

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CRIMINAL ACTION
Docket No. CR-09-942
WSB - KEN - 1/11/2010

STATE OF MAINE

v.

DECISION

JASON H. LOMBARDO,

Defendant

Defendant has moved to suppress statements made by him while he was in custody and prior to being Mirandized.

The evidence on State's #1, a DVD of Mr. Lombardo at the police station, reveals that for most of the pre-*Miranda* period, neither Mr. Lombardo nor the officer booking him said anything at all. There are long, silent pauses while the officer types information into his computer.

The officer did ask for addresses, an update on tattoos, marital status, occupation, and girlfriend's name and number (she was coming to pick Mr. Lombardo up), but those are obviously standard booking questions not requiring a *Miranda* warning.

After learning what specific charges were under consideration, the officer informed Mr. Lombardo without asking him any questions. When Mr. Lombardo speculated that the charges were felonies, the officer said, "Yes." When Mr. Lombardo asked why he was being charged with conspiracy, the officer explained that he did not know, that it was not his case, and that Mr. Lombardo would have to be patient and wait for the detectives, who would answer all of Mr. Lombardo's questions. That is the opposite of an interrogation.

At one point, Mr. Lombardo started bemoaning his association with "bikers." He said he knew who the police were looking for. He said he would do the right thing as long as the police protected his daughter. The officer basically said nothing and continued to type into the computer. Once again, this is not an interrogation.

Early in the booking process, the officer asked Mr. Lombardo if he was feeling okay, and Mr. Lombardo responded that he was not guilty and that he should have stayed away from bad people. Also, when Mr. Lombardo was lamenting his fate, the officer said something to the effect that you have a voice on your shoulder telling you what to do. Then he asked about tattoos. That was as close as the officer got to asking questions or making a statement designed to elicit a response. Having watched the DVD, I am satisfied that these remarks did not come close to being an interrogation. There was no need to administer the *Miranda* warnings until the detectives arrived. When the detectives arrived they immediately and properly informed Mr. Lombardo of his rights.

The clerk will make the following docket entry by reference.

Defendant Jason Lombardo's motion to suppress is denied
in all respects.

DATED: 6/11/10



William S. Brodrick
Justice, Superior Court

STATE OF MAINE
vs
JASON H LOMBARDO
69 LONG COVE RD
SAINT GEORGE ME 04860

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2009-00942

DOCKET RECORD

DOB: 05/20/1971

Attorney: KEVIN SULLIVAN
KEVIN P. SULLIVAN, ESQ P.A.
21 WESTERN AVENUE SUITE 101
AUGUSTA ME 04330-7342
APPOINTED 04/27/2010

State's Attorney: EVERT FOWLE

Charge(s)

1 AGGRAVATED TRAFFICKING OF SCHEDULE W DRUG 11/23/2009 WATERVILLE
Seq 11072 17-A 1105-A(1) (E) (1) Class A

2 CRIMINAL CONSPIRACY 06/25/2009 WATERVILLE
Seq 8370 17-A 151(1) (B) Class B Charged with COMPLAINT on Suppleme

Docket Events:

