

Docket No:

UNITED STATES SUPREME COURT

ALIJA SEJDIC,
Plaintiff-Petitioner,

v.

SECRETARY OF STATE FOR THE STATE OF MAINE,
Defendant-Respondent.

On Petition for Writ of Certiorari
TO THE MAINE SUPREME JUDICIAL COURT

PETITION FOR WRIT OF CERTIORARI

ROBERT C. ANDREWS
Attorney for Alija Sejdic
Maine Bar Number 8980
P.O. Box 813
Portland, ME 04104
Tel. 207-879-9850
Fax 207-879-1883
E-mail rob.andrews.esq@gmail.com

STATEMENT OF THE QUESTIONS PRESENTED

- I. Does the Due Process Clause of the Fourteenth Amendment require the State of Maine to review challenges of probable cause in administrative hearings for driving with a blood alcohol level above 0.08 grams of alcohol per 100 milliliters of blood de novo?

LIST OF PARTIES

Alija Sejdic v. Secretary of State

Alija Sejdic, Attorney for Appellant(s) Alija Sejdic: Robert C. Andrews Esq.
Robert C. Andrews Esquire P.C. P.O. Box 813 Portland ME 04103
rob.andrews.esq@gmail.com

Secretary of State Shenna Bellows, Attorney for Appellee(s) State of Maine: Katie
Ann Sibley Esq. Office of the Maine Attorney General 6 State House Station
Augusta ME 04333 katie.sibley@maine.gov

TABLE OF CONTENTS

	<u>Page</u>
STATEMENT OF THE QUESTIONS PRESENTED	i
LIST OF PARTIES	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES	iv
CITATIONS OF OPINIONS AND ORDERS	vi
JURISDICTIONAL STATEMENT	vii
PROVISIONS OF LAW	viii
STATEMENT OF FACTS	1
ARGUMENT	4
I. This is an important federal question regarding the standard of review of probable cause determinations made by a state agency for which a split between the states has developed.	4
II. The Maine Supreme Judicial Court has applied a standard that is inconsistent with this Court’s Due Process Clause requirements for probable cause determinations.	7
III. The United States Supreme Court should grant the Petition for a Writ of Certiorari to resolve the significant issues that surround this split among the States that administrative hearings, which suspend license for operating a motor vehicle under the influence of drugs or alcohol based on probable cause, require de novo review.	11
CONCLUSION.....	12

TABLE OF AUTHORITIES

UNITED STATES CONSTITUTION

<i>U.S. Constitution Amend. XIV</i>	passim
---	--------

SUPREME COURT CASE

<i>Bufkin v. Collins</i> , 604 U.S 369, 384-85 (2025).....	4, 5
<i>Ornelas v. United States</i> , 517 U.S. 690. 196-98 (1996).	5, 6
<i>United States v. Arvizu</i> , 534 U.S. 266, 275 (2002).....	7

STATE OF MAINE CASES

<i>Payson v. Secretary of State</i> , 634 A.2d 1278 (Me 1993).....	10, 11
<i>State v. Eastman</i> , 691 A.2d 179 (Me. 1997).....	8
<i>State v. Forsyth</i> , 795 A.2d 66 (Me. 2002)	7, 8
<i>State v. Morrison</i> , 128 A.3d 1060 (Me. 2015).....	12, 13
<i>State v. Palmer</i> , 190 A.3d 1009 (Me. 2018).	12, 13
<i>State v. Webster</i> , 754 A.2d 976 (Me. 2000).....	7, 8
<i>State v. Wood</i> , 662 A.2d 919 (Me.1995).....	8
<i>Turner v. Secretary of State</i> , 12 A.3d 1188 (Me. 2011).	4, 8, 9

OTHER STATE DECISIONS

<i>Casper v. Kansas Dept. Revenue</i> , 442 P.3d 1038 (2019)	11
<i>Jeffries v. Texas Dept. of Public Safety</i> 2000 WL 682596.	11
<i>Steinkrause v. Tatum</i> , 201 N.C.App. 289 (2009).....	11
<i>Vasquez v. Director of Revenue</i> , 658 S.W.3d 553 (2022).	11

STATUTES

5 M.R.S. § 11001	vii
5 M.R.S. § 11002	vii
14 M.R.S. § 1851	vii
28 U.S.C. § 1257.....	vii

CITATIONS OF OPINIONS AND ORDERS

Initial decision In Re Alija Sejdic October 30, 2024; Opinion Alija Sejdic v. Secretary of States: 2024-AP-0064 dated May 6, 2025 Docket Entry May 9, 2025; *Alija Sejdic v. Secretary of State*: Cum 2025-279 dated February 19, 2026 Decision No. Mem 39.

