

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-11-524
NM - KEN - 11/8/2011

STATE OF MAINE

v.

ORDER ON DEFENDANT'S
MOTION TO SUPPRESS

MEGAN COX,

Defendant

The defendant moves to suppress evidence obtained as a result of the stop of her vehicle. The defendant argues that the officer lacked a reasonable articulable suspicion to have the defendant perform field sobriety tests. For the following reasons, the motion is denied.

FINDINGS

Maine State Police Trooper Eric Verhille has been a member of the Maine State Police since May 2007. On April 30, 2011 at 12:05 a.m., he was on routine patrol and followed a Subaru station wagon for two or three minutes. A video recording was made of the station wagon as Trooper Verhille followed the vehicle.

Trooper Verhille testified, and the video confirms, that the vehicle veered to the centerline and returned to the right several times. The vehicle was riding the centerline as vehicles approached from the opposite direction. On one occasion, the entire tire of the defendant's vehicle was on the yellow line. Trooper Verhille activated his emergency lights to stop the vehicle. Trooper Verhille was concerned about the operation he had observed and about a potential accident, especially because Route 9 in the Chelsea - Randolph area has a series of small hills and one partial S turn. Trooper

Verhille was also concerned about the possibility the operator was experiencing medical problems. The vehicle pulled over and stopped.

Trooper Verhille approached the driver's side door and obtained a license from the operator, Megan Cox. Trooper Verhille asked if everything was all right. The defendant responded that it was past her bedtime, she was a student, owned a small business in Gardiner, had been with friends, and was tired. Trooper Verhille described the defendant's demeanor as "giddy," as though she did not appreciate the seriousness of the situation. The video confirms that she laughed often during her conversation with Trooper Verhille.

Trooper Verhille asked whether the defendant had had anything to drink. She first responded that she had one glass of wine at 7:30. Trooper Verhille asked again how many drinks she had and the defendant responded she had two glasses of wine. The defendant had no slurred speech, no odor of intoxicating beverage, no bloodshot or glassy eyes, no manual dexterity problems, and no mental acuity problems. She did not give the trooper all of the correct documents, however, initially.

Trooper Verhille concluded that the defendant was impaired by alcohol based on her operation and admission she had consumed alcohol. He requested that she exit the vehicle¹ and conducted standard field sobriety tests.

CONCLUSIONS

Field Sobriety Tests

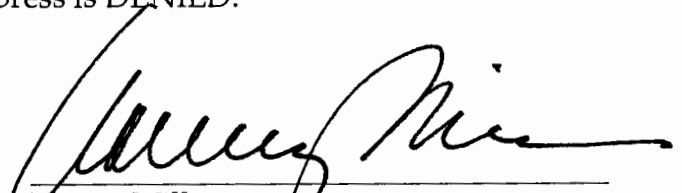
Trooper Verhille had "specific and articulable facts which, taken together with rational inferences from those facts," warranted the administration of field sobriety tests. State v. Wood, 662 A.2d 919, 920 (Me. 1995) (quoting State v. Dulac, 600 A.2d

1121, 1122 (Me. 1991)); State v. Little, 468 A.2d 615, 617-18 (Me. 1983). The defendant's operation of her vehicle, her admission to drinking alcohol and changing the amount consumed upon further inquiry, and her failure to give all documents to Trooper Verhille when first requested provided the required basis to administer the field sobriety tests.

The entry is

The Defendant's Motion to Suppress is DENIED.

Date: November 8, 2011



Nancy Mills
Justice, Superior Court

¹ Trooper Verhille conducted an HGN test while the defendant was seated in her vehicle. The State stipulated that conducting this test in a vehicle is not a proper administration of the test and the test should be given no weight by the court.

STATE OF MAINE
vs
MEGAN E COX
112 BARTON ROAD
WINDSOR ME 04363

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2011-00524

DOCKET RECORD

DOB: 02/26/1981

Attorney: WILLIAM BLY
LAW OFFICE OF WILLIAM T BLY
50 ADAMS STREET
PO BOX 1871
BIDDEFORD ME 04005
RETAINED 05/31/2011

State's Attorney: EVERT FOWLE

Filing Document: CRIMINAL COMPLAINT
Filing Date: 05/02/2011

Major Case Type: MISDEMEANOR (CLASS D,E)

Charge(s)

1 OPERATING UNDER THE INFLUENCE 04/30/2011 CHELSEA
Seq 11493 29-A 2411(1-A) (A) Class D

Docket Events:

07/14/2011 Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL EDI ON 07/14/2011 at 06:00 p.m.

