

MARK J. LELAKOWSKI

v.

DEPARTMENT OF THE SECRETARY OF STATE,
BUREAU OF MOTOR VEHICLES

Submitted on Briefs January 11, 2007
Decided February 13, 2007

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

MEMORANDUM OF DECISION

Mark J. Lelakowski appeals from a judgment entered in the Superior Court (Cumberland County, *Crowley, J.*) affirming the Bureau of Motor Vehicles's suspension of his driver's license for failure to submit to and complete a chemical test pursuant to 29-A M.R.S. § 2521 (2006). Contrary to Lelakowski's contentions, the plain language of section 2521 states that the Secretary of State shall suspend the license of a person "who fails to submit to and complete a test." *Id.* § 2521(5). Although the hearing examiner incorrectly articulated the burden of proof, the error is harmless because there is ample evidence in the record to

conclude by a preponderance of the evidence that Lelakowski failed to submit to and complete a chemical test. See M.R. Civ. P. 61; *Shaw v. Packard*, 2005 ME 122, ¶ 13, 886 A.2d 1287, 1290; *Copp v. Liberty*, 2003 ME 43, ¶ 4 n.1, 818 A.2d 1050, 1052.

The entry is:

Judgment affirmed.

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