

STATE OF MAINE

v.

STEVE A. PLUMMER

Submitted on Briefs June 20, 2024
Decided June 27, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Steve A. Plummer appeals from a judgment of conviction entered by the trial court (Aroostook County, *Nelson J.*) on one count of unlawful sexual touching (Class D), 17-A M.R.S. § 260(1)(G) (2024), and one count of domestic violence assault (Class D), 17-A M.R.S. § 207-A(1)(A) (2022),¹ after a bench trial. Applying the obvious error standard, we conclude that the court did not err by considering inadmissible evidence under Maine Rules of Evidence 404, 608, and 802 of a witness's arrest because the court sitting as the fact finder is "presumed to render its decision on the evidence in the case which is legally admissible even though inadmissible testimony be received." *State v. Gleason*, 359 A.2d 308, 312 (Me. 1976). Because Plummer did not rebut the presumption in this case, we affirm the judgment. *See id.*; M.R.U. Crim. P. 52(b); *State v. Pabon*, 2011 ME 100, ¶ 35, 28 A.3d 1147.

¹ Title 17-A M.R.S. § 207-A(1)(A) (2022) has since been amended twice, though the amendments are not relevant to the present case. *See* P.L. 2021, ch. 647, § B-17, 65 (effective June 20, 2019) (codified at 17-A M.R.S. § 207-A(1)(A) (2023)); P.L. 2023, ch. 465, § 2 (effective Oct. 25, 2023) (codified as subsequently amended at 17-A M.R.S. § 207-A(1)(A) (2024)).

The entry is:

Judgment affirmed.

Tyler J. Smith, Esq., Libby O'Brien Kingsley & Champion, LLC, Kennebunk, for
appellant Steve A. Plummer

Todd R. Collins, District Attorney, and Amanda L. Bridges, Asst. Dist. Atty., 8th
Prosecutorial District, Houlton, for appellee State of Maine

Aroostook County Unified Criminal Docket docket number CR-2022-40713
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