

STATE OF MAINE
CUMBERLAND, ss.

CLERK'S OFFICE
2011 JUN 17 A 10:29
SUPERIOR COURT
CRIMINAL ACTION
CUMCD-CR-11-1426
NSF-CUM-6/17/2011

STATE OF MAINE,

2011 JUN 17 A 10:29

v.

ORDER

CORY E. BRONIANCZYK,

Defendant.

FACTS

1. On December 23, 2010 Brunswick Police Department Officer Patrick Scott was investigating a report of ongoing vandalism involving, among other things, the knocking over of mailboxes by four young persons in a white Subaru.
2. At the scene Officer Scott observed one mailbox knocked over. He also observed footprints. Officer Scott's Sergeant told him that he had observed a white Subaru in a ditch.
3. Officer Scott and his Sergeant followed the footprints through the snow to a garage type building.
4. The owner of the building told Officer Scott that only he and his wife were at home. He gave the police permission to search the garage.
5. Officer Scott saw a young person kneeling in the garage and then saw three others.
6. All four suspects were put in handcuffs. Defendant Corey Bronianczyk was one of the suspects. The white Subaru was registered to him. The police soon learned that the garage owner's son had given the handcuffed young persons permission to use the garage. The owner refused to press charges.

7. Although Mr. Bronianczyk was no longer a suspect for trespass, Officer Scott wanted to question him about the mailbox and the Subaru in the ditch.
8. Officer Scott placed Mr. Bronianczyk in his vehicle and left him with his hands handcuffed behind his back. Officer Scott did not Miranda Mr. Bronianczyk.
9. Officer Scott then asked pointed questions. He asked the defendant if he was driving the vehicle and whether he had hit the mailbox.
10. Officer Scott used the answers to those questions to charge Mr. Bronianczyk with Operating Under the Influence, Leaving the Scene of an Accident, and Criminal Mischief.

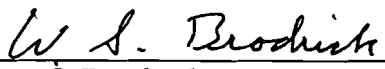
DISCUSSION

The State has attempted to argue that officer safety and a need to find out potential danger justified the interrogation. The problem is that by the time the young men had been cleared of the trespass, officer safety was no longer an issue. By having Mr. Bronianczyk with his hands cuffed behind him in the police car, Officer Scott created a classic custodial situation. Officer Scott then proceeded to ask pointed questions designed to elicit evidence of a crime. Such a situation requires a Miranda warning.

The entry, by reference, will be:

Defendant's motion to suppress is granted from the time he was placed in the police car and interrogated. Because defendant has not argued that his statements were involuntary, his statements are suppressed only in the State's case-in-chief. If defendant testifies, they may be used to impeach him.

DATED: June 17, 2011



William S. Brodrick
Justice, Superior Court, Active Retired

DOCKET RECORD

DOB: 10/25/1987

Attorney: JOSHUA KLEIN-GOLDEN
CLIFFORD & GOLDEN PA
5 MAPLE STREET
PO BOX 368
LISBON FALLS ME 04252
PARTIALLY INDIGENT 03/15/2011

State's Attorney: MICHAEL MADIGAN

Charge(s)

- 1 OPERATING UNDER THE INFLUENCE 12/23/2010 BRUNSWICK
Seq 11493 29-A 2411(1-A)(A) Class D
- 2 FAIL TO STOP, REMAIN, RENDER AID, PERSONAL INJURY 12/23/2010 BRUNSWICK
Seq 10959 29-A 2252(4) Class D
- 3 CRIMINAL MISCHIEF 12/23/2010 BRUNSWICK
Seq 4959 17-A 806(1)(A) Class D

Docket Events:

