

STATE OF MAINE
CUMBERLAND, ss.

STATE OF MAINE
CUMBERLAND, SS
CLERK'S OFFICE

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO: CR-08-890

2009 JUL 21 PM 10:59

STATE OF MAINE

Plaintiff

v.

ORDER

THOMAS A. CASSIDY

Defendant

Before this Court is Defendant Thomas Cassidy's motion to suppress.

FACTUAL BACKGROUND

Based on the evidence introduced at hearing on July 7, 2009, this Court makes the following findings of fact:

In the early hours of April 11, 2008, a series of fires were reported to the Portland Police Department. The first of these car fires was reported just after 4:00 a.m., and based on subsequent reports of additional fires, it was apparent to investigators that fires were being started in an eastward direction from the location of the originally reported fire.

Shortly before 6:00 a.m. that morning, Sergeant John Nueslein of the Portland Police Department was responding to a report of a car fire on the corner of Pleasant Street and Maple Street. Sergeant Nueslein testified that prior to being directed to the corner of Pleasant and Maple, he had stopped, and had directed the officers under his command to stop, all individuals who were physically present at or around the areas in which the car fires burned. These individuals were approached so that police could ascertain the identities of all

possible witnesses and/or suspects, as at this time, investigators did not have the actual identity or a description of any possible suspects.

While en route to the car fire and driving west on Pleasant Street, Sergeant Nueslein noticed a white male, now known to be the Defendant, walking in an easterly direction, about one hundred yards away from the fire burning at Pleasant and Maple. Sergeant Nueslein pulled his marked police cruiser to the side of the street, exited the vehicle, approached the Defendant, and when he was about fifteen to twenty feet from him, called out and asked the Defendant if he could speak with him. The Defendant answered "yeah." As Sergeant Nueslein spoke with the Defendant he noticed that the Defendant had alcohol on his breath. Further, while the Defendant was speaking well enough to be understood, Sergeant Nueslein testified that Defendant seemed to be looking right through him.

As he was speaking with the Defendant, Sergeant Nueslein noticed that the Defendant had what looked to be a knife handle protruding from his right front pants pocket. When asked about it, the Defendant informed Sergeant Nueslein that it was a "special forces" knife that his brother had given him. At that point, Sergeant Nueslein took the knife by the handle, removed it from Defendant's pocket and put it in his own. Sergeant Nueslein then asked the Defendant if he had any other weapons on him, and the Defendant told him that he did not. Subsequently, Sergeant Nueslein conducted a patdown search of the Defendant in an effort to determine whether he had additional weapons in his possession.

While conducting this patdown, Sergeant Nueslein felt a heavy object, five to six inches long and made of solid steel, in the Defendant's sweatshirt pocket.

Sergeant Nueslein took the item from the Defendant's pocket and determined that the item was, in fact, a pair of "brass knuckles." At this point, Sergeant Nueslein placed the Defendant's hands behind his back and handcuffed him. Sergeant Nueslein testified that he handcuffed the Defendant for his own safety, as he was without a backup officer at this time.

After securing the Defendant in handcuffs, Sergeant Nueslein continued his patdown search of the Defendant's person. As he frisked the Defendant's left pants pockets, he felt another hard object and asked the Defendant what it was. The Defendant responded by stating that it was an iPod. Unsure if the item was an iPod or a weapon, Sergeant Nueslein removed the object and discovered that it was, in fact, an iPod. Sergeant Nueslein then continued his pat down of Defendant, and felt small objects in Defendant's shirt pocket. When asked, the Defendant informed Sergeant Nueslein that the items he felt were lighters, and after getting permission from the Defendant, Sergeant Nueslein removed the lighters from the shirt pocket. Continuing his pat down of the Defendant, Sergeant Nueslein felt what he believed to be a large quantity of change in Defendant's back pocket. When asked, Defendant confirmed that he had a large amount of change.

At this point, Sergeant Nueslein asked the Defendant for his name and date of birth, and the Defendant provided this information. Soon thereafter, Officer Ryan Gagnon, arrived on the scene, followed by Detective Paul Murphy. Sergeant Nueslein then inquired with one of the officers working the fire scenes if one or more of the victims were missing any of the items found on Defendant's person. Sergeant Nueslein was informed that one victim, whose car was parked at Park Street, was missing an iPod matching the description of the one found on

Defendant's person. Thereafter, upon the direction of Detective Murphy, Officer Gagnon transferred the Defendant to the police station for questioning.

DISCUSSION

Both the Fourth Amendment to the United States Constitution and Article I, Section 5 of the Maine Constitution "protect us from unreasonable intrusions of police officers and other government agents." *State v. Burgess*, 2001 ME 117, ¶ 7, 776 A.2d 1223, 1227 (quoting *State v. Caron*, 534 A.2d 978, 979 (Me. 1987)).¹ The test espoused by the United States Supreme Court in the case of *Terry v. Ohio*, 392 U.S. 1 (1968), has long been adopted and applied in Maine. See, e.g., *State v. Langlois*, 2005 ME 3, ¶ 7, 863 A.2d 913, 916; *State v. Moulton*, 1997 ME 228, ¶ 10, 704 A.2d 361, 364; *State v. Griffin*, 459 A.2d 1086, 1089 (Me. 1983).

