

STATE OF MAINE

v.

BRANDAN M. KINNEY

Submitted on Briefs January 11, 2018
Decided January 18, 2018

Panel: ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Brandan M. Kinney appeals from a 2017 judgment of conviction for operating under the influence in 2015 (Class D), 29-A M.R.S. § 2411(1-A)(A), (5) (2016), entered by the trial court (Penobscot County, *Campbell, J.*) after a jury-waived trial. Contrary to Kinney's contentions, the suppression court (*Lucy, J.*) committed no error of fact or law in denying Kinney's motions to suppress; the stop of his vehicle and the administration of field sobriety tests were supported by reasonable, articulable suspicion, *see State v. King*, 2009 ME 14, ¶ 6, 965 A.2d 52; *State v. Sampson*, 669 A.2d 1326, 1328 (Me. 1996); the fresh pursuit doctrine was not violated and, in any event, did not require the exclusion of evidence obtained from his stop or arrest, *see* 30-A M.R.S. § 2671(2)(E) (2017); *State v. Turner*, 2017 ME 185, ¶¶ 11, 13, 20, 169 A.3d 931; his arrest was supported by probable cause, *see State v. Flint*, 2011 ME 20, ¶¶ 11-12, 12 A.3d 54; the administration of his breath alcohol test without a warrant did not violate the Fourth Amendment prohibition against unreasonable searches and seizures, *see* U.S. Const. amend. IV; Me. Const. art. I, § 5; *Birchfield v. North Dakota*, 579 U.S. ---, 136 S. Ct. 2160, 2184 (2016); and the circumstances of his arrest did not violate his due process rights, *see* U.S. Const. amends. V, XIV; Me. Const. art. I, § 6-A; *State v.*

Cote, 1999 ME 123, ¶¶ 18-21, 736 A.2d 262. The trial court (*Campbell, J.*) also did not err or abuse its discretion in admitting the testimony of one informant without making a co-informant available for trial. See U.S. Const. amends. V, VI, XIV; Me. Const. art. I, §§ 6, 6-A; *Gonzales v. United States*, 364 U.S. 59, 66 (1960); *State v. Williamson*, 2017 ME 108, ¶ 21, 163 A.3d 127; *State v. Tozier*, 2015 ME 57, ¶ 16, 115 A.3d 1240; *State v. Wyman*, 2015 ME 1, ¶ 22, 107 A.3d 641.

The entry is:

Judgment affirmed.

Ezra A. R. Willey, Esq., Willey Law Offices, Bangor, for appellant Brandan M. Kinney

R. Christopher Almy, District Attorney, and Mark A. Rucci, Asst. Dist. Atty., Prosecutorial District V, Bangor, for appellee State of Maine