

SUPREME JUDICIAL COURT OF MAINE

State of Maine v. Neil D. Salisbury

2017 ME 215 (2017) · No. Han-17-135 · Decided November 14, 2017

SUMMARY

The Maine Supreme Judicial Court affirmed Neil D. Salisbury’s convictions for operating after suspension, operating without a license, and operating an unregistered vehicle. The court rejected his challenges to personal and subject matter jurisdiction and found no merit in his additional claims concerning a subpoena, judicial appointment, opening argument, jury instructions, a trespass claim, and the right to travel.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam; Saufley, C.J.; Mead, J.; Gorman, J.; Jabar, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	November 14, 2017
DOCKET	Han-17-135
DISPOSITION	affirmed
PROCEDURAL POSTURE	Salisbury appealed from a jury conviction and judgment in the Hancock County Unified Criminal Docket for operating after suspension, operating without a license, and operating an unregistered vehicle.
STANDARD OF REVIEW	The court reviewed alleged legal jurisdictional errors as matters of law and reviewed asserted trial-court discretionary rulings for abuse of discretion; unpreserved or inadequately argued issues were forfeited.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Neil D. Salisbury v. State of Maine

TOPICS

[criminal procedure](#) [appellate procedure](#) [appellate jurisdiction](#) [evidence](#) [relevance](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court had personal and subject matter jurisdiction over Salisbury's criminal prosecution.
2. Whether the trial court erred or abused its discretion by quashing Salisbury's subpoena of the assistant district attorney.
3. Whether the trial judge was properly appointed.
4. Whether the trial court improperly limited the duration of Salisbury's opening argument.
5. Whether the trial court improperly denied Salisbury's requested jury instructions.
6. Whether the trial court was required to hear a trespass claim in the criminal proceeding.
7. Whether Salisbury's asserted right to interstate travel deprived the State of authority to enforce the motor-vehicle laws.

HOLDINGS

1. The trial court had both personal jurisdiction over Salisbury and subject matter jurisdiction over the criminal prosecution.
2. Issues raised without legal argument supported by proper authority are forfeited on appeal.
3. The trial court did not err or abuse its discretion in quashing Salisbury's subpoena because the assistant district attorney had no relevant evidence to provide.
4. The trial judge was properly appointed.
5. The trial court did not abuse its discretion by reasonably limiting the duration of Salisbury's opening argument.
6. The trial court properly denied Salisbury's requested jury instructions and fully instructed the jury on the applicable law.
7. The trial court had no basis to hear a trespass claim in the criminal trial.

KEY QUOTATIONS

“as a matter of law, the court had both personal and subject matter jurisdiction over this matter.” (¶ 2)

“We discern no error or abuse of discretion and therefore affirm the trial court’s judgment.” (¶ 2)

FACTUAL BACKGROUND

Salisbury was prosecuted and tried before a jury for operating after suspension, operating without a license, and operating an unregistered vehicle. The jury found him guilty, and the Hancock County trial court entered judgment. On appeal, he challenged the court's jurisdiction and several rulings concerning a subpoena, judicial appointment, opening argument, jury instructions, a purported trespass claim, and interstate travel.

PROCEDURAL HISTORY

Following a jury trial in the trial court, Hancock County, Mallonee, J., Salisbury was convicted of three Class E motor-vehicle offenses. He appealed, primarily challenging the trial court's personal and subject matter jurisdiction and also raising several trial-related issues. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Pelletier, 2015 ME 129, ¶ 5, 125 A.3d 354
- State v. St. Onge, 2011 ME 73, ¶ 13, 21 A.3d 1028
- Mehlhorn v. Derby, 2006 ME 110, ¶ 11, 905 A.2d 290
- State v. Watson, 1999 ME 41, ¶ 5, 726 A.2d 214
- Laprel v. Going, 2014 ME 84, ¶¶ 15-20, 96 A.3d 67
- State v. Liberty, 498 A.2d 257, 260 (Me. 1985)
- State v. Hofland, 2012 ME 129, ¶ 18, 58 A.3d 1023
- Saenz v. Roe, 526 U.S. 489, 498 (1999)
- State v. Elliott, 2010 ME 3, ¶ 18, 987 A.2d 513
- State v. Quinnam, 367 A.2d 1032, 1034 (Me. 1977)

OPINION

State of Maine v. Neil D. Salisbury 2017 ME 215

PER CURIAM.

