

STATE OF MAINE
CUMBERLAND, ss.

UNIFIED CRIMINAL DOCKET
CUMUCD-CR-13-694

WSB - CUM - 9/4/2013

STATE OF MAINE

v.

DECISION

JESS BEASLEY

Defendant, Jess Beasley, seeks to suppress a recorded phone call on the grounds that he did not consent to have the call recorded in Massachusetts, where he was residing at the time he received the call. Massachusetts is a so-called "two party" state whereas Maine is a so-called "one party" state.

Paige Sawyer, the alleged victim in this case, made the recorded call at the request of a Portland police detective. During the call Mr. Beasley made incriminating statements. He also stated that he was worried that the call was being recorded.

The stipulated facts reveal that the Portland police were aware at the time of the call that Mr. Beasley was likely living with his mother in Martha's Vineyard. However, the stipulated facts do not indicate where Mr. Beasley was domiciled. His cell phone still used a Maine area code. Also, at the time of the rape and assault, Mr. Beasley had

been living in Portland. Ms. Sawyer lived in Maine at the time of the crime and at the time of the call.

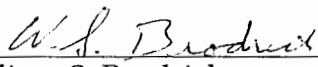
Although not precisely on point, the logic of State v. Lipham is persuasive. Lipham states that in determining choice of law issues, the law of the state with the most significant relationship to the recorded conversation prevails.

Here, as in Lipham, the communication was initiated in Maine and recorded in Maine. The communication concerned felonies committed in Maine and concerned two persons who at the time of the crimes were both residents of Maine. Furthermore, the case will be tried in Maine. The fact that Mr. Beasley was staying with his mother in Massachusetts, in the absence of any evidence that he had changed his domicile to Massachusetts, does not begin to outweigh the facts that favor Maine law. Finally, according to the discovery, Mr. Beasley was aware of the danger of having the call recorded. He cannot argue that he was somehow duped into making incriminating statements by his reliance on the Massachusetts "two party" consent law in regard to recorded calls.

For the above stated reasons, the clerk will make the following entry on the docket by reference.

Defendant Jess Beasley's motion to suppress is denied in all respects.

DATED: September 4, 2013



William S. Brodrick
Active-Retired Justice, Superior Court

STATE OF MAINE
vs
JESS B BEASLEY
148 CLARK STREET #3
PORTLAND ME 04102

CRIMINAL DOCKET
CUMBERLAND, ss.
Docket No CUMCD-CR-2013-00694

DOCKET RECORD

DOB: 01/20/1989

Attorney: ROBERT RUFFNER
ROBERT J RUFFNER ATTORNY AT LAW
415 CONGRESS STREET, SUITE 202
PORTLAND ME 04101
RETAINED 05/20/2013

State's Attorney: STEPHANIE ANDERSON

Filing Document: CRIMINAL COMPLAINT
Filing Date: 01/31/2013

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

Charge(s)

| | | | |
|---|--|---------|---------------------|
| 1 | GROSS SEXUAL ASSAULT Seq 4262 17-A 253(1)(A) SWEATT / POR | Class A | 09/15/2012 PORTLAND |
| 2 | AGGRAVATED ASSAULT Seq 633 17-A 208(1)(C) SWEATT / POR | Class B | 09/15/2012 PORTLAND |
| 3 | DOMESTIC VIOLENCE CRIMINAL THREATENING, WITH A DANGEROUS WEAPON Seq 11290 17-A 209-A(1)(A) SWEATT / POR | Class C | 09/15/2012 PORTLAND |
| 4 | DOMESTIC VIOLENCE TERRORIZING Seq 11294 17-A 210-B(1)(A) SWEATT / POR | Class D | 09/15/2012 PORTLAND |

Docket Events:

01/31/2013 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 01/31/2013

01/31/2013 Charge(s): 1,2,3,4
WARRANT - ON AFFIDAVIT REQUESTED ON 01/31/2013

01/31/2013 Charge(s): 1,2,3,4
WARRANT - \$50,000.00 ON AFFIDAVIT ORDERED ON 01/31/2013
RICHARD MULHERN, JUDGE
\$50,000. CASH - NO CONTACT, DIRECT/INDIRECT, W/ PAIGE SAWYER DOB: 03/30/93; SHALL NOT ENTER OR GO UPON PREMISES OF ANY RESIDENCE/PLACE OF EMPLOYMENT/PLACE OF EDUCATION OF SAME; NO USE/POSS OF ILLEGAL DRUGS/DANGEROUS WEAPONS AND SUBMIT TO RANDOM SEARCH/TESTING FOR SAME.

