

STATE OF MAINE

KENNEBEC, ss.

STATE OF MAINE

v.

AIDAN T. QUINN,

Defendant

RECEIVED AND FILED  
KENNEBEC SUPERIOR COURT

2004 SEP 27 A 9:04

HANCOY DESJARDIN  
CLERK OF COURTS

SUPERIOR COURT  
CIVIL ACTION

DOCKET NO. CR-03-486,

DH M -KEN - 9/24/2004

ORDER ON MOTION  
TO SUPPRESS

DONALD I. GARDNER  
LAWYER

NOV 5 2004

This matter is before the court on defendant's motion to suppress any and all evidence obtained by the State of Maine as a result of a stop and detention of the defendant by a member of the Waterville Police Department on October 25, 2003.

During the evening of October 24<sup>th</sup> and the early morning hours of October 25<sup>th</sup>, 2003, a Waterville Police officer in a marked cruiser was on duty in the downtown area of Waterville. At approximately 2:00 a.m., he was in his vehicle parked in the parking lot of the Webber Insurance Agency on Spring Street near the intersection of Spring Street and Silver Street and an entrance to the Concourse. From that vantage point, he could observe the entire Concourse, including an internal intersection of travel lanes near the Concourse entrance from Main Street which is a four-way stop, i.e., a stop sign in all four directions. He observed a Chevrolet Impala proceed from the Main Street entrance through the four-way intersection without stopping. The vehicle traveled toward the officer through the Concourse towards the intersection of Silver Street and Spring Street and stopped for the traffic light. When the light changed, the Chevrolet, later determined to be the vehicle the defendant was operating, proceeded at a high rate through the intersection onto Silver Street. The officer proceeded behind the defendant's vehicle at a distance of approximately three car lengths for a third to a half a mile observing the defendant traveling at the rate of 40 M.P.H. in the posted 25

M.P.H. zone of Silver Street. The officer also observed the defendant "weaving" from time-to-time by drifting within the fog line and the centerline. At times the left tires were on top of the centerline.

Nearing the end of Silver Street, the officer observed the defendant slowing to 30 M.P.H., enter onto Kennedy Memorial Drive where it changes to four lanes and continue in the right travel lane. While on Kennedy Memorial Drive, the defendant's vehicle started to drift to the left over the white dotted line, the defendant put on his left turn signal and went into the left lane. As the vehicle approached the traffic lights at Shaw's Plaza, the officer saw the traffic light change to yellow and observed the defendant brake the vehicle, then jolt forward through the light. The officer followed the defendant for about a quarter of a mile where the defendant was traveling 50 M.P.H. in the posted 35 M.P.H. zone.

At the location of the Burger King near the entrance to Interstate 95, the officer activated his blue lights and strobe lights and observed the defendant put on his right turn signal and drift to the right lane. However, the defendant did not stop but, instead, continued on slowly. At that point, the officer gave a "short burst" of his siren while traveling through the Interstate 95 overpass and he notified his dispatch of the pursuit. Some distance later, in front of Charlie's Ford dealership, the defendant's vehicle stopped.

The officer testified that his total observation of the defendant was approximately 2.7 miles. He further testified that he had a full and unobstructed view of the Concourse and, in particular, the four-way stop intersection.

Defendant challenges the credibility of the officer's testimony. He argues that because the officer testified as to multiple instances of violations causing an articulable suspicion that the operator was impaired, he acted on none of them until the vehicle

had traveled a substantial distance. The defendant would ask the court to find that the obvious inference from those facts are that the operation of the vehicle was so marginally incorrect in each of the instances that they would not constitute an articulable suspicion and the officer had no legal and constitutional grounds for causing the stop and detention.

Defendant further espouses a rather novel challenge to the credibility of the officer by suggesting improper bias and motivation. At the date and time in question, it was well known that a movie for television was being filmed in the Waterville/Skowhegan area by HBO. It was also well known that the participants in the movie frequented a location known as the Bread Box Café. The Bread Box Café is located such that it is adjacent to the Concourse and directly opposite across the Concourse from the officer's location on Spring Street. A further inference is that the officer was observing the Bread Box Café and the vehicles leaving that establishment knowing that persons of some renown would be leaving and driving after an evening of socializing. The requested inference goes even further to suggest that the officer did not stop the vehicle because any of the complained of acts were sufficient in and of themselves, but because he suspected a "famous" person was driving and that he wanted to beef up his articulable suspicion.