JURISDICTIONAL STATEMENT

Review on Petition for Writ of Certiorari. The Defendant makes this petition based on the jurisdiction conferred by Article III Section 1 of the United States Constitution, 28 U.S.C. § 1257(a), and Rule 10 of the Supreme Court Rules. The Decision in the Maine Supreme Judicial Court deals with an important federal question and conflicts with other decisions of the Supreme Court of the United States. This Petition is timely as the deadline was enlarged by the Court having been filed within 90 Days of Maine Supreme Judicial Court's order docketed on February 19, 2026.

Appellate Jurisdiction. The Defendant takes this appeal as of right in a civil prosecution under 14 M.R.S. § 1851 and the jurisdiction established by Maine Rule of Appellate Procedure 2B. Pursuant to Me. R. App. P. 2B, the notice of appeal must be filed in the trial court within 21 days after entry of the order or judgment appealed. The notice of appeal in this matter was timely filed on May 27, 2025.

Original Jurisdiction. Maine Superior Courts have original jurisdiction of all challenges to Maine State Agency action. See 5 M.R.S. § 110001. Pursuant 5 M.R.S. § 110002, the Petition for Review of Final Agency Action was filed within 30 days of the agency's action. The Petition was timely filed on December 4, 2024.

PROVISIONS OF LAW

U.S. Constitution Amend. XIV.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#

#

STATEMENT OF FACTS

The Hearing Officer issued an opinion with findings of fact. Appendix hereinafter A at 14. On June 16, 2024, at approximately 2:12 a.m., Officer Cloutier observed a vehicle speeding, traveling a 45 in a 35 mile per hour zone. As Officer Cloutier pulled the vehicle over, the vehicle slowed but did not immediately come to a complete stop and traveled at slow speed for an extra 25 feet. Based on Officer Cloutier's training and experience, he found it strange that the vehicle did not stop sooner as in his experience, most vehicles pull over as soon as possible when they see police lights. A at 14-15.

After the vehicle was stopped, the driver was identified as Mr. Sejdic. Officer Cloutier smelled the odor of intoxicating beverages coming from the vehicle. There was also a male passenger in the vehicle. A at 15.

Mr. Sejdic told Officer Cloutier that he had 2 Bud Light beers. Mr. Sejdic also told Officer Cloutier that his last beer was 45 minutes prior. Officer Cloutier asked Mr. Sejdic to exit the vehicle and once out of the vehicle, Officer Cloutier smelled the odor of intoxicating beverages coming from Mr. Sejdic. A at 15.

Officer Cloutier administered standardized field sobriety tests. As part of the test, Officer Cloutier asked Mr. Sejdic about his medical condition and Mr. Sejdic told Officer Cloutier that he had suffered a work injury about 4 weeks prior and had a concussion and knee injury. Mr. Sejdic also claimed to have balance issues due to two left ankle injuries. A at 15.

Officer Cloutier administered the horizontal gaze nystagmus test and observed 4 out of 6 clues. On the walk and turn test, Officer Cloutier observed 4 out of 8 clues. On the one leg stand

test, Officer Cloutier observed 3 out of 4 clues. Officer Cloutier told Mr. Sejdic that he could use either leg to perform the one leg stand. A at 15.

After the standardized field sobriety tests, Officer Cloutier asked Mr. Sejdic to rate himself on a 1 to 10 intoxication scale with 1 being sober. Mr. Sejdic rated himself “2 beers” and then corrected himself and said 1.5. Officer Cloutier arrested Mr. Sejdic and took him in for a breath test. A at 15.

Officer Cloutier read Mr. Sejdic the implied consent form verbatim. Mr. Sejdic asked for further explanation of the implied consent form. Officer Cloutier told Mr. Sejdic that he could not try to explain it but would read it again and could get an interpreter if Mr. Sejdic wanted it read to him in another language. Mr. Sejdic told Officer Cloutier that he did not need an interpreter but wanted advice on whether he should take the test or not. Officer Cloutier did not provide Mr. Sejdic any additional explanation but read the implied consent form twice. A at 15.