Under this test, "an investigatory stop is justified if at the time of the stop the officer has an articulable suspicion that criminal conduct has taken place, is occurring, or imminently will occur, and the officer's assessment of the existence of specific and articulable facts sufficient to warrant the stop is objectively reasonable in the totality of the circumstances." *Burgess*, 2001 ME 117, ¶ 7, 776 A.2d at 1227 (quoting *State v. Tarvers*, 1998 ME 64, ¶ 3, 709 A.2d 726, 727 (internal quotation marks omitted)); see *Terry*, 392 U.S. at 21-22. "Reasonable articulable suspicion 'is considerably less than proof of wrongdoing by a preponderance of the evidence,' but 'the suspicion needs to be based on more than speculation or an unsubstantiated hunch.'" *Burgess*, 2001 ME 117, ¶ 8, 776 A.2d at 1227 (quoting

¹ Further, evidence obtained in violation of the Fourth Amendment is inadmissible in state courts under the due process clause of the Fourteenth Amendment. *Mapp v. Ohio*, 367 U.S. 643, 81 S. Ct. 1684, 6 L. Ed. 2d 1081 (1961).

State v. Eklund, 2000 ME 175, ¶ 6, 760 A.2d 622, 624 (internal quotation marks omitted)).

The legitimacy of an investigatory search or seizure requires a two-step analysis. *State v. Hill*, 606 A.2d 793, 795 (Me. 1992). "The court must first consider whether the officer's action was justified at its inception; and, second, whether the action taken was reasonably related in scope to the circumstances which justified the interference in the first place." *Id.* (quoting *Terry*, 392 U.S. at 20).

I. Initial Contact Between the Defendant and Sergeant Nueslein

The Defendant argues that his rights were violated when Sergeant Nueslein initially stopped him because at the time he approached the Defendant, Sergeant Nueslein did not have reasonable articulable suspicion to believe that the Defendant was doing anything illegal. However,

Law enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street or in another public place, [or] asking him if he is willing to answer some questions . . . If there is no detention -- no seizure within the meaning of the Fourth Amendment -- then no constitutional rights have been infringed.

State v. Laplante, 534 A.2d 959, 962 (Me. 1987) (quoting *Florida v. Royer*, 460 U.S. 491, 497-98 (1983)); see also, *Terry*, 392 U.S. at 34 (White, J. concurring) ("There is nothing in the Constitution which prevents a policeman from addressing questions to anyone on the streets. Absent special circumstances, the person approached may not be detained or frisked but may refuse to cooperate and go on his way").

Here, when Sergeant Nueslein approached and asked the Defendant if he could speak with him, the Defendant responded in the affirmative. Thus, while it is arguable whether or not Sergeant Nueslein had the requisite suspicion to require the Defendant to stop and speak with him, because the Defendant

consented to speaking with Sergeant Nueslein, it cannot be said his constitutional rights were violated.²

II. The Protective Search for Weapons

Alternatively, the Defendant argues that even if his rights were not violated when Sergeant Nueslein approached him, his rights were violated when Sergeant Nueslein, after seeing the knife in the Defendant's pocket, proceeded to pat him down for weapons. "The validity of the stop and the validity of the frisk are to be assessed separately, but a frisk cannot be upheld if the initial stop was improper." *State v. Hasenbank*, 425 A.2d 1330, 1332 (Me. 1981). As such, because this Court has already determined that Defendant's rights were not violated when Sergeant Nueslein approached the Defendant and asked if he could speak with him, this Court must now decide whether Sergeant Nueslein's protective frisk of the Defendant was valid.

A police officer may perform a limited protective search for concealed weapons if that officer "reasonably believed, in light of his experience, that an individual he was investigating might be armed and dangerous." *Id.* (citing *Terry*, 392 U.S. 1). "[The] issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27.

The circumstances of this case justified Sergeant Nueslein in his reasonable belief that the Defendant might be armed and dangerous. Sergeant Nueslein first approached the Defendant during the early morning hours, a time when there were very few, if any, people around. Moreover, at this time Sergeant

² To the extent that the Defendant argues that his consent was involuntarily given, nothing in the record support such a conclusion.

Nueslein was without backup. While admittedly the Defendant made no furtive or sudden movements during his conversation with Sergeant Nueslein, the smell of alcohol was emitting from his breath and the Defendant was acting in a way to suggest that he was under the influence of an intoxicant. Moreover, Sergeant Nueslein did not begin to frisk the Defendant for weapons until after he observed and removed from Defendant's pocket a "special forces" knife. Thus, based on these circumstances, it cannot be said that Sergeant Nueslein acted unreasonably in taking preventive measures to ensure that the Defendant did not have additional weapons on his person.

