

STATE OF MAINE
KENNEBEC, ss.

RECEIVED AND FILED
KENNEBEC SUPERIOR COURT

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-07-408
DHM - KEN - 12/21/2007

2007 DEC 21 P 4: 17

MICHELE D. WOOD
CLERK OF COURTS

STATE OF MAINE

v.

**ORDER ON MOTION
TO SUPPRESS**

SHIRLEY KALLOCH,

Defendant

DONALD L. GARBRECHT
LIBRARY

This matter is before the court on motion to suppress statements made by the defendant to a fire investigator of the Maine State Fire Marshal's Office and a detective of the Maine State Police in the polygraph examining room of the Maine State Police. Defendant, through counsel, makes allegations regarding lack of proper *Miranda* warning, custody of the defendant and certain deceptions through the use of the polygraph machine resulting in admissions by the defendant.

The court has examined a videotape made of the entire proceeding and finds that the defendant was fully apprised of her *Miranda* rights and indicated that she completely understood them. She acknowledged having some understanding of them at the outset. It is abundantly clear throughout the proceeding that the defendant understood that she was not in custody, she was not going to be arrested but, in fact, she was going to be taken by the authorities to her residence and, after review by the District Attorney, if necessary, she would receive a summons for a court appearance.

There was no question throughout the proceeding that the defendant fully understood the identity and authority within law enforcement of the questioning individuals and she was fully apprised of the workings of the polygraph machine which was available for use.

In fact, the polygraph operator, the Maine State Police detective, very skillfully and effectively gained the confidence of Ms. Kalloch after fully explaining her rights and fully explaining the functioning of the polygraph machine with the result that she relived her mental state existing at the time in question and after continuing encouragement by the examiner, she disclosed, first to the detective and then to the fire investigator, her version of the activities in question.

The court finds no evidence that the defendant was subject to any proceedings in violation of her constitutional rights or that she was not fully and freely a volunteer in the entire process.

The entry will be:

Defendant's motion to suppress is DENIED.

Dated: December 21, 2007



Donald H. Marden
Justice, Superior Court

STATE OF MAINE
vs
SHIRLEY KALLOCH
451 NORTHERN AVENUE
FARMINGDALE ME 04344

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2007-00408

DOCKET RECORD

DOB: 05/05/1942

Attorney: STEPHEN BOURGET
BOURGET & BOURGET PA
64 STATE STREET
AUGUSTA ME 04330-5194
APPOINTED 07/09/2007

State's Attorney: EVERT FOWLE

Filing Document: INDICTMENT
Filing Date: 05/04/2007

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

Charge(s)

| | | | | | |
|----------|-------|-----------------|---------|--|------------------------|
| 1 | ARSON | | | | 07/19/2006 FARMINGDALE |
| Seq 4538 | 17-A | 802 (1) (B) (1) | Class A | | |
| 2 | ARSON | | | | 07/19/2006 FARMINGDALE |
| Seq 4539 | 17-A | 802 (1) (B) (2) | Class A | | |

Docket Events:

05/04/2007 FILING DOCUMENT - INDICTMENT FILED ON 05/04/2007

TRANSFER - BAIL AND PLEADING GRANTED ON 05/04/2007

TRANSFER - BAIL AND PLEADING REQUESTED ON 05/04/2007

05/04/2007 Charge(s): 1,2

WARRANT - ON COMP/INDICTMENT REQUESTED ON 05/04/2007

05/04/2007 Charge(s): 1,2

WARRANT - ON COMP/INDICTMENT ORDERED ON 05/04/2007

05/04/2007 BAIL BOND - \$5,000.00 UNSECURED BAIL BOND SET BY COURT ON 05/04/2007

05/04/2007 Charge(s): 1,2

WARRANT - ON COMP/INDICTMENT ISSUED ON 05/04/2007

CERTIFIED COPY TO WARRANT REPOSITORY

06/29/2007 BAIL BOND - \$5,000.00 UNSECURED BAIL BOND FILED ON 06/28/2007

Bail Amt: \$5,000

Date Bailed: 06/27/2007

07/02/2007 Charge(s): 1,2

WARRANT - ON COMP/INDICTMENT EXECUTED ON 06/27/2007

ARRESTED BY KSO

07/02/2007 Charge(s): 1,2

WARRANT - ON COMP/INDICTMENT RETURNED ON 07/02/2007

07/06/2007 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 07/06/2007

07/09/2007 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 07/09/2007

COPY TO PARTIES/COUNSEL

07/09/2007 Party(s): SHIRLEY KALLOCH
ATTORNEY - APPOINTED ORDERED ON 07/09/2007

Attorney: STEPHEN BOURGET

08/12/2007 Charge(s): 1,2
HEARING - ARRAIGNMENT SCHEDULED FOR 08/07/2007 @ 8:00

08/12/2007 Charge(s): 1,2
HEARING - ARRAIGNMENT HELD ON 08/07/2007
NANCY MILLS , JUSTICE
Reporter: TAMMY DROUIN
READING WAIVED. DEFENDANT INFORMED OF CHARGES. COPY OF INDICTMENT/INFORMATION GIVEN TO
DEFENDANT. 45 DAYS TO FILE MOTIONS

08/12/2007 Charge(s): 1,2
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 08/07/2007

08/12/2007 TRIAL - DOCKET CALL SCHEDULED FOR 11/05/2007 @ 9:30

09/21/2007 Charge(s): 1,2
MOTION - MOTION TO SUPPRESS STATEMENT FILED BY DEFENDANT ON 09/21/2007

09/21/2007 Charge(s): 1,2
HEARING - MOTION TO SUPPRESS STATEMENT SCHEDULED FOR 11/05/2007 @ 9:30

NOTICE TO PARTIES/COUNSEL

11/05/2007 Charge(s): 1,2
HEARING - MOTION TO SUPPRESS STATEMENT CONTINUED ON 11/05/2007

11/05/2007 HEARING - MOTION TO SUPPRESS STATEMENT SCHEDULED FOR 11/08/2007 @ 11:00

NOTICE TO PARTIES/COUNSEL

11/05/2007 TRIAL - DOCKET CALL HELD ON 11/05/2007

12/26/2007 HEARING - MOTION TO SUPPRESS STATEMENT HELD ON 11/08/2007

12/26/2007 Charge(s): 1,2
MOTION - MOTION TO SUPPRESS STATEMENT UNDER ADVISEMENT ON 11/08/2007
DONALD H MARDEN , JUSTICE

12/26/2007 Charge(s): 1,2
MOTION - MOTION TO SUPPRESS STATEMENT DENIED ON 12/21/2007
DONALD H MARDEN , JUSTICE
COPY TO PARTIES/COUNSEL

12/26/2007 Charge(s): 1,2
TRIAL - DOCKET CALL SCHEDULED FOR 02/04/2008

12/26/2007 ORDER - COURT ORDER FILED ON 12/21/2007

DONALD H MARDEN , JUSTICE

THE COURT FINDS NO EVIDENCE THAT THE DEFENDANT WAS SUBJECT TO ANY PROCEEDINGS IN VIOLATION OF HER CONSTITUTIONAL RIGHTS OR THAT SHE WAS NOT FULLY AND FREELY A VOLUNTEER IN THE ENTIRE PROCESS.

A TRUE COPY

ATTEST: _____

Clerk