

STATE OF MAINE
CUMBERLAND, ss.

RECEIVED
JAN 15 2008
P B 10

SUPERIOR COURT
CRIMINAL ACTION
Docket No. CR-07-1194
WSB-11/29/2007/794 ✓

STATE OF MAINE,

v.

DECISION

JAMES R. HOUGHTON,
Defendant.

RONALD L. GARBRECHT
A/W LIBRARY

JAN 15 2008

FINDINGS

1. On June 6, 2007 at 9 p.m. in Cumberland on Route 88, Officer Richard Brewer saw a car about to turn off Route 88 onto Russell Road.
2. Officer Brewer could see the green 07 sticker on the car's license plate and thought he saw a white March sticker, indicating an expired registration.
3. Officer Brewer called in the information and confirmed that the registration had expired in March.
4. Officer Brewer activated his blue lights and followed the car down Russell Road for one-fourth of a mile. The car did not respond to the blue lights.
5. Officer Brewer observed the car weaving from side to side as it traveled down Russell Road.
6. The car stopped in a driveway just off Russell Road.
7. Officer Brewer approached the car and knocked on the window.
8. The operator, James Houghton, appeared unable to find the window switch so Officer Brewer opened the car door and asked Mr. Houghton to shut off the motor.
9. Mr. Houghton smelled of alcohol, his eyes were watery and he appeared disheveled.

10. Officer Brewer asked Mr. Houghton to come to the roadway for sobriety tests.
Mr. Houghton did so but in an unstable manner.
11. When asked how much he had been drinking, Mr. Houghton said too much.
12. Officer Brewer asked Mr. Houghton to recite the alphabet in its entirety. Mr. Houghton, in slurred speech, recited from A to X.
13. Mr. Houghton then flunked the heel to toe test and the finger to nose test.
14. Officer Brewer arrested Mr. Houghton for operating under the influence.
15. Mr. Houghton testified and told a story that differs in some important aspects.
But he admitted to drinking a bottle and half of wine and for that reason his testimony cannot be assigned much weight.


DISCUSSION

Officer Brewer's observation of the expired registration, when confirmed, gave him reasonable articulable suspicion to stop Mr. Houghton. The erratic driving plus Officer Brewer's physical observations of Mr. Houghton gave Officer Brewer ample justification to arrest Mr. Houghton for driving while impaired.

The clerk will make the following entry on the docket by reference:

Defendant James Houghton's motion to suppress is denied in all respects.

DATED: November 19, 2007



William S. Brodrick
Active-Retired Justice, Superior Court

STATE OF MAINE
vs
JAMES R HOUGHTON
DOWN EAST MOTEL
YARMOUTH ME 04096

SUPERIOR COURT
CUMBERLAND, ss.
Docket No PORSC-CR-2007-01794

DOCKET RECORD

DOB: 09/16/1941

Attorney: PETER CYR
LAW OFFICE OF PETER J CYR
85 BRACKETT STREET
PORTLAND ME 04102
RETAINED 06/29/2007

State's Attorney: STEPHANIE ANDERSON

Filing Document: CRIMINAL COMPLAINT
Filing Date: 06/11/2007

Major Case Type: MISDEMEANOR (CLASS D,E)

Charge(s)

1 OPERATING UNDER THE INFLUENCE Seq 9878 29-A 2411(1-A) (A)	Class D	06/08/2007 CUMBERLAND
2 VIOLATING CONDITION OF RELEASE Seq 9632 15 1092(1) (A)	Class E	06/08/2007 CUMBERLAND
3 VIOLATING CONDITION OF RELEASE Seq 9632 15 1092(1) (A)	Class E	06/08/2007 CUMBERLAND

Docket Events:

07/03/2007 Charge(s): 1,2,3
TRANSFER - TRANSFER FOR JURY TRIAL EDI ON 07/03/2007 @ 18:01

TRANSFERRED CASE: SENDING COURT CASEID PORDCCR200704685
FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 06/11/2007

