

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
Docket No. CUMUCD-CR-11-2060

STATE OF MAINE,

v.

DECISION & ORDER

ROBERT BELL, JR.,

Defendant.

Defendant Robert Bell, Jr., has filed a petition contesting extradition to North Carolina for the crime of murder.

North Carolina's application seeks the extradition of Robert Bell. Petitioner produced evidence at hearing that he is Robert Bell, Jr. See Defendant's Exhibits #1, 2 and 3. Because Mr. Bell has produced that evidence the burden of proving by a preponderance that petitioner is the person sought to be extradited shifts to the state.

To meet the burden the state of Maine has relied on North Carolina's application. The application has attached to it identification information. That information states that the person indicted for murder is black, has a date of birth of 4/26/1972, is 5'9", weighs 260 pounds, has black hair and brown eyes. All of those description details match the appearance of Robert Bell, Jr. the man who was arrested on the fugitive from justice charge in Portland. One cannot be sure of the weight from visual observation in court, but Robert Bell, Jr. is a heavysset man.

Also, the affidavit attached to the North Carolina application refers several times to Robert Bell as Robert Bell, Jr. More to the point, DNA material secured at the murder scene on a towel that also contains the DNA of the victim

matches the DNA of a Robert Bell, Jr. who has the same date of birth as the petitioner. Furthermore, DNA taken from the vagina of the victim matches the DNA of a Robert Bell, Jr. who has the same date of birth as the petitioner. See paragraph #4 of affidavit.

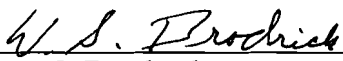
Mr. Bell relies on Bouchard v. Richardson, 427 A2d 490 (ME 1981). Bouchard held that when the name of the person being extradited is slightly different from the name in the application, the state cannot rely on identifying information that is not attached to the application for extradition and that is objected to by petitioner. In this case, Mr. Bell could not object to the state's identifying information because it was all attached to the application for extradition. Bouchard is not on point.

Mr. Bell's other objections do not merit discussion.

The clerk will make the following docket entry by reference.

Robert Bell, Jr.'s petition contesting extradition is denied. Robert Bell, Jr. is ordered extradited to North Carolina. This order shall be carried out after eight days unless Mr. Bell appeals.

DATED: July 1, 2011



William S. Brodrick
Justice, Superior Court, Active Retired

vs

ROBERT BELL
62 STATE STREET APT 3
PORTLAND ME 04101

Docket No CUMCD-CR-2011-02060

DOCKET RECORD

DOB: 04/26/1972

Attorney: NEALE DUFFETT
CLOUTIER BARRETT CLOUTIER & CONLEY
465 CONGRESS ST
PORTLAND ME 04101
APPOINTED 04/06/2011

State's Attorney: STEPHANIE ANDERSON

Filing Document: CRIMINAL COMPLAINT
Filing Date: 04/06/2011

Major Case Type: FUGITIVE FROM JUSTICE

Charge(s)

1 FUGITIVE FROM JUSTICE 04/04/2011 PORTLAND
Seq 5739 15 213 Class U
GILL / SCA

Docket Events:

04/06/2011 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 04/06/2011

04/06/2011 Charge(s): 1
HEARING - INITIAL APPEARANCE SCHEDULED FOR 04/06/2011 at 01:00 p.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

04/08/2011 Charge(s): 1
HEARING - INITIAL APPEARANCE HELD ON 04/06/2011

THOMAS D WARREN , JUSTICE

04/08/2011 BAIL BOND - NO BAIL ALLOWED SET BY COURT ON 04/06/2011

THOMAS D WARREN , JUSTICE

04/08/2011 HEARING - FUGITIVE FROM JUSTICE HEARING SCHEDULED FOR 05/05/2011 at 08:30 a.m. in Room No. 7

NOTICE TO PARTIES/COUNSEL

04/08/2011 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 04/06/2011

04/08/2011 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 04/06/2011

THOMAS D WARREN , JUSTICE

COPY TO PARTIES/COUNSEL

04/08/2011 Party(s): ROBERT BELL
ATTORNEY - APPOINTED ORDERED ON 04/06/2011

Attorney: NEALE DUFFETT

04/08/2011 HEARING - FUGITIVE FROM JUSTICE HEARING NOTICE SENT ON 04/08/2011

04/08/2011 NOTE - OTHER CASE NOTE ENTERED ON 04/08/2011

DEF IS CONTESTING EXTRADITION

04/08/2011 CASE STATUS - CASE FILE LOCATION ON 04/08/2011

KATHY'S IN-CUSTODY BASKET

05/05/2011 HEARING - FUGITIVE FROM JUSTICE HEARING CONTINUED ON 05/05/2011

JAMES TURCOTTE , ASSISTANT CLERK

BAD COURT DATE

05/05/2011 HEARING - FUGITIVE FROM JUSTICE HEARING SCHEDULED FOR 05/09/2011 at 08:30 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

