

STATE OF MAINE

v.

BRANDIN BOUCHARD

Submitted on Briefs December 1, 2011

Decided January 5, 2012

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

MEMORANDUM OF DECISION

Brandin Bouchard appeals from a judgment of conviction for aggravated operating after habitual offender revocation (Class C), 29-A M.R.S. § 2558 (2011), entered in the Unified Criminal Docket (Bangor, *Gunther, J.*) following a jury trial.

Contrary to Bouchard's contention, the court did instruct the jury on the limited use of prior convictions for evaluating the credibility of witnesses, and the instruction was not in error. *See* M.R. Evid. 609; *cf. State v. Reynolds*, 604 A.2d 911, 912 (Me. 1992). Neither did the prosecutor's comments during closing argument constitute obvious error. *See State v. Schmidt*, 2008 ME 151, ¶¶ 15, 18, 957 A.2d 80. Reviewing the prosecutor's argument as a whole, the comments challenging the defense's theory of the case properly focused on the evidence. *See id.* ¶ 18; *State v. Comer*, 644 A.2d 7, 10 (Me. 1994). Finally, on the record Bouchard established as to whether his 2010 conviction for operating after habitual offender revocation (Class D), 29-A M.R.S. § 2557-A(2)(A) (2011), was constitutionally infirm and thus inadmissible to enhance his sentence in this case, the court did not err in finding no constitutional defect. *See State v. Galarneau*, 2011 ME 60, ¶¶ 8-10, 20 A.3d 99 (holding that representation by the lawyer of the day satisfies the right to counsel); *State v. Milliken*, 2010 ME 1, ¶ 12, 985 A.2d 1152 (stating that the appellant bears the burden of providing an adequate record); *State v. Lewis*, 584 A.2d 622, 625 (Me. 1990) (recognizing the "presumption of

regularity [that] attaches to final judgments of convictions” (quotation marks omitted)).

The entry is:

Judgment affirmed.

On the briefs:

Hunter J. Tzovarras, Esq., Bangor, for appellant Brandin Bouchard

R. Christopher Almy, District Attorney, Susan J. Pope, Asst. Dist. Atty.,
Prosecutorial District V, Bangor, for appellee State of Maine