

STATE OF MAINE

v.

JONATHAN GARDINER

Submitted on Briefs November 4, 2008

Decided November 25, 2008

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

MEMORANDUM OF DECISION

Jonathan Gardiner appeals from a judgment of conviction entered in the Superior Court (Penobscot County, *Wheeler, J.*) after a jury verdict finding him guilty of theft by unauthorized use of property (Class C), 17-A M.R.S. § 360(1)(A-1) (2007), and a judicial finding of guilty for violating conditions of release (Class E), 15 M.R.S. § 1092(1)(A) (2007). Contrary to Gardiner's contention, the evidence, viewed in the light most favorable to the State, was sufficient to support a fact-finder's rational conclusion that every element of the offenses had been proved beyond a reasonable doubt. *See State v. Woo*, 2007 ME 151, ¶ 5, 938 A.2d 13, 14; *State v. Caouette*, 462 A.2d 1171, 1176 (Me. 1983) (stating that this Court defers "to the jury's decisions as to the credibility and weight of the various items of testimony and other evidence" and that "[t]he standard for reviewing a criminal jury's verdict is the same whether the evidence in the case is circumstantial or direct"). Specifically, there was no evidence in the record to suggest that Gardiner had permission from the registered owner to use the van, and there was sufficient evidence in the record to support a finding that Gardiner lacked permission from the person who was in lawful possession of the van. Additionally, Gardiner's unpreserved Sixth Amendment Confrontation Clause claim is without merit because he had an opportunity to cross-examine all of the State's witnesses. *See State v. McNally*, 2007 ME 66, ¶ 8, 922 A.2d 479, 481 (stating that we review the record for obvious error when an issue is unpreserved); *State v. Hassapelis*, 620 A.2d 288, 291 (Me. 1993) ("The

Confrontation Clause provides two types of protection for a criminal defendant: the right physically to face those who testify against him, and the right to conduct cross-examination.”) (quoting *Pennsylvania v. Ritchie*, 480 U.S. 39, 51 (1987)).

The entry is:

Judgment affirmed.

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