

STATE OF MAINE

v.

RANDOLPH BOURGOIN

Submitted on Briefs July 26, 2011
Decided August 2, 2011

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

MEMORANDUM OF DECISION

Randolph Bourgoin appeals from a judgment of conviction for operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(A)(1) (2008),¹ entered in the Superior Court (Penobscot County, *Anderson, J.*) following a jury trial. Contrary to Bourgoin’s contentions, the court did not err when it denied his motion in limine to exclude the notarized blood alcohol content results from the Intoxilyzer and a video of Bourgoin’s hour in the Intoxilyzer room. The court’s determination following voir dire that Bourgoin’s blood alcohol results were sufficiently reliable to be considered by the jury does not constitute clear error, as “the court can rely solely on the testimony of the State’s chemist that the result was reliable.” *State v. Pineo*, 2002 ME 93, ¶ 6, 798 A.2d 1093, 1096 (citations omitted). In addition, there was no error or abuse of discretion in the court’s decision to admit the video into evidence, as its probative value was not substantially outweighed by any potentially prejudicial effect. *See State v. Roberts*, 2008 ME 112, ¶¶ 20, 21, 951 A.2d 803, 810-11.

¹ Title 29-A M.R.S. § 2411(1-A) (2008) has since been amended, though that amendment is not relevant in the present case. P.L. 2009, ch. 447, § 37 (effective Sept. 12, 2009) (codified at 29-A M.R.S. § 2411(1-A) (2009)).

The entry is:

Judgment affirmed.

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