

STATE OF MAINE

v.

MICHAEL F. MICHAUD

Submitted on Briefs October 27, 2011

Decided November 8, 2011

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

MEMORANDUM OF DECISION

Michael F. Michaud appeals from a judgment of conviction for operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(B)(1) (2010), entered in the Superior Court (Aroostook County, *Hunter, J.*) following his conditional guilty plea pursuant to M.R. Crim. P. 11(a)(2). Michaud argues that the court erred in denying his motion to suppress the evidence gathered by means of the traffic stop that resulted in his arrest and criminal charge.

Contrary to Michaud's contentions, the traffic stop was based on reasonable and articulable suspicion of criminal conduct and thus did not constitute an unlawful seizure for purposes of the Fourth Amendment of the United States Constitution and article I, section 5 of the Maine Constitution. *See State v. LaPlante*, 2011 ME 85, ¶ 8, 26 A.3d 337. The telephone tip provided by an informant—who left his or her name with the dispatcher—included Michaud's license plate number, the vehicle's location, the fact that it was driving up and down the street, and the assertion that the driver was intoxicated. These details, and the arresting officer's quick corroboration of the vehicle's registration number and location, constitute sufficient indicia of reliability to form the basis for articulable suspicion. *See State v. McDonald*, 2010 ME 102, ¶ 7, 6 A.3d 283; *State v. Littlefield*, 677 A.2d 1055, 1057-58 (Me. 1996). Moreover, because the tip was based on observable criminal conduct—driving while intoxicated—it was sufficiently reliable in its assertion of illegality, notwithstanding the fact that, while

suspicious, driving up and down a street is not illegal in itself. *See State v. Lafond*, 2002 ME 124, ¶¶ 10-12, 802 A.2d 425; *cf. Florida v. J.L.*, 529 U.S. 266, 271-74 (2000) (finding a tip insufficiently reliable because the informant was anonymous, the criminal activity alleged was concealed, and the informant provided no basis for his knowledge of the criminal activity).

The totality of the circumstances support a finding that the stop was based on reasonable and articulable suspicion and thus Michaud's motion to suppress was properly denied. *See McDonald*, 2010 ME 102, ¶¶ 6-7, 6 A.3d 283.

The entry is:

Judgment affirmed.

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**On the briefs:**

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Michael F. Michaud

John M. Pluto, Asst. Dist. Atty., Prosecutorial District No. 8, Caribou, for  
appellee State of Maine