01/31/2013 Charge(s): 1,2,3,4
WARRANT - \$50,000.00 ON AFFIDAVIT ISSUED ON 01/31/2013

\$50,000. CASH - NO CONTACT, DIRECT/INDIRECT, W/ PAIGE SAWYER DOB: 03/30/93; SHALL NOT ENTER OR GO UPON PREMISES OF ANY RESIDENCE/PLACE OF EMPLOYMENT/PLACE OF EDUCATION OF SAME; NO USE/POSS OF ILLEGAL DRUGS/DANGEROUS WEAPONS AND SUBMIT TO RANDOM SEARCH/TESTING FOR

SAME.

01/31/2013 Charge(s): 1,2,3,4
WARRANT - ON AFFIDAVIT MODIFY ACKNOWLEDGED ON 01/31/2013 at 11:21 a.m.

03/06/2013 Charge(s): 1,2,3,4
WARRANT - ON AFFIDAVIT EXECUTED BY AGENCY ON 03/06/2013 at 05:40 p.m.

03/07/2013 WARRANT - \$50,000.00 ON AFFIDAVIT ORDERED ON 03/07/2013

\$50,000.00 CASH-NO CONTACT, DIRECT /INDIRECT W/PAIGE SWAYER DOB 3/30/93; SHAL NOT ENTER OR GO UPON PREMISES OF AN RESIDENCE/PLACE OF EMPLOYMENT/PLACE OF EDUCATION OF SAME; NO USE/POSS. OF ILLEGAL DRUGS/DANGEROUS WEAPONS AND SUBMIT TO RANDOM SEACH AND TESTING FOR SAME.

03/07/2013 WARRANT - \$50,000.00 ON AFFIDAVIT ISSUED ON 03/07/2013

\$50,000.00 CASH-NO CONTACT, DIRECT /INDIRECT W/PAIGE SWAYER DOB 3/30/93; SHAL NOT ENTER OR GO UPON PREMISES OF AN RESIDENCE/PLACE OF EMPLOYMENT/PLACE OF EDUCATION OF SAME; NO USE/POSS. OF ILLEGAL DRUGS/DANGEROUS WEAPONS AND SUBMIT TO RANDOM SEACH AND TESTING FOR SAME.

03/07/2013 Charge(s): 1,2,3,4
SUPPLEMENTAL FILING - INDICTMENT FILED ON 03/07/2013
JAMES TURCOTTE , ASSISTANT CLERK

03/08/2013 WARRANT - ON AFFIDAVIT MODIFY ACKNOWLEDGED ON 03/08/2013 at 03:30 p.m.

03/18/2013 Party(s): JESS B BEASLEY
ATTORNEY - RETAINED ENTERED ON 03/18/2013

Attorney: DAVID BATE

03/18/2013 WARRANT - ON AFFIDAVIT EXECUTED BY AGENCY ON 03/18/2013 at 02:51 p.m.

03/21/2013 Charge(s): 1,2,3,4
HEARING - ARRAIGNMENT HELD ON 03/20/2013
MARY KELLY , JUDGE
DA: JENNIFER ACKERMAN
DEFENDANT INFORMED OF CHARGES. 21 DAYS TO FILE MOTIONS

TAPE #4827

03/21/2013 Charge(s): 1,2,3,4
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 03/20/2013

Defendant Present in Court

03/21/2013 BAIL BOND - CASH BAIL BOND SET BY COURT ON 03/20/2013
MARY KELLY , JUDGE
50,000.SS/\$10,000.CASH W/ MPS CONTRACT

& CONDS.

03/21/2013 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 05/22/2013 in Room No. 7

03/21/2013 TRIAL - JURY TRIAL SCHEDULED FOR 07/08/2013 at 08:30 a.m. in Room No. 11

NOTICE TO PARTIES/COUNSEL

04/03/2013 OTHER FILING - PRETRIAL SERVICES CONTRACT FILED ON 04/03/2013

04/04/2013 OTHER FILING - PRETRIAL SERVICES CONTRACT APPROVED ON 04/03/2013
ROLAND A COLE , JUSTICE

04/08/2013 BAIL BOND - \$10,000.00 CASH BAIL BOND FILED ON 04/08/2013

Bail Receipt Type: CR
Bail Amt: \$10,000

Receipt Type: CK
Prvdr Name: BRIAN BEASLEY
Rtrn Name: BRIAN BEASLEY

3.7.45

837

** SEE ASSIGNMENT OF CASH BAIL

04/19/2013 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 04/19/2013

UNOPPOSED MOTION TO CONTINUE 5/22 DISPO

04/22/2013 MOTION - MOTION TO CONTINUE GRANTED ON 04/22/2013

MARY KELLY , JUDGE

COPY TO PARTIES/COUNSEL

04/23/2013 HEARING - DISPOSITIONAL CONFERENCE CONTINUED ON 04/22/2013

MARY KELLY , JUDGE

04/23/2013 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 05/29/2013 at 10:00 a.m. in Room No. 7

