

STATE OF MAINE

v.

PHILIP GIUSTI

Submitted on Briefs April 26, 2012
Decided May 22, 2012

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

MEMORANDUM OF DECISION

Philip Giusti appeals from a judgment of conviction for burglary (Class C), 17-A M.R.S. § 401(1)(A) (2011); theft, with three prior theft convictions, (Class C), 17-A M.R.S. § 353(1)(B)(6) (2011); and criminal trespass (Class D), 17-A M.R.S. § 402(1)(A) (2011), entered in the Unified Criminal Docket (Cumberland County, *Humphrey, C.J.*) following a jury trial. Contrary to Giusti's contention, the court did not clearly err or abuse its discretion in admitting evidence of his three prior theft convictions. *See State v. Corbin*, 2000 ME 167, ¶ 5, 759 A.2d 727. Giusti's prior theft convictions satisfied the requirements for admissibility in M.R. Evid. 609 for purposes of impeaching Giusti's credibility, and "[t]he fact that these prior convictions resemble the present offenses charged is not sufficient to establish prejudice *per se*." *State v. Hanscome*, 459 A.2d 569, 573 (Me. 1983). Given the deferential standard of review, and Giusti's failure to request an instruction limiting the purposes for which the jury could consider those prior convictions, we discern no error. *See id.*; *State v. Krieger*, 2002 ME 139, ¶ 11, 803 A.2d 1026. There is also sufficient evidence in the record to support the jury's finding of each element of the charges beyond a reasonable doubt, including those requiring proof of Giusti's culpable state of mind. *See State v. Cook*, 2010 ME 81, ¶ 7, 2 A.3d 313.

The entry is:

Judgment affirmed.

On the briefs:

William Maselli, Esq., Portland, for appellant Philip Giusti

Stephanie Anderson, District Attorney, and Megan L. Elam, Asst. Dist. Atty., Prosecutorial District No. Two, Portland, for appellee State of Maine