

STATE OF MAINE

v.

LARRY F. COSTON II

Submitted on Briefs April 24, 2019
Decided August 29, 2019

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

MEMORANDUM OF DECISION

Larry F. Coston II appeals from a judgment of conviction for violating a condition of release (Class E), 15 M.R.S. § 1092(1)(A) (2018), entered by the court (*Campbell, J.*) after a bench trial.¹ Contrary to Coston's contentions, the bail bond signed by Coston was sufficient to establish, beyond a reasonable doubt, that he had notice, when he and a friend committed a burglary (Class C), 17-A M.R.S. § 401(1)(A) (2018), that the bail conditions imposed for a then-pending charge of refusing to submit to arrest or detention (Class E),

¹ Simultaneously with the bench trial that resulted in this conviction, the court held a jury trial on a charge of burglary contained in the same charging instrument. In the jury proceeding, the court declared a mistrial after the jury was unable to reach a unanimous decision. Coston filed the instant appeal while the burglary charge remained pending and was waiting to be retried. Coston was ultimately convicted of that burglary charge after a different jury found him guilty at a second trial, and Coston separately appealed that conviction—a conviction we affirm today. *See State v. Coston*, 2019 ME 141, --- A.3d ---. Because all counts have now been adjudicated, we need not address whether, notwithstanding the final judgment rule, an appeal from a conviction on one count in a charging instrument is justiciable while other counts remain pending in the trial court. *See, e.g., United States v. Abrams*, 137 F.3d 704, 706-07 (2d Cir. 1998), and cases cited therein.

17-A M.R.S. § 751-B(1)(A) (2018), were still in place. The bail bond contained the following language:

I agree to obey the following conditions of my release *so long as this bail bond remains in effect.* I understand it is a crime for me to violate any of these conditions, and that if I violate these conditions I will be subject to arrest, jail and/or a fine.

1. I will appear at the Unified Criminal Court located at 12 Water St. in Newport (City/Town), Penobscot (County) Maine, Tel # (207) 368-5778 on March 20, 2018 at 8:30 a.m. . . . *and on any other date and time and at the court the justice, judge or clerk tells me to appear.*

(Emphasis added.) Coston's signature² appears below that language and directly next to a line stating, "**I have read and I understand all my obligations under this bond.**" Because the State presented it with the signed bail bond, the court could rationally find beyond a reasonable doubt that Coston was on notice that the bail conditions, including the mandatory condition that he commit no criminal act, *see* 15 M.R.S. § 1026(1) (2018), remained in effect after his arraignment. *See State v. LeBlanc-Simpson*, 2018 ME 109, ¶¶ 18-19, 22, 190 A.3d 1015.

The entry is:

Judgment affirmed.

² Coston's signature on the bail bond matches the signature on both Coston's written waiver of the right to a jury trial on the charge of violating a condition of release, which Coston signed in the court's presence, and his affidavit seeking the assignment of court-appointed counsel.

Zachary J. Smith, Lawsmith Legal Services, L.L.C., Bangor, for appellant Larry F. Coston II

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-2018-1948
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