After the 15 minute observation period, Officer Cloutier gave Mr. Sejdic another opportunity to give a breath sample and he refused. Mr. Sejdic signed the implied consent form indicating he was notified of the consequence of failing to submit to a chemical test and that he was refusing to provide a sample. A at 15.

The Hearing Officer found that it was more likely than not that there was probable cause to believe Mr. Sejdic operated a motor vehicle while under the influence of intoxicants. The Hearing Officer explained, that on June 16, 2024 at 2:12 a.m., Mr. Sejdic was speeding after drinking alcohol, that he took an extra 25 feet to stop, that he admitted to drinking 2 beers, that the last beer had been 45 minutes before he had been stopped. The Hearing Officer further explained, that Officer Cloutier smelled the odor of intoxicating beverages coming from inside

the vehicle and also directly from Mr. Sejdic. A at 16.

The Hearing Officer determined that the 4 out of 6 clues for the Horizontal gaze nystagmus and 3 out of four on the walk and turn were sufficient indicators of Mr. Sejdic's impairment without counting the walk and turn test. The Hearing Officer chose not to credit Officer Cloutier's observation on the walk and turn test because of Mr. Sejdic's ankle surgeries. The Hearing Officer treated Mr. Sejdic's subject rating on the intoxicated scale of 1.5 as an admission as to impairment. A at 16.

The Hearing Officer made credibility judgments in favor of Officer Cloutier. In particular, the hearing officer agreed with Officer Cloutier that the extra 25 feet might be a sign of impairment. The Hearing Officer did not make findings with respect to the extent of Officer Cloutier's experience and Officer Cloutier's testimony supports only the conclusion that he had been an officer for about 6 months at the time of the stop. Officer Cloutier also testified that it was the second operating under the influence investigation of his career. The Hearing Officer also did not address Officer Cloutier's generalized suspicion that people traveling at that time of night might be under the influence. The Hearing Officer affirmed Officer Cloutier's decision to require a blood alcohol test. A at 16.

Mr. Sejdic appealed the Hearings Officer's decision and filed a petition for review of agency action. A at 2. Briefing was submitted to the Maine Superior Court in Portland. A at 3. Justice Cashman entered a decision affirming the Hearing Officer's decision. A at 3. Within 21 days, Mr. Sejdic appealed the Maine Supreme Judicial Court. A at 3. The Maine Supreme Court held oral arguments but did not release a full decision. The Maine Supreme Judicial Court issued a memorandum of decision and summarily denied Mr. Sejdic's arguments.

ARGUMENT

I. This is an important federal question regarding the standard of review of probable cause determinations made by a state agency for which a split between the states has developed.

Mr. Sejdic asserts the standard of review is de novo despite this Court's previous provision of deference to the Superior Court when it is acting as an intermediate appellate court. In particular, factual findings are reviewed for clear error in this Court even when it is a probable cause determination:

Where the Superior Court acts as an intermediate appellate court, "we review the hearing examiner's decision directly for abuse of discretion, error of law, or findings not supported by substantial evidence in the record." *Payson v. Sec'y of State*, 634 A.2d 1278, 1279 (Me.1993). "The agency's factual determinations must be sustained unless shown to be clearly erroneous." *Imagineering, Inc. v. Superintendent of Ins.*, 593 A.2d 1050, 1053 (Me.1991). The party seeking to vacate the agency decision bears the burden of persuasion on appeal. *Zegel v. Bd. of Soc. Worker Licensure*, 2004 ME 31, ¶ 14, 843 A.2d 18, 22.

Turner v. Secretary of State, 12 A.3d 1188, 1191 (Me. 2011). *Turner* was a challenge to the finding of probable cause to require a blood alcohol test just like Mr. Sejdic's case. There are two reasons for de novo review. First, the probable cause challenge here is a legal determination of a mixed question of fact and law. Second, as a Constitutional standard there is a presumption of de novo review.

This Court has recently explained why probable cause determinations receive de novo review in the context of disability awards of veteran benefits. While the Supreme Court rejected de novo review for benefit determinations, both the majority and dissent addressed review of probable cause determinations:

Two features of the probable-cause determination distinguish it from the

approximate-balance determination, however, and underscore why courts review it *de novo*. First, because probable cause is a constitutional standard, we start with a strong presumption that determinations under that standard are subject to *de novo* review, even if they require courts to “plung[e] into a factual record.” Second, probable cause at bottom poses a question that requires substantial “legal work.” Because probable cause asks whether the “officer’s understanding of the facts and his understanding of the relevant law” was “reasonable,” it requires an objective, legally grounded inquiry as to what a hypothetical person could have found. The answer to how a hypothetical person would act is, by its nature, one that courts refine over time, building out principles that “acquire content only through application.” *De novo* review is therefore essential so that courts can ensure “unif[orm] precedent” that will “provid[e] law enforcement officers with a defined set of rules which, in most instances, makes it possible to reach a correct determination beforehand as to whether an invasion of privacy is justified.”

