

STATE OF MAINE

v.

BRYAN F. MILLER

Submitted on Briefs April 24, 2013
Decided May 16, 2013

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

MEMORANDUM OF DECISION

Bryan F. Miller appeals from the judgment of the trial court (*Worth, J.*), entered after a nonjury trial, finding him guilty of theft by unauthorized taking or transfer (Class E), 17-A M.R.S. § 353(1)(A) (2012), and ordering him to pay a fine of \$100, plus surcharges, and restitution of \$375. On appeal, Miller contends that the trial was unfair because the prosecution was represented by an attorney and he did not have an attorney; that the court, at the start of the trial, did not ask him if he was ready to proceed; and that he was not ready to proceed because he had taken a prescription medication that, he alleges, impaired his ability to think clearly at trial. Because Miller was not at risk of incarceration, he was not entitled to State-appointed counsel. *See* M.R. Crim. P. 44(a).

The State has not filed a brief, and it is not apparent if Miller ever provided the State with a copy of his brief or otherwise made the State aware of his contentions on appeal. The evidence in this case was more than sufficient to support the court's findings, beyond a reasonable doubt, that Miller had committed each of the elements of the charge of theft. *See State v. DeGennaro*, 2012 ME 68, ¶ 2, 46 A.3d 1147 (stating that this Court reviews evidence most favorably to the trial court's judgment). Although Miller, in his brief, suggests that he may not

have been competent to proceed with trial, no such suggestion appears in the trial court record other than Miller's passing reference to taking prescription medication in his argument in mitigation of sentence presented after the court found Miller guilty.¹ See *United States v. Brown*, 669 F.3d 10, 17 (1st Cir. 2012) (stating that facts in the record must create real and substantial doubt about competency).

The entry is:

Judgment affirmed.

For appellant:
Bryan F. Miller, appellant pro se

¹ Prior to trial, Miller had spoken with an attorney for the day who indicated, on the record, that Miller was prepared to proceed to trial. Miller agreed, stating that his only "issue" was that he could not afford an attorney. The court also described the trial process to Miller and then asked Miller if he had any questions before proceeding, to which Miller responded, "No."