

STATE OF MAINE

v.

TERREL DUBOIS

Submitted on Briefs June 4, 2009
Decided June 23, 2009

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

MEMORANDUM OF DECISION

Terrel Dubois appeals from a judgment of conviction entered in the Superior Court (Cumberland County, *Wheeler, J.*) upon a jury verdict finding him guilty of aggravated attempted murder (Class A), 17-A M.R.S. § 152-A(1)(F) (2008); elevated aggravated assault (Class A), 17-A M.R.S. § 208-B(1)(A) (2008); reckless conduct with a dangerous weapon (Class C), 17-A M.R.S. § 211(1) (2008); and aggravated trafficking of scheduled drugs (Class A), 17-A M.R.S. § 1105-A(1)(C-1)(1) (2008). Contrary to Dubois's contentions, the court did not commit clear error or err as a matter of law in denying a motion to suppress evidence collected from the apartment where the crimes occurred because Dubois did not have a reasonable expectation of privacy in the apartment. *See State v. Drown*, 2007 ME 142, ¶ 6, 937 A.2d 157, 159 (stating that we review a suppression court's findings of fact for clear error and its legal conclusions de novo); *see also Minn. v. Carter*, 525 U.S. 83, 88-91 (1998) (reasoning that a person whose sole purpose for being in a residence is to distribute drugs does not have a reasonable expectation of privacy). Additionally, the court did not commit clear error or abuse its discretion in admitting into evidence recordings of police radio communications, a voicemail message left for a law enforcement officer by Dubois, and a telephone conversation between Dubois and a police dispatcher. *See State v. Roberts*, 2008 ME 112, ¶ 21, 951 A.2d 803, 810-11 (stating that we review a trial court's determination regarding the relevance of evidence for clear error and the court's weighing of the probative value of the evidence against the risk of

unfair prejudice for abuse of discretion). The court correctly concluded that all three pieces of evidence were relevant and their probative value was not substantially outweighed by the danger of unfair prejudice. *See* M.R. Evid. 401, 403. Lastly, viewing the evidence in a light most favorable to the State, the jury rationally could have found beyond a reasonable doubt each element of every offense. *See State v. Drewry*, 2008 ME 76, ¶ 32, 946 A.2d 981, 991.

The entry is:

Judgment affirmed.

Attorneys for the State:

Stephanie Anderson, District Attorney
Julia Sheridan, ADA
Office of District Attorney
Cumberland County Courthouse
142 Federal Street
Portland, Maine 04101

Attorney for Terrel Dubois:

Neale Duffett, Esq.
Cloutier, Conley & Duffett, P.A.
465 Congress Street
Portland, Maine 04101