

STATE OF MAINE

v.

KENNETH J. JOONDEPH

Submitted on Briefs January 22, 2009

Decided January 27, 2009

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

MEMORANDUM OF DECISION

Kenneth J. Joondeph appeals from a judgment of conviction entered by the Superior Court (Waldo County, *Mills, J.*) on one count of unlawful sexual contact (Class B), 17-A M.R.S. § 255-A(1)(E-1) (2008), one count of sexual exploitation of a minor (Class A), 17-A M.R.S. § 282(1)(F) (2008), and one count of dissemination of sexually explicit material (Class B), 17-A M.R.S. § 283(1)(C) (2008), following a jury trial. Contrary to Joondeph's contention, the court did not err in denying his motion to re-file a motion to suppress that had been filed once and then withdrawn, because Joondeph did not make the showing of good cause required by M.R. Crim. P. 41A(b). *See also State v. Dyer*, 615 A.2d 235, 235-36 (Me. 1992). The court also did not abuse its discretion in admitting over Joondeph's M.R. Evid. 403 and 404(b) objections illustrations of sexual acts between children and adults found on his computer, or in admitting recovered fragments of online chat conversations he engaged in, because that evidence was relevant to establish his intent, motive, or absence of mistake, and was not unfairly prejudicial. *See State v. Parsons*, 2005 ME 69, ¶ 14, 874 A.2d 875, 879-80; *State v. Barnes*, 2004 ME 38, ¶ 5, 845 A.2d 575, 577; *State v. Lipham*, 2006 ME 137, ¶ 9, 910 A.2d 388, 392 (stating that "Rule [403] does not protect a party from all prejudice, but only serves as a guard against *unfair* prejudice." (emphasis in original) (quotation marks omitted)). Finally, the evidence admitted at trial was

sufficient for the jury to rationally find beyond a reasonable doubt the culpable state of mind required to support its verdict on each charge. *See State v. Schmidt*, 2008 ME 151, ¶ 19, 957 A.2d 80, 86 (setting out standard of review).

The entry is:

Judgment affirmed.

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