

STATE OF MAINE

v.

RICKY O. MILLAY

Submitted on Briefs April 10, 2018
Decided April 19, 2018

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

MEMORANDUM OF DECISION

Ricky O. Millay appeals from a judgment of conviction entered by the court (Washington County, *Stewart, J.*) after a jury found him guilty of driving to endanger (Class E), 29-A M.R.S. § 2413(1) (2017), operating under the influence (Class B), 29-A M.R.S. § 2411(1-A)(D)(2) (2017), leaving the scene of an accident involving an attended vehicle (Class E), 29-A M.R.S. § 2253(3) (2017), criminal mischief (Class D), 17-A M.R.S. § 806(1)(A) (2017), and operating beyond license condition or restriction (Class E), 29-A M.R.S. § 1251(1)(B) (2017).¹ *See* M.R. App. P. 2B(b)(1). We affirm the judgment.

Despite Millay's argument that there was insufficient evidence to prove that he was the operator of a vehicle, the jury was presented with evidence—including the testimony of several witnesses and Millay's own statement to a law enforcement officer—to support the contrary finding. *See State v. Simons*, 2017 ME 180, ¶ 17, 169 A.3d 399 (stating that "[w]hen determining whether

¹ The jury found Millay not guilty of leaving the scene of an accident involving personal injury (Class D), 29-A M.R.S. § 2252(4) (2017).

the record contained enough evidence to support a criminal defendant's conviction, we view the evidence in the light most favorable to the State to determine whether the fact-finder could rationally find every element of the offense beyond a reasonable doubt" (quotation marks omitted)); *State v. McBreairty*, 2016 ME 61, ¶ 14, 137 A.3d 1012 (explaining that the jury as fact-finder "decide[s] the weight to be given to the evidence and the credibility to be afforded to the witnesses" (quotation marks omitted)).

The entry is:

Judgment affirmed.

Jeffrey C. Toothaker, Esq., Ellsworth, for appellant Ricky O. Millay

Matthew J. Foster, District Attorney, Prosecutorial District VII, Machias, for appellee State of Maine