MAINE SUPREME JUDICIAL COURT Reporter of Decisions Decision: 2017 ME 215 Docket: Han-17-135 Submitted On Briefs: October 24, 2017 Decided: November 14, 2017 Panel: SAUFLEY, C.J., and MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

STATE OF MAINE

v.

NEIL D. SALISBURY

PER CURIAM

[¶1] Neil D. Salisbury appeals from a judgment of conviction of operating after suspension (Class E), 29-A M.R.S. § 2412-A(1-A)(A) (2016), operating without a license (Class E), 29-A M.R.S. § 1251(1)(A) (2016), and operating an unregistered vehicle (Class E), 29-A M.R.S. § 351(1)(B) (2016), entered by the trial court (Hancock County, Mallonee, J.) after a jury found him guilty. On appeal, he primarily challenges the court's jurisdiction. We affirm the judgment. [¶2] Contrary to Salisbury's contentions, as a matter of law, the court had both personal and subject matter jurisdiction over this matter. See 15 M.R.S. § 1(1) (2016); 17-A M.R.S. §§ 7(1)(A), (5) (2016);

State v. Pelletier, 2015 ME 129, ¶ 5, 125 A.3d 354; State v. St. Onge, 2011 ME 73, ¶ 13, 21 A.3d 2 1028. During the course of the trial and on appeal, Salisbury also raised other arguments, though he forfeited most of these issues on appeal by failing to offer any legal argument with citation to proper authority. See Mehlhorn v. Derby, 2006 ME 110, ¶ 11, 905 A.2d 290. To the extent that he has adequately presented these arguments, we find them without merit. Specifically, • The court did not err or abuse its discretion in quashing Salisbury’s subpoena of the assistant district attorney, who had no relevant evidence to provide, see M.R. Evid. 401, 402; M.R.U. Crim. P. 17; State v. Watson, 1999 ME 41, ¶ 5, 726 A.2d 214; • The judge was properly appointed, see Laprel v. Going, 2014 ME 84, ¶¶ 15-20, 96 A.3d 67; • The court did not abuse its discretion in reasonably limiting the duration of Salisbury’s opening argument, cf. State v. Liberty, 498 A.2d 257, 260 (Me. 1985); • The court properly denied Salisbury’s requested jury instructions and instructed the jury fully on the applicable law, see State v. Hofland, 2012 ME 129, ¶ 18, 58 A.3d 1023; • There was no basis for the court to hear a trespass “claim” in the context of a criminal trial, see M.R.U. Crim. P. 12(a) (providing a list of permissible pleadings in a criminal case that does not include counterclaims); cf. M.R. Civ. P. 80F(d)(2) (disallowing counterclaims even in civil traffic infraction matters); and • There was no interstate travel here, but even if there had been, the right to travel may properly be limited by states to ensure public safety, see Saenz v. Roe, 526 U.S. 489, 498 (1999); Pelletier, 2015 ME 129, ¶¶ 6-7, 125 A.3d 354; State v. Elliott, 2010 ME 3, ¶ 18, 987 A.2d 513; State v. Quinnam, 367 A.2d 1032, 1034 (Me. 1977). 3 We discern no error or abuse of discretion and therefore affirm the trial court’s judgment. The entry is: Judgment affirmed. Neil D. Salisbury, appellant pro se Toff Toffolon, Dept. Dist. Atty., District Attorney’s Office, Ellsworth, for appellee State of Maine Hancock County Unified Criminal Docket docket number CR-2016-624

FOR CLERK REFERENCE ONLY