

STATE OF MAINE

v.

BOBBI R. FRAPPIER

Submitted on Briefs September 27, 2007
Decided October 4, 2007

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

MEMORANDUM OF DECISION

Bobbi R. Frappier appeals from a judgment of guilty entered in the Superior Court (Franklin County, *Jabar, J.*) following a jury trial for theft by unauthorized taking or transfer (Class C) of goods from a Wal-Mart store in Farmington. 17-A M.R.S. § 353(1)(B)(6) (2006). Frappier appeals from the trial court's decision allowing evidence of another crime, wrong, or act under Maine Rule of Evidence 404(b). Contrary to Frappier's contention, the court did not abuse its discretion in allowing evidence of another act of attempted theft at a Wal-Mart in Waterville. The Waterville conduct was sufficiently similar to the conduct at issue to warrant

admission. *State v. Connors*, 679 A.2d 1072, 1074 (Me. 1996). It was, furthermore, used to prove Frappier's identity and his modus operandi, and to infer the contents of the box he took from the Farmington Wal-Mart. *See* M.R. Evid. 404(b). Frappier also appeals from a finding by the Superior Court that he was a person with two previous convictions for theft. Contrary to Frappier's contention, the evidence was sufficient to prove beyond a reasonable doubt that he had two prior convictions. The State's evidence allowed the court, under Maine Rule of Evidence 303, to infer that Frappier had two prior convictions. 17-A M.R.S. § 9-A (2006). The court also properly took judicial notice of the instant crime. *See* M.R. Evid. 201(b)(2).

The entry is:

Judgment affirmed.

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