

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO: CR-10-578
REM - KEN - 7/18/2011

STATE OF MAINE

**ORDER DENYING MOTION TO
DISCLOSE GRAND JURY TRANSCRIPTS**

v.

KEVIN MESERVE,
Defendant

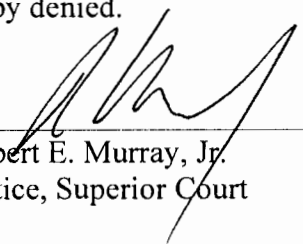
Defendant filed his motion to disclose grand jury transcripts on or about May 17, 2011. The court heard further argument from the parties on June 8, 2011.

Defendant contends that the grand jury testimony which may have included testimony from an officer Andrew McMullen should be disclosed to the defendant pursuant to a request made in accordance with M.R.Crim.P. 6(g). Defendant contends a particularized need is established in these circumstances because defendant believes Officer McMullen may have testified as to what he viewed on a video created by the owners of an establishment, Chez Lounge, where the alleged incident which is the subject of the underlying complaint occurred. Defendant further contends that the eventual destruction of the same videotape creates a particularized need for the testimony which may have been presented to the grand jury.

The court is not persuaded that this fact alone creates a particularized need sufficient to justify the production and disclosure of the grand jury transcripts. The mere fact that the officer's testimony, even relating to his observations of the videotape, may conflict or be inconsistent with other witness testimony regarding what occurred, does not create the particularized need which must be demonstrated to approve the defendant's request. *State v. Cugliata*, 372 A.2d. 1019 (ME 1977).

Accordingly, defendant's motion is hereby denied.

Dated: July 18, 2011



Robert E. Murray, Jr.
Justice, Superior Court

STATE OF MAINE
vs
KEVIN MESERVE
702 CHINA ROAD
WINSLOW ME 04901

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2010-00578

DOCKET RECORD

DOB: 10/05/1960

Attorney: THOMAS HALLETT
THE HALLETT LAW FIRM
75 MARKET STREET SUITE 502
PO BOX 7508
PORTLAND ME 04112
RETAINED 08/18/2010

State's Attorney: EVERT FOWLE

Charge(s)

1 AGGRAVATED ASSAULT 08/04/2010 WATERVILLE
Seq 629 17-A 208(1)(A) Class B
MCMULLEN / WAT

Docket Events:

08/09/2010 FILING DOCUMENT - CASH BAIL BOND FILED ON 08/04/2010

08/09/2010 BAIL BOND - \$700.00 CASH BAIL BOND FILED ON 08/09/2010

Bail Receipt Type: CR

Bail Amt: \$700

Receipt Type: CK

Date Bailed: 08/04/2010

Prvdr Name: KEVIN MESERVE

Rtrn Name: KEVIN MESERVE

08/18/2010 Party(s): KEVIN MESERVE
ATTORNEY - RETAINED ENTERED ON 08/18/2010

Attorney: THOMAS HALLETT

08/18/2010 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 08/18/2010

Attorney: THOMAS HALLETT

08/18/2010 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 08/18/2010

Attorney: THOMAS HALLETT

08/18/2010 MOTION - MOTION TO DISMISS FILED BY DEFENDANT ON 08/18/2010

Attorney: THOMAS HALLETT

09/10/2010 Charge(s): 1
SUPPLEMENTAL FILING - COMPLAINT FILED ON 09/10/2010

10/12/2010 Charge(s): 1
HEARING - STATUS CONFERENCE SCHEDULED FOR 12/14/2010 at 10:00 a.m.

10/12/2010 Charge(s): 1
HEARING - STATUS CONFERENCE NOTICE SENT ON 10/12/2010

10/25/2010 MOTION - MOTION FOR GRAND JURY REPORTER FILED BY DEFENDANT ON 10/25/2010

10/25/2010 Charge(s): 1
HEARING - INITIAL APPEARANCE HELD ON 10/12/2010 at 08:30 a.m.
DONALD H MARDEN , JUSTICE
Defendant Present in Court

10/25/2010 Charge(s): 1
PLEA - NO ANSWER ENTERED BY DEFENDANT ON 10/12/2010

10/25/2010 HEARING - MOTION FOR GRAND JURY REPORTER SCHEDULED FOR 12/14/2010 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

10/25/2010 HEARING - MOTION FOR GRAND JURY REPORTER NOTICE SENT ON 10/25/2010

12/15/2010 HEARING - MOTION FOR GRAND JURY REPORTER HELD ON 12/14/2010
ROLAND A COLE , JUSTICE
Attorney: THOMAS HALLETT
DA: BRAD GRANT
Defendant Present in Court

12/15/2010 MOTION - MOTION FOR GRAND JURY REPORTER GRANTED ON 12/14/2010
ROLAND A COLE , JUSTICE
COPY TO PARTIES/COUNSEL AND COURT REPORTER

12/15/2010 Charge(s): 1
HEARING - STATUS CONFERENCE HELD ON 12/14/2010
ROLAND A COLE , JUSTICE
Attorney: THOMAS HALLETT
DA: BRAD GRANT
Defendant Present in Court

12/15/2010 Charge(s): 1
HEARING - STATUS CONFERENCE SCHEDULED FOR 02/23/2011 at 10:00 a.m.

