

Decision: 2018 ME 85  
Docket: Ken-16-503  
Argued: May 12, 2017  
Decided: July 3, 2018  
Revised: July 17, 2018

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.  
Majority: SAUFLEY, C.J., and ALEXANDER, MEAD, and HUMPHREY, JJ.  
Dissent: GORMAN, J., with whom JABAR, J., joins, and HJELM, J., joins in part.  
Dissent: JABAR, J.  
Dissent: HJELM, J.

STATE OF MAINE

v.

LYANNE LEMEUNIER-FITZGERALD

**ERRATA SHEET**

Paragraph 40 of the dissent by Gorman, J., to the opinion of the Court certified on July 3, 2018, is revised as follows to correct the description of the consequences of a conviction for operating under the influence where the State also proves that the defendant refused a breath or blood test:

[¶40] In Maine, a first-offense OUI conviction carries a minimum sentence of a \$500 fine and a license suspension of 150 days.<sup>14</sup> 29-A M.R.S. § 2411(5)(A)(1)-(2). If a defendant is convicted of OUI and, as part of that conviction, the State also proves that the defendant refused a breath or blood test, the court *must* impose a minimum fine of \$600, a minimum license suspension of ~~275~~ 150 days, and a minimum jail term of 96 hours. 29-A M.R.S. §§ 2411(5)(A)(1), ~~(2)~~, (3)(b), ~~2521(6)~~. In addition, the defendant's

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<sup>14</sup> A minimum period of incarceration of forty-eight hours is imposed for an OUI conviction if certain aggravating factors are present. 29-A M.R.S. § 2411(5)(A)(3)(a) (2017).

license is suspended for an additional 275 days. 29-A M.R.S. § 2521(6). That means that each individual convicted of OUI, when that conviction involves a refusal, receives a sentence that involves an additional \$100 in fines, a an extension to his license suspension ~~that is extended by 125 days,~~ and a 4-day jail sentence. 29-A M.R.S. §§ 2411(5)(A)(1)-(3), 2521(6). For defendants with prior offenses, the differences between an OUI and an OUI with refusal become more significant—a \$700 versus a \$900 fine and seven days in jail versus twelve days in jail as to a second offense; \$1,100 versus \$1,400 and thirty days versus forty days for a third offense; and \$2,100 versus \$2,500 and six months versus six months and twenty days for a fourth offense. 29-A M.R.S. § 2411(5)(B)(1)-(2), (C)(1)-(2), D(1)-(2).

The original opinion on the Judicial Branch website has been replaced with the opinion as revised.