

STATE OF MAINE

v.

KELLY M. GOARDS

Argued April 11, 2018
Decided May 1, 2018

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

MEMORANDUM OF DECISION

Kelly M. Goards appeals from a judgment of conviction for OUI (Class D),¹ 29-A M.R.S. § 2411(1-A)(C)(1) (2017), entered in the Unified Criminal Docket (Kennebec County, *Marden, J.*) after a jury trial. Contrary to Goards's assertions, the court did not err, abuse its discretion, or improperly shift the burden of proof from the State to the defendant when it allowed the State to question the police officer on re-direct examination about his conversation with Goards regarding her alleged vertigo diagnosis. *See State v. LaVallee-Davidson*, 2011 ME 96, ¶ 12, 26 A.3d 828. The court emphasized to the jury at the beginning and at the conclusion of the trial that "the burden of proof in this case is entirely on the State."

¹ Goards was also charged with operating beyond a license condition or restriction (Class E), 29-A M.R.S. § 1251(1)(B) (2017), but that charge did not go to the jury. After the jury rendered a guilty verdict on the OUI charge, Goards entered a nolo contendere plea on the charge of operating beyond a license condition or restriction. The court then entered a guilty verdict on that charge.

The entry is:

Judgment affirmed.

Matthew D. Morgan, Esq. (orally), McKee Law, LLC, PA, Augusta, for appellant
Kelly M. Goards

Maeghan Maloney, District Attorney, Christopher Coleman, Asst. Dist. Atty.,
and Frayla A. Tarpinian, Asst. Dist. Atty. (orally), Prosecutorial District IV,
Augusta, for appellee State of Maine

Kennebec County Unified Criminal Docket docket number CD-2017-20003
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