A. Scope of the Protective Search

1. The Brass Knuckles

A search for weapons conducted during a valid investigatory stop must be "strictly circumscribed by the exigencies which justify its initiation." *Terry*, 392 U.S. at 26. Because the sole justification for a *Terry* search is the protection and safety of police officers and others nearby, the search must be "confined in scope to an intrusion reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer." *State v. Storey*, 1998 ME 161, ¶ 15, 713 A.2d 331, 334 (quoting *Terry*, 392 U.S. at 29). "If the protective search goes beyond what is necessary to determine if the suspect is armed, it is no longer valid under *Terry* and its fruits will be suppressed." *Id.* (quoting *Minnesota v. Dickerson*, 508 U.S. 366, 374 (1993)). However, if during this limited patdown, the officer discovers an object that feels like a weapon he is authorized to remove it. *Terry*, 392 U.S. at 29-30.

Here, Sergeant Nueslein testified that after he took the knife from Defendant's pocket and secured it, he performed a limited pat down of the

Defendant's person in order to determine whether Defendant had more weapons on him. During this frisk, Sergeant Nueslein felt what he described as a hard, thin, solid metal object that was between 5-6 inches long and was "sagging" in the Defendant's sweatshirt pocket. Sergeant Nueslein, believing it to be a weapon or other item that could be used to harm him, removed the object from the Defendant's sweatshirt pocket to reveal that the object was, in fact, a set of brass knuckles.

From these facts, it is apparent that Sergeant Nueslein search of Defendant's person did not go beyond what was necessary to determine whether the Defendant remained armed. Sergeant Nuelein's search was limited to a pat down of the Defendant's person, and it was not until he felt the hard, solid metal object in the Defendant's sweatshirt pocket, an object that Sergeant Nueslein's believed was or could be used as a weapon, that he reached in Defendant's pocket to retrieve the brass knuckles. As such, this Court finds that Sergeant Nueslein's limited search of Defendant's person was valid because it was "confined in scope to an intrusion reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer." *Storey*, 1998 ME at ¶ 15, 713 A.2d at 334.

2. The Remaining Items Found on Defendant's Person

Sergeant Nueslein testified that after he took the brass knuckles from the Defendant, he placed the Defendant in a pair of handcuffs. Thereafter, in an effort to determine whether the Defendant had any other weapons on his person, he continued his protective search of the Defendant. However, at this point in the search, because the Defendant was already secured in handcuffs, it is arguable "whether a reasonably prudent man in the circumstances would be warranted in

the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27. Such a belief is necessary in order to conduct a limited protective search of a person under *Terry*. However, despite the fact that Sergeant Nueslein neutralized any possible threat posed by the Defendant by placing him in handcuffs, the evidence found during his subsequent search of the Defendant remains admissible.

The inevitable discovery doctrine "permits the use of evidence that has been obtained in violation of the Fourth Amendment to the United States Constitution and article I, section 5 of the Maine Constitution when that evidence 'inevitably would have been discovered by lawful means.'" *State v. Rabon*, 2007 ME 113, ¶ 19, 930 A.2d 268, 276 (quoting *Nix v. Williams*, 467 U.S. 431, 444 (1984)).

Here, Sergeant Nueslein testified that after he found the brass knuckles on the Defendant's person, he decided that he was going to arrest the Defendant on the charge of carrying a concealed weapon in violation of 25 M.R.S.A. §2001-A(1)(B). Thus, while under *Terry*, it is arguable whether Sergeant Nueslein had the authority to continue his protective pat down of the Defendant after the Defendant had been placed in handcuffs, because the Defendant was going to be arrested for possessing a concealed weapon, everything found on the Defendant's person after the time he was handcuffed, namely the iPod, pocket changes, and lighters, would have been inevitably found in a search incident to arrest. As such, these items are admissible.

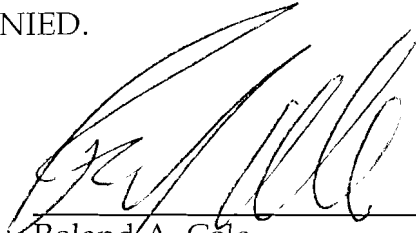
IV. Conclusion

As this Court finds that Defendant's rights were not violated when he was approached and subsequently frisked by Sergeant Nueslein, the motion to suppress is denied.

Therefore, the entry is:

Defendant's Motion to Suppress is DENIED.

Dated: July 31, 2009



Roland A. Cole
Justice, Superior Court

STATE OF MAINE
vs
THOMAS A CASSIDY
14 FREDERICK STREET
PORTLAND ME 04102

SUPERIOR COURT
CUMBERLAND, ss.
Docket No PORSC-CR-2008-00890

DOCKET RECORD

DOB: 03/02/1989

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PORTLAND ME 04102
WITHDRAWN 05/05/2009

State's Attorney: STEPHANIE ANDERSON

Attorney: LEONARD SHARON
LEONARD SHARON ESQ PC
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PO BOX 258
AUBURN ME 04212-0258
RETAINED 05/04/2009

Filing Document: CRIMINAL COMPLAINT
Filing Date: 04/14/2008

Major Case Type: FELONY (CLASS A,B,C)

Charge (s)

