

STATE OF MAINE

v.

MARY J. TESTERMAN

Submitted on Briefs October 27, 2014

Decided November 25, 2014

Panel: SAUFLEY, C.J., and ALEXANDER, SILVER, MEAD, JABAR, and
HJELM, JJ.

MEMORANDUM OF DECISION

Mary J. Testerman appeals from her conviction in the trial court (*Murphy, J.*) of aggravated criminal mischief (Class C), 17-A M.R.S. § 805(1)(A) (2013); criminal OUI (Class D), 29-A M.R.S. § 2411(1-A)(B)(1) (2013); and operating in violation of a license condition or restriction (Class E), 29-A M.R.S. § 1251(1)(B) (2013). Testerman asserts that the testimony of the police officer who administered an Intoxilyzer test was insufficient to satisfy statutory requirements, *see* 29-A M.R.S. §§ 2431(2)(C), (2)(D), (2)(H), (2)(I), 2(K) (2013), and that the State's failure to produce an expert witness who could be cross-examined about the functioning and maintenance of the Intoxilyzer violated her Sixth Amendment right to confrontation. *See* U.S. Const. amend. VI. Upon reviewing the record, we conclude beyond a reasonable doubt that error, if any, relating to the Intoxilyzer and its test result did not contribute to the outcome of the trial because there was overwhelming evidence of Testerman's guilt independent of the Intoxilyzer result. *See State v. Guyette*, 2012 ME 9, ¶ 19, 36 A.3d 916; *State v. Warren*, 1998 ME 136, ¶ 17, 711 A.2d 851.

The entry is:

Judgment affirmed.

On the briefs:

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appellant Mary J. Testerman

Maeghan Maloney, District Attorney, and Tyler LeClair, Stud. Atty.,
Prosecutorial District IV, Augusta, for appellee State of Maine