

STATE OF MAINE

v.

STEPHEN S. SMITH

Argued October 26, 2012
Decided November 6, 2012

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

MEMORANDUM OF DECISION

Stephen S. Smith appeals from the judgment of the Superior Court (Hancock County, *A. Murray, J.*) convicting him, following a jury trial, of hunting or possessing a deer in a closed season (Class D), 12 M.R.S. § 11201(3) (2011). On appeal, Smith contends that there was insufficient evidence to convict him of the charge and to disprove his “nuisance deer” justification for hunting a deer in a closed season. 12 M.R.S. §§ 12401, 12402 (2011). The events at issue occurred on November 5, 2010, in the Town of Mount Desert. The record reflects that there was more than sufficient evidence, including eyewitness testimony, for the jury to find beyond a reasonable doubt that the deer hunting season on Mount Desert Island is continually closed and that Smith hunted and possessed the deer during the continually-closed season. *See* 12 M.R.S. § 11402(3)(A) (2011). Further, the evidence also supports the jury’s conclusion that the State had disproved Smith’s claim of a nuisance animal justification beyond a reasonable doubt, 12 M.R.S. §§ 12401, 12402. *Cf. State v. Herzog*, 2012 ME 73, ¶ 9, 44 A.3d 307.

The entry is:

Judgment affirmed.

On the briefs and at oral argument:

William B. Blaisdell, IV, Esq., Blaisdell & Blaisdell, Ellsworth, for appellant Stephen Smith

William B. Entwisle, Asst. Dist. Atty., Prosecutorial District No. VII, Ellsworth, for appellee State of Maine

Ellsworth District Court docket number CR-2010-1556
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