

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-11-0187 ✓
11A-CR-11-0187

STATE OF MAINE

v.

DARYL BROWN,

Defendant

ORDER ON MOTION
TO SUPPRESS

The defendant seeks to suppress evidence obtained as a result of the stop of the vehicle operated by the defendant on 11/3/10. The defendant argues that the officer lacked specific and articulable facts to justify the stop or to order the defendant to get out of his vehicle. For the following reasons, the motion is denied.

FINDINGS OF FACT

Cumberland County Deputy Sheriff Sergeant Trevor Cote was on duty on 11/3/10 when he received a call from dispatch. A civilian witness had called with concerns about a Toyota pick-up truck that was swerving and could not maintain its speed.¹ The truck was reported to have turned on the Moody Road.

Deputy Sheriff Cote checked the registration given to him, which revealed an address of Steep Falls. Deputy Sheriff headed to the address. Five minutes later, he made contact with the truck on the Boundary Road, which is close to the Moody Road. The registration and description of the Toyota truck matched the information from dispatch.

Deputy Sheriff Cote followed the truck for three or four tenths of a mile.

¹ Some of the information provided to Deputy Cote by dispatch was not captured on the dispatch audiotape.

He observed the truck swerve to the right side of the road and then to the left side of the road. Both driver side tires crossed the centerline by approximately one foot. Deputy Cote decided to stop the truck and activated the blue lights on his marked cruiser.

Deputy Cote approached the truck after the truck pulled off the road. He could detect an odor of an intoxicating beverage when the operator, the defendant, spoke. Deputy Cote asked the defendant to step out of the truck. because Deputy Cote intended to ask the defendant to perform field sobriety tests.

CONCLUSIONS OF LAW

Because the information provided by the civilian witness with regard to the description, registration, location, and operation of the truck was verified by the deputy's observations, the deputy had "specific and articulable facts sufficient to warrant the stop." State v. Lafond, 2002 ME 124, ¶¶ 6, 9, 802 A.2d 425, 428-29; see also State v. McDonald, 2010 ME 102, ¶ 9, 6 A.3d 283, 285-86. Further, based on the operation of the truck and the odor of an intoxicating beverage coming from the defendant, the deputy had specific and articulable facts sufficient to warrant the field sobriety tests. State v. Wood, 662 A.2d 919, 920 (Me. 1995); see also State v. King, 2009 ME 14, ¶¶ 6, 9, 965 A.2d 52, 53-54.

The entry is

The Motion to Suppress is DENIED.

Date: May 26, 2011


Nancy Mills
Justice, Superior Court

STATE OF MAINE
vs
DARYL A BROWN
150 BOUNDARY RD
STANDISH ME 04084

Docket No CUMCD-CR-2011-00187

DOCKET RECORD

DOB: 12/10/1987

Attorney: JAMES BOULOS
THE BOULOS LAW FIRM
PO BOX 856
75 NORTH ST
SACO ME 04072-0856
RETAINED 01/11/2011

State's Attorney: CHRISTINE THIBEAULT

Charge(s)

1 OPERATING UNDER THE INFLUENCE 11/03/2010 STANDISH
Seq 11493 29-A 2411(1-A)(A) Class D

COTE / CUM

2 OPERATING UNDER THE INFLUENCE 11/03/2010 STANDISH

Seq 11493 29-A 2411(1-A)(A) Class D

COTE / CUM

Docket Events:

01/07/2011 Charge(s): 1,2

TRANSFER - PERMANENT TRANSFER EDI ON 01/07/2011 @ 18:00

TRANSFERRED CASE: SENDING COURT CASEID BRIDCCR201000810
FILING DOCUMENT - NON CASH BAIL BOND FILED ON 11/05/2010

Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 12/21/2010 @ 8:30

NOTICE TO PARTIES/COUNSEL

Charge(s): 1

HEARING - ARRAIGNMENT HELD ON 12/21/2010

JEFF MOSKOWITZ , JUDGE

DEFENDANT INFORMED OF CHARGES. 21 DAYS TO FILE MOTIONS
BAIL BOND - \$2,500.00 UNSECURED BAIL BOND FILED ON 11/05/2010

Bail Amt: \$2,500

Date Bailed: 11/03/2010

BAIL BOND - UNSECURED BAIL BOND TRANSFERRED ON 01/07/2011

Date Bailed: 11/03/2010

Charge(s): 1,2

SUPPLEMENTAL FILING - COMPLAINT FILED ON 12/13/2010

Party(s): DARYL A BROWN

ATTORNEY - APPOINTED ORDERED ON 12/21/2010

Attorney: JAMES HEWES

Charge(s): 1,2

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 12/21/2010

NOTE - OTHER CASE NOTE ENTERED ON 12/21/2010

HEARING: 3-15-11

Charge(s): 1,2

FINDING - PERMANENT TRANSFER TRANSFERRED ON 01/07/2011

CAROLYN HELWIG , ASSOCIATE CLERK

CUMCD

01/11/2011 Charge(s): 1,2

TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 01/10/2011

TERESA SAWYER-BLACK , ASSISTANT CLERK

BRIDC CR-10-810

01/11/2011 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 03/15/2011 @ 9:30 in Room No. 7