1	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A		
MURPHY		/ POR			
2	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A		
MURPHY		/ POR			
3	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A		
MURPHY		/ POR			
4	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A		
MURPHY		/ POR			
5	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A	Charged with INDICTMENT on Supplem	
6	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A	Charged with INDICTMENT on Supplem	
7	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A	Charged with INDICTMENT on Supplem	
8	ARSON				04/11/2008 PORTLAND
Seq 776	17-A	802 (1) (A)	Class A	Charged with INDICTMENT on Supplem	

9	ARSON		04/11/2008 PORTLAND
Seq 776	17-A	802(1)(A)	Class A Charged with INDICTMENT on Supplem
10	ARSON		04/11/2008 PORTLAND
Seq 776	17-A	802(1)(A)	Class A Charged with INDICTMENT on Supplem
11	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10929	17-A	405(1)(B)	Class C Charged with INDICTMENT on Supplem
12	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
13	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
14	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
15	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
16	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
17	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
18	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
19	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
20	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
21	BURGLARY OF A MOTOR VEHICLE		04/11/2008 PORTLAND
Seq 10928	17-A	405(1)(A)	Class D Charged with INDICTMENT on Supplem
22	ARSON		04/11/2008 PORTLAND

Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
23 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
24 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
25 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
26 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
27 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
28 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
29 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
30 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
31 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
32 ARSON				04/11/2008 PORTLAND
Seq 4539	17-A	802 (1) (B) (2)	Class A	Charged with INDICTMENT on Supplem
33 CARRYING CONCEALED WEAPON				04/11/2008 PORTLAND
Seq 9775	25	2001-A(1) (B)	Class D	Charged with INDICTMENT on Supplem
34 THEFT BY UNAUTHORIZED TAKING OR TRANSFER				04/11/2008 PORTLAND
Seq 8423	17-A	353 (1) (A)	Class E	Charged with INDICTMENT on Supplem
35 THEFT BY UNAUTHORIZED TAKING OR TRANSFER				04/11/2008 PORTLAND
Seq 8423	17-A	353 (1) (A)	Class E	Charged with INDICTMENT on Supplem

36 VIOLATING CONDITION OF RELEASE 04/11/2008 PORTLAND
Seq 9632 15 1092(1)(A) Class E Charged with INDICTMENT on Supplem

37 BURGLARY OF A MOTOR VEHICLE 04/11/2008 PORTLAND
Seq 10928 17-A 405(1)(A) Class D Charged with INDICTMENT on Supplem

38 THEFT BY UNAUTHORIZED TAKING OR TRANSFER 04/11/2008 PORTLAND
Seq 8423 17-A 353(1)(A) Class E Charged with INDICTMENT on Supplem

Docket Events:

04/14/2008 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 04/14/2008

04/14/2008 Charge(s): 1,2,3,4
HEARING - INITIAL APPEARANCE SCHEDULED FOR 04/14/2008 @ 1:00 in Room No. 1

NOTICE TO PARTIES/COUNSEL

04/24/2008 Charge(s): 1,2,3,4
HEARING - INITIAL APPEARANCE HELD ON 04/14/2008
ROBERT E CROWLEY , JUSTICE
TAPE #714, 715. NEW BAIL SET. RS

04/24/2008 BAIL BOND - \$100,000.00 SURETY BAIL BOND SET BY COURT ON 04/14/2008
ROBERT E CROWLEY , JUSTICE
OR \$50,000 CASH WITH CONDITIONS. RS

04/24/2008 HEARING - STATUS CONFERENCE SCHEDULED FOR 06/17/2008 @ 1:00 in Room No. 7

RS

04/24/2008 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 04/14/2008
ROBERT E CROWLEY , JUSTICE
COPY TO PARTIES/COUNSEL RS

04/24/2008 Party(s): THOMAS A CASSIDY
ATTORNEY - APPOINTED ORDERED ON 04/14/2008

Attorney: JOEL VINCENT

04/25/2008 MOTION - MOTION TO AMEND BAIL FILED BY DEFENDANT ON 04/25/2008

MOTION TO REDUCE BAIL

TSK

04/28/2008 HEARING - MOTION TO AMEND BAIL SCHEDULED FOR 04/29/2008 @ 8:30 in Room No. 7

NOTICE TO PARTIES/COUNSEL

MRP

04/28/2008 OTHER FILING - PRETRIAL SERVICES CONTRACT FILED ON 04/28/2008

05/01/2008 OTHER FILING - PRETRIAL SERVICES CONTRACT APPROVED ON 05/01/2008
CARL O BRADFORD , JUSTICE

05/02/2008 MOTION - MOTION TO AMEND BAIL DENIED ON 04/29/2008
NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL
WRITTEN. NEW BAIL SET.

RS

05/02/2008 HEARING - MOTION TO AMEND BAIL HELD ON 04/30/2008
NANCY MILLS , JUSTICE
NEW BAIL SET.

RS

05/02/2008 BAIL BOND - \$90,000.00 SURETY BAIL BOND SET BY COURT ON 04/30/2008
NANCY MILLS , JUSTICE
OR \$50,000 CASH AND MPTS WITH CONDITIONS.

