

STATE OF MAINE

v.

NATALE M. GANDOLFO SR.

Submitted on Briefs September 26, 2018  
Decided October 4, 2018

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

MEMORANDUM OF DECISION

Natale M. Gandolfo Sr. appeals from a judgment of conviction of criminal mischief (Class D), 17-A M.R.S. § 806(1)(A) (2017), entered in the trial court (Aroostook County, *Stewart, J.*) after a jury trial. Gandolfo contends that (1) the court erred by allowing the testimony of his former employer, a vehicle repair garage owner, as an expert and lay witness and (2) the evidence was not sufficient to prove his guilt beyond a reasonable doubt.

In November 2016, a vehicle owner brought his vehicle to H&S Garage for repairs and an oil change. The garage owner, who is also the primary mechanic, made the necessary repairs and, after ensuring that the vehicle was running properly, asked Natale Gandolfo, his employee, to perform the oil change. After the oil change was completed, the garage owner started the vehicle and found the engine was making a loud noise that was getting louder the longer the engine was running. Attempting to diagnose the cause of the noise, the garage owner examined the engine and identified a foreign substance throughout the engine. He tasted the substance and identified it as sugar. Based on the garage owner's experience as a mechanic, he determined that the

sugar was the cause of the damage to the engine. Because the defendant was the one who had performed the oil change, was the only one who had access to the vehicle during the oil change, and because he held a grudge against the vehicle owner from a past legal dispute, the garage owner confronted the defendant about the presence of sugar in the engine. Gandolfo denied his involvement and shortly thereafter was released from employment at H&S Garage.

Contrary to Gandolfo's contentions, the court did not commit clear error or abuse its discretion in allowing the garage owner's expert and lay testimony regarding the identity of the substance as sugar, and sugar being the cause of damage to the engine, *see* M.R. Evid. 701, 702, 703; nor did the jury err in finding, beyond a reasonable doubt, that Gandolfo committed each element of criminal mischief. *See State v. Reed*, 2013 ME 5, ¶ 13, 58 A.3d 1130 (stating that circumstantial evidence can suffice to support a conviction for criminal mischief).

The entry is:

Judgment affirmed.

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Neil J. Prendergast, Esq., Fort Kent, for appellant Natale Gandolfo

Kurt A. Kafferlin, Asst. Dist. Atty., Houlton, for appellee State of Maine