

STATE OF MAINE

v.

RUSTY SWIFT

Submitted on Briefs November 3, 2004
Decided December 1, 2004

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
and LEVY, JJ.

MEMORANDUM OF DECISION

Rusty Swift appeals from the judgments of conviction entered in the Superior Court (Cumberland County, *Crowley, J.*) finding him guilty of one count of burglary of a motor vehicle, 17-A M.R.S.A. § 405(1) (Supp. 2003) (Class C); one count of theft by unauthorized taking or transfer, 17-A M.R.S.A. § 353(1)(A) (Supp. 2003) (Class E); and one count of refusing to submit to arrest or detention, 17-A M.R.S.A. § 751-A(1)(A) (Supp. 2003) (Class D). Swift argues that the court

erred in allowing a witness to identify him in court and that the evidence was insufficient to support the convictions.

Contrary to Swift's contentions, the witness's in-court identification of Swift was independently reliable so that it outweighed any possible taint from the court's identification procedure. *See State v. Rolls*, 599 A.2d 421, 423 (Me. 1991); *State v. Jason*, 392 A.2d 1086, 1089 n.3 (Me. 1978). In addition, the evidence was sufficient to support the convictions because, viewing the evidence in the light most favorable to the State, the jury rationally could have found beyond a reasonable doubt every element of the offenses charged. *State v. Turner*, 2001 ME 44, ¶ 6, 766 A.2d 1025, 1027.

The entry is:

Judgments affirmed.

Attorneys for State:

Stephanie Anderson, District Attorney
Julia A. Sheridan, Asst. Dist. Attorney
142 Federal Street
Portland, ME 04101

Attorney for defendant:

Sarah A. Churchill, Esq.
Strike, Goodwin & O'Brien
400 Allen Avenue
Portland, ME 04103-3715