RS

05/02/2008 BAIL BOND - SURETY BAIL BOND COND RELEASE ISSUED ON 04/30/2008
NANCY MILLS , JUSTICE

RS

05/02/2008 OTHER FILING - OTHER DOCUMENT FILED ON 05/02/2008

BAIL LIEN FILED
PAGE#54

BOOK:26019

TSK

05/02/2008 BAIL BOND - \$90,000.00 SURETY BAIL BOND FILED ON 05/02/2008

Bail Amt: \$90,000 Surety Type: REAL ESTATE
County: CUMBERLAND County Book ID: Book Page:
Date Bailed: 05/01/2008 Prvdr Name: PATRICIA CASSIDY
Lien Issued: 05/01/2008 Rtrn Name: PATRICIA CASSIDY
Lien Discharged:
3RD PARTY WITH CONDITIONS/BO

Surety Value: \$185,000

05/05/2008 MOTION - MOTION TO REVOKE BAIL FILED BY STATE ON 05/05/2008

TSK

05/06/2008 MOTION - MOTION TO REVOKE BAIL GRANTED ON 05/05/2008
ROLAND A COLE , JUSTICE
COPY TO PARTIES/COUNSEL

MOTION TO REVOKE D'S BAIL IS

GRANTED. TO BE HELD WITHOUT BAIL PENDING COURT APPEARANCE

MRP

05/06/2008 BAIL BOND - NO BAIL ALLOWED SET BY COURT ON 05/05/2008
ROLAND A COLE , JUSTICE

05/06/2008 WARRANT - VIOLATION OF BAIL ORDERED ON 05/06/2008
ROLAND A COLE , JUSTICE

05/06/2008 WARRANT - VIOLATION OF BAIL ISSUED ON 05/06/2008

MRP

05/08/2008 WARRANT - VIOLATION OF BAIL EXECUTED ON 05/07/2008

05/08/2008 WARRANT - VIOLATION OF BAIL RETURNED ON 05/08/2008

05/08/2008 HEARING - MOTION TO REVOKE BAIL SCHEDULED FOR 05/13/2008 @ 8:30 in Room No. 7

NOTICE TO PARTIES/COUNSEL

MRP

05/08/2008 HEARING - MOTION TO REVOKE BAIL NOTICE SENT ON 05/08/2008

05/13/2008 HEARING - MOTION TO REVOKE BAIL HELD ON 05/13/2008
WILLIAM BRODRICK , JUSTICE
Attorney: JOEL VINCENT

DA: DEBORAH CHMIELEWSKI
Defendant Present in Court

TAPE #2892 (1560)

TSK

06/05/2008 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 06/03/2008

TSK

06/06/2008 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 06/05/2008

ROLAND A COLE , JUSTICE

COPY TO PARTIES/COUNSEL

TSK

06/06/2008 Party(s): THOMAS A CASSIDY

ATTORNEY - WITHDRAWN ORDERED ON 06/05/2008

Attorney: JOEL VINCENT

06/12/2008 Party(s): THOMAS A CASSIDY

ATTORNEY - APPOINTED ORDERED ON 06/12/2008

Attorney: NEALE DUFFETT

06/13/2008 HEARING - STATUS CONFERENCE NOT HELD ON 06/12/2008

06/13/2008 HEARING - STATUS CONFERENCE SCHEDULED FOR 06/17/2008 @ 1:00

MRP

06/19/2008 HEARING - STATUS CONFERENCE CONTINUED ON 06/17/2008

ROBERT E CROWLEY , JUSTICE

Attorney: GERARD CONLEY

DA: DEBORAH CHMIELEWSKI

DEFENDANT REMANDED. SAME BAIL CONTINUED. BAIL MAY BE REVISTED.

RS

06/19/2008 BAIL BOND - NO BAIL ALLOWED SET BY COURT ON 06/17/2008

ROBERT E CROWLEY , JUSTICE

RS

06/19/2008 HEARING - STATUS CONFERENCE SCHEDULED FOR 07/15/2008 @ 1:00 in Room No. 7

RS

06/30/2008 Party(s): THOMAS A CASSIDY

ATTORNEY - RETAINED ENTERED ON 06/30/2008

Attorney: NICHOLAS MAHONEY

07/01/2008 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 07/01/2008

TSK

07/02/2008 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 07/02/2008

ROLAND A COLE , JUSTICE

COPY TO PARTIES/COUNSEL

TSK

07/02/2008 Party(s): THOMAS A CASSIDY

ATTORNEY - WITHDRAWN ORDERED ON 07/02/2008

Attorney: NEALE DUFFETT

07/11/2008 OTHER FILING - PRETRIAL SERVICES CONTRACT FILED ON 07/10/2008

07/16/2008 HEARING - STATUS CONFERENCE HELD ON 07/15/2008

S KIRK STUDSTRUP , JUSTICE

Attorney: NICHOLAS MAHONEY

DA: DEBORAH CHMIELEWSKI
Defendant Present in Court

TAPE #2931. NEW BAIL SET. DEFENDANT REMANDED.

