

STATE OF MAINE  
KENNEBEC, ss

**REC'D & FILED**  
Nancy A. Desjardin

JUN 12 2006

Clerk of Courts  
Kennebec County

SUPERIOR COURT  
CRIMINAL ACTION  
DOCKET NO. CR-06-330

KE 111-112/06

STATE OF MAINE

v.

WILLIAM LUND

ORDER ON DEFENDANT'S  
MOTION TO SUPPRESS

Defendant

The findings of fact made on the record at the close of the hearing are incorporated into this order by reference.

CONCLUSIONS OF LAW

The questions asked by the officer that are at issue in this motion were not administrative questions. See State v. Rossignol, 627 A.2d 524, 526 (Me. 1993). The issue is whether the defendant was in custody. An "ordinary traffic stop to ask a few questions and to conduct field sobriety tests on a driver suspected of operating under the influence does not amount to custodial interrogation" that requires Miranda warnings. See State v. Lewry, 550 A.2d 64, 65 (Me. 1988); see also Berkemer v. McCarty, 468 U.S. 420, 423 (1984) (defendant questioned outside his vehicle on side of road); State v. Swett, 1998 ME 76, ¶ 4, 709 A.2d 727, 730 (defendant interviewed either while seated in his vehicle or outside his vehicle on side of road).

Considering the factors outlined in State v. Michaud, viewed in their totality, the court concludes that the defendant was not in custody. See State v. Michaud, 1998 ME 251, ¶ 4, 724 A.2d 1222, 1226. On this record, a reasonable person in the defendant's position would not have concluded that he was "in police custody and constrained to a degree associated with formal arrest." See id. Accordingly, no Miranda warnings were

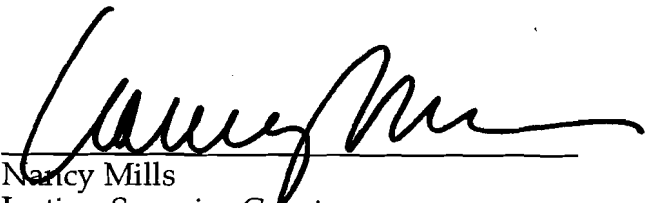
required in order for the defendant's answers to the officer's questions to be admissible.

See State v. Holloway, 2000 ME 172, ¶ 13, 760 A.2d 223, 228.

The entry is

The Defendant's Motion to Suppress is DENIED.

Date: June 12, 2006

  
\_\_\_\_\_  
Nancy Mills  
Justice, Superior Court

STATE OF MAINE  
vs  
WILLIAM H LUND  
28 CRESTWOOD DR. APT H  
WATERVILLE ME 04901

SUPERIOR COURT  
KENNEBEC, ss.  
Docket No AUGSC-CR-2006-00330

**DOCKET RECORD**

DOB: 07/22/1974

Attorney: JASON JABAR  
JABAR BATTEN RINGER & MURPHY  
ONE CENTER STREET  
WATERVILLE ME 04901-5495  
RETAINED 01/06/2006

State's Attorney: TRACY DEVOLL

**Charge(s)**

1 OPERATING UNDER THE INFLUENCE 12/16/2005 WATERVILLE  
Seq 9878 29-A 2411(1-A) (A) Class D  
GARDINER / WAT

**Docket Events:**

03/14/2006 Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL EDI ON 03/14/2006 @ 18:01

TRANSFERRED CASE: SENDING COURT CASEID WATDCCR200503168  
FILING DOCUMENT - NON CASH BAIL BOND FILED ON 12/19/2005

Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 03/08/2006 @ 8:30

NOTICE TO PARTIES/COUNSEL

Charge(s): 1

HEARING - ARRAIGNMENT WAIVED ON 02/03/2006

BAIL BOND - \$700.00 UNSECURED BAIL BOND FILED ON 12/19/2005

Bail Amt: \$700

Date Bailed: 12/17/2005

BAIL BOND - UNSECURED BAIL BOND BAIL RELEASED ON 01/18/2006

Date Bailed: 12/17/2005

03/14/2006 BAIL BOND - UNSECURED BAIL BOND RELEASE ACKNOWLEDGED ON 01/18/2006

Date Bailed: 12/17/2005

Party(s): WILLIAM H LUND

ATTORNEY - RETAINED ENTERED ON 01/06/2006

Attorney: JASON JABAR

MOTION - MOTION AMEND BAIL CONDITIONS FILED BY DEFENDANT ON 01/06/2006

MOTION - MOTION AMEND BAIL CONDITIONS GRANTED ON 01/13/2006

ROBERT E MULLEN , JUDGE

COPY TO PARTIES/COUNSEL

APPEAR TO SIGN NEW BOND

Charge(s): 1

DEFENDANT MUST

SUPPLEMENTAL FILING - COMPLAINT FILED ON 01/06/2006

BAIL BOND - PR BAIL BOND FILED ON 01/18/2006

Date Bailed: 01/18/2006

Charge(s): 1

PLEA - NOT GUILTY ENTERED BY COUNSEL ON 02/03/2006

Charge(s): 1

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 02/03/2006

Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL GRANTED ON 03/14/2006

Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL REQUESTED ON 03/03/2006

Charge(s): 1

FINDING - TRANSFER FOR JURY TRIAL TRANSFERRED ON 03/14/2006

AUGSC

03/15/2006 Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 03/15/2006

RECEIVED FROM WATERVILLE DISTRICT COURT DOCKET NO: CR-05-3168

04/14/2006 TRIAL - DOCKET CALL SCHEDULED FOR 05/01/2006 @ 9:00

04/14/2006 TRIAL - DOCKET CALL NOTICE SENT ON 04/14/2006

05/10/2006 TRIAL - DOCKET CALL HELD ON 05/01/2006

05/10/2006 TRIAL - DOCKET CALL SCHEDULED FOR 06/05/2006 @ 10:00

06/12/2006 TRIAL - DOCKET CALL HELD ON 06/05/2006

NANCY MILLS , JUSTICE

Reporter: JANETTE COOK

Defendant Present in Court

06/12/2006 Charge(s): 1

TRIAL - JURY TRIAL SCHEDULED FOR 06/13/2006 @ 10:00

NOTICE TO PARTIES/COUNSEL

06/12/2006 Charge(s): 1

TRIAL - JURY TRIAL SELECTED ON 06/08/2006

JURY SELECTION

06/12/2006 HEARING - MOTION TO SUPPRESS HELD ON 06/06/2006

NANCY MILLS , JUSTICE

Attorney: JASON JABAR

DA: BRAD GRANT Reporter: JANETTE COOK

Defendant Present in Court

06/12/2006 Charge(s): 1

MOTION - MOTION TO SUPPRESS DENIED ON 06/12/2006

NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL

A TRUE COPY

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