

STATE OF MAINE

v.

NICOLAS BENITO

Submitted on Briefs February 27, 2007  
Decided March 22, 2007

Panel: CLIFFORD, ALEXANDER, CALKINS, LEVY, and SILVER, JJ.

MEMORANDUM OF DECISION

Nicolas Benito appeals from a judgment entered in the Superior Court (Knox County, *Studstrup, J.*) finding him guilty of burglary (Class C), 17-A M.R.S. § 401(1)(A) (2006); theft by unauthorized use of property (Class D), 17-A M.R.S. § 360(1)(A) (2006); and theft by unauthorized taking or transfer (Class E), 17-A M.R.S. § 353(1)(A) (2006). A criminal defendant does not have an absolute right to have a guilty plea accepted by the court, *State v. Doucette*, 398 A.2d 36, 38 (Me. 1978), and the Superior Court did not abuse its discretion in refusing to accept Benito's guilty plea on the morning of trial, M.R. Crim. P. 11(a)(1); *cf. State v. Bleyl*, 435 A.2d 1349, 1366-67 (Me. 1981) (the standard of review for

refusal to accept a defendant's request to waive a jury trial is abuse of discretion). In addition, a fact-finder could have rationally found beyond a reasonable doubt from the evidence presented at trial that, pursuant to 17-A M.R.S. § 401(1)(A), Benito had the requisite intent to commit a crime when he entered the restaurant. *See State v. York*, 2006 ME 65, ¶ 7, 899 A.2d 780, 782. Finally, Benito's claimed prosecutorial misconduct did not deprive him of a fair trial or result in serious injustice. *See State v. White*, 2002 ME 122, ¶ 8, 804 A.2d 1146, 1149; *In re Joshua B.*, 2001 ME 115, ¶ 11, 776 A.2d 1240, 1244.

The entry is:

Judgment affirmed.

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