

RICKY SPOFFORD

v.

SECRETARY OF STATE

Submitted on Briefs November 4, 2020

Decided November 12, 2020

Panel: MEAD, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

Ricky Spofford appeals from a judgment of the Superior Court (Hancock County, *Mallonee, J.*) affirming the Secretary of State's suspension of Spofford's driver's license for three years for operating a motor vehicle with an alcohol level above .08. *See* 29-A M.R.S. §§ 2453, 2485(5) (2020); M.R. Civ. P. 80C. Contrary to Spofford's contention, the Secretary of State's hearing officer did not err in admitting a certificate of breath-alcohol test results as "the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs," despite the certifying officer having obtained the assistance of his supervisor to operate the breath-testing apparatus in the officer's presence. 5 M.R.S. § 9057(2) (2020); 29-A M.R.S. § 2431 (2020); *Carrier v. Sec'y of State*, 2012 ME 142, ¶ 12, 60 A.3d 1241; *Abrahamson v. Sec'y of State*, 584 A.2d 668, 670-71 (Me. 1991). Because Spofford did not raise his due process argument to the hearing officer, that issue may not be reviewed on appeal. *See Carrier*, 2012 ME 142, ¶¶ 18-19, 60 A.3d 1241. Even if we were to review the issue for obvious error, the admission of a certificate misidentifying the operator of the breath-testing apparatus did not, given the certifying officer's clarifying testimony, amount to a due process violation affecting Spofford's substantial rights. *See Doe v. Dep't of Health & Hum. Servs.*, 2018 ME 164, ¶ 15,

198 A.3d 782; *Mallinckrodt US LLC v. Dep't of Env'tl. Prot.*, 2014 ME 52, ¶ 29, 90 A.3d 428.

The entry is:

Judgment affirmed.

Christopher K. MacLean, Esq., Camden Law LLP, Camden, for appellant Ricky Spofford

Aaron M. Frey, Attorney General, and Donald W. Macomber, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Secretary of State

Hancock County Superior Court docket number AP-2019-8
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