

STATE OF MAINE

KENNEBEC, ss.

STATE OF MAINE

v.

DAVID BUSHEY,

Defendant

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-00-15

DHM-KEN-6/28/2000

RECORDED & FILED
Notary Public
Maine

JUN 28 2000

Clerk of Courts
Kennebec County

ORDER ON MOTIONS

This matter is before the court on three motions by the defendant, a motion for bill of particulars, a motion for production of victim's medical, school, and counseling records, and a motion for bail modification. A nontestimonial hearing was held on all three motions.

It would appear that the date of birth of the prosecuting witness is January 11, 1985. Because the activities described in the indictment are very close to the 14th birthday of the prosecuting witness, defendant seeks a bill of particulars with respect to the dates of the alleged sexual acts. The State responds that it is impossible to provide specific dates since the witness is not able to provide that information. Certainly, it is a jury question as to whether the acts took place before or after her 14th birthday. Under the circumstances, there is no relevance to the dates other than the birth date and that is a matter of proof for the State. The defendant has provided no particularized justification for requiring the State to be specific in the dates of the alleged occurrences.

The defendant seeks medical, school, and counseling records of the prosecuting witness. These records are confidential and personal to the witness and

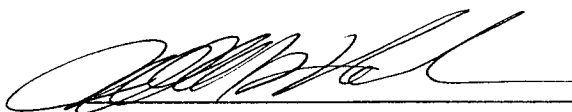
are not in the possession of the State. Any desire on the part of the defendant to obtain these records must be the result of a subpoena duces tecum for which the witness may seek relief in a motion to quash.

It is alleged that the defendant was a domestic partner of a woman with two young children and that the prosecuting witness in this matter was the babysitter for those children. Subsequent to the allegations by the prosecuting witness being brought to the attention of authorities, the defendant married this domestic partner. Defendant's wife has a daughter whose date of birth is October 19, 1993. As a condition of his bail, defendant is to have no contact with females under the age of 18 years. Defendant seeks to have the bail conditions modified so that he may have supervised contact with his stepdaughter. The child is not the biological child of the defendant. Given the circumstances of the matter, defendant has not provided any information to suggest a justification for modification of the bail conditions.

For all the reasons stated above, the entry will be:

Defendant's motion for bill of particulars is DENIED; defendant's motion for production of the alleged victim's medical, school, and counseling records is DENIED; defendant's motion for bail modification is DENIED.

Dated: June 25, 2000



Donald H. Marden
Justice, Superior Court

STATE OF MAINE
vs
DAVID W BUSHEY
WAKER HILL ROAD
ALBION ME 04910

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2000-00015

DOCKET RECORD

DOB: 03/04/1963
Attorney: LOUIS SHIRO
RETAINED 03/29/2000

State's Attorney: DAVID CROOK

Filing Document: INDICTMENT
Filing Date: 01/27/2000

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

Charge(s)

GROSS SEXUAL ASSAULT		01/02/1999 ALBION
17-A 253(1)(B)	Class A	
UNLAWFUL SEXUAL CONTACT		01/02/1999 ALBION
17-A 255(1)(C)	Class C	
SEXUAL ABUSE OF MINOR		01/11/1999 ALBION
17-A 254(1)(A)	Class C	

Docket Events:

01/28/2000 FILING DOCUMENT - INDICTMENT FILED ON 01/27/2000

01/28/2000 MOTION - MOTION TO QUASH SUBPOENA FILED BY DEFENDANT ON 01/25/2000

01/28/2000 MOTION - MOTION TO QUASH SUBPOENA DENIED ON 01/26/2000

COPY TO PARTIES/COUNSEL

THERE IS A

SPOUSAL PRIVILEGE, BUT ONLY FOR COMMUNICATIONS AFTER THE

BUSHEY'S MARRIED.

01/28/2000 HEARING - ARRAIGNMENT SCHEDULED FOR 02/07/2000 @ 8:30

01/28/2000 SUMMONS - SUMMONS TO APPEAR FOR ARRAIGN ISSUED FOR 02/07/2000 @ 8:30

02/04/2000 BAIL BOND - CASH BAIL BOND FILED ON 02/04/2000

Bail Receipt Type: CR

Bail Amt: \$2,000

Receipt Type: CK

Date Bailed: 01/14/2000

Prvdr Name: PETER BRETON

Rtrn Name: PETER BRETON

Conditions of Bail:

Have no contact with female minors under age 18.

