

STATE OF MAINE

v.

RAYMOND P. WRIGHT

Argued March 4, 2019
Decided March 26, 2019

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

MEMORANDUM OF DECISION

Raymond P. Wright appeals from a judgment of conviction of aggravated operating under the influence (Class B), 29-A M.R.S. § 2411(1-A)(A), (D)(2) (2018), entered by the trial court (Kennebec County, *Benson, J.*) after a jury trial, and aggravated operating after habitual offender revocation (Class D), 29-A M.R.S. §§ 2557-A(1), 2558(1)(A), (2)(A) (2018), entered after a jury-waived trial.¹ Contrary to Wright's contentions, no obvious error is evident in the prosecutor's opening statement at trial, *see State v. Dolloff*, 2012 ME 130, ¶¶ 35-38, 58 A.3d 1032, and, viewing the record in the light most favorable to the State, there was sufficient evidence on which the jury reasonably could find, beyond a reasonable doubt, each element of aggravated operating under the influence, *see* 29-A M.R.S. § 2411(1-A)(A), (D)(2); *State v. Nisbet*, 2018 ME 113, ¶ 34, 191 A.3d 359; *State v. Fox*, 2014 ME 136, ¶ 20,

¹ Wright's direct appeal and his sentence review application—granted pursuant to M.R. App. P. 20(g), (h)—were consolidated for our review.

105 A.3d 1029.² We also discern no obvious error in the court's consideration of Wright's entire prior criminal history as an aggravating circumstance in sentencing.³ See 17-A M.R.S. § 1252-C (2018); 29-A M.R.S. § 2411(5)(D-2) (2018); *State v. Commeau*, 2004 ME 78, ¶ 19, 852 A.2d 70.

The entry is:

Judgment affirmed.

Jeremy Pratt, Esq. (orally), and Ellen Simmons, Esq., Camden, for appellant Raymond P. Wright

Maeghan Maloney, District Attorney, and Tyler J. LeClair, Asst. Dist. Atty. (orally), Prosecutorial District IV, Augusta, for appellee State of Maine

Kennebec County Unified Criminal Docket docket number CR-2016-2218
FOR CLERK REFERENCE ONLY

² Although we conclude that it is "abundantly clear" from the record that Wright stipulated to the existence of his prior conviction, *State v. Fox*, 2014 ME 136, ¶ 20, 105 A.3d 1029 (quotation marks omitted), the best practice is, of course, to ensure that all stipulations are formally entered in the record. When the record does not formally reflect a stipulation, however, the State or plaintiff should supplement the appellate record with evidence that such a stipulation was executed. See M.R. App. P. 5(e).

³ We note an apparent docketing error as to Wright's sentence. Although the docket record states that Wright's license was suspended for a term of three years, the court stated orally during the sentencing hearing that it was imposing a ten-year license suspension, the notice of suspension incorporated into the judgment provides for a ten-year license suspension, and a ten-year license suspension is mandatory for this crime. See 29-A M.R.S. § 2411(5)(D-2) (2018).