

STATE OF MAINE

v.

VANESSA R. MICHELSON

Submitted on Briefs June 1, 2011

Decided July 19, 2011

Panel: SAUFLEY, C.J. and LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Vanessa R. Michelson appeals from a judgment of conviction for negotiating a worthless instrument (Class C), 17-A M.R.S. § 708(1)(A), (B)(2) (2010), entered in the Superior Court (York County, *Brodrick, J.*) following a jury-waived trial. On appeal, Michelson contends that the court abused its discretion by admitting in evidence a document demonstrating that Michelson's bank account was closed in violation of M.R. Evid. 1002. The document displays a copy of the check Michelson wrote to the victim, as well as notations made by the victim's bank, including the following stamped notation: "RETURN REASON – D CLOSED ACCOUNT." Michelson argues that the document was improperly admitted because it was not the original check that she issued to the victim.

Although the copy of Michelson's check was not the original check issued by Michelson, it is an original writing of the victim's bank as defined in M.R. Evid. 1001(3). *See* M.R. Evid. 1001(3) (defining an original writing as the writing itself or "any counterpart intended to have the same effect by a person executing or issuing it"); *see also* Field & Murray, *Maine Evidence* § 1001.1 at 559 ("An original is the document the contents of which are to be proved."). Because the document is "the writing itself" that was produced by the victim's bank and received by the victim to inform the victim that Michelson's check would not be honored, it is an original writing, and the court did not abuse its discretion or

otherwise err in admitting the document. M.R. Evid. 1001(3); *see also State v. Nelson*, 2010 ME 40, ¶ 9, 994 A.2d 808, 812 (“We review the trial court’s decision on the admissibility of evidence for abuse of discretion or clear error.”); M.R. Evid. 1002; Field & Murray, *Maine Evidence* § 1001.1 at 559.

The entry is:

Judgment affirmed.

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