

STATE OF MAINE

v.

CRAIG D. CONARY

Submitted on Briefs June 28, 2006
Decided June 30, 2006

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

MEMORANDUM OF DECISION

Craig D. Conary appeals from a judgment of conviction entered in the Superior Court (Kennebec County, *Studstrup, J.*) after a jury found him guilty of operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(B)(1) (2005), as an accomplice pursuant to 17-A M.R.S. § 57 (2005). Contrary to Conary's contentions, the court did not commit obvious error by admitting the statement that Conary made to Deputy Michael Pion prior to taking field sobriety tests. *See* M.R. Evid. 404(b); *State v. Millay*, 2001 ME 177, ¶ 13, 787 A.2d 129, 132 ("Millay's statement was not a direct admission that he had operated under the influence

previously, but from it a fair inference could be drawn that he had knowledge of field sobriety tests.”). Additionally, the prosecutor did not commit misconduct when he elicited this evidence from Pion at trial or when he referred to it in his closing argument. *See State v. Young*, 2000 ME 144, ¶¶ 5-7, 755 A.2d 547, 548-49; *State v. Eaton*, 669 A.2d 146, 150-51 (Me. 1995). Conary’s remaining contentions are without merit.

The entry is:

Judgment affirmed.

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