

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CRIMINAL ACTION
Docket No. CR-11-378
MMM - KEN - 5/4/2012

STATE OF MAINE

v.

**ORDER ON MOTION TO
SUPPRESS STATEMENTS**

JACOB D. RUSSELL,

Defendant

The court had on this date the opportunity to listen to the audio recording. The court has also reviewed the transcript of the testimony of Detective Kenneth MacMaster taken on January 5, 2012, and has also considered the medical record of the defendant over State's objection (Sebasticook Valley Hospital E.R. Note, Dr. Tritch, appended to defense memoranda). The court has also considered the parties written arguments.

The State must prove that the statements made to Detective MacMaster were voluntary beyond a reasonable doubt. *State v. Curtis*, 552 A.2d 530 (Me. 1988). The court must look at the "totality of the circumstances" to determine if the statements are "the result of defendant's exercise of his free will and rational intellect." *State v. Smith*, 615 A.2d 1162 (Me. 1992); *State v. Caouette*, 446 A.2d 1120, 1123-24 (Me. 1983).

The court finds that the statements were voluntary beyond a reasonable doubt. The defendant, while tired and at times and emotional, gave answers that were responsive and intelligible. He readily engaged with the officer. He did not seek relief from conditions or ask for any assistance. While the officer was aggressive at times in his questioning, and accusatory, the court finds that he was not coerced into making

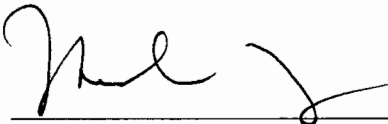
statements. The defendant himself turned off the machine when he no longer wanted to answer questions.

The entry will be:

Motion to Suppress Statements is DENIED.

DATED:

5/4/12



M. Michaela Murphy
Justice, Maine Superior Court

STATE OF MAINE
vs
JACOB RUSSELL
PO BOX 160
BASS HARBOR ME 04653

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2011-00378

DOCKET RECORD

DOB: 03/31/1985

Attorney: LISA WHITTIER
LAW OFFICE OF LISA W D WHITTIER, ESQ
72 WINTHROP STREET SUITE 2
AUGUSTA ME 04330
APPOINTED 05/25/2011

State's Attorney: EVERT FOWLE

Attorney: WILLIAM BAGHDOYAN
WILLIAM BAGHDOYAN, ATTORNEY AT LAW
72 WINTHROP STREET SUITE 2
AUGUSTA ME 04330
APPOINTED 04/03/2012

Filing Document: CRIMINAL COMPLAINT
Filing Date: 05/23/2011

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

Charge (s)

1	DRIVING TO ENDANGER		05/22/2011 AUGUSTA
Seq 1232	29-A 2413 (1)	Class E	
WALKER	/ AUG		
2	AGGRAVATED CRIMINAL MISCHIEF		05/22/2011 AUGUSTA
Seq 779	17-A 805 (1) (A)	Class C	
WALKER	/ AUG		
3	FAILING TO NOTIFY OF MOTOR VEHICLE ACCIDENT		05/22/2011 AUGUSTA
Seq 1186	29-A 2255 (1)	Class E	
WALKER	/ AUG		
4	THEFT BY UNAUTHORIZED TAKING OR TRANSFER		05/22/2011 AUGUSTA
Seq 8427	17-A 353 (1) (B) (4)	Class C	
WALKER	/ AUG		
5	BURGLARY OF A MOTOR VEHICLE		05/22/2011 AUGUSTA
Seq 10928	17-A 405 (1) (A)	Class D	
WALKER	/ AUG		
6	OPERATE WHILE LICENSE SUSPENDED OR REVOKED, PRIOR		05/22/2011 AUGUSTA
Seq 9891	29-A 2412-A (1-A) (D)	Class E	
WALKER	/ AUG		
7	BURGLARY OF A MOTOR VEHICLE		05/22/2011 AUGUSTA
Seq 10928	17-A 405 (1) (A)	Class D	
WALKER	/ AUG		
8	THEFT BY UNAUTHORIZED TAKING OR TRANSFER		05/22/2011 AUGUSTA
Seq 8423	17-A 353 (1) (A)	Class E	Charged with INDICTMENT on Supplem

9 DRIVING TO ENDANGER 05/22/2011 AUGUSTA
Seq 1232 29-A 2413 (1) Class E Charged with SUPERSEDING INDICTMEN
MACMASTER / MFM

