“I’m a college professor and my brain is bleeding,” he said. “I want the MBTA to come down here and apologize to me. I need an apology.”

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