

STATE OF MAINE

v.

ERIC N. THIBAUT

Submitted on Briefs August 16, 2011
Decided September 1, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD,
GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Eric N. Thibault appeals from the judgment of the Superior Court (Washington County, *Hunter, J.*) convicting him, following a jury trial, of the charges of operating in violation of the habitual offender law (Class C), 29-A M.R.S. § 2557-A(2)(D) (2010), and operating under the influence (Class C), 29-A M.R.S. § 2411(1-A)(B)(3) (2010). Before trial, Thibault had stipulated that his right to operate had been suspended pursuant to the habitual offender law, that he had a blood-alcohol content in excess of the legal limit at the time in question, and that he had the prior convictions necessary to aggravate each offense to a Class C crime. Therefore, the only issue presented to the jury was operation.

On appeal, Thibault contends that there was insufficient evidence to support the jury's finding that he was the operator of the motor vehicle at the time in question. Although Thibault offered evidence at trial indicating that he was not the operator of the vehicle, two persons in a vehicle that was coming toward Thibault's vehicle as his vehicle went off the road positively identified Thibault as the driver of the other vehicle who had exited from the driver's seat immediately after his vehicle had gone off the road. This evidence was more than sufficient for the jury

to find, beyond a reasonable doubt, that Thibault was the driver. *See State v. Moores*, 2006 ME 139, ¶ 7, 910 A.2d 373 (fact-finder permitted to draw “all reasonable inferences from the evidence,” appellate court will not substitute its judgment as to weight and credibility of evidence for that of the fact-finder).

The entry is:

Judgment affirmed.

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