

JAMES TOENNIS

v.

SECRETARY OF STATE

Submitted on Briefs July 14, 2005

Decided July 19, 2005

Panel: SAUFLEY, C.J., and DANA, ALEXANDER, CALKINS, and LEVY, JJ.

MEMORANDUM OF DECISION

James Toennis appeals from a judgment of the Superior Court (Knox County, *Atwood, J.*) affirming a decision of the Bureau of Motor Vehicles determining that there was probable cause to require Toennis to submit to an intoxilyzer test, and that Toennis's motor vehicle license was properly suspended pursuant to 29-A M.R.S.A. § 2453 (1996) following his arrest on September 10, 2003, for operating, or attempting to operate, a motor vehicle with 0.08% or more by weight of alcohol in his blood. Contrary to Toennis's contention, the hearing officer did not err in finding that there was probable cause to require Toennis to submit to an intoxilyzer test. *Powell v. Sec'y of State*, 614 A.2d 1303, 1305 (Me.

1992) (a hearing officer is merely required to determine whether a police officer had sufficient reason to justify the administration of a blood-alcohol test). Further, there was no violation of Toennis's due process rights. *Martin v. Unemployment Ins. Comm'n*, 1998 ME 271, ¶ 15, 723 A.2d 412, 417. The other issues Toennis raises are moot.

The entry is:

Judgment affirmed.

For plaintiff:

James Toennis
2020 Belfast Road
Lincolntonville, ME 04856

Attorneys for defendant:

G. Steven Rowe, Attorney General
Elizabeth J. Wyman, Asst. Atty. Gen.
6 State House Station
Augusta, ME 04333-0006