Bufkin v. Collins, 604 U.S. 369, 384-85 (2025) (internal citations omitted). In Mr. Sejdic’s case, the Hearing Officer’s conclusions were based on observations like speeding, the way the vehicle pulled over, and the admission of alcohol use, instead of focusing on the lack of evidence of slurred speech, red or glassy eyes, and other indicators of physiological impairment. The challenge here is not to the existence of facts but to how they were applied to the standard of probable cause of physiological impairment.

Bufkin’s result in large part turns on the under pinning decided thirty years ago. This Court clearly requires *de novo* review when applying the facts to the law in so called mixed questions in probable cause determinations:

The principal components of a determination of reasonable suspicion or probable cause will be the events which occurred leading up to the stop or search, and then the decision whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to reasonable suspicion or to probable cause. The first part of the analysis involves only a determination of historical facts, but the second is a mixed question of law and fact: [T]he historical facts are admitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the [relevant] statutory [or constitutional] standard, or to put it another way, whether the rule of law as applied to the established facts is or is not violated. We think independent appellate review of these ultimate

determinations of reasonable suspicion and probable cause is consistent with the position we have taken in past cases. We have never, when reviewing a probable-cause or reasonable-suspicion determination ourselves, expressly deferred to the trial court's determination. A policy of sweeping deference would permit, “[i]n the absence of any significant difference in the facts,” “the Fourth Amendment's incidence [to] tur[n] on whether different trial judges draw general conclusions that the facts are sufficient or insufficient to constitute probable cause. Such varied results would be inconsistent with the idea of a unitary system of law. This, if a matter-of-course, would be unacceptable. In addition, the legal rules for probable cause and reasonable suspicion acquire content only through application. Independent review is therefore necessary if appellate courts are to maintain control of, and to clarify, the legal principles...Finally, *de novo* review tends to unify precedent and will come closer to providing law enforcement officers with a defined set of rules which, in most instances, makes it possible to reach a correct determination beforehand as to whether an invasion of privacy is justified in the interest of law enforcement.

Ornelas v. United States, 517 U.S. 690. 196-98 (1996) (Internal citations omitted). Until *Bufkin*, the *de novo* review for probable cause or reasonable suspicion, appeared limited to motions to suppress and direct court action. After *Bufkin*, the extent of appropriate *de novo* review no stretches to constitutional standard—like probable cause—extends to agency determination of those standards. In Maine the consequence of a charge of operating under the influence, the specific name for the crime of driving while under the influence of drugs or alcohol is an administrative suspension based on probable cause of operating while impaired to the slightest degree. Mr. Sejdic argued below that the factors relied on by the officer and the agency making the probable cause determination had drifted too far from foundations of physiological impairment.

Mr. Sejdic’s argument took on the characteristics of a challenge to the findings below that is similar to a challenge to the totality of the circumstances. In other words, Mr. Sejdic contested the idea that probable cause as a standard should be so broad as to include many of the factors relied on by Maine’s Secretary of State:

In *Ornelas v. United States*, we held that the standard for appellate review of reasonable-suspicion determinations should be de novo, rather than for “abuse of discretion.” 517 U.S., at 691, 116 S.Ct. 1657. There, we reasoned that de novo review would prevent the affirmance of opposite decisions on identical facts from different judicial districts in the same circuit, which would have been possible under the latter standard, and would allow appellate courts to clarify the legal principles. *Id.*, at 697, 116 S.Ct. 1657. Other benefits of the approach, we said, were its tendency to unify precedent and greater capacity to provide law enforcement officers with the tools to reach correct determinations beforehand: Even if in many instances the factual “mosaic” analyzed for a reasonable-suspicion determination would preclude one case from squarely controlling another, “two decisions when viewed together may usefully add to the body of law on the subject.”