10 THEFT BY UNAUTHORIZED TAKING OR TRANSFER 05/22/2011 CHINA
Seq 8427 17-A 353 (1) (B) (4) Class C Charged with SUPERSEDING INDICTMEN
MACMASTER / MFM

11 BURGLARY OF A MOTOR VEHICLE 05/22/2011 CHINA
Seq 10928 17-A 405 (1) (A) Class D Charged with SUPERSEDING INDICTMEN
MACMASTER / MFM

12 THEFT BY UNAUTHORIZED TAKING OR TRANSFER 05/22/2011 WINSLOW
Seq 8427 17-A 353 (1) (B) (4) Class C Charged with SUPERSEDING INDICTMEN
MACMASTER / MFM

13 BURGLARY OF A MOTOR VEHICLE 05/22/2011 WINSLOW
Seq 10928 17-A 405 (1) (A) Class D Charged with SUPERSEDING INDICTMEN
MACMASTER / MFM

Docket Events:

05/23/2011 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 05/23/2011

05/23/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - INITIAL APPEARANCE SCHEDULED FOR 05/23/2011 at 01:00 p.m.

NOTICE TO PARTIES/COUNSEL

05/24/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - INITIAL APPEARANCE HELD ON 05/23/2011

05/24/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - STATUS CONFERENCE SCHEDULED FOR 07/26/2011 at 10:00 a.m.

05/24/2011 Charge(s): 1,2,3,4,5,6,7
PLEA - NO ANSWER ENTERED BY DEFENDANT ON 05/23/2011

05/24/2011 BAIL BOND - \$10,000.00 CASH BAIL BOND SET BY COURT ON 05/23/2011
M MICHAELA MURPHY , JUSTICE
OR 100,000.00 SURETY NO USE OR POSSESSION OF INTOXICANTS AND RANDOM SEARCH AND TEST FOR
THE SAME. NO CONTACT WITH DEBRA GOSSELIN, KENNETH AND LINDA WARD AND JONATHAN WOODS NOT TO
OPERATE A M/V WITH A VALID LICENSE. MAY BE REVIEWED.

05/24/2011 Charge(s): 1,2,3,4,5,6,7
MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 05/23/2011

05/25/2011 Charge(s): 1,2,3,4,5,6,7
MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 05/25/2011
M MICHAELA MURPHY , JUSTICE
COPY TO PARTIES/COUNSEL

05/25/2011 Party(s): JACOB RUSSELL
ATTORNEY - APPOINTED ORDERED ON 05/25/2011
CR_200 Page 2 of 8 Printed on: 05/08/2012

Attorney: LISA WHITTIER
05/25/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - STATUS CONFERENCE NOTICE SENT ON 05/25/2011

06/24/2011 MOTION - MOTION TO AMEND BAIL FILED BY DEFENDANT ON 06/23/2011

06/28/2011 HEARING - MOTION TO AMEND BAIL SCHEDULED FOR 07/07/2011 at 09:00 a.m.

NOTICE TO PARTIES/COUNSEL
07/07/2011 HEARING - MOTION TO AMEND BAIL HELD ON 07/07/2011
JOHN NIVISON , JUSTICE
Defendant Present in Court

07/07/2011 MOTION - MOTION TO AMEND BAIL DENIED ON 07/07/2011
JOHN NIVISON , JUSTICE
COPY TO PARTIES/COUNSEL
IF MORE INFORMATION IF FILED REGARDING IN-PATIENT TREATMENT
MAY BE REVIEWED

07/26/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - STATUS CONFERENCE HELD ON 07/26/2011
JOHN NIVISON , JUSTICE
Attorney: LISA WHITTIER
DA: BRAD GRANT Reporter: TAMMY DROUIN
Defendant Present in Court

07/26/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - STATUS CONFERENCE SCHEDULED FOR 08/09/2011 at 10:00 a.m.

07/26/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - STATUS CONFERENCE NOTICE SENT ON 07/26/2011

07/29/2011 Charge(s): 1,2,3,4,5,6,7
HEARING - STATUS CONFERENCE NOT HELD ON 07/28/2011

07/29/2011 Charge(s): 1,2,3,4,5,6,7,8
SUPPLEMENTAL FILING - INDICTMENT FILED ON 07/28/2011

07/29/2011 Charge(s): 1,2,3,4,5,6,7,8
HEARING - ARRAIGNMENT SCHEDULED FOR 08/09/2011 at 08:30 a.m.