03/08/2011 Charge(s): 1,2,3

TRANSFER - PERMANENT TRANSFER EDI ON 03/08/2011 @ 18:00

TRANSFERRED CASE: SENDING COURT CASEID WESDCCR201001532
FILING DOCUMENT - NON CASH BAIL BOND FILED ON 12/23/2010

Charge(s): 1,2,3

HEARING - ARRAIGNMENT SCHEDULED FOR 03/08/2011 @ 8:30 in Room No. 1

NOTICE TO PARTIES/COUNSEL

Charge(s): 1,2,3

HEARING - ARRAIGNMENT HELD ON 03/08/2011

CHARLES DOW , JUDGE

Defendant Present in Court

DEFENDANT INFORMED OF CHARGES. 21 DAYS TO FILE MOTIONS
BAIL BOND - \$1,000.00 UNSECURED BAIL BOND FILED ON 12/23/2010

Bail Amt: \$1,000

Date Bailed: 12/23/2010

BAIL BOND - UNSECURED BAIL BOND TRANSFERRED ON 03/08/2011

Date Bailed: 12/23/2010

Charge(s): 1,2,3

SUPPLEMENTAL FILING - COMPLAINT FILED ON 02/01/2011

MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 03/08/2011

MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 03/08/2011

CHARLES DOW , JUDGE

COPY TO PARTIES/COUNSEL
UP TO 750.00 BEGINNING 4/8/2011

PARTIALLY INDIGENT AND IS TO PAY 50.00 PER MONTH

Charge(s): 1,2,3

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 03/08/2011

Charge(s): 1,2,3
TRANSFER - PERMANENT TRANSFER GRANTED ON 03/08/2011

CUMCD
Charge(s): 1,2,3
FINDING - PERMANENT TRANSFER TRANSFERRED ON 03/08/2011

03/15/2011 CUMCD
Charge(s): 1,2,3
TRANSFER - TRANSFER FOR JURY TRIAL RECVD BY COURT ON 03/11/2011
TERESA SAWYER-BLACK , ASSISTANT CLERK
WESDC CR-10-1532

03/15/2011 Party(s): CORY BRONIARCZYK
ATTORNEY - PARTIALLY INDIGENT ORDERED ON 03/15/2011

Attorney: JOSHUA KLEIN-GOLDEN
03/15/2011 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 06/09/2011 @ 10:30 in Room No. 7

03/15/2011 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 05/20/2011

03/15/2011 Charge(s): 1,2,3
TRIAL - JURY TRIAL SCHEDULED FOR 06/27/2011 @ 8:30 in Room No. 11

NOTICE TO PARTIES/COUNSEL
03/15/2011 AUDIT - AUDIT REPORT CHART_OF_ACCOUNT EDI ON 03/15/2011 @ 10:37

RV APPR ABRV:GF; OLD OVERRIDE CODE:NONE; NEW OVERRIDE CODE:NONE; OLD AMT OVERRIDE:0; NEW
AMT OVERRIDE:0; USER ID:4752
04/25/2011 AUDIT - AUDIT REPORT CHART_OF_ACCOUNT EDI ON 04/25/2011 @ 14:00

RV APPR ABRV:GF; OLD OVERRIDE CODE:NONE; NEW OVERRIDE CODE:NONE; OLD AMT OVERRIDE:0; NEW
AMT OVERRIDE:0; USER ID:4715
06/10/2011 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 06/09/2011

06/10/2011 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 06/14/2011 @ 1:00 in Room No. 8

NOTICE TO PARTIES/COUNSEL
06/10/2011 HEARING - DISPOSITIONAL CONFERENCE HELD ON 06/10/2011

MARY KELLY , JUDGE
Attorney: JOSHUA KLEIN-GOLDEN

DA: MICHAEL MADIGAN
MOTION TO SUPPRESS TO BE FILED AND HEARD 6-14

06/14/2011 HEARING - MOTION TO SUPPRESS HELD ON 06/14/2011

WILLIAM BRODRICK , JUSTICE
DA: MICHAEL MADIGAN

Defendant Present in Court
TP 2918#1584-2268

06/14/2011 MOTION - MOTION TO SUPPRESS UNDER ADVISEMENT ON 06/14/2011

WILLIAM BRODRICK , JUSTICE

06/17/2011 MOTION - MOTION TO SUPPRESS GRANTED ON 06/17/2011

WILLIAM BRODRICK , JUSTICE
COPY TO PARTIES/COUNSEL

SEE ODER

06/17/2011 ORDER - COURT ORDER ENTERED ON 06/17/2011

WILLIAM BRODRICK , JUSTICE

DEFENDANT'S MOTION TO SUPPRESS IS GRANTED FROM THE TIME HE WAS PLACED IN THE POLICE CAR AND INTERROGATED. BECAUSE DEFENDANT HAS NOT ARGUED THAT HIS STATEMENTS WERE INVOLUNTARY, HIS STATEMENTS ARE SUPPRESSED ONLY IN THE STATES CASE IN-CHIEF. IF DEFENDANT TESTIFIES, THEY MAY BE USED TO IMPEACH HIM.

Receipts

04/25/2011	Attorney Payment	\$50.00	CK	paid.
05/18/2011	Attorney Payment	\$100.00	CK	paid.

A TRUE COPY

ATTEST: _____
Clerk