

STATE OF MAINE

v.

GADI IRADUKUNDA

Argued on September 16, 2020

Decided September 24, 2020

Panel: MEAD, GORMAN, JABAR, HUMPHREY, and CONNORS, JJ.

MEMORANDUM OF DECISION

Gadi Iradukunda appeals from an order of the trial court (Cumberland County, *Warren*, J.) denying his motion to suppress statements that he made at the police station and from a judgment of conviction of one count of gross sexual assault (Class A), 17-A M.R.S. § 253(1)(B) (2018), and one count of unlawful sexual contact (Class B), 17-A M.R.S. § 255-A(1)(F) (2018), entered by the trial court (*Cashman*, J.) following a jury trial.

Contrary to Iradukunda's contentions, we discern no error of fact or law in the court's decision to deny the motion to suppress by finding that Iradukunda was not in custody, *see State v. Dion*, 2007 ME 87, ¶¶ 21-23, 928 A.2d 746, and by finding that Iradukunda's statements were made voluntarily, *see State v. Kittredge*, 2014 ME 90, ¶¶ 24-25, 97 A.3d 106.

Additionally, because the court made the necessary findings to establish that a proper foundation had been laid, *see State v. Gorman*, 2004 ME 90, ¶ 27, 854 A.2d 1164, we also conclude that the court did not err in admitting the video recording of the victim's second police interview as substantive evidence pursuant to M.R. Evid. 803(5).

Finally, we discern that the hearsay read at trial from the police officer's report of the first interview with the victim was not so prejudicial to Iradukunda's case that it amounts to obvious error, *see State v. True*, 438 A.2d 460, 467-69 (Me. 1981).

The entry is:

Judgment affirmed.¹

Robert A. Levine, Esq. (orally), Portland, for appellant Gadi Iradukunda

Julia A. Sheridan, Asst. Dist. Atty., and Jonathan R. Liberman, Asst. Dist. Atty. (orally), Cumberland County District Attorney's Office, Portland, for appellee State of Maine

Cumberland County Unified Criminal Docket docket number CR-2018-5505
For Clerk Reference Only

¹ The Sentence Review Panel granted Iradukunda the right to appeal his sentence, however, he never raised any sentencing issues in his brief, thereby waiving any arguments regarding his sentence.