

STATE OF MAINE

v.

ERNEST POLITE

Submitted on Briefs July 8, 2009

Decided July 16, 2009

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

MEMORANDUM OF DECISION

Ernest Polite appeals from a judgment of conviction entered in the Superior Court (Cumberland County, *Delahanty, J.*) after a jury verdict finding him guilty of three counts of trafficking in scheduled W drugs (Class B), 17-A M.R.S. § 1103(1-A)(A) (2008). Contrary to Polite's contentions, the court (*Warren, J.*) did not commit clear error or err as a matter of law in denying Polite's motion to suppress a law enforcement officer's identification of him. *See State v. Doughty*, 408 A.2d 683, 685 (Me. 1979) (stating that a court's factual findings on identification issues are reviewed for clear error, and legal conclusions drawn from those facts are reviewed de novo). Because the State met its burden in proving by clear and convincing evidence that the identification was reliable under the totality of circumstances, the identification was properly admitted at trial. *See State v. True*, 464 A.2d 946, 949-50 (Me. 1983) ("The ultimate concern is the reliability of the out-of-court identification."). Additionally, viewing the evidence in a light most favorable to the State, the jury rationally could have found beyond a reasonable doubt that Polite was the person who committed the criminal acts. *See State v. Ho Tai*, 629 A.2d 594, 595 (Me. 1993).

The entry is:

Judgment affirmed.

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