

STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CRIMINAL ACTION  
DOCKET NO. CR-09-329  
NM - KEN - 12/30/2009

STATE OF MAINE

v.

ORDER ON MOTION  
TO SUPPRESS

DAREN SANCHEZ,

Defendant

The defendant seeks to suppress evidence obtained as a result of the stop of the truck operated by the defendant on 2/27/09. The defendant argues that the officer lacked sufficient specific and articulable facts to justify the stop. For the following reasons, the motion is denied.

#### FINDINGS OF FACT

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

#### CONCLUSIONS OF LAW

In order to justify a brief investigatory stop, "a police officer must have an articulable suspicion that criminal conduct or a civil violation has occurred, is occurring, or is about to occur, and the officer's suspicion must be 'objectively reasonable in the totality of the circumstances.'" State v. Brown, 1997 ME 90, ¶ 5, 694 A.2d 453, 455 (quoting State v. Cusack, 649 A.2d 16, 18 (Me. 1994)). The officer's suspicion must be reasonable, not fail proof. State v. Taylor, 1997 ME 81, ¶ 9, 694 A.2d 909-10 n.5 (Me. 1997); State v. Hill, 606 A.2d 793, 94-95 (Me. 1992).

"A investigatory stop is valid when it is 'supported by specific and articulable facts which, taken as a whole and together with rational inferences from those facts, reasonably warrant the police intrusion.'" See Taylor, 1997 ME 81, ¶ 9, 694 A.2d at 909 (quoting Hill, 606 A.2d at 795). "The reasonable suspicion standard requires less than probable cause that a crime was being committed, but more than speculation or an unsubstantiated hunch." State v. Sampson, 669 A.2d 1326, 1328 (Me. 1996). "Suspicion of a civil violation provides adequate specific and articulable facts." Taylor, 1997 ME 81, ¶ 9, 694 A.2d at 909 (citing Hill, 606 A.2d at 795; 29-A M.R.S. §§ 103, 104, 1901, 1912).

Officer Gove observed the truck drifting to the right side of the road, then jerking back to the left, and almost stopping at a green light when there was no oncoming traffic. He also determined that the truck's leaky and loud aftermarket exhaust would not pass inspection. That determination was supported by the testimony of Harry Booth, the owner of the truck operated by the defendant. The officer's observations provided adequate specific and articulable facts to justify the stop.

The entry is

The Motion to Suppress is DENIED.

Date: December 30, 2009

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

STATE OF MAINE  
vs  
DAREN W SANCHEZ  
10 MOUNTAIN RD  
WASHINGTON ME 04574

SUPERIOR COURT  
KENNEBEC, ss.  
Docket No AUGSC-CR-2009-00329

**DOCKET RECORD**

DOB: 04/22/1982  
Attorney: WALTER MCKEE  
LIPMAN & KATZ & MCKEE, PA  
227 WATER STREET  
PO BOX 1051  
AUGUSTA ME 04332-1051  
RETAINED 04/08/2009

State's Attorney: EVERT FOWLE

Filing Document: CRIMINAL COMPLAINT  
Filing Date: 02/27/2009

Major Case Type: MISDEMEANOR (CLASS D,E)

**Charge(s)**

1 OPERATING UNDER THE INFLUENCE-1 PRIOR 02/27/2009 GARDINER  
Seq 9879 29-A 2411(1-A)(B)(1) Class D  
GOVE / GAR

**Docket Events:**

05/07/2009 Charge(s): 1  
TRANSFER - TRANSFER FOR JURY TRIAL EDI ON 05/07/2009 @ 18:00

TRANSFERRED CASE: SENDING COURT CASEID AUGDCCR200900426  
FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 02/27/2009

Charge(s): 1  
HEARING - ARRAIGNMENT SCHEDULED FOR 04/15/2009 @ 10:00 in Room No. 1

NOTICE TO PARTIES/COUNSEL

Charge(s): 1  
HEARING - ARRAIGNMENT WAIVED ON 04/15/2009

BAIL BOND - \$500.00 CASH BAIL BOND FILED ON 02/28/2009

BAIL BOND - CASH BAIL BOND DISBURSEMENT ON 05/05/2009

Party(s): DAREN W SANCHEZ  
ATTORNEY - RETAINED ENTERED ON 04/08/2009

Attorney: WALTER MCKEE  
Charge(s): 1  
PLEA - NOT GUILTY ENTERED BY COUNSEL ON 04/15/2009