Other: BAIL MAY BE REVIEWED BY ANY JUDGE AT REQUEST OF DEFENDANT'S COUNSEL

Have no contact with...

1 KRISTI DENNIS

and the family of said person(s).

2/04/2000 TRANSFER - BAIL AND PLEADING TRANSFERRED ON 01/27/2000

2/04/2000 TRANSFER - BAIL AND PLEADING RECVD BY COURT ON 02/04/2000

2/07/2000 HEARING - ARRAIGNMENT HELD ON 02/07/2000

DONALD H MARDEN , JUSTICE

Attorney: LOUIS SHIRO

DA: ALAN KELLEY

Reporter: CASE ENOCH

Defendant Present in Court

READING WAIVED. DEFENDANT INFORMED OF CHARGES. COPY OF INDICTMENT/INFORMATION GIVEN TO DEFENDANT. 21 DAYS TO FILE MOTIONS

SAME BAIL TO CONTINUE

2/07/2000 Charge(s): 1,2,3

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 02/07/2000

2/07/2000 BAIL BOND - SET ENTERED BY COURT ON 02/07/2000

SAME BAIL TO CONTINUE. ORAL REQUEST TO HAVE CONTACT WITH THE VICTIM. NOT GRANTED--NOT DENIED, WITHOUT PREJUDICE.

2/25/2000 MOTION - MOTION FOR PRODUCTION FILED BY DEFENDANT ON 02/25/2000

OF ALLEGED VICTIM'S MEDICAL SCHOOL AND COUNSELING RECORDS.

2/25/2000 MOTION - OTHER MOTION FILED BY DEFENDANT ON 02/25/2000

BILL OF PARTICULARS.

2/25/2000 MOTION - MOTION FOR IN-CAMERA INSPECT FILED BY DEFENDANT ON 02/25/2000

OF DHS RECORDS AND RELEASE OF RELEVANT RECORDS TO COUNSEL OF RECORD.

3/20/2000 MOTION - MOTION TO PRODUCE DHS RECORD FILED BY DEFENDANT ON 02/25/2000

3/21/2000 MOTION - MOTION TO PRODUCE DHS RECORD GRANTED ON 03/21/2000

DONALD H MARDEN , JUSTICE

ORDER ON DEFENDANT'S MOTION TO PRODUCE FILED. COPIES TO AAG., AND ATTYS.

3/28/2000 MOTION - MOTION TO AMEND BAIL FILED BY DEFENDANT ON 03/27/2000

3/29/2000 ATTORNEY - RETAINED ENTERED ON 03/29/2000

Attorney: LOUIS SHIRO

ATTORNEY FOR PARTY 002 DEFENDANT

5/16/2000 OTHER FILING - DHS RECORD FILED ON 05/12/2000

6/28/2000 HEARING - MOTION TO AMEND BAIL HELD ON 06/12/2000

DONALD H MARDEN , JUSTICE

Attorney: LOUIS SHIRO

DA: ALAN KELLEY

Reporter: CASE ENOCH

Defendant Present in Court

28/2000 HEARING - OTHER MOTION HELD ON 06/12/2000

DONALD H MARDEN , JUSTICE
Attorney: LOUIS SHIRO

DA: ALAN KELLEY Reporter: CASE ENOCH
Defendant Present in Court

6/28/2000 HEARING - MOTION FOR PRODUCTION HELD ON 06/12/2000

OF ALLEGED VICTIM'S MEDICAL, SCHOOL AND COUNSELING RECORDS.

6/28/2000 OTHER FILING - ORDER FILED ON 06/28/2000

DONALD H MARDEN , JUSTICE

ON MOTIONS. COPIES TO ATTYS., DEBORAH FIRESTONE, GARBRECHT LAW LIBRARY AND DONALD GOSS.

6/28/2000 MOTION - MOTION TO AMEND BAIL DENIED ON 06/28/2000

DONALD H MARDEN , JUSTICE

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6/28/2000 MOTION - OTHER MOTION DENIED ON 06/28/2000

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6/28/2000 MOTION - MOTION FOR PRODUCTION DENIED ON 06/28/2000

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A TRUE COPY

ATTEST: _____
Clerk