

STATE OF MAINE

v.

JEFFREY B. JOHNSON

Submitted on Briefs January 25, 2023
Decided February 7, 2023

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

MEMORANDUM OF DECISION

Jeffrey B. Johnson appeals from a judgment of conviction of operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(C)(2) (2022), entered by the trial court (Franklin County, *Ham-Thompson, J.*) following a jury trial. Contrary to Johnson’s contention, the court did not err or abuse its discretion in limiting his cross-examination of the investigating officer concerning the underlying scientific basis of National Highway Traffic Safety Administration standardized field sobriety tests administered by the officer.¹ *See State v. Simons*, 2017 ME 180, ¶¶ 14-15, 169 A.3d 399. Furthermore, even if, arguendo, the court’s limitation of Johnson’s cross-examination was error, on this record the error was harmless given the substantial evidence that Johnson was operating a vehicle while impaired apart from the validated clues observed by the officer on the NHTSA tests. *See State v. Hussein*, 2019 ME 74, ¶ 19, 208 A.3d 752; *State v. Atkins*, 2015 ME 162, ¶¶ 2, 13, 16-18, 129 A.3d 952.

¹ We also discern no violation of Johnson’s confrontation rights in the court’s action. *See State v. Coleman*, 2018 ME 41, ¶ 25 n.6, 181 A.3d 689 (“The Confrontation Clause guarantees an adequate and effective, but not unlimited, cross-examination . . .”).

The entry is:

Judgment affirmed.

Christopher S. Berryment, Esq., Mexico, for appellant Jeffrey B. Johnson

Alexandra Winter, District Attorney, and Ellex Loper, Asst. Dist. Atty., Office of the District Attorney, Farmington, for appellee State of Maine

Franklin Unified Criminal Docket docket number CR-2020-313
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