

Decision: 2004 ME 122

Docket: Pen-04-129

Submitted

On Briefs: September 9, 2004

Decided: September 27, 2004

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER, CALKINS, and LEVY, JJ.

STATE OF MAINE

v.

JOHN MARTIN

RUDMAN, J.

[¶1] John Martin appeals from a judgment entered in the Superior Court (Penobscot County, *Jabar, J.*) convicting him of criminal threatening with a dangerous weapon (Class C), 17-A M.R.S.A. § 209(1) (1983). Martin contends that the Superior Court erred in classifying the crime as a Class C crime and that the crime he was convicted of is designated by statute as a Class D crime. We disagree and affirm the judgment of conviction.

[¶2] Martin asserts that there is no statutory authority for the court to adjudge him guilty of a Class C crime because the Criminal Code defines criminal threatening as a Class D crime. He further contends that the statutes merely

provide that the use of a dangerous weapon in committing a crime can enhance the sentence that may be imposed, but do not change the class of the crime.

[¶3] Section 4 of title 17-A provides:

§ 4. Classification of crimes in this Code

1. Except for murder, all crimes defined by this Code are classified for purposes of sentencing as Class A, Class B, Class C, Class D and Class E crimes.

17-A M.R.S.A. § 4 (1983).

[¶4] Section 1252(4) of title 17-A provides:

[I]f the State pleads and proves that a Class B, C, D, or E crime was committed with the use of a dangerous weapon then the *sentencing class* for such crime is one class higher than it would otherwise be.

17-A M.R.S.A. § 1252(4) (1983) (emphasis added).

[¶5] The legislative intent is clear. The jury found Martin guilty of criminal threatening with a dangerous weapon. Although criminal threatening by itself for purposes of sentencing would be a Class D crime, the sentencing class for the crime Martin committed is one class higher: a Class C crime.

The entry is:

Judgment affirmed.

Attorneys for State:

R. Christopher Almy, District Attorney
C. Daniel Wood, Asst. Dist. Atty.
97 Hammond Street
Bangor, ME 04401

Attorney for defendant:

Steven J. Lyman, Esq.
96 Harlow Street
Bangor, ME 04401