

STATE OF MAINE

v.

DARREN C. HALL

Submitted on Briefs February 10, 2017

Decided February 23, 2017

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Darren C. Hall appeals from a judgment of conviction entered by the trial court (Waldo County, *R. Murray, J.*) following his conditional guilty plea to a charge of possession of a firearm by a prohibited person (Class C), 15 M.R.S. § 393(1)(A-1)(1) (2015).¹ Contrary to Hall’s contention, the court did not err in denying his motion to suppress after finding that (1) his consent to a search of his home was voluntary, and (2) law enforcement officers did not exceed the scope of his consent in conducting the search that led to the discovery of the firearm underlying the conviction. *See State v. Bailey*, 2012 ME 55, ¶ 16, 41 A.3d 535 (“The State bears the burden of proving, by a preponderance of the evidence, that an objective manifestation of consent was given by word or gesture.”) (quotation marks omitted)); *State v. Bailey*, 2010 ME 15, ¶ 26, 989 A.2d 716 (discussing the “objective reasonableness” test for determining the scope of consent to search).

¹ The statute has since been amended, but not in a way that affects this appeal. P.L. 2015, ch. 470, § 1 (effective July 29, 2016).

Because it is made for the first time on appeal, we do not consider Hall's remaining argument that the Maine Constitution requires the State to prove beyond a reasonable doubt, rather than by a preponderance of the evidence, that a person's consent to a search was voluntary. See *In re Anthony R.*, 2010 ME 4, ¶ 8, 987 A.2d 532 ("[W]e have indicated that we will not reach an issue, even a constitutional challenge to an action, if the issue is presented for the first time on appeal."); *Stickney v. City of Saco*, 2001 ME 69, ¶ 30 n.11, 770 A.2d 592.

The entry is:

Judgment affirmed.

Robert Van Horn, Esq., Van Horn Law Office, Ellsworth, for appellant Darren C. Hall

William B. Entwisle, Asst. Dist. Atty., Prosecutorial District VI, Belfast, for appellee State of Maine

Waldo County Superior Court docket number CR-2014-205
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