07/03/2007 Charge(s): 1,2,3
HEARING - ARRAIGNMENT SCHEDULED FOR 06/11/2007 @ 1:00 in Room No. 1

NOTICE TO PARTIES/COUNSEL
Charge(s): 1,2,3
HEARING - ARRAIGNMENT HELD ON 06/11/2007
THOMAS E HUMPHREY , SUPERIOR COURT CHIEF JUSTICE
DEFENDANT INFORMED OF CHARGES. 21 DAYS TO FILE MOTIONS

968

Charge(s): 1,2,3,4
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 06/11/2007
THOMAS E HUMPHREY , SUPERIOR COURT CHIEF JUSTICE

968

TRIAL - BENCH SCHEDULED FOR 08/14/2007 @ 10:30 in Room No. 1

NOTICE TO PARTIES/COUNSEL

968

TRIAL - BENCH NOT HELD ON 07/02/2007

BAIL BOND - \$750.00 CASH BAIL BOND SET BY COURT ON 06/11/2007
THOMAS E HUMPHREY , SUPERIOR COURT CHIEF JUSTICE
750.00 CASH
ALCOHOL/DRUGS, RANDOM SEARCH AND TESTING

NO USE/POSS

968

BAIL BOND - \$750.00 CASH BAIL BOND FILED ON 06/14/2007

BAIL BOND - CASH BAIL BOND DISBURSEMENT ON 07/03/2007

Party(s): JAMES R HOUGHTON
ATTORNEY - RETAINED ENTERED ON 06/29/2007

Attorney: PETER CYR
MOTION - MOTION EXPERT WITNESS REPORT FILED BY DEFENDANT ON 06/29/2007

968

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 06/29/2007

968

MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 06/29/2007

968

MOTION - MOTION TO SUPPRESS STATEMENT FILED BY DEFENDANT ON 06/29/2007

968

Charge(s): 1,2,3,4
TRANSFER - TRANSFER FOR JURY TRIAL REQUESTED ON 06/29/2007

968

Charge(s): 1,2,3
FINDING - TRANSFER FOR JURY TRIAL TRANSFERRED ON 07/03/2007
DEBRA SOUBBLE , ADMINISTRATIVE CLERK
PORSC

07/05/2007 BAIL BOND - \$750.00 CASH BAIL BOND FILED ON 07/05/2007

Bail Receipt Type: CR
Bail Amt: \$750

Receipt Type: CK
Prvdr Name: MILDRED H HOUGHTON
Rtrn Name: MILDRED H HOUGHTON

THIRD PARTY. SEE CONDITIONS.

07/05/2007 Charge(s): 1,2,3

TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 07/05/2007
BETHANY RODERIGUE , ASSISTANT CLERK-E
DOCKET ENTRIES RECEIVED FROM 9TH DISTRICT COURT (CR07-4685)

07/12/2007 BAIL BOND - CASH BAIL BOND ASSIGNMENT FILED ON 07/11/2007

ATHENA LANE , ASSISTANT CLERK
FILED BY THIRD PARTY BAIL HOLDER TO ASSIGN TO COUNSEL.

Date Bailed: 06/11/2007

THIRD PARTY. SEE CONDITIONS.

07/17/2007 Charge(s): 1,2,3
HEARING - MOTION TO SUPPRESS SCHEDULED FOR 09/13/2007 @ 11:00 in Room No. 7
ANDREW M HORTON , JUDGE
X 3

07/17/2007 Charge(s): 1,2,3
HEARING - MOTION TO SUPPRESS NOTICE SENT ON 07/17/2007

08/01/2007 HEARING - MOTION EXPERT WITNESS REPORT SCHEDULED FOR 09/13/2007 @ 11:00 in Room No. 7
ANDREW M HORTON , JUDGE

08/01/2007 HEARING - MOTION EXPERT WITNESS REPORT NOTICE SENT ON 08/01/2007

09/26/2007 HEARING - MOTION EXPERT WITNESS REPORT CONTINUED ON 09/13/2007

09/26/2007 HEARING - MOTION TO CONTINUE SCHEDULED FOR 09/27/2007 @ 10:00 in Room No. 7
ANDREW M HORTON , JUDGE
NOTICE TO PARTIES/COUNSEL

