

STATE OF MAINE

v.

SCOTT WILLEY

Submitted on Briefs October 23, 2001
Decided October 24, 2001

Panel: CLIFFORD, RUDMAN, DANA, SAUFLEY, ALEXANDER, and CALKINS,
JJ.

MEMORANDUM OF DECISION

Scott Willey appeals from a judgment of conviction entered in the Superior Court (Washington County, *Mead, C.J.*) upon a jury verdict finding him guilty of trafficking marijuana, Class C, pursuant to 17-A M.R.S.A. § 1103 (Supp. 2000). Contrary to Willey's contentions, (1) the court did not exceed its discretion in admitting evidence of items seized from the home of a friend with whom Willey was seen tending marijuana plants, *see* M.R. Evid. 401, 402-403; *State v. Pierce*, 2001 ME 14, ¶ 28, 770 A.2d 630, 637; *State v. Rousset*, 2000 ME 185, ¶ 10, 760 A.2d 1062, 1064, and (2) cultivating marijuana is not a lesser included offense of trafficking marijuana and no prejudicial error therefore resulted from the court's failure to instruct on cultivation, *see State v. Lemieux*, 2001 ME 46, ¶ 2, 767 A.2d 295, 296; *State v. Hardy*, 651 A.2d 322, 325 (Me. 1994).

The entry is:

Judgment affirmed.

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