

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-12-001
NM -KEN- 5/24/2012

STATE OF MAINE

v.

ORDER ON DEFENDANT'S
MOTION TO SUPPRESS

MATTHEW CARTER,

Defendant

The findings of fact made on the record at the conclusion of the hearing are incorporated into this order by reference.

The court concludes that the defendant was not under arrest. State v. Higgins, 2002 ME 77, ¶¶ 12-13, 796 A.2d 50, 54. But if he was under arrest, the officer had sufficient probable cause to believe the defendant's senses were "affected to the slightest degree, or to any extent," by the alcohol the officer believed the defendant consumed, based on the odor of intoxicating beverage coming from the defendant's facial area. See State v. Webster, 2000 ME 115, ¶ 7, 754 A.2d 976, 977-78.

The entry is

The Defendant's Motion to Suppress is DENIED.

Date: May 24, 2012



Nancy Mills
Justice, Superior Court

STATE OF MAINE
vs
MATTHEW J CARTER
187 DINSMORE RD
SIDNEY ME 04330

SUPERIOR COURT
KENNEBEC, ss.
Docket No AUGSC-CR-2012-00001

DOCKET RECORD

DOB: 11/26/1987

Attorney: SCOTT HESS

THE LAW OFFICE OF SCOTT F HESS, LLC
82 WINTHROP STREET
AUGUSTA ME 04330
APPOINTED 12/15/2011

State's Attorney: EVERT FOWLE

Filing Document: CRIMINAL COMPLAINT

Major Case Type: MISDEMEANOR (CLASS D,E)

Filing Date: 11/30/2011

Charge(s)

1 OPERATING UNDER THE INFLUENCE
Seq 11493 29-A 2411(1-A) (A)

10/30/2011 AUGUSTA
Class D

Docket Events:

01/03/2012 Charge(s): 1

TRANSFER - TRANSFER FOR JURY TRIAL EDI ON 01/03/2012 at 06:00 p.m.

TRANSFERRED CASE: SENDING COURT CASEID AUGDCCR201101854

FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 11/30/2011

Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 12/14/2011 at 08:30 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

Charge(s): 1

HEARING - ARRAIGNMENT HELD ON 12/14/2011

DEFENDANT INFORMED OF CHARGES. 21 DAYS TO FILE MOTIONS

Charge(s): 1

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 12/14/2011

TRIAL - BENCH SCHEDULED FOR 01/17/2012 at 08:30 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

TRIAL - BENCH NOT HELD ON 01/03/2012

TRIAL - BENCH NOTICE SENT ON 12/22/2011

Charge(s): 1

MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 12/14/2011

Charge(s): 1

MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 12/15/2011

ROBERT E MULLEN, JUDGE

COPY TO PARTIES/COUNSEL

CR_200

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Printed on: 05/30/2012

Party(s): MATTHEW J CARTER
ATTORNEY - APPOINTED ORDERED ON 12/15/2011

Attorney: SCOTT HESS
Charge(s): 1
TRANSFER - TRANSFER FOR JURY TRIAL REQUESTED ON 12/30/2011

Charge(s): 1
FINDING - TRANSFER FOR JURY TRIAL TRANSFERRED ON 01/03/2012

AUGSC

01/05/2012 TRIAL - DOCKET CALL SCHEDULED FOR 03/06/2012 at 11:00 a.m.

01/05/2012 Charge(s): 1
TRANSFER - PERMANENT TRANSFER RECVD BY COURT ON 01/03/2012

AUGUSTA DISTRICT COURT

02/01/2012 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 01/31/2012

Attorney: SCOTT HESS
02/21/2012 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 03/09/2012 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL
02/21/2012 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 02/21/2012

02/29/2012 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 02/29/2012

Attorney: SCOTT HESS
DOCKET CALL ONLY....

03/02/2012 TRIAL - DOCKET CALL CONTINUED ON 03/02/2012
NANCY MILLS , JUSTICE

03/02/2012 MOTION - MOTION TO CONTINUE GRANTED ON 03/01/2012
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

03/02/2012 TRIAL - DOCKET CALL SCHEDULED FOR 04/03/2012

03/02/2012 TRIAL - DOCKET CALL NOTICE SENT ON 03/02/2012

03/07/2012 TRIAL - DOCKET CALL NOT HELD ON 03/06/2012

03/07/2012 HEARING - MOTION TO SUPPRESS CONTINUED ON 03/06/2012

03/07/2012 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 03/13/2012 at 01:00 p.m.

NOTICE TO PARTIES/COUNSEL

03/07/2012 MOTION - MOTION TO CONTINUE FILED BY STATE ON 03/06/2012

03/07/2012 MOTION - MOTION TO CONTINUE GRANTED ON 03/06/2012
NANCY MILLS , JUSTICE
COPY TO PARTIES/COUNSEL

03/07/2012 HEARING - MOTION TO SUPPRESS NOTICE SENT ON 03/07/2012

03/12/2012 OTHER FILING - OTHER DOCUMENT FILED ON 03/12/2012