

STATE OF MAINE

v.

PAUL G. CURBOW

Argued May 10, 2012
Decided June 26, 2012

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

MEMORANDUM OF DECISION

Paul G. Curbow appeals from a judgment of conviction for criminal trespass (Class E), 17-A M.R.S. § 402(1)(D) (2011), entered in the Unified Criminal Docket (Cumberland County, *Kelly, J.*) following a jury trial. Curbow argues that the court erred in denying his motions for judgment of acquittal because the State did not prove, beyond a reasonable doubt, each element of the criminal trespass charge. He specifically argues that the State failed to prove that a Portland police officer's order to leave a park after midnight was a lawful order. The criminal trespass statute, 17-A M.R.S. § 402(1)(D), specifies that:

[a] person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person . . . [r]emains in any place in defiance of a lawful order to leave that was personally communicated to that person by the owner or another authorized person.

We review the denial of a motion for judgment of acquittal by viewing the evidence in the light most favorable to the State to determine whether the jury rationally could have found beyond a reasonable doubt each element of the offense

charged. *State v. Filler*, 2010 ME 90, ¶ 24, 3 A.3d 365. Here the issue was violation of the criminal trespass statute, not violation of a municipal ordinance. In those circumstances, the officer testified without objection that he believed, based on his training, that a municipal ordinance prohibited persons from remaining in the park at the time the officer had ordered Curbow to leave the park. That evidence was sufficient to support the jury's finding that the order to leave the park was a lawful order and that Curbow was guilty of criminal trespass. *See State v. Chiapetta*, 513 A.2d 831, 833-34 (Me. 1986).

The entry is:

Judgment affirmed.

On the briefs:

John Paul DeGrinney, Esq., and Lauren Wille, Esq. DeGrinney Law Offices,
Portland, for appellant Paul G. Curbow

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

At oral argument:

Lauren Wille, Esq., for appellant Paul G. Curbow

Jonathan Nathans, Student Intern, Prosecutorial District No. Two, Portland,
for appellee State of Maine