United States v. Arvizu, 534 U.S. 266, 275 (2002). The Maine Supreme Judicial Court was unwilling to engage in the kind of “delimiting” that *Arvizu* so prominently rejected. Mr. Sejdic asserts that this Court should consider the benefits of adjusting the standard of review to limit the scope of probable cause determination related to administrative suspensions for driving while under the influence. Until the focus is placed on physiological effects of impairment, and not suspicions in general, violations of due process will continue in cases like Mr. Sejdic’s

II. The Maine Supreme Judicial Court has applied a standard that is inconsistent with this Court’s Due Process Clause requirements for probable cause determinations.

In Maine, the seminal case defining the standard for probable cause for drivers over the age of 21 with non-commercial licenses and non-conditional licenses is *State v. Webster*. The holding of *Webster* is too broad and takes the focus way from the physiological state of impairment:

Shortly after 1 a.m. on the morning of September 7, 1996, an Augusta police officer observed Webster execute an improper u-turn by driving in an improper

direction around a large traffic island. The officer testified and the District Court found that after stopping Webster, the officer smelled a strong odor of alcohol coming from Webster. When asked if he had had anything to drink, Webster responded that he had consumed one drink four hours earlier, at approximately 9 p.m.

State v. Webster, 754 A.2d 976, 978 (Me 2000). In addition to upholding the probable cause determination with facts only remotely connected to the physiological state of intoxication, *Webster* further points out probable cause can be independent of any actually impaired driving citing *State v. Eastman*, 1997 ME 39, ¶ 9, 691 A.2d 179, 182 and *State v. Wood*, 662 A.2d 919, 920–921 (Me.1995) as support. This broad interpretation of the probable cause standard in *Webster* appears analogous to the interpretation of mere consumption rejected in *Turner*. Mr. Sejdic asks that this Court redirect the interpretation to the physiological state of impairment.

The overly broad interpretation is further compounded by the untethering of probable cause from field sobriety tests. *Webster* further diminishes the quantum of evidence by reducing the role of field sobriety tests:

Considering the probable cause threshold for administering a blood alcohol test, this combination of evidence was more than sufficient to establish probable cause. With this evidence, probable cause could be found without regard to Webster's performance on the field sobriety tests. While performance on field sobriety tests is relevant to determinations of both probable cause and ultimate guilt or innocence, such performance on the field sobriety tests does not control either issue. There is sufficient evidence to support the court's probable cause finding external to the field sobriety tests. Accordingly, the court committed no error in denying Webster's motion to suppress.

Webster, at 978. While the facts of Mr. Sejdic's case have some similarities in that some clues from field sobriety test were present and there was the smell of intoxicating beverages coming from Mr. Sejdic, the remaining factors used to justify probable cause strayed from evidence of the physiological state of impairment. The 45 in a 35 violation is not really evidence of erratic driving

and the 25 foot “suspicious” stopping distance is nothing like going around a traffic island the wrong way. Moreover, Mr. Sejdic’s admission to consuming two beers, the last of which was about 45 minutes prior to the stop, is not facially incredible. The Hearing Officer too readily analogized Officer Cloutier’s description of the evidence of impairment to the less demanding probable cause determinations required for commercial license holders or conditional license holders.

Since *Webster*, the Court has endorsed a probable cause standard in another context that only requires an admission to drinking and the odor of alcohol. This even lower standard applies to commercial drivers:

Here, the police officer, after stopping a commercial vehicle carrying propane tanks, smelled an odor of alcohol on Turner's breath, and heard Turner admit that he had consumed alcohol ninety minutes before the stop. Field sobriety tests were not necessary to support probable cause because those exercises test for impairment, and a commercial driver may be in violation of the law without being impaired. Combining the odor of alcohol with Turner's admission that he had consumed alcohol ninety minutes prior to operating a commercial vehicle loaded with two thousand pounds of propane gas tanks, an ordinarily prudent and cautious officer could have believed that Turner had misstated his alcohol consumption and that, if tested, his blood-alcohol level would equal or exceed 0.04%.

Turner, at 1192. *Turner* has resulted in a reduction in the level of probable cause even for non-commercial, non-conditional drivers over 21 years of age even though the opinion itself limits this reduced probable cause standard to commercial drivers. In Mr. Sejdic’s case, the Hearing Officer’s conclusions were based on observations like speeding, the way the vehicle pulled over, and the admission of alcohol use, and the smell of alcohol instead of focusing on the lack of evidence of slurred speech, red or glassy eyes, and other indicators of physiological impairment. Conspicuously absent from Officer Cloutier’s description of the physiological state of impairment is red or glassy eyes, and slurred speech. There was also no evidence of impaired movement

outside the context of the field sobriety tests themselves. The Hearing Officer's failure to account for Mr. Sejdic injuries only compounded the problem of using the wrong standard.