12/15/2010 Charge(s): 1
HEARING - STATUS CONFERENCE NOTICE SENT ON 12/14/2010

02/23/2011 Charge(s): 1
HEARING - STATUS CONFERENCE HELD ON 02/23/2011
ROBERT E MURRAY JR, JUSTICE
Attorney: THOMAS HALLETT
DA: BRAD GRANT
Defendant Present in Court

02/23/2011 Charge(s): 1
HEARING - STATUS CONFERENCE SCHEDULED FOR 04/26/2011 at 10:00 a.m.

02/23/2011 Charge(s): 1
HEARING - STATUS CONFERENCE NOTICE SENT ON 02/23/2011

04/06/2011 Charge(s): 1
HEARING - STATUS CONFERENCE NOT HELD ON 04/06/2011

04/06/2011 Charge(s): 1
SUPPLEMENTAL FILING - INDICTMENT FILED ON 04/04/2011

04/06/2011 Charge(s): 1
HEARING - ARRAIGNMENT SCHEDULED FOR 04/26/2011 at 10:00 a.m.

04/06/2011 Charge(s): 1
HEARING - ARRAIGNMENT NOTICE SENT ON 04/06/2011

04/26/2011 Charge(s): 1
HEARING - ARRAIGNMENT HELD ON 04/26/2011
M MICHAELA MURPHY , JUSTICE
DA: BRAD GRANT Reporter: JANETTE COOK
Defendant Present in Court

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

04/26/2011 Charge(s): 1
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 04/26/2011

04/28/2011 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 04/28/2011

Attorney: THOMAS HALLETT

04/28/2011 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 04/28/2011

Attorney: THOMAS HALLETT

04/29/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/07/2011 at 11:00 a.m.

NOTICE TO PARTIES/COUNSEL

04/29/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 06/07/2011 at 11:00 a.m.

NOTICE TO PARTIES/COUNSEL

05/17/2011 MOTION - MOTION FOR ENLARGEMENT OF TIME FILED BY DEFENDANT ON 05/17/2011

05/17/2011 MOTION - OTHER MOTION FILED BY DEFENDANT ON 05/17/2011

MOTION TO DISCLOSE GRAND JURY TRANSCRIPTS

06/07/2011 HEARING - MOTION FOR DISCOVERY CONTINUED ON 06/07/2011

06/07/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 06/08/2011 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

06/07/2011 HEARING - MOTION TO SUPPRESS NOT HELD ON 06/07/2011

06/07/2011 MOTION - MOTION TO SUPPRESS WITHDRAWN ON 06/07/2011

06/07/2011 HEARING - OTHER MOTION SCHEDULED FOR 06/08/2011 at 10:00 a.m.

MOTION TO DISCLOSE GRAND JURY TRANSCRIPTS

06/07/2011 HEARING - MOTION FOR ENLARGEMENT OF TIME SCHEDULED FOR 06/08/2011 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

06/07/2011 HEARING - MOTION TO DISMISS SCHEDULED FOR 06/08/2011 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

06/07/2011 MOTION - MOTION TO SUPPRESS WITHDRAWN ON 06/07/2011

06/16/2011 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 06/15/2011

AGREED UPON DISCOVERY ORDER
06/20/2011 MOTION - MOTION FOR DISCOVERY GRANTED ON 06/20/2011
ROBERT E MURRAY JR, JUSTICE
COPY TO PARTIES/COUNSEL
06/20/2011 MOTION - MOTION TO DISMISS WITHDRAWN ON 06/08/2011
06/20/2011 HEARING - MOTION TO DISMISS NOT HELD ON 06/08/2011
06/20/2011 HEARING - MOTION FOR DISCOVERY HELD ON 06/08/2011
ROBERT E MURRAY JR, JUSTICE
Defendant Present in Court
06/20/2011 MOTION - MOTION FOR DISCOVERY GRANTED ON 06/08/2011
ROBERT E MURRAY JR, JUSTICE
COPY TO PARTIES/COUNSEL
SUBMIT PROPOSED ORDER
06/20/2011 HEARING - MOTION FOR ENLARGEMENT OF TIME HELD ON 06/08/2011
ROBERT E MURRAY JR, JUSTICE
Defendant Present in Court
06/20/2011 MOTION - MOTION FOR ENLARGEMENT OF TIME GRANTED ON 06/08/2011
ROBERT E MURRAY JR, JUSTICE
COPY TO PARTIES/COUNSEL
07/20/2011 HEARING - OTHER MOTION HELD ON 06/08/2011
ROBERT E MURRAY JR, JUSTICE
MOTION TO DISCLOSE GRAND JURY TRANSCRIPTS
07/20/2011 MOTION - OTHER MOTION DENIED ON 07/18/2011
JANET TIBBETTS , ASSISTANT CLERK-E
MOTION TO DISCLOSE GRAND JURY TRANSCRIPTS
07/22/2011 Charge(s): 1
TRIAL - DOCKET CALL SCHEDULED FOR 09/07/2011
07/22/2011 ORDER - COURT ORDER FILED ON 07/18/2011
ROBERT E MURRAY JR, JUSTICE
ORDER DENYING MOTION TO DISCLOSE GRAND JURY TRANSCRIPTS
07/22/2011 ORDER - COURT ORDER ENTERED ON 07/18/2011

PARTIES TO

A TRUE COPY

ATTEST: _____
Clerk