To support these inferences, the defendant submits a videotape from the squad room of the Waterville Police Department where the intoxilyzer was administered to the defendant. There are assertions that the officer told another Waterville Police officer that he stopped the defendant for driving 25 M.P.H. in a 40 M.P.H. zone, contrary to his testimony. The defendant further argues that the videotape shows that officers of the Waterville Police Department were ridiculing the defendant in his absence, laughing at

the arrest and otherwise acting unprofessionally such as to affect their credibility as witnesses in the entire transaction.

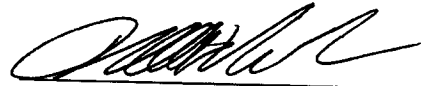
In order to support the brief investigatory stop of a motor vehicle, such as the stop in this case, a police officer must have an articulable suspicion that criminal conduct or a civil violation has occurred, is occurring, or is about to occur, and the officer's suspicion must be "objectively reasonable in the totality of the circumstances." *State v. Cusack*, 649 A.2d 16 (Me. 1994). This court must decide whether the officer possessed a reasonable and articulable suspicion to support an investigatory stop of an automobile. *State v. Brown*, 675 A.2d 504 (Me. 1996). In order to disregard the specific uncontradicted observations of the officer that the defendant did not stop for a stop sign, exceeded the speed limit, in the early morning hours, weaving in his travel lane, the court would have to be satisfied that the events did not happen and the officer was participating in a "set up." While it does appear to be an exceedingly long distance for time of observations and somewhat contrary to the officer's responsibility to interfere with a dangerous condition on the highway, and while it appears the conduct of the officers as recorded on the videotape could be considered something less than professional, the court finds no basis to conclude that the events observed by the officers did not happen. Instead, the conduct by the officer must be considered in light of the weight to be given by a factfinder of his testimony as to any relationship with impaired driving.

The articulable suspicion standard is extremely low. Interpreting suspicious conduct in the operation of a vehicle is vital to the safety of other motorists on the highway. The court finds no constitutional infirmity under the facts of this motion.

The entry will be:

Defendant's motion to suppress is DENIED.

Dated: September 24, 2004



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Donald H. Marden  
Justice, Superior Court

STATE OF MAINE  
vs  
AIDAN T QUINN  
351 HILLCREST ROAD  
ENGLEWOOD NJ 07631

SUPERIOR COURT  
KENNEBEC, ss.  
Docket No AUGSC-CR-2003-00486

**DOCKET RECORD**

DOB: 03/08/1959

Attorney: M MURPHY  
JABAR BATTEN RINGER & MURPHY  
ONE CENTER STREET  
WATERVILLE ME 04901-5495

State's Attorney: TRACY DEVOLL

Filing Document: CRIMINAL COMPLAINT  
Filing Date: 10/27/2003

Major Case Type: MISDEMEANOR (CLASS D,E)

**Charge(s)**

1 OPERATING UNDER THE INFLUENCE  
Seq 1197 29-A 2411(1) 10/25/2003 WATERVILLE  
PELLETIER / WAT Class D

**Docket Events:**

12/02/2003 Charge(s): 1  
TRANSFER - TRANSFER FOR JURY TRIAL EDI ON 12/02/2003 @ 22:01  
FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 10/27/2003  
MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 12/02/2003  
12/05/2003 Charge(s): 1  
TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 12/04/2003  
WATDC-CR-2003-02161  
12/05/2003 BAIL BOND - \$350.00 CASH BAIL BOND FILED ON 12/04/2003  
Bail Receipt Type: CR  
Bail Amt: \$350  
Date Bailed: 10/25/2003  
CHECK NO. 9985  
Receipt Type: CK  
Prvdr Name: AIDAN T QUINN  
Rtrn Name: AIDAN T QUINN