11/30/2009 FILING DOCUMENT - CASH BAIL BOND FILED ON 11/23/2009

11/30/2009 Charge(s): 1

HEARING - INITIAL APPEARANCE SCHEDULED FOR 01/26/2010 @ 8:30

NOTICE TO PARTIES/COUNSEL

11/30/2009 BAIL BOND - \$1,000.00 CASH BAIL BOND FILED ON 11/23/2009

Bail Receipt Type: CR

Bail Amt: \$1,000

Date Bailed: 11/23/2009

Receipt Type: CK

Prvdr Name: JASON H LOMBARDO

Rtrn Name: JASON H LOMBARDO

12/04/2009 Party(s): JASON H LOMBARDO

ATTORNEY - RETAINED ENTERED ON 12/04/2009

Attorney: PETER RODWAY

01/21/2010 Charge(s): 1,2

SUPPLEMENTAL FILING - COMPLAINT FILED ON 01/21/2010

01/21/2010 BAIL BOND - \$25,000.00 UNSECURED BAIL BOND FILED ON 01/21/2010

Bail Amt: \$25,000

Date Bailed: 11/23/2009

01/21/2010 BAIL BOND - UNSECURED BAIL BOND BAIL RELEASED ON 01/21/2010

Date Bailed: 11/23/2009

01/21/2010 BAIL BOND - UNSECURED BAIL BOND RELEASE ACKNOWLEDGED ON 01/21/2010

Date Bailed: 11/23/2009
01/26/2010 BAIL BOND - CASH BAIL BOND CONTINUED AS POSTED ON 01/26/2010
DONALD H MARDEN , JUSTICE
Date Bailed: 11/23/2009
01/26/2010 Charge(s): 1
HEARING - INITIAL APPEARANCE HELD ON 01/26/2010
DONALD H MARDEN , JUSTICE
Reporter: TAMMY DROUIN
01/26/2010 Charge(s): 1,2
HEARING - STATUS CONFERENCE SCHEDULED FOR 03/23/2010 @ 10:00

01/26/2010 Charge(s): 1,2
PLEA - NO ANSWER ENTERED BY DEFENDANT ON 01/26/2010

01/27/2010 Charge(s): 1,2
HEARING - STATUS CONFERENCE NOTICE SENT ON 01/26/2010

03/23/2010 Charge(s): 1,2
HEARING - STATUS CONFERENCE HELD ON 03/23/2010
JOHN NIVISON , JUSTICE
DA: BRAD GRANT
ER
03/23/2010 HEARING - STATUS CONFERENCE SCHEDULED FOR 04/13/2010 @ 10:00

03/23/2010 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 03/23/2010

03/24/2010 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 03/23/2010
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL
03/24/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL MADE ORALLY BY DEF ON 03/23/2010

03/24/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 03/23/2010
JOHN NIVISON , JUSTICE
COPY TO PARTIES/COUNSEL
03/24/2010 Party(s): JASON H LOMBARDO
ATTORNEY - WITHDRAWN ORDERED ON 03/23/2010

Attorney: PETER RODWAY
03/24/2010 Party(s): JASON H LOMBARDO
ATTORNEY - PARTIALLY INDIGENT ORDERED ON 03/23/2010

Attorney: JAMES BILLINGS
03/24/2010 HEARING - STATUS CONFERENCE NOTICE SENT ON 03/24/2010

03/25/2010 HEARING - STATUS CONFERENCE NOT HELD ON 03/25/2010

03/25/2010 Charge(s): 1,2
SUPPLEMENTAL FILING - INDICTMENT FILED ON 03/25/2010

03/25/2010 Charge(s): 1,2
HEARING - ARRAIGNMENT SCHEDULED FOR 04/27/2010 @ 8:30

03/25/2010 Charge(s): 1,2

HEARING - ARRAIGNMENT NOTICE SENT ON 04/09/2010

03/30/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 03/30/2010

03/31/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 03/31/2010
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

03/31/2010 Party(s): JASON H LOMBARDO
ATTORNEY - WITHDRAWN ORDERED ON 03/31/2010

Attorney: JAMES BILLINGS

03/31/2010 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 03/31/2010

04/05/2010 Party(s): JASON H LOMBARDO
ATTORNEY - RETAINED ENTERED ON 12/04/2009

Attorney: PETER RODWAY

04/07/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 04/06/2010

Attorney: PETER RODWAY

04/09/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 04/07/2010
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

04/09/2010 Party(s): JASON H LOMBARDO
ATTORNEY - WITHDRAWN ORDERED ON 04/07/2010

Attorney: PETER RODWAY

04/09/2010 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 04/07/2010
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

04/09/2010 Party(s): JASON H LOMBARDO
ATTORNEY - APPOINTED ORDERED ON 04/07/2010

Attorney: LISA WHITTIER

04/12/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 04/12/2010

04/27/2010 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 04/27/2010
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

