

STATE OF MAINE
KENNEBEC, ss

RECEIVED AND FILED
KENNEBEC SUPERIOR COURT

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-05-249

2005 SEP 30 P 3:37

MP

STATE OF MAINE

WINYARD DESJARDIN
CLERK OF COURTS

v.

ORDER ON MOTION TO SUPPRESS

MATTHEW DEBLOIS,

Defendant

The defendant seeks to suppress statements made by the defendant during an interview with Detective John Hall. The defendant argues that he was subject to a custodial interrogation without the benefit of Miranda, that his invocation of his right to counsel was not honored, and that his statements were involuntary because of Detective Hall's statements. The court has listened to the audiotape. State's Ex. 1. For the following reasons, the motion is denied.

FACTS

Winthrop police Department Detective John Hall called the defendant and asked him to go to the police station to discuss something important. The defendant asked whether he was in trouble. Detective Hall replied that the defendant would not be arrested and would be free to leave at any time but the Detective preferred to discuss the matter face-to-face. Detective Hall asked what would be convenient for the defendant and he stated that he would come immediately.

Detective Hall met the defendant at 3:00 p.m. in the police station lobby. As they walked upstairs, the Detective told the defendant that he was not under arrest and that he was free to leave at any time. The two entered a 20' by 10' conference room. The walk from the lobby to the conference room took ten seconds. The Detective sat at a

desk and the defendant sat to the Detective's right at the end of the desk. The door was across the room to the defendant's left.

The Detective explained that he was closing the door for privacy and to avoid interruptions because there was a meeting across the hall. The Detective explained that he always tapes any discussion about something important and he started the tape recorder.

During the interview, the defendant asked whether he should call an attorney. The Detective also described the process for such cases and sentences he had seen imposed, including an 80-year sentence for one person who did not cooperate. See Def.'s Ex. 1 at 6-7 (admitted as aid to court).

When the tape was turned off, the defendant left the station. He was not arrested.

CONCLUSIONS

Custody

The defendant was not in custody during the interview at the police station. See State v. Higgins, 2002 ME 77, ¶¶ 13-14, 796 A.2d 50, 54-55; State v. Michaud, 1998 ME 251, ¶ 4, 724 A.2d 1222, 1226; State v. Martin, 580 A.2d 678, 681 (1990); State v. Cochran, 425 A.2d 999, 1002 (1981).

Counsel

The sixth amendment right to counsel attaches "only at that time 'that the government has committed itself to prosecute, and only then that the adverse positions of government and defendant have solidified.'" United States v. Gouveia, 467 U.S. 180, 189 (1984) (quoting Kirby v. Illinois, 406 U.S. 682, 689 (1972); see U.S. v. LaBare, 191 F.3d 60, 64 (1999) ("the right to counsel attaches when 'adversary judicial criminal proceedings' have commenced against an accused, 'whether by way of formal charge,

preliminary hearing, indictment, information, or arraignment."); Def.'s Ex. 1 at 6 (Detective Hall told the defendant that "it goes to the DA for review") & 8 ("this could literally be months down the road before you hear back from me.")

Voluntariness

The State has proved beyond a reasonable doubt that the defendant's statements were voluntary. See State v. Sawyer, 2001 ME 88, ¶¶ 8-9, 772 A.2d 1173, 1175-76; see also State v. McCarthy, 2003 ME 40, ¶¶ 13-14, 819 A.2d 335, 340 (police suggestion that "cooperation often results in favorable treatment" was not a promise of leniency and confession was voluntary).

The entry is

The Defendant's Motion to Suppress is DENIED.

Date: September 30, 2005



Nancy Mills
Justice, Superior Court

STATE OF MAINE
vs
MATTHEW T DEBLOIS
445 RTE. 133
WINTHROP ME 04364

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2005-00249

DOCKET RECORD

DOB: 06/15/1984

Attorney: JOHN PELLETIER
GOODSPEED & O'DONNELL
10 SUMMER ST
PO BOX 738
AUGUSTA ME 04332-0738
RETAINED 04/14/2005

State's Attorney: EVERT FOWLE

Filing Document: INDICTMENT
Filing Date: 04/14/2005

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

Charge (s)

1 UNLAWFUL SEXUAL CONTACT
Seq 10933 17-A 255-A(1) (E-1)

09/01/2004 WINTHROP
Class B

Docket Events:

04/14/2005 FILING DOCUMENT - INDICTMENT FILED ON 04/14/2005

TRANSFER - BAIL AND PLEADING GRANTED ON 04/14/2005

TRANSFER - BAIL AND PLEADING REQUESTED ON 04/14/2005

04/14/2005 Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 04/15/2005 @ 8:30 in Room No. 2

04/14/2005 Party(s): MATTHEW T DEBLOIS

ATTORNEY - RETAINED ENTERED ON 04/14/2005

Attorney: JOHN PELLETIER

04/15/2005 BAIL BOND - \$500.00 CASH BAIL BOND FILED ON 04/15/2005

Bail Receipt Type: CR

Bail Amt: \$500

Receipt Type: CA

Date Bailed: 04/15/2005

Prvdr Name: MATTHEW DEBLOIS

Rtrn Name: MATTHEW DEBLOIS

Conditions of Bail:

Have no contact with...

1 ISSIAH HASKELL

04/15/2005 Charge(s): 1

HEARING - ARRAIGNMENT HELD ON 04/15/2005

JOHN R ATWOOD , JUSTICE

Attorney: JOHN PELLETIER

DA: ALAN KELLEY Reporter: PENNY PHILBRICK-CARVER
Defendant Present in Court

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

04/15/2005 Charge(s): 1

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 04/15/2005

JOHN R ATWOOD , JUSTICE

Attorney: JOHN PELLETIER

DA: ALAN KELLEY Reporter: PENNY PHILBRICK-CARVER
Defendant Present in Court

04/15/2005 BAIL BOND - \$500.00 CASH BAIL BOND SET BY COURT ON 04/15/2005

JOHN R ATWOOD , JUSTICE

OR 5,000.00 SURETY

Date Bailed: 04/15/2005

04/29/2005 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 04/29/2005

05/06/2005 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/06/2005 @ 9:00

NOTICE TO PARTIES/COUNSEL

06/07/2005 HEARING - MOTION TO SUPPRESS CONTINUED ON 06/06/2005

DONALD H MARDEN , JUSTICE

07/08/2005 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 09/19/2005 @ 9:00

NOTICE TO PARTIES/COUNSEL

09/26/2005 HEARING - MOTION TO SUPPRESS HELD ON 09/19/2005

NANCY MILLS , SUPERIOR COURT CHIEF JUSTICE

Attorney: JOHN PELLETIER

DA: ALAN KELLEY Reporter: CONSTANCE ROTH
Defendant Present in Court

09/26/2005 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 09/19/2005

NANCY MILLS , SUPERIOR COURT CHIEF JUSTICE

09/30/2005 MOTION - MOTION TO SUPPRESS DENIED ON 09/30/2005

NANCY MILLS , SUPERIOR COURT CHIEF JUSTICE

COPY TO PARTIES/COUNSEL

09/30/2005 ORDER - COURT ORDER FILED ON 09/30/2005

A TRUE COPY

ATTEST: _____

Clerk