**Conditions of Bail:**

12/08/2003 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 01/05/2004 @ 9:00  
DONALD H MARDEN , JUSTICE  
NOTICE TO PARTIES/COUNSEL  
12/31/2003 MOTION - MOTION FOR EXTENSION OF TIME FILED BY DEFENDANT ON 12/31/2003  
TO FILE ADDITIONAL MOTIONS.  
12/31/2003 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 12/31/2003  
01/05/2004 MOTION - MOTION TO CONTINUE GRANTED ON 01/02/2004  
DONALD H MARDEN , JUSTICE

COPY TO PARTIES/COUNSEL  
01/05/2004 MOTION - MOTION FOR EXTENSION OF TIME GRANTED ON 01/02/2004  
DONALD H MARDEN , JUSTICE  
COPY TO PARTIES/COUNSEL FILE ADDITIONAL MOTIONS BY JANUARY 6, 2004  
01/05/2004 HEARING - MOTION TO SUPPRESS CONTINUED ON 01/02/2004  
03/17/2004 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 04/20/2004 @ 9:00  
S KIRK STUDSTRUP , JUSTICE  
NOTICE TO PARTIES/COUNSEL  
04/22/2004 HEARING - MOTION TO SUPPRESS CONTINUED ON 04/20/2004  
04/22/2004 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/29/2004 @ 9:00  
NOTICE TO PARTIES/COUNSEL  
06/30/2004 HEARING - MOTION TO SUPPRESS HELD ON 06/29/2004  
DONALD H MARDEN , JUSTICE  
Attorney: M MURPHY  
DA: BRAD GRANT Reporter: KIMBERLY MCCULLOCH  
Defendant Present in Court  
STATE WITNESSES: STEVE PELLETIER  
06/30/2004 CASE STATUS - DECISION UNDER ADVISEMENT ON 06/29/2004  
DONALD H MARDEN , JUSTICE  
WRITTEN ORAL ARGUMENTS TO BE FILED; DEFENSE BY 7/9/04 AND STATE BY 7/19/04  
07/22/2004 LETTER - FROM PARTY FILED ON 07/22/2004  
LETTER FROM MICHAELA MURPHY ESQ. IN REGARDS TO TRANSCRIPT BEING PREPARED. WILL FILE HER  
WRITTEN ARGUMENT BY JULY 23RD.  
07/26/2004 OTHER FILING - OTHER DOCUMENT FILED ON 07/26/2004  
CLOSING ARGUMENT BY DEFENSE COUNSEL FILED  
07/27/2004 OTHER FILING - MEMORANDUM OF LAW FILED ON 07/27/2004  
DA: BRAD GRANT  
08/03/2004 OTHER FILING - OTHER DOCUMENT FILED ON 08/03/2004  
DEFENDANT'S REBUTTAL TO STATE'S WRITTEN ARGUMENT. GAVE TO JUSTICE MARDEN.  
09/27/2004 MOTION - MOTION TO SUPPRESS DENIED ON 09/27/2004  
DONALD H MARDEN , JUSTICE  
COPY TO PARTIES/COUNSEL  
09/27/2004 ORDER - COURT ORDER FILED ON 09/27/2004  
ORDER ON MOTION TO SUPPRESS

### Exhibits

06/29/2004 DEFENDANT, Exhibit#1, PHOTO, Adm w/o obj on 06/29/2004.  
06/29/2004 DEFENDANT, Exhibit#2, PHOTO, Adm w/o obj on 06/29/2004.  
06/29/2004 DEFENDANT, Exhibit#3, PHOTO, Adm w/o obj on 06/29/2004.  
06/29/2004 DEFENDANT, Exhibit#4, VIDEOTAPE OF BOOKING 3:07:15 TO 3:12:16, Adm w/o obj  
on 06/29/2004.  
06/29/2004 DEFENDANT, Exhibit#5, ENHANCED RECORDING OF ABOVE VIDEO, Adm w/o obj on 06/29/2004.

A TRUE COPY

ATTEST: \_\_\_\_\_

Clerk