

STATE OF MAINE
KENNEBEC, ss

STATE OF MAINE

v.

SCOTT COLLINS,

Defendant

RECEIVED AND FILED
KENNEBEC SUPERIOR COURT

2007 JAN 26 A 9:15

MELISSA DEJARDIN
CLERK OF COURTS

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. AP-05-04
NM - KEN - 1/26/07

DECISION

The defendant challenges the sufficiency of the evidence to support his adjudication for criminal mischief, class D. In particular, the defendant argues that the evidence does not show that he consciously disregarded a risk that his conduct would damage or destroy property. The decision of the District Court is affirmed.

The testimony of Senior Fire Marshall Timothy York and the defendant established the following. The fire at the Harrison residence was caused by human element. 2/17/05 Tr. at 9. The defendant entered the residence and found matches inside. Id. at 25. While on the second floor, he lit three matches to light cigarettes. Id. at 65. He then lit one match so he could see inside a closet. Id. at 66. He struck the fourth match, shook it, thought it was out, and threw it down on the floor of the closet.¹ Id. at 62-64. He did nothing to ensure the match was out. Id. at 66. Mr. York's investigation of the fire scene was consistent with the defendant's statement about the match. Id. at 27-28. Mr. York testified that a match struck and thrown on the ground does not normally self extinguish. Id. at 30. Apart from the matches found on the second floor of the residence, nothing else could have started the fire. Id. at 33.

¹ With regard to the match lit in the closet, the District Court judge found that the defendant did not "blow out or do anything with that match. It was lit . . . and then he dropped it . . . there's even no attempt to put it out, from his own testimony." 6/30/05 Tr. at 5. The defendant argues that this factual inaccuracy in the District Court judge's findings requires vacating the decision. This error, if any, is harmless.

After the defendant left the house, he was concerned that the matches might have started a fire. Id. at 64, 66. He did not return to check the residence. Id. at 66.

Based on the record, a "trier of fact, acting rationally, could have found every element of [criminal mischief] beyond a reasonable doubt." State v. Basu, 2005 ME 74, ¶ 20, 875 A.2d 686, 692; see also State v. Gorman, 648 A.2d 967, 969 (Me. 1994); 17-A M.R.S.A. § 35(3).

The entry is

The Decision of the District Court is AFFIRMED.

Date: January 26, 2007


Nancy Mills
Justice, Superior Court

Date Filed 7/25/05

KENNEBEC
County

Docket No. AP-05-04

Action JUVENILE APPEAL

State of Maine

vs.

SCOTT COLLINS

Offense

ARSON

Attorney

**J. MITCH FLICK
79 MAIN STREET
WINTHROP, ME 04364**

Date of
Entry

7/25/05

RECEIVED CASE FROM AUGUSTA DISTRICT COURT DOCKET NO: JW-05-02

7/26/05

TRANSCRIPT ORDER SENT TO ELECTRONIC RECORDING

9/28/05

TRANSCRIPT FILED - HEARING DATE 2/17/05 2 VOLUMES

5/9/06

BRIEFING SCHEDULE MAILED. APPELLANT'S BRIEF DUE 6/9/06

6/7/06

MOTION TO ENLARGE TIME TO FILE APPELLANT'S BRIEF.

6/8/06

GRANTED. BRIEF TO BE FILED BY 6/23/06

6/28/06

APPELLANT'S BRIEF FILED.

7/3/06

MOTION FOR ENLARGMENT OF TIME TO FILE BRIEFS.

7/3/06

GRANTED. S/MARDEN, J. GIVE UNTIL AUGUST 14 TO FILE BRIEF.

8/14/06

APPELLEE'S BRIEF FILED.

1/26/07

DECISION FILED