07/29/2011 Charge(s): 1,2,3,4,5,6,7,8
HEARING - ARRAIGNMENT NOTICE SENT ON 08/01/2011

08/09/2011 MOTION - MOTION FOR MENTAL EXAMINATION FILED BY DEFENDANT ON 08/08/2011

08/09/2011 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 08/08/2011

08/09/2011 Charge(s): 1,2,3,4,5,6,7,8
HEARING - ARRAIGNMENT HELD ON 08/09/2011
M MICHAELA MURPHY , JUSTICE
Defendant Present in Court

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

08/09/2011 Charge(s): 1,2,3,4,5,6,7,8

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 08/09/2011

08/09/2011 Charge(s): 1,2,3,4,5,6,7,8

TRIAL - DOCKET CALL SCHEDULED FOR 10/04/2011 at 03:00 p.m.

08/15/2011 MOTION - MOTION FOR MENTAL EXAMINATION GRANTED ON 08/10/2011

M MICHAELA MURPHY , JUSTICE

COPY SENT TO STATE FORENSIC SERVICE

08/30/2011 LETTER - FROM NON-PARTY FILED ON 08/26/2011

NOTICE FILED BY STATE FORENSIC SERVICE INDICATING COMPETENCY EXAM SCHEDULE FOR 9/6/11 AT 8:30 AM.

09/22/2011 PSYCHIATRIC EXAM - COMPETENCY EVALUATION REPORT FILED ON 09/22/2011

COMPETENCY REPORT FILED IMPOUNDED.

COPY GIVEN IN

HAND TO ATTY WHITTIER ON 10/31/11.

09/26/2011 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 09/23/2011

Attorney: LISA WHITTIER

09/28/2011 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 09/28/2011

Attorney: LISA WHITTIER

09/28/2011 MOTION - MOTION TO AMEND BAIL FILED BY DEFENDANT ON 09/28/2011

Attorney: LISA WHITTIER

10/05/2011 MOTION - MOTION TO CONTINUE GRANTED ON 10/04/2011

NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL

10/05/2011 Charge(s): 1,2,3,4,5,6,7,8

TRIAL - DOCKET CALL CONTINUED ON 10/04/2011

10/05/2011 HEARING - MOTION TO AMEND BAIL SCHEDULED FOR 10/04/2011

NOTICE TO PARTIES/COUNSEL

10/05/2011 HEARING - MOTION TO AMEND BAIL HELD ON 10/04/2011

NANCY MILLS , JUSTICE

Defendant Present in Court

10/05/2011 MOTION - MOTION TO AMEND BAIL DENIED ON 10/04/2011

NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL

10/05/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/06/2011 at 02:30 p.m.

NOTICE TO PARTIES/COUNSEL

11/07/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 12/06/2011 at 02:30 p.m.

NOTICE TO PARTIES/COUNSEL

12/07/2011 HEARING - MOTION FOR DISCOVERY CONTINUED ON 12/06/2011

12/07/2011 HEARING - MOTION FOR DISCOVERY SCHEDULED FOR 12/08/2011 at 01:00 p.m.

NOTICE TO PARTIES/COUNSEL

12/07/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 12/06/2011

12/07/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/08/2011 at 01:00 p.m.

NOTICE TO PARTIES/COUNSEL
12/07/2011 MOTION - OTHER MOTION FILED BY DEFENDANT ON 12/05/2011

MOTION FOR DISCOVERY EXPERT
12/07/2011 HEARING - OTHER MOTION SCHEDULED FOR 12/08/2011 at 01:00 p.m.

MOTION FOR DISCOVERY EXPERT
12/07/2011 MOTION - MOTION TO DISMISS FILED BY DEFENDANT ON 12/05/2011

12/07/2011 HEARING - MOTION TO DISMISS SCHEDULED FOR 12/08/2011 at 01:00 p.m.

NOTICE TO PARTIES/COUNSEL
12/07/2011 MOTION - MOTION BILL OF PARTICULARS FILED BY DEFENDANT ON 12/05/2011

12/07/2011 HEARING - MOTION BILL OF PARTICULARS SCHEDULED FOR 12/08/2011 at 01:00 p.m.

12/08/2011 MOTION - MOTION TO CONTINUE FILED BY STATE ON 12/08/2011

12/08/2011 MOTION - MOTION FOR DISCOVERY FILED BY STATE ON 12/08/2011

12/09/2011 MOTION - MOTION TO CONTINUE GRANTED ON 12/08/2011
M MICHAELA MURPHY , JUSTICE
COPY TO PARTIES/COUNSEL
12/09/2011 HEARING - MOTION BILL OF PARTICULARS CONTINUED ON 12/08/2011

12/09/2011 HEARING - MOTION BILL OF PARTICULARS SCHEDULED FOR 01/03/2012 at 03:00 p.m.

