

STATE OF MAINE

v.

DANIEL S. MILLER

Submitted on Briefs July 29, 2008
Decided August 5, 2008

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and
GORMAN, JJ.

MEMORANDUM OF DECISION

Daniel S. Miller appeals from a judgment of conviction entered by the Superior Court (Waldo County, *Hjelm, J.*) on a charge of aggravated operating after habitual offender revocation (Class C), 29-A M.R.S. § 2558(2)(B) (2007).¹ Contrary to his contention, Miller cannot now collaterally attack the Secretary of State's action in 2002 designating him as a habitual offender. *See State v. Holmes*, 2004 ME 155, ¶ 8, 864 A.2d 166, 168 (“Defendants who do nothing to contest their suspensions prior to their arrests cannot mount collateral attacks at an operating after suspension trial.”); *State v. St. Hilaire*, 543 A.2d 824, 826-27 (Me. 1988) (after Secretary of State's designation as a habitual offender became final, defendant “cannot now challenge his original designation as an habitual offender in this appeal”); *State v. O'Neill*, 473 A.2d 415, 417 (Me. 1984) (“A person may not take the law into his own hands by driving a motor vehicle in defiance of the State's determination that he is an habitual offender. [That] classification may be attacked only by a direct appeal of the Secretary of State's decision.”); *Piacitelli v. Quinn*, 449 A.2d 1126, 1127-28 (Me. 1982) (impermissibility of resorting to self-help by driving while under suspension is a

¹ Miller pleaded guilty to two other charges; he has not appealed those convictions.

“policy consideration[] . . . [that] overbalance[s] a citizen’s interest in vindicating his rights by collateral attack”).

The entry is:

Judgment affirmed.

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