MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 12-139
Docket No. Yor-11-446

STATE OF MAINE

v.

DWAYNE A. MADORE

Submitted on Briefs September 27, 2012
Decided November 8, 2012

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

MEMORANDUM OF DECISION

Dwayne A. Madore appeals from a judgment entered in the trial court (*Jordan, J.*) partially revoking his probation after finding that Madore had violated one or more conditions of probation.

Contrary to Madore's contentions, the admission of multilevel hearsay evidence at his probation revocation hearing did not violate his due process rights, pursuant to the United States and Maine Constitutions or 17-A M.R.S. § 1206(4) (2011), *see State v. James*, 2002 ME 86, ¶¶ 9-15, 797 A.2d 732, an issue we review for obvious error, *see State v. Pabon*, 2011 ME 100, ¶¶ 18-19, 28 A.3d 1147. The admission of hearsay and multilevel hearsay evidence at a proceeding to revoke probation is "per se, consistent with constitutional fundamental fairness 'due process' guarantees" unless the hearsay is "unreasonably abundant and its substantive reliability highly suspect." *James*, 2002 ME 86, ¶ 13, 797 A.2d 732 (reviewing the admission of multilevel hearsay evidence). In this case, the challenged multilevel hearsay testimony relevant to Madore's engaging in new criminal activity, *see, e.g.*, 17-A M.R.S. § 402(1)(A) (2011), was not unreasonably abundant, and it was both sufficiently detailed and sufficiently corroborated by live

testimony at the hearing, as well as by aspects of Madore's out-of-court admissions, to cause that evidence to be substantively reliable. *See James*, 2002 ME 86, ¶ 15, 797 A.2d 732.

While the court did not state its findings in support of its determination that Madore had violated one or more conditions of probation, Madore did not move for additional findings of fact. When a court has entered a judgment and there has been no request for additional findings, we will infer that the court made the factual findings necessary to support its determination, *see* M.R. Crim. P. 23(c); 17-A M.R.S. § 207(1)(A) (2011); 17-A M.R.S. § 402(1)(A), (D) (2011), if those inferred findings are supportable by evidence in the record, as they are in this case. *See State v. Frank*, 2008 ME 78, ¶ 3 n.3, 946 A.2d 381 (presuming court in nonjury trial made all factual findings necessary to support decision, which inferred findings were supported by the record); *State v. Dodd,* 503 A.2d 1302, 1307 (Me. 1986) (same); *see also State v. Fournier*, 554 A.2d 1184, 1187 (Me. 1989) (assuming court found all facts necessary to deny motions to sever).

The entry is:

Judgment affirmed.

On the briefs:

Verne E. Paradie, Jr., Esq., Trafton & Matzen, LLP, Auburn, for appellant Dwayne A. Madore

R. Christopher Almy, District Attorney, and Susan J. Pope, Asst. Dist. Atty., Prosecutorial District V, Bangor, for appellee State of Maine

York County Superior Court docket number CR-2010-694
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