

STATE OF MAINE

v.

JESSICA L. MORANG

Submitted on Briefs January 24, 2008
Decided February 7, 2008

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

MEMORANDUM OF DECISION

Jessica L. Morang appeals from a judgment of conviction for unlawful possession of a scheduled drug (heroin) (Class C), 17-A M.R.S. § 1107-A(1)(B)(1) (2007), entered in the Superior Court (Kennebec County, *Mills, J.*) following a jury trial. Contrary to Morang's contentions, we conclude, subject to the exceptions discussed below, that: (1) the court's determinations not to exclude evidence, pursuant to M.R. Evid. 404(b), as to Morang's marijuana use and evidence of marijuana paraphernalia found in Morang's home were not clearly erroneous, *see State v. DeMass*, 2000 ME 4, ¶ 11, 743 A.2d 233, 236; and (2) the court's determination that the evidence at issue was relevant under M.R. Evid. 401, and

not excludable pursuant to M.R. Evid. 403, was not clearly erroneous or an abuse of discretion, respectively, *see State v. Allen*, 2006 ME 20, ¶ 17, 892 A.2d 447, 453. We do find that the court erred in admitting evidence of the smell of green marijuana in Morang's home pursuant to Rules 401, 403, and 404(b). Nonetheless, we conclude that the admission of this evidence was harmless error. *See DeMass*, 2000 ME 4, ¶¶ 16-17, 743 A.2d at 237; M.R. Crim. P. 52(a).

The entry is:

Judgment affirmed.

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