12/09/2011 HEARING - MOTION TO DISMISS CONTINUED ON 12/08/2011

12/09/2011 HEARING - MOTION TO DISMISS SCHEDULED FOR 01/03/2012 at 03:00 p.m.

NOTICE TO PARTIES/COUNSEL
12/09/2011 HEARING - OTHER MOTION CONTINUED ON 12/08/2011

MOTION FOR DISCOVERY EXPERT
12/09/2011 MOTION - MOTION FOR DISCOVERY GRANTED ON 12/08/2011
M MICHAELA MURPHY , JUSTICE
COPY TO PARTIES/COUNSEL
12/09/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 12/08/2011

12/09/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 01/03/2012 at 03:00 p.m.

NOTICE TO PARTIES/COUNSEL
12/09/2011 HEARING - OTHER MOTION SCHEDULED FOR 01/03/2012 at 03:00 p.m.

MOTION FOR EXPERT
12/09/2011 HEARING - MOTION FOR DISCOVERY HELD ON 12/08/2011
M MICHAELA MURPHY , JUSTICE
Defendant Present in Court
01/03/2012 MOTION - MOTION TO DISMISS FILED BY DEFENDANT ON 01/03/2012

DEADLINE TO FILE BRIEFS MAY 15, 2012 FOR BOTH MOTIONS TO DISMISS, BRIEFS DUE BY ALL PARTIES

01/03/2012 HEARING - MOTION TO DISMISS SCHEDULED FOR 01/05/2012 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

01/03/2012 HEARING - OTHER MOTION SCHEDULED FOR 01/05/2012 at 10:00 a.m.

MOTION FOR EXPERT

01/03/2012 HEARING - MOTION TO SUPPRESS CONTINUED ON 01/03/2012

01/03/2012 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 01/05/2012 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

01/03/2012 HEARING - MOTION BILL OF PARTICULARS CONTINUED ON 01/03/2012

01/03/2012 HEARING - MOTION BILL OF PARTICULARS SCHEDULED FOR 01/05/2012 at 10:00 a.m.

01/04/2012 Charge(s): 1,2,3,4,5,6,7,8

TRIAL - JURY TRIAL SCHEDULED FOR 01/06/2012 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/05/2012 Charge(s): 1,2,3,4,5,6,7,8

TRIAL - JURY TRIAL CONTINUED ON 01/05/2012

01/05/2012 Charge(s): 1,2,3,4,5,6,7,8

TRIAL - DOCKET CALL SCHEDULED FOR 03/06/2012 at 02:30 p.m.

01/11/2012 OTHER FILING - MEMORANDUM OF LAW FILED ON 01/11/2012

DA: PAUL RUCHA

STATE'S MEMORANDUM FILED REGARDING DEFENDANT'S MOTION TO SUPPRESS

01/13/2012 OTHER FILING - MEMORANDUM OF LAW FILED ON 01/13/2012

Attorney: LISA WHITTIER

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO SUPPRESS

01/27/2012 ORDER - TRANSCRIPT ORDER FILED ON 01/27/2012

01/30/2012 ORDER - TRANSCRIPT ORDER FILED ON 01/27/2012

M MICHAELA MURPHY , JUSTICE

MOTION FOR TRANSCRIPT AT STATE EXPENSE GRANTED. MAILED TO TRANSCRIPT ON 1/30/12.

02/03/2012 HEARING - OTHER MOTION CONTINUED ON 01/05/2012

MOTION FOR EXPERT

02/03/2012 HEARING - MOTION TO DISMISS CONTINUED ON 01/05/2012

02/03/2012 HEARING - OTHER MOTION CONTINUED ON 01/05/2012

MOTION FOR EXPERT

02/03/2012 HEARING - MOTION TO DISMISS CONTINUED ON 01/03/2012

02/03/2012 HEARING - MOTION TO SUPPRESS HELD ON 01/05/2012

02/03/2012 HEARING - MOTION BILL OF PARTICULARS HELD ON 01/05/2012

CR_200

Page 6 of 8

Printed on: 05/08/2012

02/03/2012 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 01/05/2012
M MICHAELA MURPHY , JUSTICE

02/03/2012 CASE STATUS - CASE FILE LOCATION ON 01/05/2012

UNDER ADVISEMENT WITH JUSTICE MURPHY

02/16/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
SUPPLEMENTAL FILING - SUPERSEDING INDICTMENT FILED ON 02/09/2012

02/16/2012 Charge(s) : 1,2,3,4,5,6,7,8
TRIAL - DOCKET CALL NOTICE SENT ON 02/16/2012

02/16/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
TRIAL - DOCKET CALL SCHEDULED FOR 03/06/2012 at 02:30 p.m.

