

STATE OF MAINE

v.

RANDY G. MILLAY

Argued April 11, 2013

Decided May 2, 2013

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

MEMORANDUM OF DECISION

Randy G. Millay appeals from the judgment and sentence entered by the trial court (*A. Murray, J.*) after his guilty plea on twenty-one counts of burglary, 17-A M.R.S. § 401(1)(A) (2012); twenty-seven counts of theft, 17-A M.R.S. § 353(1) (2012); and one count of failure to appear after bailed, 15 M.R.S. § 1091(1)(B) (2012). Millay did not preserve his argument that the State improperly aggregated some, but not all, of the theft counts on an indictment, pursuant to 17-A M.R.S. § 352(5)(E) (2012), by raising it for the first time on appeal. M.R. Crim. P. 12(b)(2) (requiring certain objections to indictments to be raised before trial); *State v. Dadiago*, 617 A.2d 552, 554 (Me. 1992) (refusing to consider an aggregation argument that was raised for the first time on appeal). Even if Millay had preserved the argument any error in this case made pursuant to the aggregation statute was harmless. M.R. Crim. P. 52(a). Also, the sentencing process was not illegal because the court only considered “factually reliable and relevant” information. *State v. Witmer*, 2011 ME 7, ¶ 20, 10 A.3d 728 (quotation marks omitted).

The entry is:

Judgment affirmed.

On the briefs:

Sean Ociepka, Esq., The Law Office of Sean Ociepka, Belfast, for appellant
Randy Millay

Carletta M. Bassano, District Attorney, Prosecutorial District VII, Ellsworth,
for appellee State of Maine

At oral argument:

Sean Ociepka, Esq., for appellant Randy Millay

Mary Kellett, Asst. Dist. Atty., Prosecutorial District VII, Ellsworth, for
appellee State of Maine

Hancock County Superior Court docket number CR-2011-53

Waldo County Superior Court docket number CR-2010-332

Washington County Superior Court docket numbers CR-2010-132, CR-2011-271

FOR CLERK REFERENCE ONLY