

STATE OF MAINE

v.

VICTORIA E. BROOKS

Submitted on Briefs July 19, 2012
Decided July 24, 2012

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

MEMORANDUM OF DECISION

Victoria E. Brooks appeals from a judgment convicting her of operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(A) (2011), entered in the Unified Criminal Docket (Bangor, *Anderson, J.*) following a jury trial. To the extent that the State may have improperly alluded to “extraneous matters of fear and highway safety” during its rebuttal statement, *see State v. Pineau*, 463 A.2d 779, 781 (Me. 1983), the court’s subsequent reminder to the jury to focus its conclusions on the evidence was sufficient to ensure that any misconduct was harmless. *See State v. Clark*, 2008 ME 136, ¶ 7, 954 A.2d 1066. As a result, the trial court’s failure to declare a mistrial was not error. *See id.* ¶ 12; *State v. Young*, 2000 ME 144, ¶ 5, 755 A.2d 547.

Further, we fail to discern any prejudicial error in the court’s refusal to instruct the jury on statutory inferences arising from an OUI defendant’s blood alcohol concentration. *See State v. Ouellette*, 2012 ME 11, ¶ 7, 37 A.3d 921; *see also State v. Shofner*, 1999 ME 88, ¶ 8, 731 A.2d 853 (Alexander, J., concurring). Finally, the evidence presented at trial was sufficient for a jury to find, beyond a reasonable doubt, that Brooks was guilty of operating under the influence. *See State v. Soucy*, 2012 ME 16, ¶¶ 10-11, 36 A.3d 910.

The entry is:

Judgment affirmed.

On the briefs:

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appellant Victoria Brooks

R. Christopher Almy, District Attorney, and Tracy Collins Lacher, Asst.
Dist. Atty., Prosecutorial District V, Bangor, for appellee State of Maine