In Mr. Sejdic case, the fact pattern found by the Hearing Officer mirrors the fact pattern for a finding of probable to require a blood alcohol test for a driver with a conditional license. Conditional license holders have less stringent probable cause threshold than non-commercial and non-conditional license holders over 21 years of age:

At about 1:00 a.m. on November 28, 1991, an officer of the Bath Police Department observed a pickup truck driven by Payson make an erratic U-turn and spin its wheels as it entered an on-ramp. The officer followed the truck, which was traveling at 45 miles per hour in a 35-mile-per-hour zone. When the officer stopped the truck, he observed that Payson had glassy eyes and gave off "a faint odor of intoxicating liquor." When asked, Payson admitted that he had been drinking. Payson got out of the truck without difficulty and successfully performed both the alphabet and heel-to-toe field sobriety tests.

Payson v. Secretary of State, 634 A.2d 1278, 1279 (Me. 1993). In Mr. Sejdic's case, the hearing officer analogizes the U-turn and spinning of tires with the failure to stop as expected. The speeding factor is identical, as is the smell of intoxicating beverages from Mr. Sejdic. *Payson* is distinguishable because the field sobriety test performed did not reveal any clues but did include the presence of glassy eyes. There was no finding of any observation of glassy eyes, red eyes, or slurred speech in Mr. Sejdic case.

The Hearing Officer's conclusions are simply too similar to the probable cause standard for restricted licenses to meet the more stringent standard of non-commercial driver licenses for people over the age of 21. Admissions to drinking alcohol and the smell of alcohol are enough only in probable cause determinations for restricted license holders: "When, as here, the examiner found that the officer knew that Payson had been drinking and that Payson showed the effects of the use of alcohol, that evidence alone is sufficient to support a finding of probable cause..."

Payson, at 1279. The Law Court’s analysis also focused on the physiological state of impairment but is less stringent because the physiological state of impairment is less likely to be apparent when the standard is mere consumption. As the Law Court held, “[t]he examiner based that finding on the odor of alcohol coming from Payson, his glassy eyes, and the admission that he had been drinking.” *Id.* Mr. Sejdic’s suspension should be reversed because there is no evidence suggesting the physiological state of impairment beyond the admission to drinking and the smell of intoxicating beverages coming from Mr. Sejdic.

III. The United States Supreme Court should grant the Petition for a Writ of Certiorari to resolve the significant issues that surround this split among the States that administrative hearings, which suspend license for operating a motor vehicle under the influence of drugs or alcohol based on probable cause, require de novo review.

There is a split between the states over de novo review for probable cause determinations that result in administrative suspension for operating under the influence of drugs or alcohol. Maine has joined North Carolina in not requiring de novo review. See *Steinkrause v. Tatum*, 201 N.C.App. 289 (2009). Missouri requires de novo review. See *Vasquez v. Director of Revenue*, 658 S.W.3d 553 (2022). As does Texas. See *Jeffries v. Texas Dept. of Public Safety* 2000 WL 682596. And also Kansas. See *Casper v. Kansas Dept. Revenue*, 442 P.3d 1038 (2019). Mr. Sejdic’s case is a good vehicle for resolving this split because he was not convicted of operating under the influence and only the administrative finding has resulted in prejudice to him.

The administrative finding is of significant consequence to Mr. Sejdic because his employment required him to drive. Because the refusal finding remains on his driving record and because refusal itself in Maine is evidence of intoxication. Mr. Sejdic’s employer cannot insure

anyone who has a prior operating under the influence finding. This finding may also result in enhanced punishment because the finding remains as an operating under the influence offense even though it is not a conviction. See 29-A M.R.S. 2411 provides for enhanced penalties based on OUI offenses and not convictions.

CONCLUSION

The Supreme Court should review the conclusion of the Maine Supreme Judicial Court and grant this petition for writ of certiorari.

Dated at Portland, Maine this 17th day of June, 2026.

Robert C. Andrews
Attorney for Alija Sejdic
Bar Number 8980
ROBERT C. ANDREWS ESQUIRE P.C.
P.O. Box 813
Portland, ME 04104
(207) 879-9850

APPENDIX