04/23/2013 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 05/20/2013

05/03/2013 Charge(s): 1,2,3,4

MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 05/03/2013

05/06/2013 Charge(s): 1,2,3,4

MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 05/06/2013

ROLAND A COLE , JUSTICE

COPY TO PARTIES/COUNSEL

05/06/2013 Party(s): JESS B BEASLEY

ATTORNEY - WITHDRAWN ORDERED ON 05/06/2013

Attorney: DAVID BATE

05/20/2013 Party(s): JESS B BEASLEY

ATTORNEY - RETAINED ENTERED ON 05/20/2013

Attorney: ROBERT RUFFNER

05/20/2013 OTHER FILING - OTHER DOCUMENT FILED ON 05/20/2013

CASH BAIL ASSIGNMENT FILED

05/20/2013 NOTE - OTHER CASE NOTE ENTERED ON 05/20/2013

DEBBIE COOK , ASSISTANT CLERK

TIME CHANGED TO 10 AM DUE TO ATTORNEY RUFFNER'S APPEARANCE

05/29/2013 HEARING - DISPOSITIONAL CONFERENCE HELD ON 05/29/2013

RICHARD MULHERN , JUDGE

Attorney: ROBERT RUFFNER

DA: KATHERINE TIERNEY

NEEDS TO BE ARRAIGNED. MOTION AND TRIAL DATE MOVED.

05/29/2013 TRIAL - JURY TRIAL CONTINUED ON 05/29/2013

05/29/2013 TRIAL - JURY TRIAL SCHEDULED FOR 08/12/2013 at 08:30 a.m. in Room No. 11

NOTICE TO PARTIES/COUNSEL

05/30/2013 TRIAL - JURY TRIAL NOTICE SENT ON 05/30/2013

07/31/2013 Charge(s): 1,2,3,4

CR_200

MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 07/31/2013

NO OBJ BY STATE

07/31/2013 Charge(s): 1,2,3,4

MOTION - MOTION TO CONTINUE GRANTED ON 07/31/2013

THOMAS D WARREN , JUSTICE

COPY TO PARTIES/COUNSEL

07/31/2013 TRIAL - JURY TRIAL CONTINUED ON 07/31/2013

THOMAS D WARREN , JUSTICE

07/31/2013 Charge(s): 1,2,3,4

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 07/31/2013

07/31/2013 Charge(s): 1,2,3,4

HEARING - MOTION TO SUPPRESS SCHEDULED FOR 08/27/2013 at 01:00 p.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

07/31/2013 Charge(s): 1,2,3,4

HEARING - MOTION TO SUPPRESS NOTICE SENT ON 07/31/2013

08/01/2013 TRIAL - JURY TRIAL SCHEDULED FOR 09/23/2013 at 08:30 a.m. in Room No. 11

NOTICE TO PARTIES/COUNSEL

08/27/2013 Charge(s): 1,2,3,4

HEARING - MOTION TO SUPPRESS HELD ON 08/27/2013

WILLIAM BRODRICK , JUSTICE

Attorney: ROBERT RUFFNER

DA: KATHERINE TIERNEY

Defendant Present in Court

TAPE 5247

08/27/2013 Charge(s): 1,2,3,4

MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 08/27/2013

WILLIAM BRODRICK , JUSTICE

08/27/2013 CASE STATUS - CASE FILE LOCATION ON 08/27/2013

DANIELLE MERRILL , ASSISTANT CLERK

WITH J. BRODRICK REGARDING MOTION TO SUPPRESS

09/04/2013 CASE STATUS - CASE FILE RETURNED ON 09/04/2013

09/04/2013 Charge(s): 1,2,3,4

MOTION - MOTION TO SUPPRESS DENIED ON 09/04/2013

WILLIAM BRODRICK , JUSTICE

COPY TO PARTIES/COUNSEL

A TRUE COPY

ATTEST: _____

Clerk