02/16/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
TRIAL - DOCKET CALL NOTICE SENT ON 02/16/2012

02/16/2012 Charge(s) : 1,2,3,4,5,6,7,8
TRIAL - DOCKET CALL NOT HELD ON 02/16/2012

02/24/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
HEARING - ARRAIGNMENT SCHEDULED FOR 03/06/2012 at 02:30 p.m. in Room No. 1

02/24/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
TRIAL - DOCKET CALL NOT HELD ON 02/24/2012

02/27/2012 LETTER - REQUEST FOR PROTECTION FILED ON 02/27/2012

03/01/2012 OTHER FILING - OTHER DOCUMENT FILED ON 02/29/2012

EXPERT REPORT

03/06/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
HEARING - ARRAIGNMENT HELD ON 03/06/2012
NANCY MILLS , JUSTICE
Attorney: LISA WHITTIER
DA: PAUL RUCHA
Defendant Present in Court

READING WAIVED. DEFENDANT INFORMED OF CHARGES. COPY OF INDICTMENT/INFORMATION GIVEN TO
DEFENDANT. 21 DAYS TO FILE MOTIONS
TAP#1505, INDEX#940

03/06/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 03/06/2012

03/06/2012 Charge(s) : 1,2,3,4,5,6,7,8,9,10,11,12,13
TRIAL - DOCKET CALL SCHEDULED FOR 04/03/2012 at 01:30 p.m.

03/12/2012 BAIL BOND - \$10,000.00 CASH BAIL BOND AMENDED ON 03/06/2012
NANCY MILLS , JUSTICE

OR 100,000 SURETY, NOT TO USE OR POSSESS ANY ALCOHOL OR ILLEGAL DRUGS, SUBMIT TO SEARCH
AND TESTING AT ANY TIME WITHOUT PROBABLE CAUSE, NO CONTACT WITH DEBRA GOSSELIN, KENNETH
AND LINDA WARD, JONATHAN WOODS, JENNY PISCULLI, JOSEPH LABBE OR KELLY POULIN AND NOT TO
ENTER ANY RESIDENCE, PLACE OF EMPLOYMENT OR PLACE OF EDUCATION, NOT TO OPERATE ANY MOTOR

VEHICLE UNLESS LAWFULLY LICENSED

03/22/2012 OTHER FILING - TRANSCRIPT FILED ON 03/22/2012

FILED BY BRENDA CHENEY.

03/28/2012 LETTER - REQUEST FOR PROTECTION FILED ON 03/26/2012

04/02/2012 LETTER - FROM PARTY FILED ON 03/30/2012

Attorney: LISA WHITTIER

LETTER FILED INDICATING MCILS HAS APPROVED FUNDS TO HAVE ATTY BAGHDOYAN APPOINTED AS CO
COUNSEL.

04/03/2012 Charge(s): 1,2,3,4,5,6,7,8,9,10,11,12,13

TRIAL - DOCKET CALL HELD ON 04/03/2012

NANCY MILLS , JUSTICE

Defendant Present in Court

04/03/2012 HEARING - MOTION TO DISMISS SCHEDULED FOR 05/15/2012 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

04/03/2012 Party(s): JACOB RUSSELL

ATTORNEY - APPOINTED ORDERED ON 04/03/2012

Attorney: WILLIAM BAGHDOYAN

04/03/2012 HEARING - MOTION TO DISMISS NOTICE SENT ON 05/04/2012

05/04/2012 MOTION - MOTION TO SUPPRESS DENIED ON 05/04/2012

M MICHAELA MURPHY , JUSTICE

COPY TO PARTIES/COUNSEL

05/08/2012 CASE STATUS - CASE FILE RETURNED ON 05/08/2012

05/08/2012 ORDER - COURT ORDER FILED ON 05/04/2012

M MICHAELA MURPHY , JUSTICE

ORDER ON MOTION TO SUPPRESS STATEMENTS, MOTION TO SUPPRESS IS DENIED

A TRUE COPY

ATTEST: _____

Clerk