TRANSFERRED CASE: SENDING COURT CASEID AUGDCCR201100663
FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 05/02/2011

Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 07/13/2011 at 10:00 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

Charge(s): 1

HEARING - ARRAIGNMENT WAIVED ON 07/13/2011

BAIL BOND - \$250.00 UNSECURED BAIL BOND FILED ON 05/02/2011

Bail Amt: \$250

Date Bailed: 04/30/2011

Party(s): MEGAN E COX

ATTORNEY - RETAINED ENTERED ON 05/31/2011

Attorney: WILLIAM BLY

Charge(s): 1

SUPPLEMENTAL FILING - COMPLAINT FILED ON 05/26/2011

Charge(s): 1

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 05/31/2011

Charge(s): 1

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 07/13/2011

Charge(s): 1
TRANSFER - TRANSFER FOR JURY TRIAL REQUESTED ON 07/13/2011

Charge(s): 1
FINDING - TRANSFER FOR JURY TRIAL TRANSFERRED ON 07/14/2011

AUGSC

07/15/2011 Charge(s): 1
FINDING - TRANSFER FOR JURY TRIAL TRANSFERRED ON 07/14/2011

AUGSC

07/19/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 09/06/2011 at 09:30 a.m.

NOTICE TO PARTIES/COUNSEL

07/19/2011 Charge(s): 1
TRIAL - DOCKET CALL SCHEDULED FOR 09/06/2011 at 09:30 a.m.

07/19/2011 Charge(s): 1
TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 07/15/2011

AUGDCCR2011663

07/21/2011 LETTER - REQUEST FOR PROTECTION FILED ON 06/22/2011

09/08/2011 MOTION - MOTION FOR SANCTIONS FILED BY DEFENDANT ON 09/06/2011

09/08/2011 MOTION - MOTION FOR SANCTIONS DENIED ON 09/06/2011
M MICHAELA MURPHY , JUSTICE
DENIED AS TO SANCTIONS, GRANTED AS TO 2 VIDEOS TO BE PROVIDED BY 9/9/11, ALSO WITH WET
BATH RECORDS

09/08/2011 Charge(s): 1
TRIAL - DOCKET CALL HELD ON 09/06/2011
M MICHAELA MURPHY , JUSTICE
Defendant Present in Court

09/08/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 09/06/2011

09/08/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/04/2011 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

09/08/2011 Charge(s): 1
TRIAL - DOCKET CALL SCHEDULED FOR 10/04/2011 at 10:00 a.m.

10/04/2011 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 10/04/2011

DEFENDANT'S AMENDED MOTION TO SUPPRESS

10/04/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/04/2011 at 10:00 a.m.

NOTICE TO PARTIES/COUNSEL

10/04/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 10/04/2011

10/04/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/05/2011 at 11:00 a.m.

NOTICE TO PARTIES/COUNSEL

10/04/2011 Charge(s): 1
CR_200

TRIAL - DOCKET CALL HELD ON 10/04/2011

NANCY MILLS , JUSTICE

Defendant Present in Court

10/04/2011 HEARING - MOTION TO SUPPRESS CONTINUED ON 10/04/2011

10/20/2011 CASE STATUS - CASE FILE LOCATION ON 10/20/2011

JUSTICE MILLS HAS FILE UNDER ADVISEMENT

10/21/2011 HEARING - MOTION TO SUPPRESS HELD ON 10/05/2011

NANCY MILLS , JUSTICE

Defendant Present in Court

ER

10/21/2011 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 10/05/2011

NANCY MILLS , JUSTICE

10/21/2011 Charge(s): 1

MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 10/05/2011

NANCY MILLS , JUSTICE

11/09/2011 CASE STATUS - CASE FILE RETURNED ON 11/08/2011

11/09/2011 ORDER - COURT ORDER FILED ON 11/08/2011

NANCY MILLS , JUSTICE

MOTION TO SUPPRESS DENIED

11/09/2011 ORDER - COURT ORDER ENTERED ON 11/08/2011

11/09/2011 Charge(s): 1

MOTION - MOTION TO SUPPRESS DENIED ON 11/08/2011

NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL

11/09/2011 MOTION - MOTION TO SUPPRESS DENIED ON 11/08/2011

NANCY MILLS , JUSTICE

COPY TO PARTIES/COUNSEL

A TRUE COPY

ATTEST: _____

Clerk