

STATE OF MAINE

v.

ISAAC V. SIEGFRIED

Argued February 8, 2011

Decided March 1, 2011

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

MEMORANDUM OF DECISION

Isaac V. Siegfried appeals two convictions in the Superior Court (Sagadahoc County, *J.D. Kennedy, J.*) for operating after a habitual offender revocation (Class C), 29-A M.R.S. § 2557-A(2)(B) (2008, 2010),¹ entered on conditional guilty pleas. The charges on both convictions for operating after revocation (OAR) were enhanced to felonies based on a 2003 OUI conviction (Class D), 29-A M.R.S.A. § 2411(1) (1996).² Contrary to Siegfried's contentions, the court (*Horton, J.*) did not err in denying his motion to strike the prior uncounseled misdemeanor OUI conviction and allowing it to enhance his two OAR charges

* Although not available at oral argument, Justice Alexander participated in this memorandum of decision. See M.R. App. P. 12(a) ("A qualified justice may participate in a decision even though not present at oral argument.").

¹ Title 29-A M.R.S. § 2557-A(2)(B) (2008) has since been amended, P.L. 2009, ch. 54, § 5 (effective April 22, 2009) (codified at 29-A M.R.S. § 2557-A(2)(B) (2010)). Siegfried's April 9, 2009, OAR occurred before the effective date of the amendment; his March 22, 2010, OAR occurred after the amendment. The amendment does not affect any issue on appeal.

² Title 29-A M.R.S.A. § 2411(1) (1996) has been repealed, P.L. 2003, ch. 452, § Q-77 (effective July 1, 2004), and replaced by P.L. 2003, ch. 452, Q-78 (effective July 1, 2004); and has since been amended by P.L. 2009, ch. 447, § 37 (effective Sept. 12, 2009) (codified at 29-A M.R.S. § 2411(1-A) (2010)). These amendments do not affect any issue on appeal.

from Class D misdemeanors to Class C felonies, *see State v. Maloney*, 2001 ME 140, ¶ 11, 785 A.2d 699, 702 (a prior conviction may be used to change the classification of a subsequent crime), because Siegfried did not risk incarceration for the 2003 offense and therefore did not have a right to appointed counsel, *cf. State v. Watson*, 2006 ME 80, ¶ 14, 900 A.2d 702, 708 (noting that the court is obligated to provide court-appointed counsel for an indigent defendant facing incarceration). Furthermore, the court's notation for the 2003 offense indicates Siegfried was in fact advised of his right to counsel.

The entry is:

Judgments affirmed.

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