

STATE OF MAINE
KENNEBEC, ss

RECEIVED AND FILED
KENNEBEC SUPERIOR COURT

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-07-341
NM- KEN-12/21/2007

2007 DEC 21 A 10:00

MICHAEL FARWELL
CLERK OF COURTS

STATE OF MAINE

v.

ORDER

ROBERT FILION,

DONALD L. GARBRECHT
FAMILY LIBRARY

Defendant

JAN 24 2008

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

The facts in this case differ from those in Tullous and Missouri, on which the defendant relies. See State v. Tullous, 692 N.W.2d 790, 790-791 (S.D. 2005); State v. Missouri, 603 S.E.2d 594, 594-596 (S.C. 2004). The defendant has failed to meet his burden that he had a reasonable expectation of privacy at Ms. Rines's home. See Minnesota v. Carter, 525 U.S. 83, 88 (1998); see also U.S. v. Battle, 400 F. Supp. 2d. 355, 358 (D. Mass. 2005).

The defendant is charged with trafficking in schedule W drugs. Unless the State is relying on possession to prove trafficking, the defendant has no standing to challenge the search. See 17-A M.R.S.A. §§1103(1-A)(A) & 1101(17)((D)); State v. Cadigan, 249 A.2d 750, 753 (Me. 1969).

The entry is

The Defendant's Motion to Suppress the Search and Seizure
of Evidence is DENIED.

Date: December 18, 2007


Nancy Mills
Justice, Superior Court

STATE OF MAINE
vs
ROBERT D FILION
34 MAD BULLDOG ROAD
SABATTUS ME 04280

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2007-00341

DOCKET RECORD

DOB: 07/24/1981

Attorney: ALLAN LOBOZZO
ALLAN E LOBOZZO ESQ
500 MAIN ST
PO BOX 957
LEWISTON ME 04243-0957
RETAINED 05/03/2007

State's Attorney: WILLIAM SAVAGE

Filing Document: CRIMINAL COMPLAINT
Filing Date: 04/17/2007

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

Charge(s)

1 UNLAWFUL TRAFFICKING IN SCHEDULED DRUGS 04/13/2007 LITCHFIELD
Seq 8541 17-A 1103(1-A) (A) Class B

2 VIOLATING CONDITION OF RELEASE 04/13/2007 LITCHFIELD
Seq 9632 15 1092(1) (A) Class E

Docket Events:

04/17/2007 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 04/17/2007

04/17/2007 Charge(s): 1,2
HEARING - INITIAL APPEARANCE SCHEDULED FOR 04/17/2007 @ 1:00

NOTICE TO PARTIES/COUNSEL

04/18/2007 Charge(s): 1,2
HEARING - INITIAL APPEARANCE HELD ON 04/17/2007
NANCY MILLS , JUSTICE
Attorney: CAROL WEBB
DA: WILLIAM SAVAGE
ELECTRONIC RECORDING

04/18/2007 Charge(s): 1,2
PLEA - NO ANSWER ENTERED BY DEFENDANT ON 04/17/2007

04/18/2007 Charge(s): 1,2
HEARING - STATUS CONFERENCE SCHEDULED FOR 06/26/2007 @ 11:30

04/18/2007 BAIL BOND - \$2,000.00 CASH BAIL BOND SET BY COURT ON 04/17/2007
NANCY MILLS , JUSTICE

04/18/2007 BAIL BOND - \$2,000.00 CASH BAIL BOND FILED ON 04/18/2007

Bail Receipt Type: CR
Bail Amt: \$2,000

Date Bailed: 04/17/2007

Receipt Type: CK
Prvdr Name: ROBERT FILION
Page 1 of 4

Printed on: 12/21/2007

Rtrn Name: ROBERT FILION

05/03/2007 Party(s): ROBERT D FILION
ATTORNEY - RETAINED ENTERED ON 05/03/2007

Attorney: ALLAN LOBOZZO

06/26/2007 Charge(s): 1,2
HEARING - STATUS CONFERENCE HELD ON 06/26/2007
NANCY MILLS , JUSTICE
Attorney: ALLAN LOBOZZO
DA: JAMES CAMERON Reporter: TAMMY DROUIN
Defendant Present in Court

