

STATE OF MAINE

v.

ANDREW S. FITZPATRICK

Argued April 11, 2012

Decided April 26, 2012

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

MEMORANDUM OF DECISION

Andrew S. Fitzpatrick appeals from an adjudication that he committed the civil offense of possessing a usable amount of marijuana in violation of 22 M.R.S. § 2383(1) (2011) entered in the Unified Criminal Docket (Bangor, *Anderson, J.*) following a non-jury trial. Contrary to Fitzpatrick's contention, the court did not err in declining to dismiss the charge based on the police officer's failure to submit the original uniform summons and complaint to the court within five days of issuance. *See* 17-A M.R.S. § 17(1) (2011); L.D. 299, Statement of Fact (115th Legis. 1991); Comm. Amend. A to L.D. 299, No. H-56 (115th Legis. 1991); *State v. Aboda*, 2010 ME 125, ¶ 10, 8 A.3d 719; *State v. Mayberry*, 2001 ME 176, ¶¶ 2, 8, 787 A.2d 135. There was also sufficient evidence in the record to find, by a preponderance of the evidence, that Fitzpatrick committed each element of the violation; the State was not required to introduce either the physical evidence of marijuana or a qualified expert witness. *See* 22 M.R.S. § 2383(1)(A); *State v. Kremen*, 2000 ME 117, ¶ 16, 754 A.2d 964; *State v. Pelletier*, 636 A.2d 989, 990 (Me. 1994); *State v. McLain*, 367 A.2d 213, 219 (Me. 1976); *State v. Creamer*, 359 A.2d 603, 606 (Me. 1976).

The entry is:

Judgment affirmed.

On the briefs:

Seth D. Harrow, Esq., Vafiades, Broutas & Kominsky, LLP, Bangor, for appellant Andrew Fitzpatrick

R. Christopher Almy, District Attorney, and Tracy Collins Lacher, Asst. Dist. Atty., Prosecutorial District V, Bangor, for appellee State of Maine

At oral argument:

Seth D. Harrow, Esq., for appellant Andrew Fitzpatrick

Tracy Collins Lacher, Asst. Dist. Atty., for appellee State of Maine