

STATE OF MAINE

v.

MIKHAILA R. FLECK

Submitted on Briefs September 10, 2019  
Decided September 17, 2019

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

#### MEMORANDUM OF DECISION

Mikhaila R. Fleck appeals from a judgment entered on a conditional guilty plea in the trial court (Cumberland County, *Cole, C.J.*) convicting her of operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(A) (2018). *See* M.R.U. Crim. P. 11(a)(2). Contrary to Fleck's contentions, we discern no error in the court's (Cumberland County, *Delahanty, J.*) determination that the police officer had probable cause to arrest Fleck or in its denial of her motion to suppress evidence obtained as a result of that arrest. *See* M.R.U. Crim. P. 41A(d); *State v. Morrison*, 2015 ME 153, ¶¶ 5, 8, 128 A.3d 1060; *Turner v. Sec'y of State*, 2011 ME 22, ¶ 11, 12 A.3d 1188; *State v. Webster*, 2000 ME 115, ¶ 7, 754 A.2d 976; *State v. Boylan*, 665 A.2d 1016, 1018-19 (Me. 1995). Nor did the court commit obvious error by allowing the arresting officer to testify at the motion hearing as to the results of the horizontal gaze nystagmus test he performed on Fleck. *See* M.R. Evid. 702; M.R.U. Crim. P. 52(b); *State v. Hinkel*, 2017 ME 76, ¶ 11, 159 A.3d 854; *State v. Kelly*, 2000 ME 107, ¶ 15, 752 A.2d 188; *State v. Taylor*, 1997 ME 81, ¶¶ 10-13, 694 A.2d 907.

The entry is:

Judgment affirmed.

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Molly Butler Bailey, Esq., Strike, Gonzales & Butler Bailey, Portland, for  
appellant Mikhaila Fleck

Jonathan Sahrbeck, Dist. Atty, and Brendan O'Brien, Asst. Dist. Atty., Office of  
the Cumberland County District Attorney, Portland, for appellee State of Maine

Cumberland County Unified Criminal Docket docket number CR-2018-30323  
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