01/11/2011 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 03/04/2011

01/11/2011 Charge(s): 1,2

TRIAL - JURY TRIAL SCHEDULED FOR 04/25/2011 @ 8:30 in Room No. 11

NOTICE TO PARTIES/COUNSEL

01/12/2011 Party(s): DARYL A BROWN

ATTORNEY - RETAINED ENTERED ON 01/11/2011

Attorney: JAMES BOULOS

01/14/2011 Charge(s): 1,2

MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 01/14/2011

Attorney: JAMES HEWES

01/20/2011 Charge(s): 1,2

MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 01/18/2011

JEFF MOSKOWITZ , JUDGE

COPY TO PARTIES/COUNSEL

01/20/2011 Party(s): DARYL A BROWN

ATTORNEY - WITHDRAWN ORDERED ON 01/18/2011

Attorney: JAMES HEWES

03/15/2011 HEARING - DISPOSITIONAL CONFERENCE HELD ON 03/15/2011

JOYCE A WHEELER , JUSTICE

Attorney: JAMES BOULOS

DA: ANGELA CANNON

MOTIONS FILED HEARING SET 3/24/11

03/15/2011 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 03/15/2011

03/15/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 03/24/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

03/15/2011 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 03/15/2011

X 2

03/15/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 03/24/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

03/25/2011 HEARING - MOTION FOR DISCOVERY CONTINUED ON 03/24/2011

PAUL E EGGERT , JUDGE

03/25/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 04/07/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

03/25/2011 HEARING - MOTION FOR DISCOVERY NOTICE SENT ON 03/24/2011

03/25/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 03/24/2011

PAUL E EGGERT , JUDGE

03/25/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 04/07/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

03/25/2011 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 03/25/2011

03/25/2011 MOTION - MOTION FOR SANCTIONS FILED BY DEFENDANT ON 03/24/2011

Attorney: JAMES BOULOS

03/25/2011 MOTION - MOTION FOR SANCTIONS DENIED ON 03/24/2011

PAUL E EGGERT , JUDGE

DENIED PARTIALLY

03/25/2011 MOTION - MOTION FOR SANCTIONS GRANTED ON 03/24/2011

PAUL E EGGERT , JUDGE

SANCTION IS THAT STATE NEEDS TO PROVIDE DISCOVERY OF RADIO TRANSCRIPT BY 4/1/11 AND HEARING IS CONTINUED 4/7/11 AT 1PM.

04/07/2011 MOTION - MOTION TO CONTINUE FILED BY STATE ON 04/07/2011

SLV

04/07/2011 MOTION - MOTION TO CONTINUE GRANTED ON 04/07/2011

THOMAS D WARREN , JUSTICE

COPIES TO PARTIES/COUNSEL

SLV TAPE 2708

04/11/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 04/07/2011

THOMAS D WARREN , JUSTICE

04/11/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 05/05/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

04/11/2011 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 04/10/2011

04/11/2011 HEARING - MOTION FOR DISCOVERY CONTINUED ON 04/07/2011

THOMAS D WARREN , JUSTICE

04/11/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 05/05/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL

04/11/2011 HEARING - MOTION FOR DISCOVERY NOTICE SENT ON 04/10/2011

04/11/2011 Charge(s): 1,2

TRIAL - JURY TRIAL CONTINUED ON 04/07/2011

THOMAS D WARREN , JUSTICE

04/11/2011 TRIAL - JURY TRIAL SCHEDULED FOR 05/16/2011 @ 8:30 in Room No. 11

NOTICE TO PARTIES/COUNSEL

05/05/2011 MOTION - MOTION FOR DISCOVERY GRANTED ON 05/05/2011

COPY TO PARTIES/COUNSEL

BY AGREEMENT

05/05/2011 HEARING - MOTION FOR DISCOVERY NOT HELD ON 05/05/2011

05/05/2011 HEARING - MOTION TO SUPPRESS HELD ON 05/05/2011

NANCY MILLS , JUSTICE

DA: ANGELA CANNON

Defendant Present in Court

TP 2783 INDEX 2523-3300

05/05/2011 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 05/05/2011

NANCY MILLS , JUSTICE

05/05/2011 CASE STATUS - CASE FILE LOCATION ON 05/05/2011

TRICIA KELLEY , ASSISTANT CLERK-E

FILE WITH J. MILLS - MOTION UNDER ADVISEMENT

05/10/2011 TRIAL - JURY TRIAL NOT HELD ON 05/10/2011

05/10/2011 Charge(s): 1,2

TRIAL - JURY TRIAL SCHEDULED FOR 05/23/2011 @ 8:30 in Room No. 11

NOTICE TO PARTIES/COUNSEL

05/10/2011 Charge(s): 1,2

TRIAL - JURY TRIAL NOTICE SENT ON 05/10/2011

JH

06/06/2011 ORDER - COURT ORDER FILED ON 06/06/2011

NANCY MILLS , JUSTICE

THE MOTION TO SUPPRESS IS DENIED

06/06/2011 MOTION - MOTION TO SUPPRESS DENIED ON 06/06/2011

NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL

A TRUE COPY

ATTEST: _____
Clerk