

STATE OF MAINE

v.

WILLIAM J. THUN

Submitted on Briefs May 2, 2007  
Decided May 24, 2007

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

MEMORANDUM OF DECISION

William J. Thun appeals from a judgment of conviction for failure to appear (Class C), 15 M.R.S. § 1091(1)(B) (2006), entered in the Superior Court (Hancock County, *Hjelm, J.*) following a jury-waived trial. Contrary to Thun's contentions, the court did not err in implicitly concluding that Thun's application for asylum is not an unenumerated right protected by the Ninth Amendment to the United States Constitution establishing the affirmative defense of just cause for his failure to appear. *See* 15 M.R.S. § 1091(2) (2006); *see also State v. Cannell*, 2007 ME 30, ¶ 6, 916 A.2d 231, 233. In addition, because Thun initiated the process by which he was detained in Canada, and had the power to terminate that proceeding, the record does

not otherwise compel a conclusion that Thun proved by a preponderance of the evidence just cause for his failure to appear. *See State v. Pulsifer*, 1999 ME 24, ¶ 14, 724 A.2d 1234, 1238.

The entry is:

Judgment affirmed.

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