

STATE OF MAINE
PISCATAQUIS, SS.

SUPERIOR COURT
DOCKET NO 17-055

STATE OF MAINE

v.

ORDER

ARTHUR MICHAUD

After trial, the Court took this case under advisement to conduct research on the issue of whether being an on-duty operator in possession of marijuana, alone, is sufficient proof of this violation or whether the State must prove that the defendant's use of the drug rendered him incapable of safely operating the vehicle he was driving. The relevant regulation, 49 CFR 392.4, prohibits the possession by such a person of any 21 CFR 1308.11 substance, which includes marijuana according to subsection 1 of that regulation, and any other substance, to a degree which renders the driver incapable of safely operating a motor vehicle, in subsection 4. According to 21 CFR 1308.11, marijuana is a Schedule 1 substance, so it is not necessary for the State to prove use to a "degree which renders the driver incapable of safely operating a motor vehicle," which was not proved in this case.

Based on this analysis, the Court finds the defendant guilty of this offense and a sentence will be imposed at a later hearing.

Dated: November 13, 2017


WILLIAM ANDERSON
JUSTICE, SUPERIOR COURT

PISCATAQUIS JUD CTR
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