RS

07/16/2008 BAIL BOND - \$90,000.00 SURETY BAIL BOND SET BY COURT ON 07/15/2008
S KIRK STUDSTRUP , JUSTICE
OR \$50,000 CASH WITH CONDITIONS AND MPTS.

RS

07/16/2008 BAIL BOND - SURETY BAIL BOND COND RELEASE ISSUED ON 07/15/2008
S KIRK STUDSTRUP , JUSTICE

07/16/2008 HEARING - STATUS CONFERENCE SCHEDULED FOR 08/23/2008 @ 8:30 in Room No. 7

RS

07/16/2008 HEARING - STATUS CONFERENCE NOTICE SENT ON 07/16/2008

RS

08/04/2008 BAIL BOND - SURETY BAIL BOND BAIL RELEASED ON 08/04/2008

RECIEVED NEW SURETY BID BEE877

Date Bailed: 05/01/2008

Lien Issued: 05/01/2008

3RD PARTY WITH CONDITIONS/BO

08/04/2008 BAIL BOND - SURETY BAIL BOND RELEASE ACKNOWLEDGED ON 08/04/2008

Date Bailed: 05/01/2008

Lien Issued: 05/01/2008

3RD PARTY WITH CONDITIONS/BO

08/04/2008 BAIL BOND - \$90,000.00 SURETY BAIL BOND FILED ON 08/01/2008

Bail Amt: \$90,000

Surety Type: REAL ESTATE

Surety Value: \$200,000

County: CUMBERLAND

County Book ID: 17956 Book Page: 94

Date Bailed: 07/31/2008

Prvdr Name: MITCHELL E KANE

Lien Issued: 07/31/2008

Rtrn Name: MITCHELL E KANE

Lien Discharged: 06/24/2009

WITH CONDITIONS/BO

08/07/2008 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,3
2,33,34,35,36,37,38

SUPPLEMENTAL FILING - INDICTMENT FILED ON 08/07/2008

08/07/2008 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,3
2,33,34,35,36,37,38

HEARING - ARRAIGNMENT SCHEDULED FOR 08/26/2008 @ 11:00 in Room No. 7

08/07/2008 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,3
2,33,34,35,36,37,38

HEARING - ARRAIGNMENT NOTICE SENT ON 08/07/2008

ST

08/07/2008 HEARING - STATUS CONFERENCE NOT HELD ON 08/07/2008

DEFENDANT INDICTED

08/26/2008 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,3
2,33,34,35,36,37,38

HEARING - ARRAIGNMENT HELD ON 08/26/2008

WILLIAM BRODRICK , JUSTICE
Attorney: NICHOLAS MAHONEY
DA: DEBORAH CHMIELEWSKI
Defendant Present in Court

READING WAIVED. DEFENDANT INFORMED OF CHARGES. COPY OF INDICTMENT/INFORMATION GIVEN TO
DEFENDANT. 60 DAYS TO FILE MOTIONS. SAME BAIL CONTINUED. TAPE #2976.

RS

08/26/2008 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,3
2,33,34,35,36,37,38

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 08/26/2008

08/26/2008 BAIL BOND - \$90,000.00 SURETY BAIL BOND CONTINUED AS POSTED ON 08/26/2008
WILLIAM BRODRICK , JUSTICE
WITH CONDITIONS.

RS

08/26/2008 TRIAL - DOCKET CALL SCHEDULED FOR 11/21/2008 @ 8:30 in Room No. 11

RS

09/08/2008 OTHER FILING - COUNSEL VOUCHER FILED ON 09/04/2008

Attorney: JOEL VINCENT
15.9HRS

09/09/2008 OTHER FILING - \$795.00 COUNSEL VOUCHER APPROVED ON 09/08/2008
ROLAND A COLE , JUSTICE
9/9/08 TO AOC/BO

10/30/2008 TRIAL - DOCKET CALL NOTICE SENT ON 10/30/2008

JH

11/04/2008 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 11/12/2008 @ 1:00 in Room No. 7

NOTICE TO PARTIES/COUNSEL

MRP

11/04/2008 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 11/04/2008

11/04/2008 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 10/27/2008

11/04/2008 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 10/27/2008

PRE& POST MIRANDA INTERROGATION

MRP

11/05/2008 HEARING - MOTION TO SUPPRESS NOT HELD ON 11/05/2008

11/05/2008 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/10/2008 @ 1:00 in Room No. 7

NOTICE TO PARTIES/COUNSEL

MRP

11/05/2008 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 11/05/2008

11/06/2008 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 11/06/2008

UNOPPOSED

TSK

11/07/2008 MOTION - MOTION TO CONTINUE GRANTED ON 11/07/2008
THOMAS D WARREN , JUSTICE

COPY TO PARTIES/COUNSEL
11/07/2008 TRIAL - DOCKET CALL CONTINUED ON 11/07/2008
TSK

11/07/2008 HEARING - DISPOSITIONAL HEARING SCHEDULED FOR 01/14/2009 @ 2:00 in Room No. 7
NOTICE TO PARTIES/COUNSEL
11/07/2008 HEARING - DISPOSITIONAL HEARING NOTICE SENT ON 11/07/2008
TSK

