

STATE OF MAINE

v.

GRANT A. JONES

Submitted on Briefs September 23, 2010

Decided September 28, 2010

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

MEMORANDUM OF DECISION

Grant A. Jones appeals from a judgment of the Superior Court (Oxford County, *Clifford, J.*) convicting him of operating under the influence (Class D), 29-A M.R.S. § 2411(1-A)(A), (5) (2008). Contrary to Jones's contentions, (1) the court did not clearly err in admitting a blood test taken at Stephens Memorial Hospital that showed a .379 blood-alcohol content because there was evidence in the record that the test was relevant and reliable, *see State v. Pineo*, 2002 ME 93, ¶ 6, 798 A.2d 1093, 1096; 16 M.R.S. § 357 (2009); and (2) the admission of the test results without the testimony of some individuals involved in the testing process did not violate Jones's Confrontation Clause rights because the results were created for diagnosis and treatment purposes and are not testimonial, *see State v. Mitchell*, 2010 ME 73, ¶ 41, --- A.2d ---, --- (stating that confrontation is required where the statements involved are testimonial) (citing *Crawford v. Washington*, 541 U.S. 36, 68-69 (2004)); *State v. Mangos*, 2008 ME 150, ¶ 13, 957A.2d 89, 93 (holding that a statement "is testimonial because [the author] made it in furtherance of a police investigation"); *see also Melendez-Diaz v. Massachusetts*, 557 U.S. ---, 129 S. Ct. 2527, 2532 n.2 (2009) ("[M]edical reports created for treatment purposes . . . would not be testimonial under our decision today.").

The entry is:

Judgment affirmed.

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