

STATE OF MAINE

v.

MATTHEW L. CHIPMAN

Submitted on Briefs September 30, 2009

Decided October 8, 2009

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

MEMORANDUM OF DECISION

Matthew L. Chipman appeals from a judgment of conviction of molesting lobster gear (Class D), 12 M.R.S. § 6434 (2006),¹ and theft by unauthorized taking or transfer (Class E), 17-A M.R.S. § 353(1)(A) (2008), entered in the Superior Court (Cumberland County, *Warren, J.*) upon a jury verdict finding him guilty. Contrary to Chipman's contentions, we discern no error in the court's denial of Chipman's motion to exclude certain evidence. *See State v. Mills*, 2006 ME 134, ¶ 8, 910 A.2d 1053, 1056; *State v. Allen*, 2006 ME 20, ¶¶ 17-18, 892 A.2d 447, 453; M.R. Evid. 401, 403, 404(b). In addition, the court properly concluded that lobsters in a trap can be the "property of another" for the purposes of the theft statute, *see State v. Joyce*, 2008 ME 108, ¶ 7, 951 A.2d 69, 71; 17-A M.R.S. §§ 352(1)(C), 353(1)(A) (2008), and that Chipman was sufficiently identified at trial to survive a motion for judgment of acquittal, *see State v. Jackson*, 1997 ME 174, ¶¶ 14-15, 697 A.2d 1328, 1332; *State v. Guptill*, 481 A.2d 772, 775 (Me. 1984). Finally, the court did not err in refusing to instruct the jury that an in-court identification of the accused is necessary to support a criminal conviction, *see State v. Barretto*, 2008 ME 121, ¶ 9, 953 A.2d 1138, 1140; *Guptill*, 481 A.2d at 775, or

¹ The offense of molesting lobster gear has since been made a civil violation subject to fines not less than \$100 or more than \$500. P.L. 2007, ch. 283, § 2 (effective Sept. 20, 2007) (codified at 17-A M.R.S. § 6434(3-A) (2008)).

that the crime of molesting lobster traps is a specific intent crime, *see* 12 M.R.S. §§ 6204, 6434 (2006).

The entry is:

Judgment affirmed.

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