11/07/2008 TRIAL - JURY TRIAL SCHEDULED FOR 02/17/2009 @ 8:30 in Room No. 11
NOTICE TO PARTIES/COUNSEL
11/07/2008 TRIAL - JURY TRIAL NOTICE SENT ON 01/21/2009

12/17/2008 HEARING - MOTION TO SUPPRESS NOT HELD ON 12/10/2008

TRiage AT DISP.CONF.
01/21/2009 HEARING - DISPOSITIONAL HEARING NOT HELD ON 01/14/2009
TSK

01/21/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 02/03/2009 @ 1:00 in Room No. 7
NOTICE TO PARTIES/COUNSEL
01/21/2009 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 01/21/2009
2 HOURS

01/28/2009 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 01/27/2009
TO CONTINUE MOTION HEARING ON 2/3/09
UNOPPOSED

01/30/2009 MOTION - MOTION TO CONTINUE GRANTED ON 01/30/2009
ROBERT E CROWLEY , JUSTICE
COPY TO PARTIES/COUNSEL
01/30/2009 HEARING - MOTION TO SUPPRESS CONTINUED ON 01/30/2009

01/30/2009 TRIAL - JURY TRIAL CONTINUED ON 01/30/2009

01/30/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 04/21/2009 @ 1:00 in Room No. 8
NOTICE TO PARTIES/COUNSEL
01/30/2009 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 01/30/2009

03/11/2009 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 03/06/2009

03/12/2009 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 03/11/2009
ROLAND A COLE , JUSTICE
COPY TO PARTIES/COUNSEL
03/12/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - WITHDRAWN ORDERED ON 03/11/2009

Attorney: NICHOLAS MAHONEY
03/17/2009 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 03/12/2009

03/20/2009 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 03/18/2009
ROBERT E CROWLEY , JUSTICE
COPY TO PARTIES/COUNSEL

03/20/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - APPOINTED ORDERED ON 03/18/2009

Attorney: JOEL VINCENT

04/02/2009 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 04/02/2009

04/09/2009 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 04/08/2009
JOYCE A WHEELER , JUSTICE
COPY TO PARTIES/COUNSEL

04/09/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - WITHDRAWN ORDERED ON 04/08/2009

Attorney: JOEL VINCENT

04/09/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - APPOINTED ORDERED ON 04/08/2009

Attorney: LAWRENCE GOODGLASS

04/17/2009 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38
MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 04/17/2009

04/21/2009 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 04/17/2009

04/21/2009 MOTION - MOTION TO CONTINUE GRANTED ON 04/17/2009
JOYCE A WHEELER , JUSTICE
COPY TO PARTIES/COUNSEL

04/21/2009 HEARING - MOTION TO SUPPRESS CONTINUED ON 04/17/2009

04/21/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 05/19/2009 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

04/21/2009 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 04/21/2009

04/27/2009 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 04/24/2009

04/27/2009 LETTER - FROM PARTY FILED ON 04/24/2009

LETTER FROM DEF REQUESTING NEW ATTY

04/29/2009 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 04/27/2009
ROLAND BEAUDOIN , JUDGE
COPY TO PARTIES/COUNSEL

04/29/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - WITHDRAWN ORDERED ON 04/27/2009

Attorney: LAWRENCE GOODGLASS

04/29/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - APPOINTED ORDERED ON 04/27/2009

Attorney: JOHN DEGRINNEY

05/04/2009 Party(s): THOMAS A CASSIDY
ATTORNEY - RETAINED ENTERED ON 05/04/2009

Attorney: LEONARD SHARON

THOMAS A CASSIDY
PORSC-CR-2008-00890
DOCKET RECORD

05/04/2009 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38

MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 05/04/2009

05/05/2009 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38

MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 05/05/2009

FILED BY ATTY DEGRINNEY

05/05/2009 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38

MOTION - MOTION TO CONTINUE GRANTED ON 05/05/2009

ROLAND A COLE , JUSTICE

COPY TO PARTIES/COUNSEL

05/05/2009 HEARING - MOTION TO SUPPRESS CONTINUED ON 05/05/2009

ROLAND A COLE , JUSTICE

05/05/2009 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38

MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 05/05/2009

ROLAND A COLE , JUSTICE

COPY TO PARTIES/COUNSEL

UPON ENTRY OF

APP OF ATTY SHARON

05/05/2009 Party(s) : THOMAS A CASSIDY

ATTORNEY - WITHDRAWN ORDERED ON 05/05/2009

Attorney: JOHN DEGRINNEY

05/12/2009 OTHER FILING - \$125.00 COUNSEL VOUCHER APPROVED ON 05/12/2009

PENNY WHITNEY , FIELD OPERATIONS SPECIALIST

Attorney: JOHN DEGRINNEY

2.5 HR MIN

5/12 SENT TO

AOC

05/14/2009 MOTION - MOTION TO TERMINATE BAIL FILED BY THIRD PRTY ON 04/21/2009

06/04/2009 GRANTED. JUDGE EGGERT.

