

STATE OF MAINE

v.

DANIEL T. DRISCOLL

Submitted on Briefs September 10, 2008

Decided September 16, 2008

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

MEMORANDUM OF DECISION

Daniel T. Driscoll appeals from the judgment of the Violations Bureau (Dover-Foxcroft, *Gunther, J.*) finding him to have committed the civil violation of improper passing, 29-A M.R.S. § 2070 (2007). On appeal, Driscoll contends that the court erred in not determining that an emergency situation justified Driscoll's action in passing. Our review of the record, taken most favorably to the court's findings, indicates that the court could find that Driscoll engaged in an improper pass and that no vehicle suddenly pulled in front of him to create an emergency situation that was not of his own making. *See generally State v. Moore*, 577 A.2d 348, 350-51 (Me. 1990) (discussing the competing harms defense).

The entry is:

Judgment affirmed.

Attorney for Daniel Driscoll:

Stephen C. Smith, Esq.
9 Central Street, Suite 209
Bangor, Maine 04401

Attorneys for the State of Maine:

R. Christopher Almy, District Attorney
Susan J. Pope, Asst. Dist. Atty.
Prosecutorial District V
97 Hammond Street
Bangor, Maine 04401