

STATE OF MAINE

YORK, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-10-20

BENJAMIN BLAIS,

Petitioner

v.

ORDER

STATE OF MAINE,
SECRETARY OF STATE,

Respondent

Benjamin Blais received a driver's license suspension for one year plus 180 days for operating with any level of alcohol. He was 20 years old at the time of operation and received a suspension of one year, since he was under 21 at the time. An additional 180 days was added since he had a passenger under age 21 with him at the time of operation. See 29-A M.R.S.A. §2472(3-A). An administrative hearing was held and the Secretary of State upheld the suspension by oral decision. An appeal was taken to the Superior Court which has been briefed and argued.

In his appeal he argues that he should have received a 90-day suspension which is imposed when a person over age 21 is operating under the influence or with a blood alcohol level of 0.08% or more (now described as 0.08 grams of alcohol per 210 milliliters of breath), see 29-A M.R.S.A. §2411(5)(A)(2), since he had a blood alcohol test result of 0.11% making the distinction between an 0.02 (0.02 grams) level for younger drivers, see 29-A M.R.S.A. §2472(3-A), and the 0.08% (0.08 grams) level for older drivers immaterial. He does not challenge the additional 180-day suspension for having a

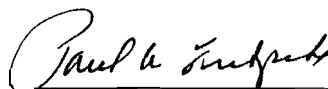
passenger under age 21 with him. Mr. Blais believes that he should have received a 90 day plus 180 day suspension rather than the one year plus 180 day suspension he actually received.

The petitioner has argued that it is a violation of equal protection to impose a harsher penalty on younger drivers. Since neither a fundamental right nor a suspect classification is involved the test is whether the distinction between younger and older driver's concerning the duration of a suspension bears some rational relationship to a legitimate state interest or purpose.

Given the well recognized dangers of drinking and driving and the enhanced danger of underage drinking the Legislature can constitutionally impose greater penalties upon younger drivers who chose to drink and then drive. The Legislature's decisions are fully consistent with the coextensive equal protection provisions of the United States and Maine Constitutions. I reached the same conclusion in 1988 in *Parker v. Secretary of State*, Me.Super.Ct. (York), Docket No. CV-87-737. Unfortunately not enough has changed and the enhanced penalties for under age 21 drivers remain a constitutional Legislative response. The entry is:

Decision of the Secretary of State is affirmed.

Dated: August 30, 2010



Paul A. Fritzsche
Justice, Superior Court

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