06/26/2007 Charge(s): 1,2
HEARING - STATUS CONFERENCE SCHEDULED FOR 09/11/2007 @ 10:00

06/26/2007 Charge(s): 1,2
HEARING - STATUS CONFERENCE NOTICE SENT ON 06/26/2007

06/29/2007 Charge(s): 1,2
HEARING - STATUS CONFERENCE NOT HELD ON 06/29/2007

06/29/2007 Charge(s): 1,2
SUPPLEMENTAL FILING - INDICTMENT FILED ON 06/28/2007

06/29/2007 Charge(s): 1,2
HEARING - ARRAIGNMENT SCHEDULED FOR 07/10/2007 @ 8:00

06/29/2007 Charge(s): 1,2
HEARING - ARRAIGNMENT NOTICE SENT ON 06/29/2007

07/09/2007 MOTION - OTHER MOTION FILED BY STATE ON 07/09/2007

MOTION FOR PROTECTIVE DISCOVERY

07/10/2007 MOTION - OTHER MOTION GRANTED ON 07/09/2007
DONALD H MARDEN , JUSTICE
MOTION FOR PROTECTIVE DISCOVERY

07/10/2007 Charge(s): 1,2
HEARING - ARRAIGNMENT HELD ON 07/10/2007
DONALD H MARDEN , JUSTICE
Attorney: ALLAN LOBOZZO
DA: WILLIAM SAVAGE Reporter: PEGGY STOCKFORD
Defendant Present in Court

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

07/10/2007 Charge(s): 1,2
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 07/10/2007

07/10/2007 BAIL BOND - \$2,000.00 CASH BAIL BOND CONTINUED AS POSTED ON 07/10/2007

07/27/2007 Charge(s): 1,2
MOTION - MOTION TO SUPPRESS EVIDENCE FILED BY DEFENDANT ON 07/27/2007

07/27/2007 Charge(s) : 1,2
MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 07/27/2007

MOTION TO SUPPRESS RE: SEARCH WARRANT
07/27/2007 Charge(s) : 1,2
MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 07/27/2007

MOTION TO SUPPRESS RE: CONSENT
07/27/2007 Charge(s) : 1,2
HEARING - MOTION TO SUPPRESS EVIDENCE SCHEDULED FOR 09/06/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL
07/27/2007 Charge(s) : 1,2
HEARING - MOTION TO SUPPRESS SCHEDULED FOR 09/06/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL
WARRANT
07/27/2007 Charge(s) : 1,2
HEARING - MOTION TO SUPPRESS SCHEDULED FOR 09/06/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL
09/07/2007 Charge(s) : 1,2
HEARING - MOTION TO SUPPRESS CONTINUED ON 09/06/2007

09/07/2007 Charge(s) : 1,2
HEARING - MOTION TO SUPPRESS CONTINUED ON 09/06/2007

09/07/2007 Charge(s) : 1,2
HEARING - MOTION TO SUPPRESS EVIDENCE CONTINUED ON 09/06/2007

09/07/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/04/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL
09/07/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/04/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL
09/07/2007 HEARING - MOTION TO SUPPRESS EVIDENCE SCHEDULED FOR 10/04/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL
10/02/2007 MOTION - MOTION TO CONTINUE FILED BY STATE ON 10/02/2007

10/03/2007 MOTION - MOTION TO CONTINUE GRANTED ON 10/03/2007

COPY TO PARTIES/COUNSEL
10/03/2007 HEARING - MOTION TO SUPPRESS EVIDENCE CONTINUED ON 10/03/2007

10/03/2007 HEARING - MOTION TO SUPPRESS CONTINUED ON 10/03/2007

10/03/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/11/2007 @ 1:00

NOTICE TO PARTIES/COUNSEL
10/03/2007 HEARING - MOTION TO SUPPRESS CONTINUED ON 10/03/2007

RE: SEARCH

RE: CONSENT

10/03/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/11/2007 @ 1:00

NOTICE TO PARTIES/COUNSEL

10/03/2007 HEARING - MOTION TO SUPPRESS EVIDENCE SCHEDULED FOR 10/04/2007 @ 8:00

NOTICE TO PARTIES/COUNSEL

12/06/2007 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 12/06/2007

12/11/2007 MOTION - MOTION TO CONTINUE GRANTED ON 12/10/2007

COPY TO PARTIES/COUNSEL

12/11/2007 HEARING - MOTION TO SUPPRESS CONTINUED ON 12/10/2007

12/11/2007 HEARING - MOTION TO SUPPRESS CONTINUED ON 12/10/2007

12/11/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 01/07/2008 @ 8:30

NOTICE TO PARTIES/COUNSEL

12/11/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 01/07/2008 @ 8:30

NOTICE TO PARTIES/COUNSEL

12/21/2007 HEARING - MOTION TO SUPPRESS EVIDENCE HELD ON 10/04/2007

12/21/2007 ORDER - COURT ORDER FILED ON 12/20/2007

NANCY MILLS , JUSTICE

DEFENDANT'S MOTION TO SUPPRESS THE SEARCH AND SEIZURE OF EVIDENCE IS DENIED

A TRUE COPY

ATTEST: _____

Clerk