

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-05-619

NM-KEN-711106

STATE OF MAINE

v.

ORDER ON MOTION TO SUPPRESS

BRADLEY PADDACK,

Defendant

The defendant seeks to suppress statements made by the defendant during a polygraph examination at the Maine State Police Crime Lab on 8/24/05. The defendant argues that his statements were not voluntary. For the following reasons, the motion is denied.

FACTS

The defendant met with Maine State Police Detective Michael Mitchell on 8/24/05 at approximately 10:00 a.m. for a polygraph exam. The meeting ended at 2:50 p.m. Waterville Police Department Detective William Bonney, the investigating officer in this case, observed Detective Mitchell's interaction with the defendant on a monitor in an adjacent room and later spoke to the defendant.

The polygraph process involves three phases. The Detective admitted that his goal throughout the process is to obtain a confession or admission. Neither detective made any threats or promises to the defendant. The defendant was not under arrest and appeared calm throughout the process.

The pretest phase takes approximately three and one-half hours and includes three breaks. The detective does almost all of the talking in this phase and proceeds through a 45-page speech. This phase is designed to allow the detective to explain what will happen, to bond with the defendant, to ensure that the defendant is suitable to take

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SUPERIOR COURT

the test, to ensure the defendant understands the test and why the test works, to discuss Miranda rights, and to sign the polygraph waiver. State's Ex. 1.

The polygraph exam phase takes 20 - 30 minutes. The posttest interview takes 30 minutes.

During the pretest phase, Detective Mitchell read each paragraph on the polygraph waiver form to the defendant and the defendant stated he understood what the Detective read. The defendant agreed to waive his rights, take the exam, and answer questions. That procedure took five minutes. State's Ex. 1.

The polygraph exam is videotaped, although the defendant is not informed of the taping. In this case, the record button was erroneously not engaged and only a fraction of the nearly five-hour interview was taped. That tape shows that the defendant, although concerned about the effect of the charge on his future, was conversing appropriately with the detective. In fact, the defendant agreed he had been treated fairly. State's Ex. 3.

During the posttest interview, Detective Mitchell told the defendant he had failed the exam. The defendant nodded and did not appear surprised. The Detective stated that he had no doubt that the defendant was responsible for the offense. Detective Mitchell confronted the defendant and stated that he was minimizing his involvement, that he was not telling the whole story, and that he would have to deal with this because this would not go away. Detective Mitchell did not suggest that the defendant needed counseling or help. The defendant first stated that he touched the alleged victim, Chris's penis but the touching was accidental. The defendant admitted that a second touching was inappropriate and that he needed counseling.

After the defendant confessed his involvement in the crime to Detective Mitchell, Detective Bonney then spoke with the defendant, as planned, and obtained the same

confession. Detective Bonney requested that the defendant write a statement and he complied. State's Ex. 2. The defendant left after the interview shown on State's Ex. 3.

CONCLUSIONS

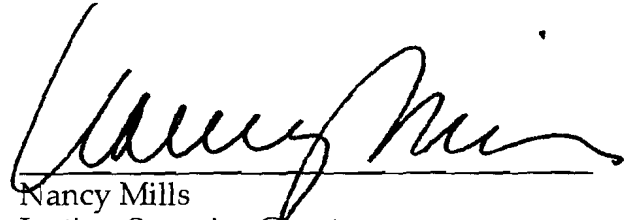
The defendant was asked questions for approximately one hour of the five-hour procedure. Although it is regrettable that the videotape was not running for the entire procedure, there is no requirement to record such proceedings.

This record does not show coercive police conduct and does not suggest that the defendant's statements were not "the result of the defendant's exercise of his own free will and rational intellect." State v. Sawyer, 2001 ME 88, ¶ 8, 772 A.2d 1173, 1175. The State has proved beyond a reasonable doubt that the defendant's statements were voluntary. See id., ¶ 9, 772 A.2d at 1176.

The entry is

The Defendant's Motion to Suppress is DENIED.

Date: July 11, 2006


Nancy Mills
Justice, Superior Court

Defendant Present in Court

CONTINUED SO ATTORNEY, MICHAELA MURPHY, CAN BE HERE

11/03/2005 Party(s): BRADLEY PADDACK
ATTORNEY - RETAINED ENTERED ON 11/03/2005

Attorney: M MURPHY

11/03/2005 Charge(s): 1
HEARING - ARRAIGNMENT SCHEDULED FOR 11/08/2005 @ 8:30

11/08/2005 Charge(s): 1
HEARING - ARRAIGNMENT HELD ON 11/08/2005
S KIRK STUDSTRUP , JUSTICE
Attorney: M MURPHY
DA: ALAN KELLEY Reporter: JANETTE COOK
Defendant Present in Court

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

11/08/2005 Charge(s): 1
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 11/08/2005

11/08/2005 BAIL BOND - \$1,000.00 CASH BAIL BOND SET BY COURT ON 11/08/2005
S KIRK STUDSTRUP , JUSTICE
OR \$10,000 SURETY W/CONDITIONS OF NO CONTACT WITH CHILDREN UNDER 16 EXCEPT SUPERVISED
CONTACT WITH MARIAH PADDOCK

11/08/2005 BAIL BOND - CASH BAIL BOND COND RELEASE ISSUED ON 11/08/2005
S KIRK STUDSTRUP , JUSTICE

11/29/2005 MOTION - MOTION FOR EXTENSION OF TIME FILED BY DEFENDANT ON 11/29/2005

TO FILE PRE-TRIAL MOTIONS.

12/01/2005 MOTION - MOTION FOR EXTENSION OF TIME GRANTED ON 11/29/2005
S KIRK STUDSTRUP , JUSTICE
COPY TO PARTIES/COUNSEL

EXTENDED TO FILE MOTIONS TO

DECEMBER 14, 2005

12/01/2005 MOTION - MOTION TO AMEND BAIL FILED BY DEFENDANT ON 11/30/2005

12/09/2005 HEARING - MOTION TO AMEND BAIL SCHEDULED FOR 12/09/2005 @ 8:30

NOTICE TO PARTIES/COUNSEL

12/09/2005 HEARING - MOTION TO AMEND BAIL HELD ON 12/09/2005
NANCY MILLS , JUSTICE
Attorney: M MURPHY
DA: ALAN KELLEY Reporter: CASE ENOCH
Defendant Present in Court

12/09/2005 MOTION - MOTION TO AMEND BAIL GRANTED ON 12/09/2005
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

01/06/2006 TRIAL - DOCKET CALL SCHEDULED FOR 02/07/2006 @ 11:50

01/25/2006 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 01/23/2006

NOTICE TO PARTIES/COUNSEL

07/11/2006 HEARING - MOTION IN LIMINE SCHEDULED FOR 08/10/2006 @ 8:00

NOTICE TO PARTIES/COUNSEL

07/11/2006 HEARING - MOTION TO SUPPRESS HELD ON 06/06/2006

07/11/2006 HEARING - MOTION FOR DISCOVERY HELD ON 06/06/2006

07/13/2006 MOTION - MOTION TO SUPPRESS STATEMENT DENIED ON 07/13/2006
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

A TRUE COPY

ATTEST: _____

Clerk