10/02/2007 HEARING - MOTION TO CONTINUE CONTINUED ON 09/27/2007

10/02/2007 Charge(s): 1,2,3
HEARING - MOTION TO SUPPRESS CONTINUED ON 09/27/2007

10/02/2007 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 10/25/2007 @ 1:00 in Room No. 7

NOTICE TO PARTIES/COUNSEL

10/02/2007 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 10/02/2007

JOANN HEBERT

10/09/2007 Charge(s): 1,2,3
MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 10/03/2007

MOTION FOR ADDITIONAL DISCOVERY. TSK

10/26/2007 HEARING - MOTION TO SUPPRESS HELD ON 10/25/2007
WILLIAM BRODRICK , JUSTICE
Attorney: PETER CYR
DA: TRACY BARDWELL Reporter: PENNY PHILBRICK-CARVER
Defendant Present in Court

STATE'S WITNESSES:1) RICHARD BREWER. DEFENDANT'S WITNSSES: 1) JAMES HOUGHTON.

10/26/2007 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 10/25/2007
WILLIAM BRODRICK , JUSTICE

10/26/2007 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 10/25/2007

10/26/2007 MOTION - MOTION TO SUPPRESS STATEMENT UNDER ADVISEMENT ON 10/25/2007
WILLIAM BRODRICK , JUSTICE

10/26/2007 Charge(s): 1,2,3
TRIAL - JURY TRIAL SCHEDULED FOR 12/10/2007 @ 8:30 in Room No. 11

NOTICE TO PARTIES/COUNSEL

10/26/2007 Charge(s): 1,2,3
TRIAL - JURY TRIAL NOTICE SENT ON 10/26/2007

JOANN HEBERT

11/30/2007 MOTION - MOTION TO SUPPRESS STATEMENT DENIED ON 11/19/2007

WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

TSK

11/30/2007 MOTION - MOTION TO SUPPRESS DENIED ON 11/19/2007

WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

TSK

11/30/2007 MOTION - MOTION TO SUPPRESS DENIED ON 11/19/2007

WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

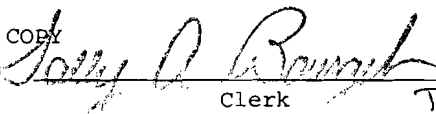
TSK

Exhibits

- 10/25/2007 DEFENDANT, Exhibit#1-S, SM. PAPER DIAGRAM OF ROADS, Adm w/o obj on 10/25/2007.
- 10/25/2007 DEFENDANT, Exhibit#2-S, PHOTO OF TRUCK/LICENSE PLATE, Adm w/o obj on 10/25/2007.
- 10/25/2007 DEFENDANT, Exhibit#3-S, PHOTO OF ROAD/VEHICLE, Adm over obj on 10/25/2007.
- 10/25/2007 DEFENDANT, Exhibit#4-S, PHOTO OF LICENSE PLATE, Adm over obj on 10/25/2007.
- 10/25/2007 DEFENDANT, Exhibit#5-S, PHOTO OF LICENSE PLATE, Adm over obj on 10/25/2007.
- 10/25/2007 DEFENDANT, Exhibit#6-S, PHOTO OF LICENSE PLATE, Adm over obj on 10/25/2007.
- 10/25/2007 DEFENDANT, Exhibit#7-S, PHOTO OF LICENSE PLATE, Adm over obj on 10/25/2007.

A TRUE COPY

ATTEST:


Clerk *TSK*

A True Copy

Attest: 
Clerk of Court