05/05/2011 HEARING - FUGITIVE FROM JUSTICE HEARING NOTICE SENT ON 05/05/2011
JAMES TURCOTTE , ASSISTANT CLERK

05/11/2011 HEARING - FUGITIVE FROM JUSTICE HEARING HELD ON 05/09/2011
JOYCE A WHEELER , JUSTICE
Attorney: NEALE DUFFETT
DA: MICHAEL MADIGAN
TAPE 2825

05/11/2011 Charge(s): 1
HEARING - FUGITIVE FROM JUSTICE HEARING SCHEDULED FOR 06/06/2011 at 08:30 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

05/11/2011 Charge(s): 1
HEARING - FUGITIVE FROM JUSTICE HEARING NOTICE SENT ON 05/11/2011

05/11/2011 BAIL BOND - NO BAIL ALLOWED SET BY COURT ON 05/09/2011
JOYCE A WHEELER , JUSTICE

05/31/2011 OTHER FILING - OTHER DOCUMENT FILED ON 05/27/2011

GOVERNOR'S WARRANT - STATE OF NORTH CAROLINA

06/09/2011 Charge(s): 1
HEARING - FUGITIVE FROM JUSTICE HEARING CONTINUED ON 06/06/2011
WILLIAM BRODRICK , JUSTICE

06/09/2011 HEARING - FUGITIVE FROM JUSTICE HEARING SCHEDULED FOR 06/13/2011 at 08:30 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

06/20/2011 HEARING - FUGITIVE FROM JUSTICE HEARING CONTINUED ON 06/13/2011
WILLIAM BRODRICK , JUSTICE
Attorney: NEALE DUFFETT

06/20/2011 OTHER FILING - OTHER DOCUMENT FILED ON 06/13/2011

Attorney: NEALE DUFFETT
DEFENSE PETITION CONTESTING EXTRADITION

06/20/2011 HEARING - FUGITIVE FROM JUSTICE HEARING SCHEDULED FOR 06/23/2011 at 01:00 p.m. in Room No. 8

NOTICE TO PARTIES/COUNSEL

06/20/2011 HEARING - FUGITIVE FROM JUSTICE HEARING NOTICE SENT ON 06/20/2011

06/23/2011 HEARING - FUGITIVE FROM JUSTICE HEARING CONTINUED ON 06/23/2011
WILLIAM BRODRICK , JUSTICE
Attorney: NEALE DUFFETT
DA: WILLIAM BARRY
Defendant Present in Court
SLV

06/23/2011 HEARING - FUGITIVE FROM JUSTICE HEARING SCHEDULED FOR 06/28/2011 at 01:00 p.m. in Room No. 8

NOTICE TO PARTIES/COUNSEL

06/23/2011 HEARING - FUGITIVE FROM JUSTICE HEARING NOTICE SENT ON 06/23/2011

SLV

06/24/2011 OTHER FILING - OTHER DOCUMENT FILED ON 06/23/2011

Attorney: NEALE DUFFETT

SUPPLEMENTAL MEMORANDUM OF LAW WITH ATTACHMENT A,B,C

SLV

07/05/2011 ORDER - COURT ORDER ENTERED ON 07/01/2011

WILLIAM BRODRICK , JUSTICE

ROBERT BELL, JR'S PETITION CONTESTING EXTRADITION IS DENIED. ROBERT BELL, JR. IS ORDERED EXTRADITED TO NORTH CAROLINA. THIS ORDER SHALL BE CARRIED OUT AFTER EIGHT DAYS UNLESS MR. BELL APPEALS.

07/07/2011 Charge(s): 1

APPEAL - NOTICE OF APPEAL FILED ON 07/06/2011

TRICIA KELLEY , ASSISTANT CLERK-E

Attorney: NEALE DUFFETT

07/07/2011 MOTION - MOTION TO PREPARE TRANSCRIPT FILED BY DEFENDANT ON 07/06/2011

07/07/2011 Charge(s): 1

APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 07/07/2011

07/07/2011 Charge(s): 1

APPEAL - NOTICE OF APPEAL SENT TO REPORTER/ER ON 07/07/2011

07/07/2011 HEARING - FUGITIVE FROM JUSTICE HEARING HELD ON 06/28/2011

WILLIAM BRODRICK , JUSTICE

DA: WILLIAM BARRY

TP #2918; INDEX 4200-7148

TAKEN UNDER ADVISEMENT

A TRUE COPY

ATTEST: _____
Clerk