

STATE OF MAINE
CUMBERLAND, SS.

STATE OF MAINE
CUMBERLAND, SS
CLERK'S OFFICE

2001 AUG 21 P 3:53

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-00-1728
RAC-CUM-5/21/2001

STATE OF MAINE,

v.

DECISION

ANTHONY OSBORNE,

Defendant

The court ruled from the bench after hearing testimony from the witnesses at the suppression hearing of defendant Anthony Osborne on June 26, 2001 that all statements made by the defendant after he told detective Richard LeClair that he might want to talk to a lawyer before answering any further inquires of the police were suppressed.

The defendant also wants to suppress all statements made by the defendant to the police up to the point when he requested counsel on the grounds that they were not voluntary.

The first statements that were made resulted from a phone call initiated by the defendant to the victims brother, Tracey Feyler. Tracey Feyler handed the telephone to detective Lyons of the Westbrook Police Department. As a result of this conversation the police went to the defendant's mothers home and convinced him to come outside and speak to them.

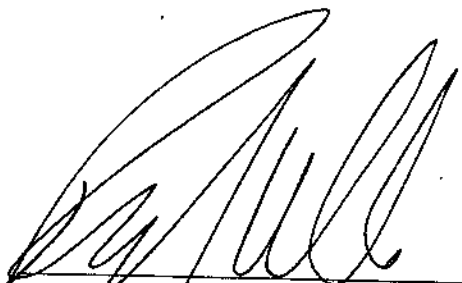
He was taken to the Westbrook Police Station and questioned by the police. He was explained his rights including Miranda and indicated he understood the same and agreed to talk to the State Police detectives. His face had signs of recent

bruising and cuts and he declined an offer to have medical attention. He had the smell of alcohol on his breathe and was given an intoxilyzer test at 10:30 and tested at an .08% by weight of alcohol in his blood. He said he was tired from the lack of sleep. He indicated he knew his miranda warning from earlier charges. He also told the officers he wanted to tell them his side of the story.

I am satisfied beyond a reasonable doubt that his statements were voluntary up to the time he indicated he wanted to consult with a lawyer. The defendant had been drinking, but was not intoxicated, was bruised and cut, but not desirous of medical attention, and had been told he was not under arrest. Clearly he understood his rights and knowingly, intelligently and voluntarily waived the same and answered questions up to the point concerning his wish to consult with a lawyer in the questioning of detective Richard LeClair. State v. Coombs, 704 xA.2d 387 (Me 1998).

Wherefore the defendant's motion to suppress all statements by the defendant to the police is denied in part and granted in part as indicated in the decision from the bench and herein.

DATED: August 27, 2001



Roland A. Cole
Justice, Superior Court

STATE OF MAINE
vs
ANTHONY OSBORNE
8-10 SEAVEY STREET
WESTBROOK ME 04092

SUPERIOR COURT
CUMBERLAND, ss.
Docket No PORSC-CR-2000-01728

DOCKET RECORD

DOB: 05/07/1977

Attorney: JAMES BUSHELL
WITHDRAWN 03/20/2001

State's Attorney: FERNAND LAROCHELLE

Attorney: JACK SIMMONS
RETAINED 02/22/2001

Attorney: JODI NOFSINGER
RETAINED 02/22/2001

Filing Document: INDICTMENT

Major Case Type: HOMICIDE

Filing Date: 11/09/2000

Charge(s)

1 - MURDER 10/27/2000
17-A 201(1) (A) Class M

Docket Events:

11/14/2000 FILING DOCUMENT - INDICTMENT FILED ON 11/09/2000

11/20/2000 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 11/17/2000

11/20/2000 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 11/20/2000
PAUL A FRITZSCHE , JUSTICE
COPY TO PARTIES/COUNSEL

11/20/2000 ATTORNEY - APPOINTED ORDERED ON 11/20/2000

Attorney: JAMES BUSHELL
ATTORNEY FOR PARTY 002 DEFENDANT

11/30/2000 Charge(s): 1
HEARING - ARRAIGNMENT SCHEDULED FOR 12/26/2000 @ 8:30

12/26/2000 Charge(s): 1
HEARING - ARRAIGNMENT HELD ON 12/26/2000

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

12/26/2000 Charge(s): 1
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 12/26/2000

DEFENDANT REMANDED.

12/26/2000 BAIL BOND - NO BAIL ALLOWED SET BY COURT ON 12/26/2000

01/30/2001 OTHER FILING - OTHER DOCUMENT FILED ON 01/30/2001

LETTER FROM FERNAND LAROCHELLE AAG TO JIM BUSHELL ESQ RE: COPY OF REPORTS.

02/02/2001 MOTION - MOTION FOR DISCOVERY FILED BY STATE ON 02/01/2001

02/09/2001 MOTION - MOTION FOR ENLARGEMENT OF TIME FILED BY DEFENDANT ON 02/07/2001