05/26/2009 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38

HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/16/2009 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

05/26/2009 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38

HEARING - MOTION TO SUPPRESS NOTICE SENT ON 05/26/2009

06/08/2009 WARRANT - ON COMP/INDICTMENT ORDERED ON 06/04/2009

PAUL E EGGERT , JUDGE

06/08/2009 BAIL BOND - \$50,000.00 CASH BAIL BOND SET BY COURT ON 06/04/2009

OR \$90,000.00 REAL ESTATE. NO US OR POSS. OF ALCOHOL/ILLEGAL DRUGS. NOT POSSE ANY DANGEROUS WEAPONS. RANDOM SEARCH/TEST FOR THE SAME, AT ANY TIME WITHOUT ARTICULABLE SUSPICION OR PROBABLE CAUSE.

06/08/2009 WARRANT - ON COMP/INDICTMENT ISSUED ON 06/08/2009

CERTIFIED COPY TO WARRANT REPOSITORY

06/18/2009 BAIL BOND - SURETY BAIL BOND SET BY COURT ON 06/17/2009
JOYCE A WHEELER , JUSTICE
\$5,0000.SS W/ EXISTING MPS CONTRACT

06/18/2009 WARRANT - ON COMP/INDICTMENT EXECUTED ON 06/16/2009

06/18/2009 LETTER - FROM NON-PARTY FILED ON 06/17/2009
FROM MPS

06/18/2009 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38
HEARING - MOTION TO SUPPRESS NOT HELD ON 06/18/2009

06/18/2009 HEARING - MOTION TO TERMINATE BAIL HELD ON 06/17/2009
JOYCE A WHEELER , JUSTICE
Attorney: LEONARD SHARON
DA: MATTHEW TICE
TAPE 3302

06/18/2009 BAIL BOND - \$5,000.00 SURETY BAIL BOND SET BY COURT ON 06/17/2009
JOYCE A WHEELER , JUSTICE
W MPTS CONTRACT

06/18/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 07/07/2009 @ 1:00 in Room No. 8
NOTICE TO PARTIES/COUNSEL

06/18/2009 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 06/18/2009

06/22/2009 WARRANT - ON COMP/INDICTMENT RETURNED ON 06/17/2009

06/23/2009 BAIL BOND - \$5,000.00 SURETY BAIL BOND FILED ON 06/19/2009
Bail Amt: \$5,000 Surety Type: REAL ESTATE Surety Value: \$200,000
County: CUMBERLAND County Book ID: 27007 Book Page: 291
Date Bailed: 06/18/2009 Prvdr Name: MITCHELL E KANE
Lien Issued: 06/18/2009 Rtrn Name: MITCHELL E KANE
Lien Discharged:

06/23/2009 BAIL BOND - SURETY BAIL BOND BAIL RELEASED ON 06/23/2009
Date Bailed: 07/31/2008
Lien Issued: 07/31/2008
WITH CONDITIONS/BO

06/23/2009 BAIL BOND - SURETY BAIL BOND COND RELEASE ISSUED ON 06/17/2009
JOYCE A WHEELER , JUSTICE

06/23/2009 OTHER FILING - PRETRIAL SERVICES CONTRACT FILED ON 06/17/2009

06/23/2009 BAIL BOND - SURETY BAIL BOND RELEASE ACKNOWLEDGED ON 06/23/2009
Date Bailed: 07/31/2008
Lien Issued: 07/31/2008
WITH CONDITIONS/BO

06/26/2009 BAIL BOND - SURETY BAIL BOND BAIL LIEN DISCHARGED ON 06/24/2009
Date Bailed: 07/31/2008
Lien Issued: 07/31/2008
WITH CONDITIONS/BO

THOMAS A CASSIDY
PORSC-CR-2008-00890
DOCKET RECORD

07/06/2009 OTHER FILING - \$215.00 COUNSEL VOUCHER APPROVED ON 07/06/2009
PENNY WHITNEY , FIELD OPERATIONS SPECIALIST
Attorney: LAWRENCE GOODGLASS
4.3 HRS

SENT TO AOC 7/6

07/07/2009 HEARING - MOTION TO SUPPRESS HELD ON 07/07/2009
ROLAND A COLE , JUSTICE
Attorney: LEONARD SHARON
DA: DEBORAH CHMIELEWSKI
Defendant Present in Court

ER TAPE 3326, INDEX 135, HEARING BEGINS. TESTIMONY ENDS 1:50 PM. DEFENDANT'S ORAL
ARGUMENT. 2:00 P M STATE'S ORAL ARGUMENT. COURT TAKES MATTER UNDER ADVISEMENT.

07/31/2009 MOTION - MOTION TO SUPPRESS DENIED ON 07/31/2009
ROLAND A COLE , JUSTICE
COPY TO PARTIES/COUNSEL

A TRUE COPY

ATTEST


Clerk