04/27/2010 Party(s): JASON H LOMBARDO
ATTORNEY - WITHDRAWN ORDERED ON 04/27/2010

Attorney: LISA WHITTIER

04/27/2010 Party(s): JASON H LOMBARDO
ATTORNEY - APPOINTED ORDERED ON 04/27/2010

Attorney: KEVIN SULLIVAN

04/27/2010 Charge(s): 1,2
HEARING - ARRAIGNMENT HELD ON 04/27/2010
NANCY MILLS , JUSTICE
Defendant Present in Court

READING WAIVED. DEFENDANT INFORMED OF CHARGES. COPY OF INDICTMENT/INFORMATION GIVEN TO

DEFENDANT. 21 DAYS TO FILE MOTIONS

04/27/2010 Charge(s): 1,2
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 04/27/2010

04/27/2010 Charge(s): 1,2
TRIAL - DOCKET CALL SCHEDULED FOR 06/09/2010 @ 2:00

05/18/2010 Charge(s): 1,2
MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 05/14/2010

05/18/2010 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/09/2010 @ 2:00

NOTICE TO PARTIES/COUNSEL

05/18/2010 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 05/18/2010

05/18/2010 Charge(s): 1,2
MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 05/14/2010

05/18/2010 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 06/09/2010 @ 2:00

NOTICE TO PARTIES/COUNSEL

05/18/2010 HEARING - MOTION FOR DISCOVERY NOTICE SENT ON 05/18/2010

05/27/2010 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 05/26/2010

05/27/2010 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/09/2010 @ 2:00

NOTICE TO PARTIES/COUNSEL

06/02/2010 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 06/02/2010

06/07/2010 MOTION - MOTION TO CONTINUE DENIED ON 06/07/2010
WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

06/09/2010 Charge(s): 1,2
MOTION - MOTION TO DISMISS FILED BY DEFENDANT ON 06/09/2010

06/09/2010 Charge(s): 1,2
HEARING - MOTION TO DISMISS SCHEDULED FOR 06/10/2010 @ 10:00

NOTICE TO PARTIES/COUNSEL

06/10/2010 HEARING - MOTION TO SUPPRESS HELD ON 06/10/2010
WILLIAM BRODRICK , JUSTICE
Attorney: KEVIN SULLIVAN
DA: JAMES MITCHELL
Defendant Present in Court

06/10/2010 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 06/10/2010
WILLIAM BRODRICK , JUSTICE

06/10/2010 Charge(s): 1,2
HEARING - MOTION TO DISMISS NOT HELD ON 06/10/2010

06/10/2010 Charge(s): 1,2
MOTION - MOTION TO DISMISS MOOT ON 06/10/2010

06/10/2010 HEARING - MOTION TO SUPPRESS CONTINUED ON 06/09/2010

06/10/2010 HEARING - MOTION FOR DISCOVERY HELD ON 06/10/2010
WILLIAM BRODRICK , JUSTICE
Defendant Present in Court

06/10/2010 Charge(s): 1,2
MOTION - MOTION FOR DISCOVERY MOOT ON 06/10/2010

06/10/2010 Charge(s): 1,2
MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 06/10/2010
WILLIAM BRODRICK , JUSTICE

06/10/2010 Charge(s): 1,2
TRIAL - DOCKET CALL HELD ON 06/09/2010
WILLIAM BRODRICK , JUSTICE
Defendant Present in Court

06/10/2010 Charge(s): 1,2
MOTION - MOTION TO CONTINUE MADE ORALLY BY DEF ON 06/10/2010

06/10/2010 Charge(s): 1,2
MOTION - MOTION TO CONTINUE GRANTED ON 06/10/2010
WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

06/10/2010 Charge(s): 1,2
TRIAL - DOCKET CALL SCHEDULED FOR 07/07/2010

06/11/2010 MOTION - MOTION TO SUPPRESS DENIED ON 06/11/2010
WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

06/11/2010 ORDER - COURT ORDER FILED ON 06/11/2010

DEFENDANT JASON LOMBARDO'S MOTION TO SUPPRESS IS DENIED IN ALL RESPECTS

A TRUE COPY

ATTEST: _____
Clerk