TRIAL - BENCH SCHEDULED FOR 05/19/2009 @ 8:30 in Room No. 1

NOTICE TO PARTIES/COUNSEL  
TRIAL - BENCH NOT HELD ON 04/29/2009

TRIAL - BENCH NOTICE SENT ON 04/16/2009

Charge(s): 1

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 04/08/2009

HEARING - MOTION TO SUPPRESS SCHEDULED FOR 05/19/2009 @ 8:30 in Room No. 1

NOTICE TO PARTIES/COUNSEL

05/07/2009 HEARING - MOTION TO SUPPRESS NOT HELD ON 04/29/2009

HEARING - MOTION TO SUPPRESS NOTICE SENT ON 04/16/2009

Charge(s): 1

MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 04/08/2009

HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 05/19/2009 @ 8:30 in Room No. 1

NOTICE TO PARTIES/COUNSEL

HEARING - MOTION FOR DISCOVERY NOT HELD ON 04/29/2009

HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 05/19/2009 @ 8:30 in Room No. 1

NOTICE TO PARTIES/COUNSEL

HEARING - MOTION FOR DISCOVERY NOT HELD ON 04/29/2009

HEARING - MOTION FOR DISCOVERY NOTICE SENT ON 04/16/2009

Charge(s): 1

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 04/29/2009

Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL GRANTED ON 05/05/2009

Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL REQUESTED ON 04/29/2009

Charge(s): 1

FINDING - TRANSFER FOR JURY TRIAL TRANSFERRED ON 05/05/2004

AUGSC

05/11/2009 Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 05/08/2009

RECEIVED FROM AUGUSTA DISTRICT COURT DOCKET NO:CR-09-426

05/11/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 07/08/2009 @ 8:30

NOTICE TO PARTIES/COUNSEL

05/11/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 07/08/2009 @ 8:30

NOTICE TO PARTIES/COUNSEL

05/11/2009 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 07/08/2009 @ 8:30

NOTICE TO PARTIES/COUNSEL

05/11/2009 BAIL BOND - \$500.00 CASH BAIL BOND FILED ON 05/07/2009

Bail Receipt Type: CR  
Bail Amt: \$500

Date Bailed: 02/27/2009  
Receipt Type: CK  
Prvdr Name: DAREN W SANCHEZ  
Rtrn Name: DAREN W SANCHEZ

05/14/2009 MOTION - MOTION TO AMEND COMPLAINT FILED BY STATE ON 05/13/2009

07/07/2009 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 07/07/2009

07/08/2009 HEARING - MOTION TO SUPPRESS NOT HELD ON 07/08/2009

07/08/2009 HEARING - MOTION FOR DISCOVERY NOT HELD ON 07/08/2009

07/08/2009 HEARING - MOTION TO SUPPRESS NOT HELD ON 07/08/2009

07/10/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/06/2009 @ 2:15

NOTICE TO PARTIES/COUNSEL

10/07/2009 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 10/07/2009

Attorney: WALTER MCKEE

10/09/2009 MOTION - MOTION TO CONTINUE GRANTED ON 10/07/2009

DONALD H MARDEN , JUSTICE

COPY TO PARTIES/COUNSEL

10/09/2009 MOTION - MOTION TO CONTINUE GRANTED ON 10/07/2008

DONALD H MARDEN , JUSTICE

COPY TO PARTIES/COUNSEL

10/09/2009 HEARING - MOTION TO SUPPRESS CONTINUED ON 10/07/2009

DONALD H MARDEN , JUSTICE

10/09/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/09/2009 @ 1:30

NOTICE TO PARTIES/COUNSEL

10/09/2009 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 10/09/2009

12/09/2009 HEARING - MOTION TO SUPPRESS CONTINUED ON 12/09/2009

12/09/2009 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/10/2009 @ 8:30

NOTICE TO PARTIES/COUNSEL

12/09/2009 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 12/10/2009 @ 8:30

NOTICE TO PARTIES/COUNSEL

12/11/2009 HEARING - MOTION TO SUPPRESS HELD ON 12/10/2009

NANCY MILLS , JUSTICE

Attorney: WALTER MCKEE

Defendant Present in Court

ER, TAPE#1264, INDEX#5431

12/11/2009 Charge(s): 1

MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 12/10/2009

NANCY MILLS , JUSTICE

12/11/2009 Charge(s): 1  
MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 12/10/2009  
NANCY MILLS , JUSTICE

12/30/2009 Charge(s): 1  
MOTION - MOTION TO SUPPRESS DENIED ON 12/30/2009  
NANCY MILLS , JUSTICE  
COPY TO PARTIES/COUNSEL

12/30/2009 HEARING - MOTION FOR DISCOVERY NOT HELD ON 12/10/2009  
NANCY MILLS , JUSTICE

12/30/2009 Charge(s): 1  
MOTION - MOTION FOR DISCOVERY WITHDRAWN ON 12/10/2009  
NANCY MILLS , JUSTICE

12/30/2009 Charge(s): 1  
MOTION - MOTION TO SUPPRESS DENIED ON 12/30/2009  
NANCY MILLS , JUSTICE  
COPY TO PARTIES/COUNSEL

A TRUE COPY

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

Clerk