

STATE OF MAINE

v.

ROBERT C. DONLON

Submitted on Briefs October 24, 2019

Decided November 14, 2019

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

MEMORANDUM OF DECISION

Robert C. Donlon appeals from a judgment convicting him of theft by unauthorized taking or transfer (enhanced to a Class C crime based on allegations of two prior theft convictions), 17-A M.R.S. § 353(1)(B)(6) (2018), entered by the trial court (Penobscot County, *Lucy, J.*) after a jury trial.<sup>1</sup>

Contrary to Donlon's contention, the evidence admitted at trial, viewed in the light most favorable to the State, was sufficient for the jury to rationally find all of the elements of theft beyond a reasonable doubt. *See* 17-A M.R.S. §§ 352(1)-(4), 353(1)(A), (B) (2018); *State v. Haji-Hassan*, 2018 ME 42, ¶ 27, 182 A.3d 145; *State v. Brown*, 2017 ME 59, ¶ 7, 158 A.3d 501.

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<sup>1</sup> The Sentence Review Panel granted Donlon's application for leave to appeal his sentence. *See* 15 M.R.S. §§ 2151-2157 (2018). (Title 15 M.R.S. § 2151 has since been amended, though not in any way that affects this case. *See* P.L. 2019, ch. 113, § C-42 (effective May 16, 2019) (to be codified at 15 M.R.S. § 2151(3).) His sentence appeal was consolidated with his direct appeal for our review. *See* M.R. App. P. 20(g), (h).

With regard to Donlon's sentence, the trial court did not misapply a legal principle when it set the basic sentence, *see* 17-A M.R.S. § 1252-C(1) (2018), at eighteen to twenty-two months of imprisonment. *See* 17-A M.R.S. § 353(1)(B)(6) (designating the offense at issue as a Class C crime); 17-A M.R.S. § 1252(2)(C) (2018) (setting the maximum period of imprisonment for a Class C crime at five years); *State v. Stanislaw*, 2011 ME 67, ¶¶ 8-9, 21 A.3d 91; *State v. Robbins*, 2010 ME 62, ¶ 9, 999 A.2d 936.<sup>2</sup> Beyond that, to the extent that Donlon has meaningfully argued that the final sentence of thirty months in prison is unconstitutionally disproportionate to the crime he committed combined with his criminal history that included five convictions for similar crimes as well as for crimes of violence, we disagree. *See* Me. Const. art. I, § 9, cl. 2; *State v. Lopez*, 2018 ME 59, ¶ 15, 184 A.3d 880 (“[O]nly the most extreme punishment decided upon by the Legislature as appropriate for an offense could so offend or shock the collective conscience of the people of Maine as to be unconstitutionally disproportionate, or cruel and unusual.” (quotation marks omitted)).

The entry is:

Judgment affirmed.

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Jeffrey C. Toothaker, Esq., Ellsworth, for appellant Robert C. Donlon

Marianne Lynch, District Attorney, and Mark A. Rucci, Asst. Dist. Atty.,  
Prosecutorial District V, Bangor, for appellee State of Maine

Penobscot County Unified Criminal Docket docket number CR-2018-2674

FOR CLERK REFERENCE ONLY

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<sup>2</sup> After the proceedings in the trial court concluded, 17-A M.R.S. §§ 1252 and 1252-C were repealed and 17-A M.R.S. §§ 1602 and 1604 were enacted. P.L. 2019, ch. 113, §§ A-1, A-2 (effective May 16, 2019).