

STATE OF MAINE

v.

ATILIO DELGADO

Submitted on Briefs November 25, 2024

Decided December 3, 2024

Panel: STANFILL, C.J., and HORTON, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Atilio Delgado appeals from an order of the District Court (Belfast, *Dow, J.*) binding him over for trial as an adult in the Superior Court for a charge of murder, 17-A M.R.S. § 201(1)(A) (2024). The court reached extensive findings and carefully considered the factors set forth in 15 M.R.S. § 3101(4)(D) (2024), attaching particular significance to Delgado's age of eighteen at the time of the order and the risk that it would be unsafe—and would diminish the gravity of the charged offense—for him to be released from a juvenile commitment on or before his twenty-first birthday. *See* 15 M.R.S. § 3316(2)(A) (2024). Contrary to Delgado's contentions, (1) because a bind-over order does not itself impose any punishment, the court did not punish Delgado for his exercise of his Fifth Amendment right against self-incrimination by considering his lack of candor with a juvenile community corrections officer, *see State v. Rosado*, 669 A.2d 180, 183 (Me. 1996); (2) the court's findings are fully supported by competent evidence in the record, whether through direct evidence or reasonable inference, *see id.*; *State v. Crossman*, 2002 ME 28, ¶ 10, 790 A.2d 603, and (3) those findings do not compel a conclusion that Delgado proved the inappropriateness of prosecuting him as an adult, *see* 15 M.R.S. § 3101(4)(C-2), (D), (E)(2)(b); *State v. Gurney*, 2012 ME 14, ¶ 46, 36 A.3d 893.

The entry is:

Judgment affirmed.

Jeremy Pratt, Esq., Camden, for appellant Atilio Delgado

Aaron M. Frey, Attorney General, and Katie Sibley, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee State of Maine

Belfast District Court docket number JV-2022-14
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